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 OF PUBLIC CONVENIENCE AND NECESSITY AND SITE COMPATIBILITY CERTIFICATES	**)**	**CASE NO. 2025-00045**

POST-HEARING REPLY BRIEF OF KENTUCKY UTILITIES COMPANY AND LOUISVILLE GAS AND ELECTRIC COMPANY

Dated: September 17, 2025

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I. Introduction: Kentucky's Bright Economic Future Depends on Approving the Stipulation, and Nothing in the Sierra Club's and Joint Intervenors' Briefs Provides a Good Reason for the Commission to Do Otherwise.[1]

Kentucky Utilities Company ("KU") and Louisville Gas and Electric Company ("LG&E") (collectively, "Companies") are grateful for the opportunity to respond to the briefs of the Sierra Club and the Joint Intervenors. Contrary to the grim picture those briefs paint of Kentucky's economic and load growth prospects, the economic development outlook for the Commonwealth generally, and the Companies' service territories in particular, has never been brighter. Governor Beshear and others announced or celebrated more than ***$6.3 billion in historic new investments*** just last month,[2] the 525 MW Camp Ground Road data center project is advancing,[3] and the Companies' economic development pipeline is still growing.[4] Thus, there is every reason to expect ample demand for the capacity the Stipulation-recommended resources will provide. Moreover, the Stipulation-provided semi-annual in-person construction, load forecasting, and economic development updates will allow the Commission and intervenors to monitor all relevant issues in nearly real-time.

Furthermore, the Stipulation's overall reasonableness is evident not only in its customer-beneficial cost recovery mechanisms, renewable request for proposals ("RFP") provisions, and preservation of the Companies' ability to return to the Commission at any time with other resource proposals, but also in the support it has from Kentucky's chief consumer advocate, the Attorney

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[1] The Joint Intervenors are Kentuckians for the Commonwealth, Kentucky Solar Energy Society, Metropolitan Housing Coalition, and Mountain Association.

[2] *See* Companies' Response to AG-KIUC PHDR 3 (citing Team Kentucky, "Gov. Beshear Highlights 10-Day Economic Win Streak With Over $6.3 Billion Invested and More Than 1,000 Jobs," New Kentucky Home (Aug. 20, 2025) ("Today, Gov. Andy Beshear highlighted an economic win streak for Kentucky, with more than $6.3 billion in new investment and over 1,000 full-time jobs announced by four iconic companies in less than two weeks."), available at https://newkentuckyhome.ky.gov/Newsroom/NewsPage/20250820_EconomicMomentum (accessed Aug. 21, 2025)).

[3] *See* Companies' Supplemental Response to AG-KIUC 3-3(b) (Sept. 17, 2025).

[4] *See* Companies' Response to AG-KIUC PHDR 3; Companies' Response and Supplemental Responses to PSC 2-17(g).

General; ten of Kentucky's largest energy consumers, employers, and drivers of economic vitality through the Kentucky Industrial Utility Customers, Inc. ("KIUC");[5] the important economic and employment interests represented by the Kentucky Coal Association, Inc. ("KCA"); and a renewable energy advocate, the Southern Renewable Energy Association ("SREA"). Presumably if the Stipulation were contrary to the public interest, as the Sierra Club and the Joint Intervenors claim, these important customer and interest advocates would oppose it, not support it, just as the governments of Kentucky's two largest cities would presumably oppose it rather than explicitly *not* oppose it.

In short, the Sierra Club's and Joint Intervenors' briefs provide no good reason for the Commission to do anything other than approve the Stipulation in full and without modification.

II. In Contrast to the Bleak Picture Painted by the Sierra Club's and Joint Intervenors' Briefs, Economic Development Is Booming in Kentucky, Providing Ample Need for the Stipulation-Supported Resources.

If the Sierra Club and Joint Intervenors are to be believed, the economic outlook for Kentucky, particularly in the Companies' service territories, is indeed gloomy; according to them, there is no real prospect of data centers coming,[6] and there is no mention of any other real economic or load growth prospect.[7]

But the undeniable reality is that Kentucky is on an economic development roll of historic proportions. Curiously absent from the Sierra Club's and Joint Intervenors' briefs is any mention of the numerous announcements and celebrations by Governor Beshear and other leaders *just last*

[5] In this case, KIUC represents: AAK; USA K2, LLC; Alliance Coal, LLC; Carbide Industries LLC; Corning Incorporated; Dow Silicones Corporation; Ford Motor Company; JBSSA USA Swift; North American Stainless; and Toyota Motor Manufacturing, Kentucky, Inc.

[6] Initial Brief of Joint Intervenors at 16-17 (Sep. 5, 2025) ("JI Post-Hearing Brief"); Sierra Club Post-Hearing Brief at 11-12 (Sep. 5, 2025) ("Sierra Club Post-Hearing Brief").

[7] Neither the Joint Intervenors nor the Sierra Club addressed the flood of new non-data center economic investments announced last month. *See generally* JI Post-Hearing Brief at 20-25 ("The Companies post-hearing updates to the economic development queue do not suggest a need for both of the proposed NGCCs"); Sierra Club' Post Hearing Brief at 17-19 (describing scenarios where no data center load materializes).

month of multiple billion-dollar investments; indeed, totaling more than $6.3 billion across sectors ranging from advanced manufacturing to uranium enrichment to new healthcare facilities.[8] In addition, the 525 MW—not 402 MW—Camp Ground Road data center project continues to advance, with a binding engineering, procurement, and construction ("EPC") contract amendment authorizing almost $30 million of transmission work guaranteed by the developer having been executed today.[9] And the Companies' economic development pipeline is fuller than ever before, growing to almost 9,300 MW,[10] of which about 7,300 MW is potential data center load and about 2,000 MW is potential non-data-center load—its highest level ever, and up about 9,000 MW of data center potential load and about 1,900 MW of potential non-data-center load since January 2024, just after the Commission's final order in the Companies' 2022 CPCN case.[11] Thus, the undeniable evidence in this proceeding is that historic economic growth, and thus load growth, is poised to occur in Kentucky. Approving the Stipulation in full and without modification will help position the Commonwealth to welcome and facilitate that growth.

