COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:	)	
	)	
ELECTRONIC APPLICATION OF KENTUCKY	)	
UTILITIES COMPANY AND LOUISVILLE GAS	)	
AND ELECTRIC COMPANY FOR CERTIFICATES	)	**Case No. 2025-00045**
OF PUBLIC CONVENIENCE AND NECESSITY	)	
AND SITE COMPATIBILITY CERTIFICATES	)	

SIERRA CLUB'S POST-HEARING REPLY BRIEF

I. Introduction

Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively, "LG&E/KU" or "the Companies") have failed to meet their burden to establish both the need and the absence of wasteful duplication for certificates of public convenience and necessity ("CPCNs") for nearly $3 billion for two proposed new gas plants (Brown 12 in 2030 and Mill Creek 6 in 2031) and the proposed "selective catalytic reduction" ("SCR") for the Ghent 2 coal-fired unit.[1] The Commission should therefore deny the CPCNs. In the alternative, if the Commission decides to approve portions of the Stipulation put forward by some of the parties, it should modify the Stipulation to deny the CPCN for at least one of the two proposed gas plants and the unnecessary Ghent 2 SCR, while approving the CPCN for the Cane Run BESS, which could be online in 2028 and would provide multiple grid services and add near-term capacity.

[1] The combined cost of the two gas plants and SCR is $2.985 billion. Sierra Club Post-Hearing Brief at 2 (citing Joint Application at 12).

In support of the speculative need for new generation, the Companies point to their 2025 CPCN load forecast, which anticipates 1,750 MW of data center load and less than 40 MW of new non-data center load over the next seven years.[2] That load forecast is based on what the Companies call their economic development pipeline, which is full of speculative projects put forward by entities such as real estate developers hoping to cash in on a national boom in data center construction. And while the Companies have refused to identify discussions with any particular hyperscale data center operators (Meta, Amazon, Google, Microsoft), none of those entities (or any other data center developer) has submitted supportive comments in this docket. Eschewing the practice of utilities in Virginia, Ohio, and elsewhere that have real-world experience serving large-load data centers with multi-year contractual obligations, the Companies' preferred approach to converting the list of hypothetical data center projects in their pipeline into the load forecast relied on here is ad hoc, opaque, and fails to account for the many warning signs that the resulting forecast is overly optimistic.[3] And while the Kentucky Industrial Utilities Customers ("KIUC") urge the Commission to approve Mill Creek 6 so that the Companies might "aggressively pursue their economic development objectives,"[4] that aim cannot satisfy the Commission's standards necessary to demonstrate actual need and the absence of wasteful duplication.

The $152 million SCR proposed for the aging Ghent 2 coal-fired unit is not legally required now and won't be for the foreseeable future. As the Companies' witness Philip Imber implicitly recognized, any SCR requirement depends on a chain of hypothetical events that may

[2] LG&E/KU Post-Hearing Brief at 13.

[3] Sierra Club Post-Hearing Brief at 3-4, 10-16.

[4] KIUC Post-Hearing Brief at 10.

never occur: a potential citizen suit seeking to require EPA to initiate a rulemaking addressing Kentucky's obligations under the so-called "good neighbor" provision of the Clean Air Act; a court determination that EPA has an obligation to act, which does not presently exist; a change in public position from the current U.S. Environmental Protection Agency ("EPA") Administrator Lee Zeldin, who has made cutting coal-plant regulations a centerpiece of his policy; or a new Presidential administration, followed by new EPA rulemakings, and a determination that those hypothetical new regulations impose new pollution control measures at the Ghent station, and potentially years of subsequent litigation addressing the merits of any such regulation.[5] While it is theoretically possible that each of the prerequisite events could potentially impose an SCR at Ghent 2 at some unspecified point in the future, there is no present "need" to justify spending $152 million in ratepayer dollars now or anytime in the foreseeable future. In the absence of a specific requirement for an SCR, rejecting the Ghent 2 SCR also furthers environmental protection because there is no guarantee the SCR system would be operated optimally to benefit the out-of-state non-attainment areas and, just as importantly, wasteful spending on aging coal-burning resources would displace investments in cleaner resources to serve the Companies' customers. In the alternative, if the Commission is inclined to grant the CPCN for the Ghent 2 SCR in the absence of any specific requirement, Sierra Club offers an alternative recommendation below that would assure that the Companies' shareholders pay those costs, absent a specific requirement to install an SCR.

