

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

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

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**FAYETTE ALLIANCE, INC.’S MOTION TO INTERVENE**

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Comes the Fayette Alliance, Inc. (“FA”), 169 N. Limestone Ave., Lexington, Kentucky 40507 pursuant to 807 KAR 5:001 Section 4(11), KRS 278.310, and KRS 278.040(2), by counsel, and moves for full intervenor status in this action. In support of this motion, FA states as follows:

FA is a nonprofit organization incorporated under the laws of the Commonwealth of Kentucky in 2006, from the downtown, business, neighborhood, and agricultural communities of Fayette County to serve Lexington as its first and only land-use advocacy group. FA advocates to positively impact planning and zoning laws to promote smart, sustainable, and equitable growth in Lexington-Fayette County. By advocating for the protection of farmland, FA helps protect Fayette County’s signature and thriving agricultural industries and cultural assets. By advocating for innovative and responsible infill and redevelopment, FA makes it easier and more likely that vacant, underutilized, and blighted properties will be reclaimed for commercial and residential uses. Additionally, by promoting sustainable infrastructure policies, FA’s work

improves Lexington's environment and our quality of life. FA's work positively impacts planning and zoning laws – which are the building blocks of a better quality of life, economy, and environment for Central Kentucky residents.

In 1958, the Lexington-Fayette County created the nation's first Urban Services Boundary (“USB”), a growth boundary that limits development into the rural area. The USB serves twin purposes – it preserves Fayette County's irreplaceable farmland and landscape, while directing development and investment inside our urban areas. As Lexington evolves into a dynamic, vibrant city, FA has focused on continuing to grow smart in Lexington by advocating a balance between innovative, responsible development and the protection of our irreplaceable Bluegrass farmland within Fayette County both inside and outside the USB.

In this matter EKPC seeks CPCNs and Site Compatibility Certificates for a solar facility on farmland outside the USB within Fayette County. FA is supportive of renewable energy development, particularly solar on rooftops, brownfield sites, industrial areas, and already built environments. However, FA has serious concerns about the impacts of locating large-scale solar facilities, such as EKPC's request, on Lexington-Fayette County's world-renowned soils in this case outside of the USB. In addition to the environmental impacts and the loss of prime, nationally significant farmland, FA is also concerned about the precedent set by permitting these types of commercial and industrial uses in our agricultural zones. Large-scale solar development is a complex land-use issue that must be thoughtfully addressed and informed by research and analysis. FA submits that it is critical that our community efforts for sustainability do not come at the expense of the land that makes Lexington so unique.

Promoting responsible and sustainable land uses in both our urban and rural areas is of critical importance to FA. EKPC's proposed site location is situated in the Agricultural-Rural

(A-R) Zone of Lexington-Fayette County, which is a zone specifically designated for production agriculture in our planning and zoning ordinance. Eighty-seven percent (87%) of our Rural Service Area (outside of the USB) is comprised of nationally recognized prime soils or soils of statewide significance. Specifically, the land which EKPC proposes to utilize for the solar development is more than ninety percent (90%) prime, nationally significant farmland.<sup>1</sup> The A-R zone is designated as such to specifically preserve our most prime soils for agricultural purposes and preserve our agricultural economy overall, reserving principal permitted uses in the zone for production agriculture and discouraging all forms of urban development except for very limited conditional uses.

FA advocates for intentional growth strategies that leverage, not threaten, the things that make Lexington a great place to live, work, and play. In doing so, FA sponsors research related to local land-use and economic development, encouraging data-driven policies and solutions for Fayette County citizens. FA advocates for in-fill rather than expansion outside of the USB. For example, one of many studies commissioned by FA discussed the vital role that Fayette County agriculture provides to the overall economy specifically: the ag cluster in Fayette County