To be clear, the Companies do not mean to suggest that all 9,300 MW of load growth will occur by 2032; indeed, they are not planning to serve that level of growth. But there is ample evidence in the record of this proceeding that a non-trivial portion of it will occur—*if there are sufficient resources available to serve it.*

Thus, in sharp contrast to the bleak picture painted by the Sierra Club's and Joint Intervenors' briefs, the reality is that Kentucky is booming and poised for historic growth,

[8] Companies' Response to AG-KIUC PHDR 3; Team Kentucky, *supra* fn. 2
[9] *See* Companies' Supplemental Response to AG-KIUC 3-3(b) (Sept. 17, 2025).
[10] Companies' Response and Supplemental Responses to PSC 2-17(g) (Sept. 16, 2025).
[11] Companies' Response to JI 3-20(a); Companies' Response and Supplemental Responses to PSC 2-17(g); *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of Demand side management plan and Approval of Fossil Fuel-Fired Generating Unit Retirements*, Case No. 2022-00402, Order at 11 (Ky. PSC Nov. 6, 2023).

including billions of dollars in recently announced non-data-center growth, as well as data center growth the General Assembly recently enabled with tax incentives and stated is of "paramount importance to the economic well-being of the Commonwealth."[12] This economic development boom is happening *by design*, not by accident; Governor Beshear, the General Assembly, and local governments have partnered to invest hundreds of millions of dollars in shovel-ready sites to attract new and expanding businesses and industries,[13] and Kentucky's investments are starting to pay off.

But these taxpayer-funded investments will be for naught if there is no power to serve the new and expanding customers Kentucky has worked to attract. The record of this case shows the economic growth poised to happen will require far more electric capacity than currently exists,[14] and the General Assembly has said the capacity needed to power Kentucky's economy should be located *in Kentucky*.[15] Therefore, there is ample evidence of need for the Stipulation-recommended resources, and the Commission should approve the Stipulation in full and without modification.

III. The Sierra Club's and Joint Intervenors' Attacks on the Companies' Load Forecast for Data Centers Are Misplaced, and They Do Not Affect the Need for, or the Lack of Wasteful Duplication of, the Stipulation-Recommended Resources.

The Sierra Club and Joint Intervenors place extraordinary weight on attacking the 1,750 MW of data center load in the Companies' 2025 CPCN Load Forecast,[16] as though anything less

[12] Team Kentucky, *supra* fn. 2; Rebuttal Testimony of John Bevington ("Bevington Rebuttal") at 8 (July 18, 2025); KRS 154.20-222(3).
[13] KRS 154.20-222(3); Bevington Direct at 3, 6; Companies' Response to AG-KIUC 1-43(c)-(d); 2022 Ky. Acts. 176; Bevington Direct at 3, *citing* "Kentucky Product Development Initiative (KPDI)," available at https://newkentuckyhome.ky.gov/LP/NKY_KPDI (accessed Aug. 20, 2025).
[14] Companies' Response to PSC PHDR 4; Companies' Response to AG-KIUC PHDR 3; Companies' Response and Supplemental Responses to PSC 2-17(g).
[15] KRS 164.2807(1)(f). *See also* KRS 164.2807(1)(d), (e), (n), and (o).
[16] Sierra Club Post-Hearing Brief at 11-12 (treating 1,750 MW as the benchmark for justifying need); JI Post-Hearing Brief at 25 ("What matters in this CPCN proceeding is whether the Companies can demonstrate that there are a sufficient number of data center projects … to justify approving billions of dollars of capital spending to serve an assumed 1,750 MW of data center load growth.").

than 1,750 MW of projected data center load would eliminate the need for the Stipulation-recommended resources. It is a specious argument for at least two reasons.

First, as addressed at length in the Companies' initial brief,[17] the Companies have demonstrated that the stipulated resources, particularly the two new natural gas combined cycle ("NGCC") units, Brown 12 and Mill Creek 6, are economical with as little as 1,002 MW of new economic development load.[18] Indeed, they are economical with as little as *zero* incremental economic development load growth in an environmental regulatory scenario in which greenhouse gas regulations are in effect.[19] Moreover, the stipulated resources would allow the Companies to serve *at most* 1,470 MW of new load,[20] leaving the Companies 280 MW short of meeting their projected 1,750 MW of data center demand by 2031, much less the more than 500 MW of expected non-data-center load and the additional potential load announced this summer.[21] The Sierra Club and Joint Intervenors ignore all of this.

Second, there is abundant evidence that significant amounts of data center load is coming to Kentucky, including the Companies' service territories. As the Sierra Club itself has noted, "The looming growth in data center construction nationally is not contested. Every forecast cited in this docket projects large increases in data center load growth in the coming years."[22] Yet Sierra Club inexplicably downplays Kentucky as a possible data center contender,[23] and it (and the Joint

[17] Companies' Post-Hearing Brief at 13, 18-19, 22.
[18] *See, e.g.*, Companies' Response to PSC 5-4(a). Note that 2025 CPCN Load Forecast also assumes BlueOval SK and approximately 40 MW of non-data-center load in all cases analyzed.
[19] 2024 IRP Vol. III, 2024 IRP Resource Assessment at 48, Table 28, Low Load column.
[20] Companies' Response to PSC PHDR 4. This means 1,470 MW of new load beyond BlueOval SK and the less than 40 MW of non-data-center load assumed in the 2025 Load Forecast.
[21] *Id.*; Companies' Response to AG-KIUC PHDR 3.
[22] Sierra Club Post-Hearing Brief at 3.
[23] *Id.* at 12-13.

Intervenors) apparently believes *zero* large data centers will locate in Kentucky.[24] Contrary to Sierra Club's pessimistic view, there is ample evidence that large-scale data centers are likely to locate and grow in Kentucky, including:

- The recently executed almost $30 million EPC contract for the 525 MW Camp Ground Road data center project;[25]
- Growth in the Companies' data center pipeline from zero in 2023 to more than 6,000 MW at the beginning of this case to about 7,300 MW as of this week;[26]
- The July 24, 2025 announcement by the U.S. Department of Energy ("DOE") that, as part of the current presidential administration's plan to "accelerate the development of AI infrastructure through siting on DOE lands," DOE had selected the Paducah Gaseous Diffusion Plant as one of four sites in which DOE would "invite private sector partners to develop cutting edge AI data center and energy generation projects";[27]
- Aphorio Carter's purchase of two fully leased Kentucky data centers in February 2025 for $35 million, which reflect its "long-term commitment to Kentucky and our confidence in its potential as a hub for digital infrastructure";[28] and

