

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

ELECTRONIC TARIFF FILING OF)	
KENTUCKY UTILITIES COMPANY)	CASE NO. 2022-00371
FOR APPROVAL OF AN ECONOMIC)	
DEVELOPMENT RIDER SPECIAL)	
CONTRACT WITH BITIKI-KY, LLC)	

**JOINT MOTION OF KENTUCKIANS
FOR THE COMMONWEALTH, KENTUCKY SOLAR ENERGY SOCIETY,
MOUNTAIN ASSOCIATION, AND KENTUCKY RESOURCES COUNCIL FOR FULL
INTERVENTION AS JOINT INTERVENORS**

Pursuant to 807 KAR 5:001E, Section 4(11), KRS 278.310, and KRS 278.040(2),
Kentuckians for the Commonwealth (“KFTC”), Kentucky Solar Energy Society (“KYSES”),
Mountain Association (“MA”), and Kentucky Resources Council (“KRC”) (collectively
“Movants”) request to be granted full intervenor status in the above-captioned proceeding(s) and
state in support thereof as follows:

1. Intervention in formal proceedings before the Kentucky Public Service
Commission (“Commission”) is within the sound discretion of the Commission and is governed
by 807 KAR 5:001E, Section 4(11), which provides in relevant part that:

A person who wishes to become a party to a case before the Commission may, by timely
motion, request leave to intervene. [] The motion shall include the movant’s full name,
mailing address, and electronic mail address and shall state his or her interest in the case
and how intervention is likely to present issues or develop facts that will assist the
commission in fully considering the matter without unduly complicating or disrupting the
proceedings.

807 KAR 5:001E § 4(11)(a)(1).

2. 807 KAR 5:001E, Section 4(11)(b) provides that the Commission shall grant a person leave to intervene if the Commission finds that he or she has made a timely motion for intervention and has a special interest in the case that is not otherwise adequately represented or whose intervention is likely to present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

3. This motion for intervention is timely, since under the Order entered on November 4, 2022 by the Commission in this case establishing the procedural schedule, a motion for intervention is deemed timely if filed not later than November 10, 2022.¹ Movants, if granted Joint Intervenor status, will accept and abide by the procedural schedule, including the filing of any comments, data requests, and response to any data requests, so that there is no prejudice to the applicant or other parties from the grant of full joint intervenor status to Movants at this time.

4. Movants' interests in the Electronic Tariff Filing of Kentucky Utilities Company ("KU") for Approval of An Economic Development Rider Special Contract with Bitiki-KY, LLC ("KU-Bitiki Contract") are different than those of the existing parties, and their participation is "likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings."²

5. If granted Joint Intervenor status, the Movants' intervention is very likely to present issues or develop facts that will assist the Commission in fully considering the matters at hand. Movants intend to seek discovery and present evidence building on issues raised in Movants' comments on the proposed KU-Bitiki Contract submitted on October 27, 2022,³

¹ Nov. 4, 2022 Order at Appendix A.

² 807 KAR 5:001E § 4(11)(a)(1).

³ See *id.* at Appendix B, Comments of Joint Commenters on the Special Contract for Economic Development Rider between Kentucky Utilities Company and Bitiki KY, LLC, Case No. TFS2022-00495 (Oct. 27, 2022).

including the issues that the Commission highlighted in its November 4, 2022 Order initiating this proceeding.

6. Among the issues highlighted in the November 4, 2022 Order, the Commission states that its investigation will focus on “whether the proposed special contract fails to adequately characterize KU’s 2021 IRP.”⁴ Movants were Joint Intervenors in KU’s 2021 IRP proceeding, and intend to bring evidence and their unique perspective developed through participation in that IRP proceeding to the relevant issues at question in this Special Contract proceeding. If granted intervention, Movants will assist in this investigation by presenting evidence regarding the characterization of KU’s 2021 IRP and its Marginal Cost Analysis as put forth in the KU-Bitiki Contract.

7. Movants’ participation as Joint Intervenors will additionally aid the Commission in its investigation of issues regarding collateral and security in the KU-Bitiki Contract, as highlighted by Movants’ comments and the Commission’s Order.⁵ As mentioned below, Movants have many members who take service in KU territories and could be required to bear additional costs as a result of the KU-Bitiki Contract, particularly in the event of a default or early termination of the contract. If granted intervention, Movants will present evidence regarding the importance of requiring additional protections for ratepayers, including both security and collateral, from the unique risks posed by cryptocurrency mining facilities.

8. If granted intervention, Movants will also present evidence regarding the applicable level of demand for the economic development discount for the KU-Bitiki Contract,

⁴ Nov. 4, 2022 Order at 2.

⁵ *Id.*; Comments of Joint Commenters at 5.

as identified by the Commission in its November 4, 2022 Order, as well as the contract's consistency with the final Order in Administrative Case No. 327.⁶

9. Existing parties to the proceeding do not adequately represent the interests of Movants and their members. No current party represents the specific perspective and interests of Movants, as discussed below.

10. KFTC is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky with its principal office located at 131 North Mill Street, London, Kentucky 40743, is a forty-one-year-old, multi-issue grassroots organization of Kentuckians inspired by a vision to work for a brighter future for all people, no matter our color, where we come from, or how much money we have. Together, KFTC members organize for a fair economy, a healthy environment, new safe energy, and an honest democracy. KFTC has twelve chapters across the state—including a prominent chapter in Lexington whose members are ratepayers in KU service territories—with 12,000 members in nearly all of Kentucky's 120 counties.

