

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

In the Matter of:

ELECTRONIC APPLICATION OF	)	
KENTUCKY POWER COMPANY FOR: (1)	)	
APPROVAL TO EXPAND ITS TARGETED	)	
ENERGY EFFICIENCY PROGRAM; (2)	)	
APPROVAL OF A HOME ENERGY	)	
IMPROVEMENT PROGRAM AND A	)	
COMMERCIAL ENERGY SOLUTIONS	)	
PROGRAM; (3) AUTHORITY TO RECOVER	)	
COSTS AND NET LOST REVENUES, AND	)	Case No. 2024-00115
TO RECEIVE INCENTIVES ASSOCIATED	)	
WITH THE IMPLEMENTATION OF ITS	)	
DEMANDSIDE MANAGEMENT/ENERGY	)	
EFFICIENCY PROGRAMS; (4) APPROVAL	)	
OF REVISED TARIFF D.S.M.C.; (5)	)	
ACCEPTANCE OF ITS ANNUAL DSM	)	
STATUS REPORT; AND (6) ALL OTHER	)	
REQUIRED APPROVALS AND RELIEF	)	

**JOINT MOTION OF MOUNTAIN ASSOCIATION, APPALACHIAN  
CITIZENS’ LAW CENTER, KENTUCKIANS FOR THE  
COMMONWEALTH, AND KENTUCKY SOLAR ENERGY SOCIETY FOR  
FULL INTERVENTION AS JOINT INTERVENORS**

Pursuant to 807 KAR 5:001 Section 4(11), KRS 278.310, and KRS 278.040(2), Mountain Association (“MA”), Appalachian Citizens’ Law Center (“ACLC”), Kentuckians for the Commonwealth (“KFTC”), and Kentucky Solar Energy Society (“KYSES”) (collectively “Movants”) move for leave to be granted full intervenor status as Joint Intervenors in the above-captioned proceeding concerning Kentucky Power Company’s (“Kentucky Power” or “the Company”) Demand-Side Management (“DSM”) programs. In support of this Joint Motion, Movants state as follows:

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

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.<sup>1</sup>

2. 807 KAR 5:001, Section 4(11)(b) provides that the Commission shall grant a person leave to intervene if the Commission finds that they have made a timely motion for intervention and have “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.”<sup>2</sup>

3. Movants’ motion for intervention meets the standards set forth in 807 KAR 5:001. First, this motion for intervention is timely because the Commission has not yet set a deadline for intervention for this case, nor established a procedural schedule. Movants, if granted Joint Intervenor status, accept and will abide by the procedural schedule set by the Commission, including the filing of any comments, data requests, and response to any data requests, so there is no prejudice to the applicant or other parties from the grant of full joint intervenor status to Movants at this time.

4. Second, Movants’ interests in this case are different than those of the existing parties and not adequately represented by those existing parties, and their

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<sup>1</sup> 807 KAR 5:001 § 4(11)(a)(1).

<sup>2</sup> *Id.* § 4(11)(b) (emphasis added).

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.”<sup>3</sup>

5. If granted Joint Intervenor status, Movants are very likely to present issues or develop facts that will assist the Commission in fully considering the issues in this case. As has been shown through the participation of Movants across multiple cases in recent years before the Commission, Movants possess significant information and unique joint perspectives concerning the integration of renewable energy, energy conservation, and demand-side/non-wires options for addressing utility customer needs at the lowest reasonable cost, that will assist in the full and fair exploration of these issues. Movants are well-positioned to contribute to the development of robust factual record here owing to their recent engagement in the Company’s rate case (Case No. 2023-00159), where Movants filed expert testimony and joined a settlement agreement that addressed some of the issues presented in this case, and the Company’s recent Integrated Resource Plan (“IRP”) case (Case No. 2023-00092), where Movants submitted comments and a report from Energy Futures Group, reviewing the Company’s DSM Market Potential Study, among other topics.