[24] *Id.* at 17. *See* also Joint Intervenors' Post-Hearing Brief at 21-22, 24-25 (stating it is unreasonable to expect the Companies' to expect 1.25%-3.5% of data center load.) Notably, the Stipulation includes provisions that anticipate possible energy sales to supply other data centers in Kentucky. Stipulation and Recommendation at 4, § 1.3; Stipulation Testimony at 6-7.
[25] *See* Companies' Supplemental Response to AG-KIUC 3-3(b) (Sept. 17, 2025).
[26] Companies' Response to JI 3-20(a); Companies' Supplemental Response to PSC 2-17(g) (Sept. 16, 2025).
[27] Companies' Response to AG-KIUC PHDR 3 fn. 6 (citing U.S. Dept. of Energy, "DOE Announces Site Selection for AI Data Center and Energy Infrastructure Development on Federal Lands" (July 24, 2025) ("The U.S. Department of Energy (DOE) today announced the next steps in the Trump administration's plan to accelerate the development of AI infrastructure through siting on DOE lands. DOE has selected four sites—Idaho National Laboratory, Oak Ridge Reservation, Paducah Gaseous Diffusion Plant and Savannah River Site—to move forward with plans to invite private sector partners to develop cutting edge AI data center and energy generation projects."), available at https://www.energy.gov/articles/doe-announces-site-selection-ai-data-center-andenergy-infrastructure-development-federal (accessed Aug. 21, 2025)).
[28] Case No. 2025-00045, Letter of John E. Carter and John Regan to Executive Director Linda C. Bridwell dated July 17, 2025 (July 24, 2025).

- Looming capacity shortages in neighboring RTOs,[29] which increase the likelihood that large data centers would seek to locate in Kentucky—if the Commission approves the Stipulation.

Thus, Sierra Club's lack of confidence in Kentucky's ability to attract large-scale data center load—amidst an undisputed nationwide "large increases in data center load growth"—is entirely unfounded. Instead, there is ample evidence to support the need for the stipulated resources.

Relatedly, the Joint Intervenors attempt to undermine the need for the stipulated resources by noting there are not yet any hyperscale data centers in the Companies' "Announced" economic development stage.[30] But that is neither a surprise nor any reason to doubt that large-scale data centers are on the way; prior to the General Assembly's enactment of data center tax incentives in 2024, Kentucky was not in serious contention for any large-scale data center project precisely because it lacked the incentives other states had enacted years before.[31] The General Assembly changed that in just the last year and half, resulting in the Companies' pipeline of data center load potential exploding from *zero* at the beginning of 2023 to about 7,300 MW today—higher than ever, even with the departure of the Oldham County Data Center project.[32] And it is hardly surprising that entities considering multibillion-dollar data center investments have not made binding long-term electric service contract commitments to the Companies when (i) Kentucky was

[29] Bellar Rebuttal at 8, (citing "2024 Long-Term Reliability Assessment" at 6 (Dec. 2024), available at https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf (accessed June 29, 2025); NERC, "Statement on NERC's 2024 Long-Term Reliability Assessment" (June 17, 2025), available at https://www.nerc.com/news/Pages/Statement-on-NERC%E2%80%99s-2024-Long-Term-Reliability-Assessment.aspx (accessed June 29, 2025)). *See also* U.S. Department of Energy, "Resource Adequacy Report: Evaluating the Reliability and Security of the United States Electric Grid" at 1-9 (July 7, 2025), available at https://www.energy.gov/sites/default/files/2025-07/DOE Final EO Report %28FINAL JULY 7%29.pdf (accessed July 8, 2025)).

[30] Joint Intervenors' Post-Hearing Brief at 16-17.

[31] Bevington Rebuttal at 6 ln. 17-22.

[32] Companies' Response to JI 3-20(a); Companies' Supplemental Response to PSC 2-17(g) (Sept. 16, 2025); AG-KIUC PHDR 3; Sierra Club Post-Hearing Brief at 11; JI Post-Hearing Brief at 22-23.

not in serious contention for large data centers less than two years ago and (ii) it remains unknown whether there will be sufficient electric generation capacity to power them. That is one reason why approving the Stipulation is so important; having the ability to advance the stipulated resources does not guarantee multiple hyperscale data centers will locate in Kentucky, but *not* being able to advance the stipulated resources all but guarantees they cannot locate here.

It is also noteworthy that the Joint Intervenors appear to lack full conviction in their attacks on the Companies' load forecast; they ask the Commission to reject the Stipulation, but regarding the Companies' two proposed NGCCs, they also explicitly argue only against a CPCN for Mill Creek 6, not Brown 12.[33] This makes little sense if they truly believe no data centers are coming.

In sum, although there is ample evidence in the record to support the 2025 Load Forecast—and even higher levels of data center and non-data-center load—there is also clear evidence that the Stipulation-recommended resources are lowest reasonable cost across a wide range of load, fuel-price, and environmental regulatory scenarios. Moreover, the Companies would need *more* resources, not *fewer*, than those recommended in the Stipulation to serve a full 1,750 MW of new load. Thus, the Sierra Club's and Joint Intervenors' arguments in this vein fall short, and the Commission should instead find there is more than sufficient need for, and lack of wasteful duplication in, the Stipulation-recommended resources.

Finally, this demonstrated need for more resources, not fewer, also supports the importance of the Ghent 2 SCR against the Sierra Club's and Joint Intervenors' assertions that it is unnecessary.[34] First, there is a palpable irony in environmental advocates arguing against environmental control facilities as unnecessary and too expensive. Second, Sierra Club asserts the Companies should not invest in the Ghent 2 SCR now because they proposed to retire Ghent 2 two

[33] *See, e.g.*, Joint Intervenors' Brief at 1 fn. 1, 61, and 79.
[34] Sierra Club Post-Hearing Brief at 20-23

years ago as "one of the Companies' highest-cost coal units,"[35] but that is inaccurate and incomplete; the 2022 CPCN least-cost resource plan included retiring Ghent 2—a position Sierra Club supported—due to the load forecast and total resource economics at the time, not Ghent 2's costs per se.[36] Now, due to resource cost changes and historic projected load growth, the evidence in this case supports installing the Ghent 2 SCR to help ensure ongoing environmental compliance (contrary to the Sierra Club's assertions,[37] there is no reason to expect the Companies would construct and then not operate the Ghent 2 SCR) and to maintain the year-round availability of Ghent 2 to help serve the needs of existing and new customers.[38]

IV. Far from Tying the Commission's Hands and Imperiling Residential Customers' Rates, the Stipulation Enhances the Commission's Ability to Exercise Its Oversight Authority.