Finally, the Commission should reject the proposed Stipulation for two main reasons. First, the risks of approving the Stipulation far outweigh any illusory benefits of the Stipulation. As part of the Stipulation, the Companies would commit to minor accommodations that can be

[5] Sierra Club Post-Hearing Brief at 22-23.

accomplished without putting ratepayers at risk of stranded assets: the Commission can direct the Companies to hold semi-annual meetings on economic development and data center projects without approving the Stipulation, and changes to the pending extremely high load factor rates will necessarily be addressed by parties and approved by the Commission, if ever, through case nos. 2025-00113 and 2025-00114. And the commitment put out a request for proposal for new solar generation rings hollow, given that it would (a) not guarantee a build of new solar, and (b) come on the heels of two new gas plants and extending the life of a coal plant already approved for retirement, markedly undercutting the need for any additional solar generation.

Second, the evidentiary record does not adequately support the Stipulation's intention to keep the Mill Creek 2 coal plant open past the Commission-approved expected operation of the Mill Creek 5 gas plant in 2027, nor has that question been subject to economic analysis, discovery, or testimony through a full docket. If that is the Companies' plan, there is plenty of time to propose such a course of action in a new docket and seek Commission approval as needed. The risks to ratepayers of stranded assets swamps any of the supposed benefits.

Given the flawed record the Companies created here, Sierra Club respectfully requests the Commission reject the proposed Stipulation because it is not in the interest of ratepayers and deny the requested CPCNs for the Brown 12 and Mill Creek 6 gas plants, as well as the SCR for Ghent 2. In the alternative, if the Commission determines it is appropriate to approve some new generation, it should only approve one of the two proposed gas plants and the Can Run BESS.

II. The Companies' So-Called "Ample" Demand Is Purely Speculative.

The Companies claim there is "ample evidence" of future demand to support their request to spend nearly $3 billion to build two new gas plants and the SCR for Ghent 2.[6] As explained in

[6] LG&E/KU Post-Hearing Brief at 13.

Sierra Club's Post-Hearing Brief, the Companies' evidence for that demand is flimsy at best.[7] The record the Companies created here, among other failures, reveals that in contrast to utilities in Virginia, Ohio, and elsewhere with actual data center experience and firm contracts for service, the Companies don't have a single signed electric service agreement with either a data center company or a real estate developer looking for data center tenants. Based on the Companies' own internal ranking system, there's only one data center project in their economic development pipeline that they give above a 50 percent chance of happening (the Campground data center, which has been publicly announced by the developer but does not yet have a tenant). Project Lincoln in Oldham County, a 750 MW data center that had previously been publicly announced by the developer, was scrapped entirely when it failed to secure a necessary zoning change. Even the Attorney General's Office, which supports the proposed Stipulation, acknowledges "the speculative nature of the data center load."[8] Nothing in the Companies' Post-Hearing Brief transforms the Companies' hopes for future economic development into the "reasonable basis" that they claim supports the "need" and avoidance of wasteful duplication that they bear the burden of demonstrating before the Commission issues the requested CPCNs.[9] In their Post-Hearing Brief, the Companies raise two points in defense of their 2025 CPCN load forecast for data centers. Neither has merit.

First, the Companies point to the number of projects somewhere in their economic development pipeline, the "probabilities based on the Companies' decades of experience in economic development in Kentucky," and "the expected load value of the projects."[10] Several

[7] Sierra Club Post-Hearing Brief at 3-4, 10-16.