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<sup>1</sup> The chemical profile of Lexington's soils makes it prime for row crops, equine and livestock production, and pastureland. The Bluegrass Region is home to deep, residual soils formed on phosphatic limestone. This means that the soil contains high levels of calcium and phosphorus, which in turn means that the plants growing in this soil and animals raised on it are fortified with these minerals. Phosphorus is a natural fertilizer that nurtures strong and healthy plants; it is used as an amendment in other agricultural areas for this reason. The high calcium content enriches the grass, which benefits the animals who eat it. Fayette County's rural land is uniquely rich in significant minerals that make our region the "Horse Capital of the World." The soil also nurtures the corn, barley, and rye used in bourbon production, our region's other distinctive industry, as well as other crops grown in Fayette County. The soil itself drives our unique and world-renowned agricultural economy, and the industries that lend our region its character are direct products of our special soils. In 2006, the Inner Bluegrass Region, which includes Fayette County, was placed on the World Monument Fund's list of the 100 most endangered cultural landscapes in the world. Our agricultural land, which is recognized as ecologically and culturally significant, was disappearing as a result of sprawling development. According to a study by American Farmland Trust, from 2001 to 2016, 265,300 acres of Kentucky's best farmland were developed – seventy-seven percent (77%) of which was converted to low-density residential development. In Fayette County, according to the most recent 2017 USDA Agricultural Census, there remain 622 farms, down from 718 farms in 2012. This loss is significant. It is FA's mission to engage in mindful planning to minimize negative impacts on our farms, our farmers, and our region's distinctive agricultural industries. See, <https://fayettealliance.com/soils/>

accounts for \$2.3 billion in annual economic activity; one (1) out of every twelve (12) jobs is directly or indirectly attributable to the ag cluster, resulting in \$8.5 million to the local tax base; and, the ag cluster generates an additional \$1.3 billion in income, profits and dividends.<sup>2</sup> Likewise, in the same study it was determined that if production agriculture declined by ten percent (10%), then there would be an additional overall decrease of \$26.5 million in business output and another \$3.5 million reduction in sales from business spending. It is for many of these reasons that FA advocates to protect our rural area from urban uses – because our farmland is the factory floor of our economy. *Id.* at fn.2.

The Commission’s review and potential approval of the proposed CPCNs and Site Compatibility Certificates for a solar facility on farmland outside the USB within Fayette County has consequence to FA and impacts FA’s mission as an organization. As shown above, Fayette County agriculture accounts for one (1) out of every twelve (12) jobs in the area along with the financial boon to the economy. FA has a significant interest in protecting Bluegrass farmland and by permitting an industrial-scale solar facility to be located in our A-R zone, FA’s mission to protect our prime farmland for agricultural production is undermined, which FA submits is not responsible or sustainable growth for our future. FA has a special interest which is not otherwise represented by any other party or prospective party in this above-captioned matter including that of the Attorney General and its participation will not unduly complicate or disrupt the proceeding.

FA is in a unique position as the primary land-use advocacy group in Fayette County to assist the Commission in evaluating whether EKPC’s proposed CPCNs and Site Compatibility

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<sup>2</sup> See, <https://fayettealliance.com/ag-study-economic-impact/>

Certificates for a solar facility is fair, just and reasonable, consistent with KRS 278.030 and KRS 278.040. FA's intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matters at hand. FA has operated since 2006. In this proceeding, FA currently expects to, at a minimum, actively participate and provide expert analysis regarding EKPC's proposal. Therefore, FA will be a helpful and active participant should its request to intervene be granted along with this motion being timely. FA intervention will not unduly complicate or disrupt the proceedings. Last, as addressed above, EKPC's request to build a solar facility on Bluegrass farmland outside the USB directly intersects with FA's mission as an organization as the primary land advocacy group in Fayette County seeking to preserve Bluegrass farmland and promote in-fill rather than expansion. KRS 278.010(12); KRS 278.010(13)("[a]nyone seeking to intervene must have an interest in the 'rates' or 'services' of a utility.").

The attorneys for FA authorized to represent it in this proceeding and to take service of all documents are:

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Wherefore, FA respectfully requests that it be granted full intervenor status in the above captioned proceeding.

Respectfully submitted,

/s/Matt Malone

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Counsel for the Petitioner,  
FAYETTE ALLIANCE, INC.

### **CERTIFICATE OF SERVICE**

I hereby certify that FA's May 22, 2024 electronic filing is a true and accurate copy of FA's pleading and Read 1<sup>st</sup> Document to be filed in paper medium; that the electronic filing has been transmitted to the Commission on May 22, 2024; that an original and one copy of the filing will not be mailed to the Commission given the pandemic orders; that there are currently no parties excused from participation by electronic service; and that, on May 22, 2024, electronic mail notification of the electronic filing is provided to all parties of record.

/s/Matt Malone

ATTORNEY FOR FAYETTE ALLIANCE, INC.