The Sierra Club's and Joint Intervenors' briefs assert that approving the Stipulation will deprive the Commission of certain authority,[39] provide the Commission no new meaningful oversight opportunity,[40] and doom residential customers to needless rate increases.[41] None of this is true; rather, it misconstrues what CPCN approval entails and what the Stipulation says.

Importantly, *approving a CPCN neither commits a utility to build anything nor obliges its customers to pay anything*.[42] Rather, the decision whether to approve a CPCN is a gating event:

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[35] Sierra Club Post-Hearing Brief at 23.
[36] *See, e.g.*, Case No. 2022-00402, Sierra Club's Post-Hearing Brief at 34-35 (Sept. 22, 2023).
[37] Sierra Club Post-Hearing Brief at 23. Contrary to Sierra Club's assertion, Philip Imber testified the Companies generally *do* operate their SCRs when operating conditions allow. August 7, 2025 Hearing, VR 10:07:00 – 10:07:35 a.m. ("Generally, our operation is to maintain the SCRs in service.").
[38] Companies' Post-Hearing Brief at 20-21.
[39] *See, e.g.*, Sierra Club Post-Hearing Brief at 9 ("Rejecting the Stipulation furthermore allows the Commission to serve its role as the regulator[.]"); JI Post-Hearing Brief at 63 (stating the Stipulation's suggested metrics would "infringe upon the Commission's authority in future review proceedings.")
[40] JI Post-Hearing Brief at 63 ("[T]he Companies' offer for periodic updates is again of no real consequence.").
[41] Sierra Club Post-Hearing Brief at 9, 17; JI Post-Hearing Brief at 7 (stating customers "would almost certainly be on the hook" if NGCCs are approved and load growth does not materialize).
[42] *See, e.g.*, Conroy Rebuttal at 3 ("Simply put, receiving a CPCN does not guarantee cost recovery in the face of changed circumstances; indeed, the Commission has demonstrated it will disallow imprudent expenditures even when a utility has received a CPCN."); Companies' Response to PSC 2-14(b).

if the Commission denies the CPCN, the utility cannot proceed with the affected resource; if the Commission approves the CPCN, the utility has the opportunity, not the obligation, to proceed with the approved resource, and the Commission must allow cost recovery for that resource only insofar as the utility prudently incurs costs for it.

Therefore, approving the Stipulation would merely allow the Companies to prudently advance the Stipulation-recommended resources—subject to Commission oversight—to help ensure there is ample energy generated in Kentucky to power its bright economic future. To enhance this oversight, the Stipulation requires the Companies appear before the Commission in person *every six months for six and a half years* to provide updates and answer questions on construction, load forecasting, and economic development.[43] And nothing in the Stipulation would prevent the Commission from disallowing recovery of imprudently incurred costs; indeed, the Commission has disallowed cost recovery for generation assets before,[44] and the Companies fully expect and welcome rigorous prudence reviews for the stipulated resources.

In contrast, if the Commission does not approve the Stipulation and its recommended resources, the Companies would be precluded from moving forward. Contrary to the Sierra Club's assertion that there would be no cost to such denial,[45] there is clear evidence that the costs would be enormous: lost economic development opportunities for Kentucky and higher costs for resources when the Companies again sought their approval, likely very soon. The record shows even short delays can have huge cost impacts,[46] and the Companies' recent unit reservation

[43] Stipulation and Recommendation at 5, § 1.6; Stipulation Testimony at 5-6.
[44] *See, e.g., A Formal Review of the Current Status of Trimble County Unit No. 1*, Case No. 9934, Order at 35 (Ky. PSC July 1, 1988) (ordering a disallowance of 25 percent of Trimble County Unit No. 1, accomplished through a ratemaking alternative, "which will assure the ratepayers of LG&E that they will receive the benefits of a reduced revenue requirement").
[45] Sierra Club Post-Hearing Brief at 8 ("There is no downside for customers if the Commission were to reject the Stipulation.").
[46] Companies' Post-Hearing Brief at 31; Rebuttal Testimony of David L. Tummonds ("Tummonds Rebuttal") at 3 (July 18, 2025).

agreement for Mill Creek 6,[47] which will help ensure its costs do not rise as the Joint Intervenors suggest they will,[48] shows that demand for NGCC units remains high and costs are likely to continue to rise if the Companies are not allowed to move forward now with Brown 12 and Mill Creek 6.

Relatedly, there is no merit to the Sierra Club's and Joint Intervenors' dire predictions about cost impacts to residential customers.[49] Although the Joint Intervenors assail the Companies' profit motive,[50] a significant advantage of investor-owned utilities is the Commission can hold them accountable for their missteps; the Commission can disallow recovery of imprudently incurred costs. Thus, contrary to the Sierra Club's and Joint Intervenors' assertions, it is the Companies, *not their customers*, who bear prudence risk. The Companies are happy to bear that risk; they are confident the Stipulation-recommended resources are needed to serve all customers and help propel Kentucky to a bright economic future.

Finally, the Companies note this is not the last resource decision they will make; contrary to the Joint Intervenors' assertion,[51] nothing in the Stipulation prevents the Companies from seeking Commission approval at any time for the proposed Cane Run BESS, other BESS, renewable resources, or eventually perhaps nuclear resources. What the Stipulation does do is ensure there will be crucially needed NGCC resources while also allowing for the life extension of Mill Creek Unit 2, which will allow the Companies and the Commission additional time to see how load and resource costs develop, including possible tax credits. Therefore, the Stipulation

[47] Companies' Supplemental Response to PSC PHDR 18 (Sept. 8, 2025).
[48] JI Post-Hearing Brief at 37.
[49] Sierra Club Post-Hearing Brief at 9, 17; JI Post-Hearing Brief at 64, 74.
[50] JI Post-Hearing Brief at 7; JI Post-Hearing Brief at 21 (suggesting the Companies are "gambling billions of dollars of capital investments").
[51] JI Post-Hearing Brief at 58, 76-79.

provides for resources that require approval now while also providing for more time to evaluate possible additional resource needs.

V. The Sierra Club's and Joint Intervenors' Briefs Do Not Show DSM-EE Would Have Any Effect on the Need for the Stipulation-Recommended Resources, and the Joint Intervenors' Attacks on the Companies' DSM-EE Efforts Contain a Number of Notable Inaccuracies.

