

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

IN THE MATTER OF: ELECTRONIC JOINT 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
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**RESPONSE BRIEF OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.**

Kentucky Industrial Utility Customers, Inc. (“KIUC”) submits this Brief in response to the Initial Briefs of Joint Intervenors Kentuckians for the Commonwealth, Kentucky Solar Energy Society, Metropolitan Housing Coalition, and Mountain Association (“Joint Intervenors”) and Sierra Club.

In their Initial Briefs, both Joint Intervenors and Sierra Club urge the Commission to reject the Joint Stipulation. The opposition of these particular intervenors to fossil fuel generation and their preference for renewable generation/demand-side resources is expected. But while highly critical of the Joint Stipulation, neither intervenor advances a cohesive plan that is consistent with Kentucky’s express policy objectives (e.g. supporting future economic development and encouraging the location of data centers within the Commonwealth (KRS 154.20-222), replacing retiring coal generation with reliable, dispatchable generation (KRS 278.264), and protecting the operation of fossil fuel-fired electric generating resources (KRS 164.2807)). Instead, intervenors suggest potential alternative resources without demonstrating

that those resources could effectively serve the reliability needs of the load currently in the Companies' economic development pipeline, particularly the future data center load.¹

As KIUC explained in its initial Brief, KU/LG&E provided a comprehensive analysis supporting their need for additional capacity in the near future.² The Joint Stipulation satisfies that need in a reasonable manner that maintains the reliability and resiliency of the Companies' system. While intervenors would prefer construction of the Cane Run BESS as opposed to the Mill Creek 6 NGCC, the capacity value of the BESS is questionable.³ Further, adoption of the BESS would *increase* energy needs on the Companies' system given losses in the charge and discharge cycles.⁴ And taking into account the additional risks associated with the relatively new BESS technology,⁵ that technology is not the right fit to meet the needs of the very high load factor data center load. Nor have intervenors proven that any potential renewable resources resulting from a request for proposal or the expansion of demand-side management would be sufficient to satisfy the needs of such energy-intensive load.

Joint Intervenors also take issue with certain other provisions within the Joint Stipulation, including establishment of Adjustment Clauses MC6 and MC2 and the Mill Creek 2 life extension.⁶ But as KIUC explained in its Initial Brief, Supreme Court of Kentucky precedent provides that the Commission has plenary authority to establish singular cost recovery mechanisms in the absence of any statute expressly forbidding such mechanisms, and no particular process is required of the Commission when doing so.⁷ The Commission therefore has the authority to approve Adjustment Clauses MC6 and MC2 here. Additionally, the Mill Creek 2 life extension request to which Joint Intervenors take issue is merely an express

¹ Joint Intervenors Brief at 43-48; Sierra Club Brief at 23-26.

² KIUC Initial Brief at 6-13.

³ Wellborn Testimony at 22:4-14.

⁴ Wellborn Testimony at 21:15-17.

⁵ Wellborn Testimony at 23:1-25:10.

⁶ Joint Intervenors Brief at 49-53.

⁷ KIUC Initial Brief at 17 (citing *Ky PSC v. Commonwealth ex rel. Conway*, 324 S.W.d 373 (2010)).

confirmation by the Commission that the already approved retirement may be completed at a later date.⁸ That request is not an “*advisory opinion*,” as Joint Intervenors characterize it,⁹ but instead a simple clarification consistent with the Commission’s prior order. Accordingly, all of these issues are ripe for a Commission determination in this case.

WHEREFORE, KIUC recommends that the Joint Stipulation be approved without modification.

Respectfully submitted,

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September 17, 2025

⁸ See Order, Case No. 2022-00402 (November 6, 2023).

⁹ Joint Intervenors Brief at 49-51.