6. In the Settlement Agreement for Kentucky Power’s recent rate case, the Company made certain commitments to the parties (including Joint Movants) regarding this DSM filing. These commitments included working collaboratively with interested parties to seek input on its portfolio of DSM/EE programs, allocating 21% of funding to assist low-income residential customers, and evaluating distributed solar and customer-

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<sup>3</sup> 807 KAR 5:001 § 4(11)(b).

sited battery storage inclusion in its DSM programs.<sup>4</sup> Movants have actively participated in collaborative meetings with the Company regarding its DSM programs since the filing of the Settlement Agreement. If granted Joint Intervenor status, Movants are uniquely positioned to develop the record in this case concerning the Company's fulfillment of these settlement commitments regarding stakeholder collaboration and the degree to which Movants and other groups have been involved in developing the DSM plan, as well as the substance and range of those collaborative discussions.<sup>5</sup>

7. The participation of MA, ACLC, KFTC, and KYSES as Joint Intervenors will neither complicate nor disrupt the proceedings, because the discovery, testimony, and witnesses they present will be jointly offered by the four organizations, which 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 Kentucky Power and other utilities and have neither complicated nor disrupted those proceedings.

8. In addition, existing parties to the proceeding do not adequately represent the specific perspective and interests of Movants and their members,<sup>6</sup> as described below.

9. Mountain Association is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky, with an office at 433 Chestnut Street, Berea, Kentucky, 40403. MA can be reached at [info@mtassociation.org](mailto:info@mtassociation.org). MA works with

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<sup>4</sup> Case No. 2023-00159, Jan. 19, 2024 Order at Appendix A.

<sup>5</sup> One of the factors to be considered by the Commission in approving DSM programs is "[t]he extent to which customer representatives . . . have been involved in developing the plan, including program design, cost recovery mechanisms, and financial incentives, and if involved, the amount of support for the plan by each participant." KRS 278.285(1)(f).

<sup>6</sup> See 807 KAR 5:001 § 4(11)(b).

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, 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 also been a leader in developing inclusive utility investment<sup>7</sup> programs based on the Pay As You Save® (PAYS®) model in eastern Kentucky.<sup>8</sup>

10. MA has worked with Kentucky Power customers over the last fifteen 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.<sup>9</sup> In July of 2022, MA began development of a former bank building at 479 Main Street in Hazard with electricity served by Kentucky Power. MA is working to transform the space into a mixed-use development, incorporating MA's offices, retail, food & beverage, and AirBnB lodging on Main Street in downtown Hazard.

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<sup>7</sup> See *Introduction to inclusive utility investments*, Clean Energy Works (Jan. 1, 2023), <https://www.cleanenergyworks.org/2023/01/01/introduction-to-inclusive-utility-investments/>.

<sup>8</sup> See *Pays® Essential Elements & Minimum Program Requirements*, Energy Efficiency Inst., Inc. (updated July 20, 2021), <https://www.eeivt.com/pays-essential-elements-minimum-program-requirements-2/>.

<sup>9</sup> 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/>.

11. It is clear that MA has a special interest in the case that is not otherwise adequately represented and 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."<sup>10</sup>

12. Appalachian Citizens' Law Center is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky with its office at 317 Main Street, Whitesburg, Kentucky. ACLC can be reached at [aclc@aclc.org](mailto:aclc@aclc.org). ACLC is a Kentucky Power customer. Since its incorporation in 2001, ACLC has focused on addressing the environmental, health, and economic impacts of resource extraction in Eastern Kentucky and Central Appalachia. ACLC's primary work includes both direct representation of individuals and groups and policy and advocacy work aimed at addressing the ongoing and legacy impacts of the coal industry and the economic impacts of its decline. In 2010, ACLC represented the Pike County Senior Citizens Program, Inc. as intervenors in a Kentucky Power rate case (Case No. 2009-00459).

13. Currently, ACLC's work includes numerous efforts to address utility unaffordability throughout Eastern Kentucky. ACLC advocates for energy and water affordability on behalf of low-income residents in the region by participating as stakeholders in national and state energy and water affordability discussions and workgroups, by conducting research on utility affordability, and by directly representing the Martin County Concerned Citizens before the PSC. In addition to ACLC's specific focus on utility affordability, ACLC focuses its advocacy on measures to ensure that the

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<sup>10</sup> 807 KAR 5:001 § 4(11)(a)(1).

nation's transition away from coal takes into account the extraordinary burdens eastern Kentucky has faced and continues to face as a result of more than a century of dependence on coal. ACLC believes that responsible transition requires that new energy production and significant new energy uses must be scrutinized to ensure that, at a minimum, they are sustainable in the long term, will not burden our communities, and provide community benefits.