Part of the Sierra Club's and Joint Intervenors' argument against the Stipulation concerns DSM-EE,[52] notwithstanding there is no reason to believe that new DSM-EE programs or measures or a virtual power plant ("VPP") could realistically or economically satisfy the load growth poised to happen in Kentucky.[53] Indeed, the Sierra Club and Joint Intervenors made similar arguments against the Companies' CPCN requests in the Companies' 2022 CPCN case,[54] and the Commission did not deny a single CPCN on grounds of insufficient DSM-EE or VPP.[55] Instead, the Commission approved a new DSM-EE portfolio for the Companies in that case less than two years ago, which the Companies are in the early stages of deploying.[56]

Furthermore, in this case the Companies assumed energy efficiency savings beyond the projected savings of their currently approved DSM-EE portfolio,[57] analyzed dispatchable DSM measures in addition to those included in their current DSM-EE portfolio,[58] assumed additional growth in distributed generation (that now seems *less* likely to occur due to the sunsetting of tax

[52] Sierra Club Post-Hearing Brief at 8; JI Post-Hearing Brief at 46-48.
[53] Wilson Rebuttal at 9-13; Rebuttal Testimony of Lana Isaacson ("Isaacson Rebuttal") at 10 (July 18, 2025).
[54] Case No. 2022-00402, Order at 47-48 (Ky. PSC Nov. 6, 2023); Case No. 2022-00402, Initial Brief of Joint Intervenors at 34-43 (Ky. PSC Sep. 22, 2023); Case No. 2022-00402, Sierra Club's Post-Hearing Brief at 104-108 (Ky. PSC Sep. 22, 2023) (arguing a portfolio of solar power, BESS, DSM-EE, and joining PJM would justify retirement of all seven of the Companies' coal-fired units).
[55] Case No. 2022-00402, Order (Ky. PSC Nov. 6, 2023).
[56] *Id.* 169-170.
[57] Rebuttal Testimony of Tim A. Jones ("Jones Rebuttal") at 12-16 (July 18, 2025).
[58] Direct Testimony of Stuart A. Wilson ("Wilson Direct") at 14 (February 28, 2025).

incentives),[59] and analyzed a possible expansion of their existing Curtailable Service Rider offering.[60]

In contrast, the Sierra Club and the Joint Intervenors neither offered a single new, concrete, analyzable DSM, EE, or VPP proposal nor provided any plausible reason to believe there is any such program or measure that would have any impact on the least-cost resources resulting from the Companies' resource analyses. Instead, they offered vague generalities and assertions about savings others have achieved.[61] The Companies carry the burden of proof in this case, but if mere "what ifs" are sufficient to derail robustly supported CPCN requests, it is doubtful another fossil-fuel-fired generation resource can ever be built in Kentucky.

Moreover, the Sierra Club and Joint Intervenors have demonstrated the ability to perform rigorous computational analyses, including the same kinds of resource adequacy and resource planning models run by the Companies; they did so in the 2022 CPCN case, and the Sierra Club hired the same consultancy in this case that the Joint Intervenors used in the 2022 CPCN case. That neither the Sierra Club nor the Joint Intervenors filed any similar analyses in this case is telling, as is their lack of offering up a single concrete, analyzable DSM, EE, or VPP program, measure, or proposal. The Commission should therefore disregard all their arguments against the Stipulation in this vein.

The Commission should also reject the Joint Intervenors' assertions that the Companies have in any way neglected or been indifferent toward DSM-EE in general or their DSM-EE

[59] Jones Rebuttal at 13-14.
[60] Wilson Direct at 14.
[61] *See* JI Post-Hearing Brief at 48 (describing "real speed-to-market advantages" of DSM-EE programs); Direct Testimony of Andy Eiden at 61 (June 16, 2025) (describing a VPP project in Colorado projected to achieve 52 MW of capacity by 2030 and 113 MW by 2040).

Advisory Group in particular.[62] Indeed, the Joint Intervenors' argument appears to be that the Companies are "indifferent" toward DSM-EE because they engaged more with their DSM-EE Advisory Group as they developed a new DSM-EE portfolio proposal prior to the 2022 CPCN case than they did prior to filing their application in this case.[63] But that is reasonable; the Companies are still in the early stages of deploying the DSM-EE portfolio the Commission approved in the 2022 CPCN case. Moreover, the Joint Intervenors try to parlay one overlooked email from a DSM-EE Advisory Group member asking about scheduling a meeting into a pattern of indifference that simply does not exist,[64] and in their effort to portray the Companies as dismissive of DSM-EE, they make a number of incorrect or misleading assertions:

- Citing to page 10 of the Rebuttal Testimony of Lana Isaacson, the Joint Intervenors assert, "Here, the Companies call demand-side management ('DSM') a 'distraction.'"[65] Contrary to the Joint Intervenors' purported quotation, the word "distraction" does not appear in Ms. Isaacson's rebuttal testimony. Her actual statement, which the Companies continue to support, was:

  > Mr. Eiden attempts to distract the Commission from the issue at hand. The Companies continuously analyze DSM-EE to implement programs that are cost-effective for customers. DSM-EE cannot offset the need for the generation assets proposed in this case, and Mr. Eiden provides no solutions that suggest that it could.[66]

- The Joint Intervenors mischaracterize the testimony of their own witness in the 2022 CPCN case (Jim Grevatt), asserting, "As detailed in the testimonies of Messrs. Grevatt and Eiden,

[62] JI Post-Hearing Brief at 25, 28, 32-35, 48. As noted above, the Commission approved a new DSM-EE portfolio for the Companies less than two years ago in their 2022 CPCN case, which portfolio the Companies are in the early stages of deploying now. As also noted above, the Commission neither stated nor implied that the DSM-EE portfolio was in any way inadequate, and it did not deny the Companies a CPCN on the ground of "indifference" toward DSM-EE.
[63] *Id.* at 32-35.
[64] *Id.* at 32; Companies' Response to JI PHDR 10(a).
[65] JI Post-Hearing Brief at 25.
[66] Isaacson Rebuttal at 10 ln. 13-16

since at least 2016, the Companies erroneously assumed $0 in possible generation, transmission, or distribution deferral benefits when calculating demand-side management potential *and cost-effectiveness*, with limited exceptions."[67] In reality, Mr. Grevatt took issue with the Companies' update to a prior DSM-EE potential study for using a $0 avoided capacity cost *precisely because* the Companies used a *non*-zero value—$136.20—in their DSM-EE cost-benefit analyses in that case: "[T]he 2017 Study assessed cost-effectiveness us[ed] a $0.00 capacity avoided cost, whereas the Companies estimated avoided capacity cost in the instant case is $136.20."[68]