[8] Attorney General Post Hearing Brief at 6.

[9] LG&E/KU Post-Hearing Brief at 11-12.

[10] LG&E/KU Post-Hearing Brief at 13.

factors undermine the credibility of this statement. As an initial matter, as explained in Sierra Club's Post-Hearing Brief, and as confirmed by the Companies' Witness Tim Jones at the hearing, the Companies' "decades of experience in economic development" hasn't included the development of a single large-scale data center. They have no experience developing data centers, so they point to their experience with other types of economic development. But given the novelty of data centers, the massive amount of energy and capacity buildout required to serve them, and the glut of proposals nationally, it is not clear that experience developing other types of projects is particularly relevant to assessing whether potential data center customers will build their project, and if they do, whether they will build it in the Companies' service territories.[11]

Moreover, the Companies have not justified how they arrive at their internal assessment of the likelihood that a data center will be developed, which is essential to understanding what the companies mean by "expected load value." Here, by "probabilities," the Companies refer to their own internal ranking system for potential economic development projects, in which they sort every project into one of five categories (ranging from "inquiry" on the low end to "announced" on the high end). The Companies have assigned each category a probability percentage that reflects the Companies' assessment of the likelihood of a potential project in that category being developed:

[11] Sierra Club Post-Hearing Brief at 14 (citing Hearing Video at 6:01-6:02:15 (Aug. 6, 2025)).

Companies Phase Description with Probabilities[12]

Phase of Economic Development	Description	Load (MW)	Probability of Being Developed
Inquiry	Early stage of evaluation	1,630	10%
Suspect	Project engaged in information exchange	1,785	20%
Prospect	Regular exchange of information and detailed evaluation of a site	2,200	50%
Imminent	Project has information necessary to make a decision	402	80%
Announced	Signed Contract	0	-

The Companies "expected load value" is arrived at by multiplying the scale of a potential project (in MW) by the probability of that project actually being developed, such that a 1,000 MW data center in the "inquiry" phase would have an expected load value of 100 MW (1000 MW x 10 percent). Not only do the Companies have "[n]o internal documentation . . . that the Companies use to assign the stage of economic development,"[13] but the Companies have never explained why, with their complete lack of experience in developing data centers, it is appropriate to assign a potential data center in the "prospect" phase a 50 percent chance of coming to fruition as opposed to any other percentage. Problematically, relying on the Companies' system, as they urge in their Post-Hearing Brief,[14] could result in an "expected load value" for data centers that is comprised primarily of low-probability projects. Here, only a single data center project (known as the "Campground" proposal) has more than a 50 percent chance of being developed based on the Companies own opaque and unsubstantiated probability ranking. And while the Companies'

[12] Chelsea Hotaling Testimony at 14, T. 4 (citing KU/LG&E response to Staff 1-18 and Sierra Club 2-9).

[13] Sierra Club Post-Hearing Brief at 15 (citing KU/LG&E response to AG-KIUC 2-20(b)).

[14] LG&E/KU Post-Hearing Brief at 13-14.

state that Campground "continues to progress,"[15] it has not signed an electric service agreement and has not reached the Companies' own "announced" status.

And while the Attorney General explains that "Kentucky should be cognizant of the example set by data center development in Ohio and Virginia," citing the extremely high load factor tariff pending in case nos. 2025-00113 and 2025-00114,[16] this example misses the point. In designing rates applicable to large-scale data centers proposed in dockets 2025-00113 and 2025-00114, the Companies understandably looked to what other utilities with actual data center experience have done, including those in Ohio and Virginia. But in developing the 2025 CPCN load forecast that supposedly justifies the Companies' plan to build nearly $3 billion in new generation assets, the Companies treat speculative data center interest differently than utilities with actual data center experience in Ohio and Virginia. As set out in Sierra Club witness Chelsea Hotaling's testimony, American Electric Power ("AEP"), which operates in Ohio and other states, and Dominion Energy, which includes territories in Virginia, only include data center projects in their load forecasts after those data centers have signed electric service agreements or similar contracts in place with the utility:

[15] LG&E/KU Post-Hearing Brief at 14.

