

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

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY POWER COOPERATIVE, INC. FOR)	
A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY AND SITE COMPATABILITY)	
CERTIFICATES FOR THE CONSTRUCTION OF)	
A 96 MW (NOMINAL) SOLAR FACILITY IN)	
MARION COUNTY, KENTUCKY AND A 40 MW)	CASE NO. 2024-00129
(NOMINAL) SOLAR FACILITY IN FAYETTE)	
COUNTY, KENTUCKY AND APPROVAL OF)	
CERTAIN ASSUMPTIONS OF EVIDENCES OF)	
INDEBTEDNESS RELATED TO THE SOLAR)	
FACILITIES AND OTHER RELIEF)	

**PETITION TO INTERVENE BY THE LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT AND NOTICE OF WAIVER OF SERVICE BY U.S. MAIL**

Pursuant to 807 KAR 5:001 Section 4(11), KRS 278.310, and KRS 278.040(3), the Lexington-Fayette Urban County Government (“LFUCG”), a ratepayer of East Kentucky Power Cooperative, Inc. (“Company”), petitions the Public Service Commission for intervention in the above captioned proceeding. In support of this petition, LFUCG states the following:

1. 807 KAR 5:001, Section 4(11)(a)(1) requires that a person requesting leave to intervene as a party to a case before the Kentucky Public Service Commission (“Commission”), by timely motion, must 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.¹

¹ See also PSC Order dated May 14, 2024, in the instant action.

2. LFUCG is an urban county government established under KRS Chapter 67A. Its address is 200 East Main Street, Lexington, KY 40507.
3. LFUCG has interpreted KRS 278.040(2) as requiring a person seeking intervention to have an interest in the rates or services of a utility as those rates are the only matters that are subject to the Commission's jurisdiction. See Order, *Kentucky Power Co.*, Case No. 2017-00179 (Ky. PSC June 19, 2017). LFUCG satisfies this requirement because it is a customer of the Company. In the last fiscal year, LFUCG indirectly paid \$575,483 to East Kentucky Power via costs for electrical services to Blue Grass Energy Cooperative.²
4. LFUCG has a special and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party; and, LFUCG 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. To wit, LFUCG contemplates the exploration of facts and issues related to permanent consequences on its land use policies as they relate to solar generation on commercial and agricultural zoned land. In addition, LFUCG would explore whether the impact from the proposed solar generation on the total Company capacity would result in tangible, quantifiable benefits to LFUCG in light of the profound detriment to its land use policies.

² Blue Grass Energy Electric Cooperative is one of EKPC's 16 member-owned cooperatives.

5. The Company's proposed 40 MW project, designated as the Bluegrass Plains Solar Project, is located in Lexington-Fayette County.³ Specifically, the proposed project would be "located on approximately 386 acres of agricultural land and on contiguous parcels in Fayette County..."⁴ With an impressive 400-acre footprint, this project, if approved by the Commission, would provide only questionable, benefits to Lexington-Fayette County. Indeed, all or nearly all of the energy produced from the solar facility would be sold on a wholesale market and provide little energy to consumers in Lexington-Fayette County or even Kentucky. The impact of the proposed generation on the total Company capacity should result in tangible, quantifiable benefits. However, they have yet to be clearly stated.
6. Given the location of the proposed site, and if the Commission approves this proposal, the Commission would effectively legislate LFUCG's solar planning. Currently, LFUCG does not allow for commercial solar facilities under its zoning ordinances. Moreover, there are currently no known commercial-type solar facilities located in Lexington-Fayette County. Accordingly, LFUCG must be granted intervention if it is to preserve any authority over large scale solar planning in its County.
7. Indeed, if the Company is not required to obtain any approval from the LFUCG for the proposed site in Lexington-Fayette County, as it is not required to comply

³ See, for example, EKPC Application Exhibit 3, Attachment PB-3, page 5 of 193, filed on April 26, 2024.

⁴ See, for example, EKPC Application Exhibit 3, Attachment PB-3, page 6 of 193.

with the city's zoning process under state law, the **only** meaningful opportunity for LFUCG to participate in the Company's proposed plan will be through this case. The magnitude of this inequity can be seen with the stark contrast where a private, non-utility company engaged in identical actions would be subject to local regulations. As a result, LFUCG should be granted intervention to prevent this legal paradox.

8. As an intervenor, LFUCG will demonstrate its significant concerns that approving this particular project will negatively impact its land use policies and local control over a proposal that will provide little to no benefit to Lexington-Fayette County residents. In the case at hand, the proposed project is to be located on land that is zoned for agricultural purposes. Historically, Lexington-Fayette County has long limited commercial and industrial uses in agricultural zones due to the importance of agriculture to the economy. A Commission decision without LFUCG's input would effectively mute LFUCG's ability to prescribe its future land use policies, at least concerning large scale solar planning.
9. LFUCG supports renewable energy, however, it should have a say in determining the siting of such projects in its jurisdiction. In the absence of a regional or statewide plan to deploy solar or other renewable utility facilities, LFUCG and the residents of Lexington-Fayette County should have an opportunity to intentionally study and create a plan that serves the best interests of Lexington-Fayette County. Until that plan exists, if ever, LFUCG should be

granted the right to meaningfully participate in every proceeding - including this matter - which decides the use of its land.

10. LFUCG has timely filed its motion to intervene in this proceeding by filing it before the deadline of May 22, 2024.⁵

11. Administrative regulation 807 KAR 5:001, Section 4(11)(b) states:

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 that he or she has a special interest in the case that is not otherwise adequately represented or that his or her 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.

LFUCG has satisfied both criteria and should be granted intervention.

12. Pursuant to 807 KAR 5:001 § 8(9), LFUCG provides notice that in the event the Commission grants its Motion to Intervene, it waives any right to service of Commission Orders via U.S. Mail; and certifies that: (a) LFUCG and its agents are capable of receiving electronic transmissions; and (b) the electronic email addresses to which all electronic notices and messages related to the above-styled proceeding should be served are those individuals as noted in Paragraph 16 below.

⁵ See Order at Appendix.

CONCLUSION

13. LFUCG has a special interest that is not otherwise adequately represented.
14. LFUCG's intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matters at hand.
15. LFUCG offers to play a constructive role in the Commission's decision-making process without unduly complicating or disrupting the proceedings.
16. The attorneys for LFUCG authorized to represent it in this proceeding and to take service of all documents are:

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WHEREFORE, LFUCG respectfully requests that it be granted intervention in the above captioned proceeding. LFUCG has a special interest not otherwise adequately represented and it is likely to present issues or develop facts which will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Respectfully submitted,

/s/ Dennis G. Howard, II

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Certificate of Service

Pursuant to the Commission's Orders in Case No. 2020-00085, and in accordance with all other applicable law, Counsel certifies that an electronic copy of the foregoing was served and filed by e-mail to the parties of record on this 22nd day of May 2024.

/s/ Dennis G. Howard II

Dennis G. Howard, II