- The Joint Intervenors repeatedly claim the Companies have assigned a $0 avoided cost value for generation capacity in their DSM-EE cost effectiveness tests for "nearly a decade."[69] Yet the claim is plainly incorrect, as Mr. Grevatt's testimony quoted above shows, as does the Joint Intervenors' own brief: "[B]y 2022, the Companies claimed a significant capacity need had arisen and sought (among other things) 645 MW combined cycle gas units that reflected an avoided capacity value of $136.20/kW-year."[70] In reality, to the best of the Companies' knowledge, they have only once included a $0 avoided generation capacity cost for DSM-EE cost-benefit testing in applications to the

[67] JI Post-Hearing Brief at 28 (emphasis added).
[68] Case No. 2022-00402, Direct Testimony of Jim Grevatt at 26 ln. 9-11 (July 14, 2023).
[69] JI Post-Hearing Brief at 27 ("This results in part from nearly a decade spent calculating cost-effectiveness on the erroneous assumption that there are no avoided cost benefits from deferring or reducing generation capacity, transmission, or distribution projects."); *id.* at 28 ("As detailed in the testimonies of Messrs. Grevatt and Eiden, since at least 2016, the Companies erroneously assumed $0 in possible generation, transmission, or distribution deferral benefits when calculating demand-side management potential and cost-effectiveness, with limited exceptions."); *id.* at 29 ("Those avoided costs—across energy, capacity, transmission, and distribution—have value that reasonable analyses of the prescribed cost-effectiveness tests include. The Companies, on the other hand, assign $0 values to each of these avoided cost categories."); *id.* at 30 ("Each of those factors individually, and in combined effect, should increase avoided capacity values; but the Companies hold at $0.00.").
[70] JI Post-Hearing Brief at 30.

Commission across almost 30 years of evaluating and proposing such programs—and the Commission explicitly agreed with that assumption at the time.[71]

- Presumably through inadvertence, the Joint Intervenors go so far as to claim—incorrectly—that the Companies assign a $0 avoided *energy* cost in their DSM-EE cost-benefit tests: "Those avoided costs—across *energy*, capacity, transmission, and distribution—have value that reasonable analyses of the prescribed cost-effectiveness tests include. The Companies, on the other hand, assign $0 values to each of these avoided cost categories."[72] In reality, the Companies have never assigned a $0 avoided cost to energy in their DSM-EE analyses, and they certainly did not do so in the DSM-EE cost-benefit tests the Commission incorporated into the record of this proceeding.[73]

Contrary to these inaccurate attacks on the Companies' DSM-EE efforts, the record shows the Companies have invested and continue to invest considerable time, effort, and resources into DSM-EE programs and measures; there is no plausible evidence of "indifference."

Notwithstanding the clear evidence against any such "indifference," the Joint Intervenors assert that "indifference" to what they believe is the correct way to calculate DSM-EE avoided costs (and DSM-EE generally) "has persisted for so long that the claimed need cannot support the requested certificates."[74] This assertion is both factually and legally backward. It is factually backward because the Companies have performed DSM-EE cost-benefit analyses in accordance with the Commission's approved tests, and had numerous DSM-EE portfolios approved resulting

[71] *Electronic Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Certain Existing, Demand-Side Management and Energy Efficiency Programs*, Case No. 2017-00441, Order at 26 (Ky. PSC Oct. 5, 2018) ("In making our findings in this case, the Commission recognizes that, unlike prior LG&E/KU DSM cases in which the utilities were projecting capacity shortfalls which resulted in a positive avoided capacity cost, they now have a capacity surplus of approximately 100 MW, resulting in an avoided capacity cost of zero.").
[72] JI Post-Hearing Brief at 29.
[73] *See, e.g.*, Case No. 2022-00402, Companies' Response to JI 2-28(b) (May 4, 2023).
[74] JI Post-Hearing Brief at 28.

from applying those tests, for decades.[75] And it is legally backward because the CPCN standard articulated by Kentucky's highest court over 70 years ago, which the Commission has applied ever since, says the *exact opposite* of what the Joint Intervenors assert:

> [E]stablishment of convenience and necessity for a new service system or a new service facility requires first a showing of a substantial inadequacy of existing service ….
>
> Second, the inadequacy must be due either to a substantial deficiency of service facilities … *or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service*.[76]

In other words, indifference can indeed give rise to a cognizable need for CPCN purposes, though that is not what has occurred here; the Companies have in no way been indifferent toward DSM-EE. Therefore, the Commission should entirely disregard the Joint Intervenors' factually and legally backward argument.

VI. The Commission Has Clear Authority to Consider and Approve All Elements of the Stipulation.

The assertions in the Sierra Club's and Joint Intervenors' briefs that the Commission lacks authority to consider or approve certain portions of the Stipulation are without merit.[77]

First, the Sierra Club and Joint Intervenors were signatories to several of the key settlements and stipulations the Companies cited in their initial brief supporting the Commission's authority to consider and approve all parts of the Stipulation:

- The Sierra Club and Joint Intervenors member Metro Housing Coalition were signatories to the Commission-approved 2011 ECR case settlement that raised Home Energy

[75] *See, e.g.* Isaacson Rebuttal at 2-5; Case No. 2022-00402, Order at 169-170 (Ky. PSC Nov. 6, 2025). As stated in the 2022 CPCN application, the existing plan anticipates $341 million in total DSM investments. Case No. 2022-00402, Direct Testimony of Lana Isaacson at 16 (Dec. 15, 2022).
[76] *Ky. Util. Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885, 890 (Ky. 1952) (emphasis added).
[77] JI Post-Hearing Brief at 49-56, 65-68.