14. It is clear that ACLC has a special interest in the case that is not otherwise adequately represented and alternatively that ACLC'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."<sup>11</sup>

15. Kentuckians for the Commonwealth 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, was founded in 1981 and is a 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 eastern Kentucky chapters in the Big Sandy region, Rowan County, and Kentucky River region, many of whose members are Kentucky Power ratepayers—with 12,000 members in nearly all of Kentucky's 120 counties, including over 610 members who take service in the Kentucky Power service territory. KFTC also pays

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<sup>11</sup> *Id.*

electric rates to Kentucky Power at its Prestonsburg office, located at 152 North Lake Drive, Prestonsburg, KY 41653. KFTC can be reached at [info@kftc.org](mailto:info@kftc.org).

16. 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, and specifically in Eastern Kentucky, 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 deep roots in the region, KFTC is uniquely positioned to be a voice for the needs and interests of Kentucky Power residential ratepayers who are also KFTC members.

17. It is clear that KFTC has a special interest in the case that is not otherwise adequately represented and that KFTC'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."<sup>12</sup>

18. Kentucky Solar Energy Society is a non-profit corporation in good standing, incorporated under the laws of the Commonwealth of Kentucky, with its principal office at 215 Oxford Place Louisville 40207. KYSES can be reached at [info@kyses.org](mailto:info@kyses.org). 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.

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<sup>12</sup> *Id.*



19. KYSES is comprised of members who include residential solar energy customers in Kentucky Power 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. KYSES representative Andy McDonald has also been an active and helpful participant in DSM and IRP stakeholder processes for Kentucky Power and other utilities, and has provided testimony to the Commission in Case Nos. 2023-00092, 2023-0404 and 2022-00402.

20. It is clear that KYSES has a special interest in the case that is not otherwise adequately represented and that KYSES's participation as a Joint Intervenor "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."<sup>13</sup>

21. In addition, in Case No. 2020-00174 involving Kentucky Power, the Commission agreed that MA, KFTC and KYSES's participation was likely to present issues and develop facts that will "assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings."<sup>14</sup> Similarly, in Cases No. 2022-00387, 2022-00424, 2023-00092, and 2023-00159 involving Kentucky Power, MA, KFTC, and ACLC were also granted intervention as Joint Intervenors.<sup>15</sup>

WHEREFORE, for the reasons stated above, Joint Movants MA, ACLC, KFTC, and KYSES respectfully request to be accorded the status of full Joint Intervenors, and

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<sup>13</sup> *Id.*

<sup>14</sup> Case No. 2020-00174, Aug. 4, 2020 Order at 5.

<sup>15</sup> Case No. 2022-00387, Mar. 30, 2023 Order; Case No. 2022-00424, Jan. 12, 2023 Order; Case No. 2023-00159, Aug. 16, 2023 Order.

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.

Respectfully submitted,



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Byron Gary  
Tom FitzGerald  
Ashley Wilmes  
Kentucky Resources Council, Inc.  
P.O. Box 1070  
Frankfort, KY 40602  
(502) 875-2428

[Byron@kyrc.org](mailto:Byron@kyrc.org)  
[FitzKRC@aol.com](mailto:FitzKRC@aol.com)  
[Ashley@kyrc.org](mailto:Ashley@kyrc.org)

*Counsel for Joint Movants Mountain Association, Kentuckians for the Commonwealth, Appalachian Citizens' Law Center, and Kentucky Solar Energy Society*

### **CERTIFICATE OF SERVICE**

In accordance with the Commission's July 22, 2021 Order in Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, this is to certify that the electronic filing was submitted to the Commission on May 16, 2024; that the documents in this electronic filing are a true representations of the materials prepared for the filing; and that the Commission has not excused any party from electronic filing procedures for this case at this time.



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Byron Gary