[16] Attorney General Post-Hearing Brief at 3.

Electric Utilities in PJM with Commitment Requirements[17]

Electric Utility	Requirement for Inclusion in Forecast
American Electric Power ("AEP") (Ohio)	• Near-term additions based on contracts in place at the time the forecast is submitted • Project must have a signed Letter of Agreement ("LOA") and an Electric Service Agreement ("ESA") in progress
Dominion Energy Virginia	• Signed firm contracts are used to validate forecast • Firm contracts include a Construction Letter of Authorization and an Electric Service Agreement
Exelon (BGE, ComEd, PECO)	• Customers with signed engineering agreements with financial deposits
PPL	• Only include data center projects with a Signed Agreement

Here, the Companies have provided no justification as to why it makes sense to look at what utilities with data center experience have done when designing applicable rate structures but not when forecasting load growth that dictates billions of dollars in ratepayer costs.

Second, in their Post-Hearing Brief, the Companies assert that the Kentucky statute aimed at attracting large-load data centers to the state is "working."[18] But the Companies fail to point to a large-scale data center project anywhere in the state that has either been developed or entered into a signed electric service agreement. The best they can point to is "data center interest."[19] But merely generating interest was not the General Assembly's goal, and to date the tax incentive hasn't resulted in the development of a single large-load data center anywhere in the state. Although the Company has repeatedly invoked Kentucky's tax incentives to justify its

[17] Direct Testimony of Chelsea Hotaling at 21, T. 5 (internal footnotes omitted).

[18] LG&E/KU Post-Hearing Brief at 14.

[19] LG&E/KU Post-Hearing Brief at 14.

optimistic 2025 CPCN load forecast,[20] the Companies have made no attempt to compare the competitiveness of Kentucky's data center incentives to those of other states.[21] The excitement over speculative "data center interest" in Kentucky should be tempered by the uncontroverted testimony of Dr. Jeremy Fisher, who documented the glut of data centers proposals nationally.[22] Dr. Fisher found such a "massive overstatement" of data center projects in utility economic development pipelines that if all the proposals in just 20 utility pipelines were built, data centers alone would consume 40 percent more electricity than the entire U.S. electric system today.[23] A recent report from the Bipartisan Policy Center explained an industry standard practice: "[d]ata center developers consider multiple states as possible locations for data centers, and they query multiple utilities simultaneously for electricity rates and incentives prior to making a final selection."[24] A former director of energy for Meta, the largest data center owner in the U.S., characterized the market as one with "rampant speculative behavior by developers across the country," marked by developers that make "several different load interconnection requests for one viable project or a single request for a half-baked opportunity."[25] The director of the Electric Power Supply Association concluded that load forecasts that rely on data center growth can verge on "irrational exuberance" and that "estimates are often wildly optimistic."[26]

[20] Joint Application at 6; Direct Testimony of Tim Jones at 14; Rebuttal Testimony of John Bevington at 6; LG&E/KU Post-Hearing Brief at 14; Hearing Video 5:59:00 – 6:00:40 (Aug. 6, 2025).

[21] Sierra Club Post-Hearing Brief at 13.

[22] Testimony of Jeremy Fisher at 11-12.

[23] Fisher Testimony at 12.

[24] Fisher Testimony at 13-14 (quoting Koomey, J., Z. Schmidt, and T. Das. February 2025. Electricity Demand Growth and Data Centers: A Guide for the Perplexed. Bipartisan Policy Center.).

[25] Fisher Testimony at 14 (quoting Freed, P. and A. Clements. February 19, 2025. How to reduce large load speculation? Standardize the interconnection process. Utility Dive.).

[26] Fisher Testimony at 14 (quoting Snitchler, T. January 15, 2025. Load forecasts from data centers risk falling into irrational exuberance territory. Utility Dive.).