Assistance ("HEA") charges for KU, LG&E electric, and LG&E gas—increases that became effective immediately upon filing tariff sheets in response to the Commission's final order—notwithstanding that HEA was not an issue raised in the Companies' applications, there was no published notice of the increases prior to its going into effect, and the LG&E gas utility and tariff had no relationship to an ECR case.[78]

- The Sierra Club and Joint Intervenors member Metro Housing Coalition were signatories to the 2014 rate case settlement.[79] In those cases, the Commission approved and placed into effect on July 1, 2015, i.e., at the same time as all other rates approved in those cases, the Companies' Off-System Sales adjustment clauses, which were first introduced in those cases as part of the stipulation.[80]

[78] *Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00161, Order at 18, 28, and Appx. A at 10-11 and signature pages of Sierra Club and Metropolitan Housing Coalition (Ky. PSC Dec. 15, 2011); *Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge* Case No. 2011-00162, Order at 13, 22, and Appx. A at 10-11 and signature pages of Sierra Club and Metropolitan Housing Coalition (Ky. PSC Dec. 15, 2011). The related tariff filings showing stamped tariff pages placing the increased HEA charges in effect as of Jan. 1, 2012, are available for KU under tariff filing ID TFS2011-00847 (https://psc.ky.gov/trf4/uploadedFiles/400_Kentucky_Utilities_Company/12222011b/KU_Tariff.pdf), and for LG&E under tariff filing ID numbers TFS2011-00848 (electric) (https://psc.ky.gov/trf4/uploadedFiles/500_Louisville_Gas_and_Electric_Company/12222011b/LGE_Electric_Tariff.pdf) and TFS2011-00849 (gas) (https://psc.ky.gov/trf4/uploadedFiles/22200500_Louisville_Gas_and_Electric_Company/12222011b/LGE_Gas_Tariff.pdf).

[79] *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371, Order at Appx. A signature pages of Sierra Club and Metropolitan Housing Coalition (Ky. PSC June 30, 2015); *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates*, Case No. 2014-00372, Order at Appx. A signature pages of Sierra Club and Metropolitan Housing Coalition (Ky. PSC June 30, 2015).

[80] *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371, Order at 11-12 and Appx. A at 7 (Ky. PSC June 30, 2015); *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2014-00372, Order at 12 and Appx. A at 7 (Ky. PSC June 30, 2015). The related tariff filings showing stamped tariff pages placing Adjustment Clause OSS in effect as of July 1, 2015, are available for KU under tariff filing ID TFS2015-00427 (https://psc.ky.gov/trf4/uploadedFiles/400_Kentucky_Utilities_Company/07302015100201/KU_Tariff_version2.pdf), and for LG&E under tariff filing ID number TFS2015-00428 (https://psc.ky.gov/trf4/uploadedFiles/500_Louisville_Gas_and_Electric_Company/07302015100646/LGE_Tariff_version2.pdf).

- In the Companies' 2020 base rate cases, the Commission approved the Companies' Retired Asset Recovery Riders, which were first introduced in those cases as part of the stipulation to which *all* of the Joint Intervenors and the Sierra Club were parties.[81]

It is therefore noteworthy that the Sierra Club and the Joint Intervenors appear to have developed a new position in this case regarding Commission authority.

The Joint Intervenors' assertions about ripeness and the Commission lacking authority to address and approve Stipulation provisions concerning Adjustment Clauses MC2 and MC6 and Rate EHLF are meritless. First, the Joint Intervenors' "advisory opinion" argument regarding Mill Creek 2 retirement authority is both baseless and contrary to one of its members' own position in settling a previous case with the Companies.[82] When Mill Creek 2 can or must retire is intimately linked to issues in this case, as is the Companies' authority to delay retiring the unit beyond Mill Creek 5's in-service date. Indeed, whether Mill Creek 2 will retire when previously assumed has been an issue in this case since at least the first round of discovery requests,[83] and the Commission Staff explicitly asked about the issue in its third-round requests.[84] Moreover, the Commission incorporated into the record of this case the entire record of Case No. 2022-00402,[85] which is the case in which the Commission approved LG&E's authority to retire Mill Creek 2.[86] And as noted above, Joint Intervenors member MHC had no such concern when it signed the settlement

[81] *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order at 18-19 and Appx. A at 13-14 and signature pages of Sierra Club and Joint Intervenors (Ky. PSC June 30, 2021); *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Meter Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00350, Order at 21 and Appx. A at 13-14 and signature pages of Sierra Club and Joint Intervenors (Ky. PSC June 30, 2021).
[82] JI Post-Hearing Brief at 49-53; Case No. 2014-00372, Order Appx. A at 26 (Ky. PSC June 30, 2015).
[83] Kentucky Coal Association DR 1-4 (Mar. 28, 2025).
[84] Commission Staff DR 3-8(b) (May 23, 2025).
[85] Case No. 2025-00045, Order at 3 (Ky. PSC Mar. 13, 2025) (incorporating Case Nos. 2022-00402, 2023-00123, and 2024-00326).
[86] Case No. 2022-00402, Order at 114 (Ky. PSC Nov. 6, 2023).

agreement in the Companies' 2011 ECR cases that increased HEA charges for the Companies' three utility operations—including gas—notwithstanding that the Companies' 2011 ECR applications were filed pursuant to KRS 278.020(1) and 278.183, not a general rate or tariff change statute.[87] Therefore, there is no merit to the Joint Intervenors' assertion that the Commission cannot opine in its final order in this case upon LG&E's authority to retire Mill Creek 2 after Mill Creek 5's in-service date.

Second, as the Companies explained at length in their initial brief, the Commission has ample authority to approve and implement rate changes or rate mechanisms first introduced in settlements and stipulations, including those it has created itself,[88] and it has done so in both rate cases and non-rate cases.[89] Also, as noted above, one or more of the Joint Intervenors have been signatories to all of the settlements and stipulations the Companies cited in their initial brief. Therefore, there is no merit to the Joint Intervenors' arguments that the Commission cannot consider or approve Adjustment Clauses MC2 and MC6 in this proceeding.