11. As an organization, KFTC has been involved with issues affecting low-income residential ratepayers for over thirty years and has significant experience in educating the public and supporting both public comments and expert testimony in rate cases and has gained a deep understanding of the needs of residential customers across the state for energy efficiency, demand side management, and a healthy energy system, and the consequences for communities of the transition to clean energy. As a member-based organization with over 2,800 members who take service in the KU service territory, KFTC is uniquely positioned to be a voice for the needs and interests of KU residential ratepayers who are also KFTC members.

⁶ Sept. 24, 1990 Order at 10, *In re: An Investigation into the Implementation of Economic Development Rates by Electric and Gas Utilities*, Admin. Case No. 327.

12. It is clear that KFTC has a special interest in the case that is “not otherwise adequately represented” and alternatively that KFTC’s participation as a Joint Intervenor “is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”⁷

13. KYSES is a non-profit corporation in good standing, incorporated under the laws of the Commonwealth of Kentucky, with its principal office at 1864 Frankfort Avenue, Suite #207, Louisville, KY 40206. The mission of KYSES is to promote the use of renewable energy resources, energy efficiency, and conservation in Kentucky through education, advocacy, networking, and demonstration of practical applications.

14. KYSES is comprised of members who include residential solar energy customers in KU service territories; solar energy enthusiasts, including potential future solar customers; professionals working in the clean energy field in business, non-governmental organizations, and academia; and advocates for a transition to a clean energy economy.

15. It is clear that KYSES has a special interest in the case that is “not otherwise adequately represented” and alternatively that KYSES’s participation as a Joint Intervenor “is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”⁸

16. MA is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky, with its office at 433 Chestnut Street, Berea, Kentucky, 40403. MA works with people in eastern Kentucky and Central Appalachia to create economic opportunity, strengthen democracy, and support the sustainable use of natural resources. MA’s energy programs work to strengthen the region’s residents, small businesses, local governments,

⁷ 807 KAR 5:001E § 4(11)(a)(1).

⁸ *Id.*

communities, and non-profits by helping to reduce energy costs and consumption, increase energy security, and build resilience in the face of climate change. MA has worked with KU customers over the last fourteen years providing financing to access investments in energy efficiency and renewable energy, resulting in reduced operating expenses. At the same time, MA has assisted energy contractors with technical trainings and equipment financing to grow their businesses. On December 4, 2020, Kentucky Energy and Environment Cabinet Secretary Rebecca Goodman announced MA as the recipient of the 2020 Environmental Pacesetter Award, given for innovative efforts in protecting the environment and setting an example of environmental stewardship.⁹

17. It is clear that MA has a special interest in the case that is “not otherwise adequately represented” and alternatively that MA’s intervention as a Joint Intervenor “is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”¹⁰

18. KRC is a non-profit membership corporation in good standing incorporated under the laws of the Commonwealth of Kentucky and dedicated to prudent use and conservation of the natural resources of the Commonwealth and providing since 1984 legal and technical assistance without charge to low-income individuals, organizations, and communities across the Commonwealth and in the KU service area on a range of environmental and energy-related matters. KRC members include numerous individuals who are ratepayers taking service from KU, and KRC has representational standing to represent their interests in assuring that any

⁹ KYDEP, “Gov. Andy Beshear and Secretary Rebecca Goodman Announce Annual Environmental Awards of Excellence,” *Naturally Connected* (Dec. 4, 2020), <https://kydep.wordpress.com/2020/12/04/gov-andy-beshear-and-secretary-rebecca-goodman-announce-annual-environmental-awards-of-excellence/>.

¹⁰ 807 KAR 5:001E § 4(11)(a)(1).

approval of an EDR Special Contract is fully in accord with the requirements for such a special contract, and protects existing ratepayers from adverse effects.

19. It is clear that KRC has a special interest in the case that is “not otherwise adequately represented” and alternatively that KRC’s intervention as a Joint Intervenor “is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”¹¹

20. The participation of KFTC, KYSES, MA, and KRC as Joint Intervenors will neither complicate or disrupt the proceedings, since the discovery, testimony, and witnesses will be jointly offered by the four organizations, who have adopted internal procedures to assure timely decision-making and coordinated participation with one voice in this case. Movants have participated in past cases involving KU and other utilities and have neither complicated nor disrupted those proceedings.

21. In Case No. 2021-00393, the Commission agreed that Movants’ “joint participation with common counsel is not likely to unduly complicate or disrupt the proceedings.”¹² The Commission found this to be true again in Case No. 2022-00098, where it also granted Movants’ Motion to Intervene.¹³

WHEREFORE, for the reasons stated above, Joint Movants KFTC, KYSES, MA, and KRC respectfully request to be accorded the status of full Joint Intervenors, and that each party to the case be directed to serve upon the undersigned counsel, all future pleadings and documents that are filed in this case.

¹¹ 807 KAR 5:001E § 4(11)(a)(1).

¹² Jan. 11, 2022 Order at 4, Case No. 2021-00393.

¹³ June 24, 2022 Order, Case No. 2022-00098.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that electronic version of the *Joint Motion of Kentuckians for the Commonwealth, Kentucky Solar Energy Society, Mountain Association, and Kentucky Resources Council for Full Intervention as Joint Intervenors* in this action is being electronically transmitted to the Commission on November 10, 2022, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

Ashley Wilmes

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