Unfortunately for LG&E and KU ratepayers, that appears to be the case here. Dr. Fisher concludes that "[r]elative to other utilities that I've assessed, the Companies apply far more weight to less developed data center proposals in their consideration."[27]

III. The Companies' Speculation that the Zeldin EPA Might Impose an SCR on Ghent Unit 2 Is Not Credible.

Having failed to point to any specific requirement for an SCR at Ghent unit 2, such as from the Good Neighbor Plan, the Companies nevertheless argue that EPA remains obligated to ensure that emissions from Kentucky do not significantly contribute to downwind ozone problems.[28] But ozone standards are not self-implementing and there is currently no statutory or regulatory obligation for the Companies to install an SCR on Ghent unit 2 and there likely will not be such an obligation for the foreseeable future, as Sierra Club explained in our Post-Hearing Brief,[29] and for these further reasons.

First, the Sixth Circuit vacated EPA's disapproval of the Kentucky state implementation plan ("SIP") precisely on the technical issue of Kentucky's "contribute significantly" to downwind states nonattainment with NAAQS.[30] The Biden EPA had argued that the proper threshold for measuring "significant contribution" was a 0.7 parts per billion ("ppb") (i.e., 1% of the 70 ppb standard) impact on the NAAQS in a downwind state, but its previous guidance provided states with some latitude for establishing a different threshold. Kentucky advocated for the use of a 1 ppb threshold, consistent with the significant contribution standard from a previous inter-state trading rule, the Cross-State Air Pollution Rule. In any case, it is far from clear that

[27] Fisher Testimony at 15.

[28] LG&E/KU Post-Hearing Brief at 20.

[29] Sierra Club Post-Hearing Brief at 20-23.

[30] *Kentucky v. United States EPA*, 123 F.4th 447 (6th Cir. 2024).

EPA would stick with the more-stringent .7 ppb threshold given its intent to give power back to the states,[31] and especially in light of the Sixth Circuit opinion. As the Sixth Circuit opinion notes, if EPA adopts the 1 ppb threshold then no significant contribution would have been found from Kentucky sources and there would be no inter-state transport basis for imposing provisions on Kentucky sources under the 2015 ozone NAAQS.[32]

Second, related, the EPA's announcement of its decision to reconsider the Good Neighbor Plan is inconsistent with the LGE/KU's speculation that EPA might impose its own stringent 'significantly contribution' standard on Kentucky.[33] In that press release, the Zeldin EPA stated that the Biden EPA approach to cross-state air pollution involved a "heavy-handed, one-size-fits-all, federal mandate [that] was emblematic of a larger regulatory onslaught that guided agency action and rules."[34] This EPA press release referred to the current administration's decision to roll-back the Good Neighbor Plan, and other rules, as the "the greatest and most consequential day of deregulation in the history of the United States," that would "unleash American energy," "restore the rule of law, and give power back to states to make their own decisions."[35] Taking the Zeldin EPA's statements of its intention at face value, it seems highly unlikely that the current EPA intends to impose its own "significant contribution"

[31] Sierra Club Exhibit 3, U.S. EPA Press Release, "Trump EPA Announces Plan to Work with States on SIPs to Improve Air Quality and Reconsider "Good Neighbor Plan", dated March 12, 2025.

[32] *Kentucky v. United States EPA*, 123 F.4th 447, 469 (6th Cir. 2024). ("Kentucky's highest contribution to a maintenance or nonattainment receptor was only "0.84 ppb," which is below the 1 ppb threshold that the EPA had recommended [under CSAPR].").

[33] Sierra Club Exhibit 3, U.S. EPA Press Release, "Trump EPA Announces Plan to Work with States on SIPs to Improve Air Quality and Reconsider "Good Neighbor Plan", dated March 12, 2025.

[34] *Id.*

[35] *Id.*

threshold on Kentucky, but instead plans "give power back" to Kentucky to implement the Clean Air Act.