[87] Case No. 2011-00161, Order at 1 (Ky. PSC Dec. 15, 2011).
[88] Companies' Post-Hearing Brief at 33-36.
[89] Case No. 2011-00161, Order at 1 (Ky. PSC Dec. 15, 2011). *See also Application of Louisville Gas and Electric Company for Approval of an Alternative Method of Regulation of Its Rates and Service*, Case No. 98-426, Order at 48 (Ky. PSC Jan. 7, 2000) ("[T]he Commission will now offer LG&E an alternative to traditional regulation in the form of an optional ESM plan. The Commission encourages LG&E to take advantage of this optional ESM …. [W]e now propose an optional ESM for LG&E, recognizing that LG&E's full support and commitment is essential to make this incentive plan work."); *id.* at 48-50; *id.* at 112 ("1. LG&E's proposed PBR plan … should be denied. … 3. The Commission's optional ESM plan constitutes a reasonable form of alternative regulation for LG&E and will result in fair, just, and reasonable rates. 4. Within 30 days of the date of this Order, LG&E should file with the Commission either a tariff adopting the Commission's optional ESM plan or a written notice rejecting such plan."); *Application of Kentucky Utilities Company for Approval of an Alternative Method of Regulation of Its Rates and Service*, Case No. 98-474, Order at 45 (Ky. PSC Jan. 7, 2000) ("[T]he Commission will now offer KU an alternative to traditional regulation in the form of an optional ESM plan. The Commission encourages KU to take advantage of this optional ESM …. [W]e now propose an optional ESM for KU, recognizing that KU's full support and commitment is essential to make this incentive plan work."); *id.* at 45-48; *id.* at 112 ("KU's proposed PBR plan and tariff flexibility provision are denied. 2. Within 30 days of the date of this Order, KU shall file either a tariff adopting the Commission's optional ESM or a written notice that the optional ESM is rejected. 3. If KU adopts the Commission's optional ESM plan, KU shall file within 60 days thereafter draft schedules for annual filings, pursuant to the findings herein[.]").

Third, the Joint Intervenors appear to fundamentally misunderstand the Stipulation's provisions concerning Rate EHLF.[90] Nothing in the Stipulation asks the Commission to decide anything about Rate EHLF in this case; rather, the Stipulation's Rate EHLF-related provisions require the Companies—*not the Commission*—to take action in other proceedings, i.e., to propose changes to Rate EHLF under consideration in Case Nos. 2025-00113 and 2025-00114, which is entirely legitimate.[91] Similarly, the Stipulation requires the Companies to file executed Rate EHLF contracts with the Commission;[92] it does not obligate the Commission to accept the filings (though it is unclear why the Commission would reject them).

On a related point, the Joint Intervenors also misread the Stipulation's list of Mill Creek 6 cost recovery review metrics as an attempt to limit the Commission's authority.[93] On its face, the cited provision applies to the *parties*; it does not seek, ask, or purport to compel the Commission to adopt *any* cost recovery review metric. Thus, the Joint Intervenors' overheated rhetoric about "improperly invad[ing] the Commission's exclusive jurisdiction to determine the prudency of utility investments" is simply incorrect.[94]

Finally, the Companies note that all parties whose briefs addressed the issue unanimously agree that if the Commission has authority to address Mill Creek 2's retirement date (which it does), the Commission should indeed recognize that LG&E may retire Mill Creek 2 any time after Mill Creek 5 goes in service.[95]

[90] JI Post-Hearing Brief at 65-68.
[91] Companies' Post-Hearing Brief at 9; Stipulation and Recommendation at 7-8, § 3.1.
[92] Stipulation and Recommendation at 8, § 3.1(B).
[93] JI Post-Hearing Brief at 60-63.
[94] JI Post-Hearing Brief at 60.
[95] JI Post-Hearing Brief at 53-56; SREA Post-Hearing Brief at 9-13; KCA Post-Hearing Brief at 1-2; LMG-LFUCG Post-Hearing Brief at 2-3; KIUC Post-Hearing Brief at 14-15; AG Post-Hearing Brief at 5-7.

VII. Conclusion: The Commission Has a Long History of Approving Generation CPCNs in Circumstances Similar to those in this Case, and the Commission Should Follow Its Own Longstanding Precedent by Approving the Stipulation in Full and without Modification in this Case.

In closing, the Companies note the Sierra Club's and Joint Intervenors' position that the Commission should reject the Stipulation and deny either all requested CPCNs (according to Sierra Club) or just the Mill Creek 6 CPCN (according to the Joint Intervenors) because they dispute the Companies' load forecast is fundamentally inconsistent with longstanding Commission precedent.[96] Indeed, the Commission has approved generation CPCNs in similar circumstances in cases reaching back at least 60 years. In *Ky. Util. Co. v. Pub. Serv. Comm'n*, 390 S.W.2d 168 (Ky. 1965), Kentucky's highest court upheld the Commission's determination to approve a generation CPCN for Big Rivers even though there was uncertainty about whether one of the prospective co-op customers could eventually take service from Big Rivers, holding that even if the co-op did not take service, Big Rivers had other opportunities to use the generation productively. Similarly, the Commission approved a CPCN for the Companies' Trimble County Unit 2 two decades ago over objections that the Companies were already in an over-capacity situation, finding that denying the CPCN would risk not having enough energy when needed and that a simple post-CPCN monitoring requirement would help ensure prudence going forward.[97]

The Companies respectfully submit that is the right approach to take in this case. Therefore, they—along with the Attorney General, KIUC, KCA, and SREA—ask the Commission to approve the Stipulation in full and without modification. Doing so would be consistent with

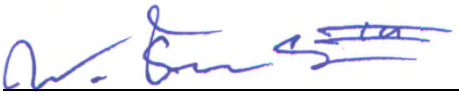
[96] Sierra Club Post-Hearing Brief at 2-3; JI Post-Hearing Brief at 3 and 79.

[97] *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and a Site Compatibility Certificate for the Expansion of the Trimble County Generating Station*, Case No. 2004-00507, Order (Ky. PSC Nov. 1, 2005).

applicable law and Commission precedent, enhance the Commission's oversight of all relevant activities, and help power a bright future for Kentucky.

Dated: September 17, 2025

Respectfully submitted,



W. Duncan Crosby III
Stoll Keenon Ogden PLLC
400 West Market Street, Suite 2700
Louisville, Kentucky 40202
Telephone: (502) 333-6000
Fax : (502) 333-6099
duncan.crosby@skofirm.com

Lindsey W. Ingram III
Mary Ellen Wimberly
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3000
Fax: (859) 259-3503
l.ingram@skofirm.com
maryellen.wimberly@skofirm.com

Allyson K. Sturgeon
Vice President and Deputy
General Counsel – Regulatory
Sara V. Judd
Senior Counsel
PPL Services Corporation
2701 Eastpoint Parkway
Louisville, Kentucky 40223
Telephone: (502) 627-2088
Fax: (502) 627-3367
ASturgeon@pplweb.com
SVJudd@pplweb.com

Counsel for Kentucky Utilities Company
and Louisville Gas and Electric Company

CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001, Section 8 as modified by the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on September 17, 2025; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

Counsel for Kentucky Utilities Company
and Louisville Gas and Electric Company