In addition, the Companies assert that if EPA is reluctant to impose an SCR on Ghent 2, citizen suits could "compel the EPA to act if it fails to do so voluntarily."[36] But citizens suits cannot dictate any particular substantive outcome. The Clean Air Act allows for citizen suits to compel EPA to act by issuing an approval or disapproval of a state implementation plan ("SIP") , and a federal implementation plan, if the state fails to timely correct the SIP, but citizens cannot compel specific substantive action.[37] In other words, if EPA fails to act on the Kentucky SIP in the wake of the Sixth Circuit decision, a citizen could file a 'deadline lawsuit' to compel EPA to take some action–either approving or disapproving—that Kentucky state plan by a deadline. But that suit would not compel any particular outcome, it would merely require EPA to issue a rule.[38] The ultimate substantive decision of what requirements to impose on Kentucky would be up to the current EPA.

Further to the speculation about EPA following the law and science, in his pre-filed testimony, Imber notes that EPA's science advisory board had, in 2023,[39] recommended a more stringent ozone NAAQS. But as Mr. Imber conceded at the hearing, Administrator Zeldin fired

[36] LG&E/KU Post-Hearing Brief at 20-21.

[37] See 42 USC 7410(k).

[38] *See Brock v. Pierce Cty*., 476 U.S. 253, 260 & n.7 (1986); *Sierra Club v. EPA*, 762 F.3d 971, 981 & n.5 (9th Cir. 2014). The EPA is no stranger to consent decrees that set deadlines after it fails to timely promulgate designations. See, e.g., *Miss. Comm'n on Envtl. Quality v. EPA*, 790 F.3d 138, 158 (D.C. Cir. 2015) (per curiam) (enforcing a consent decree's deadlines and noting that "[t]he EPA entered into the consent decree precisely to settle allegations that it had already missed the Act's statutory deadlines for promulgating the 2008 ozone NAAQS designations"); *Nat. Res. Def. Council v. EPA*, 777 F.3d 456, 461–63, 467 (D.C. Cir. 2014) ("EPA entered into consent decrees aimed to enforce those provisions [related to the promulgation of designations] under which it agreed to promulgate revised NAAQS by March 2008 and to issue designations by May 2012.").

[39] Imber Direct Testimony at 9.

all the members who authored that report.[40] That action further confirms the deregulatory agenda of this EPA with respect to the ozone NAAQS. In sum, under the Clean Air Act, the NAAQS are not self-implementing. Only a state or EPA could impose any requirements under 2015 ozone NAAQS, including a requirement to install an SCR. As Mr. Imber conceded at the hearing, because the Commonwealth's own 2015 ozone NAAQS state implementation plan does not contain an SCR requirement,[41] such a requirement could be imposed on Ghent 2 only if U.S. EPA were to do so. The current EPA has made clear its intention to defer to Kentucky's state plan.

Finally, the Companies argue that "having Ghent 2 available year-round, including in the ozone season, is part of a least-cost resource portfolio."[42] This point does not support the request for a CPCN to install an SCR. The Companies have operated Ghent 2 year-round for the last several years and can continue to do so without installing an SCR. Installing an SCR therefore does not provide *any* "additional" flexibility, but merely increases customers' costs with little benefit to them. Further, as Mr. Bellar observed with respect to the Ohio Valley Electric Corporation coal units, older coal units can unexpectedly break down.[43] Far from evincing what the Companies deem "palpable irony,"[44] there's nothing ironic about conservation groups advocating against unnecessary and expensive upgrades to an aging coal-fired unit that will only serve to extend the life of the plant. Investing $152 million in a 1970s era coal unit is a risky

[40] Hearing Video, 1:39:14-1:39:27 (Aug. 7, 2025). Available at https://www.youtube.com/live/qgMBHaJnI1w?feature=shared

[41] Hearing Video, 1:26:24-1:27:36 (Aug. 7, 2025).

[42] LG&E/KU Post-Hearing Brief at 20-21.

[43] Hearing Video, 5:40:41-5:41:12 (Aug. 4, 2025) (Mr. Bellar observing that older coal units have "mechanical issues" that may unexpectedly take them out of service).

[44] LG&E/KU Post-Hearing Reply Brief at 8.

decision because the unit might unexpectedly breakdown, even if the spending were required to keep the unit operational. Here, that spending would be imprudent, unreasonable, and wasteful because spending $152 million on this aging coal unit is not even required to operate it year-round. In the alternative, if the Commission is inclined to grant the CPCN for the Ghent 2 SCR in the absence of any regulatory requirement, the Commission should explicitly put the Companies on notice that if the Companies begin construction on the SCR in the absence of a binding regulatory requirement for an SCR, the cost of the SCR will not be included in regulated customers' rates.

IV. Conclusion

It is not ratepayers' fault that the Companies proposed to build $2.8 billion in new gas plants to serve hypothetical data centers before establishing rates and protections for existing customers if that speculative load fails to appear. The Commission should not condone the approach taken here by the Companies, nor encourage such behavior in future cases. The Companies' attempt to recast understandable and widespread ratepayer concerns as those of "a handful of vocal activists"[45] opposed to data centers is tone-deaf, disrespectful to the dozens of people who took time off of work and out of their day to come express valid concerns to the Commission, and is an inappropriate attempt to gas-light the Commission and others who attended the hearing and listened to public testimony, given that the vast majority of commenters voiced concern over the impact to their electricity bills precisely because the Companies want to build first and implement customer protections second.[46] While the Companies suggest the Commission can "protect customers" through the Stipulation's requirement for "semi-annual in-

[45] LG&E/KU Post-Hearing Brief at 40.

[46] Hearing Video, 25:00-1:50:00 (Aug. 4, 2025) Available at https://www.youtube.com/watch?v=HdSDloGgEy0&t=8274s.

person construction, load forecasting, and economic development updates,"[47] the Commission can require those updates without putting existing customers at risk of having to pay for stranded assets. Similarly, any changes to the rates proposed in case nos. 2025-00113 and 2025-00114 will necessarily be proposed and effectuated through that docket, not any terms agreed to in this matter. Though the Attorney General may want the Commission to give little weight to Sierra Club's positions on the issue of ratepayer protections,[48] unlike the Companies or the Attorney General, the Sierra Club's experts actually estimated the potential impact to ratepayers of building two new gas plants in stalling the SCR without adequate ratepayer protections in place.[49] On the record the Companies have built – and there is none on several of the Stipulation's provisions – the Companies have failed to meet their burden to establish need and the avoidance of wasteful duplication necessary to grant the CPCNs. Sierra Club respectfully urges the Commission to reject the proposed Stipulation and deny the requested CPCNs.

Dated: September 17, 2025

Respectfully submitted,

/s/ Joe F. Childers
Joe F. Childers
Joe F. Childers & Associates
The Lexington Building
201 West Short Street, Suite 300
Lexington, KY 40507
(859) 253-9824
joe@jchilderslaw.com

Of counsel
(not licensed in Kentucky)
Nathaniel T. Shoaff
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
nathaniel.shoaff@sierraclub.org

[47] LG&E/KU Post-Hearing Brief at 29-30.

[48] Attorney General Post-Hearing Response Brief at 4.

[49] Sierra Club Post-Hearing Brief at 5-6 (citing Testimony of Stacy Sherwood at 10, T. 1).

Tony Mendoza
Joshua Smith
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
tony.mendoza@sierraclub.org
joshua.smith@sierraclub.org

CERTIFICATE OF SERVICE

This is to certify that the foregoing copy of Sierra Club's Post-Hearing Reply Brief in this action is being electronically transmitted to the Commission on September 17, 2025, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/ Joe F. Childers
JOE F. CHILDERS