

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

**In the Matter of:**

**ELECTRONIC 2025 JOINT INTEGRATED  
RESOURCE PLAN OF EAST KENTUCKY  
POWER COOPERATIVE, INC.**

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) **Case No. 2025-00087**  
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**SIERRA CLUB’S MOTION TO INTERVENE**

Pursuant to K.R.S. § 278.310 and 807 K.A.R. 5:001 Section 4(11), Sierra Club respectfully moves for full intervention in the above-captioned proceeding filed by East Kentucky Power Cooperative, Inc., (“EKPC” or “the Company”). EKPC has filed its 2025 Integrated Resource Plan (“IRP”), including its analysis of changes in load forecast, transmission, the regulatory climate, and joining PJM. The load forecast in EKPC’s IRP currently predicts “net total energy requirements to increase from 15.4 to 18.4 million MWh, an average of 1.3 percent per year over the 2025 through 2039 period. Net winter and summer peak demands will increase by approximately 416 MW or 0.8 percent per year and 411 MW or 1.1 percent per year, respectively.”<sup>1</sup> Prior to filing the IRP, in 2024 EKPC filed two applications for Certificates of Public Convenience and Necessity (“CPCN”) to construct new generation to meet forecast demand. First, EKPC sought approval to construct 214 megawatts (“MW”) of new generating capacity in the form of Reciprocating Internal Combustion Engine (“RICE”) gas

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<sup>1</sup> Case No. 2025-00087, EKPC 2025 Integrated Resource Plan at 3 (hereafter, (“EKPC IRP”).

units.<sup>2</sup> Second, two months after the first CPCN application, EKPC filed another CPCN application to construct a new 745 MW combined cycle gas plant at its Cooper Station, to retrofit Cooper Station Unit 2 and Spurlock Station Units 1-4 to co-fire those units with gas.<sup>3</sup> Sierra Club participated in the RICE docket, which has recently completed post-hearing briefing.

Sierra Club has extensive experience evaluating the issues raised in EKPC's IRP. Sierra Club has regularly intervened successfully in matters before the Kentucky Public Service Commission and in other jurisdictions nationwide, including numerous proceedings regarding IRPs. As noted, Sierra Club intervened in and is participating as a party in EKPC's RICE unit CPCN docket, Case No. 2024-00310. Additionally, Sierra Club has intervened in numerous IRP dockets before the Commission, including two ongoing IRP dockets, Case No. 2024-00197 (Duke Energy Kentucky's 2024 IRP), and Case No. 2024-00326 (Louisville Gas & Electric Company/Kentucky Utilities' 2024 Joint IRP); and multiple dockets that have concluded, Case No. 2021-00393 (Louisville Gas & Electric Company/Kentucky Utilities' 2021 Joint IRP), and Case No. 2014-00131 (Louisville Gas & Electric Company/Kentucky Utilities' 2014 Joint IRP). As the Commission has previously recognized, it should grant Sierra Club's motion to intervene because Sierra Club possesses "special knowledge and expertise in multiple areas" and is thus "likely to present issues and develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings."<sup>4</sup>

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<sup>2</sup> Case No. 2025-00087, Application of East Kentucky Power Cooperative, Inc. for 1) A Certificate of Public Convenience and Necessity to Construct a New Generation Resource; 2) A Site Compatibility Certificate; and 3) Other General Relief (Sept. 20, 2024).

<sup>3</sup> Electronic Application of East Kentucky Power Cooperative, Inc. For 1) Certificates of Public Convenience and Necessity to Construct a New Generation Resources; 2) for a Site Compatibility Certificate Relating to the Same; 3) Approval of Demand Side Management Tariffs; And 4) Other General Relief, Case No. 2024-00370 (Nov. 20, 2024) ("EKPC Cooper Combined Cycle CPCN Application") at 5-6.

<sup>4</sup> See, e.g., *In re: Elec. Application of Louisville Gas and Electric Co. for an Adjustment of Its Electric Rates and for CPCNs*, Case No. 2016-00371, Order (Jan. 11, 2017) at 3,

## I. MOVANT

Sierra Club moves to intervene in this proceeding on behalf of itself and its members who live and purchase utility services in Kentucky, many of whom are residential customers of EKPC's member cooperatives. Sierra Club is a national, non-profit environmental and conservation organization. Sierra Club has approximately 3.5 million members and supporters across its sixty-four chapters, covering all fifty states, the District of Columbia, and Puerto Rico. More than 4,900 Kentuckians belong to Sierra Club's Kentucky Chapter.<sup>5</sup> Sierra Club's Kentucky address is: Sierra Club, Kentucky Chapter, P.O. Box 1368, Lexington, KY 40588.

Sierra Club seeks to participate in this proceeding in order to protect (1) its organizational interests and (2) the interests of Sierra Club members who (a) are customers of EKPC's or its member cooperatives and/or (b) live, work, and recreate in and around the EKPC's or its member cooperatives' power units, and who will be directly affected by any Commission order regarding the proposed IRP.

Sierra Club and its members who are EKPC customers, customers of EKPC's member cooperatives, or otherwise directly impacted by the EKPC's facilities have economic and environmental interests in ensuring that EKPC plans provide for the least-cost means of meeting customer energy and reliability needs while also avoiding unnecessary pollution. Sierra Club and its members have economic and environmental interests in whether further clean energy

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[https://psc.ky.gov/pscscf/2016%20Cases/2016-00371//20170111\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2016%20Cases/2016-00371//20170111_PSC_ORDER.pdf); *In re: Elec. Application of Ky. Utils. Co. for an Adjustment of Its Electric Rates and for CPCNs*, Case No. 2016-00370, Order (Jan. 11, 2017) at 3, [https://psc.ky.gov/pscscf/2016%20Cases/2016-00370//20170111\\_PSC\\_ORDER01.pdf](https://psc.ky.gov/pscscf/2016%20Cases/2016-00370//20170111_PSC_ORDER01.pdf); *In re: Application of Ky. Utils. Co. for an Adjustment of Its Electric Rates*, Case No. 2014-00371, Order (Jan. 13, 2015) at 4-5, [https://psc.ky.gov/pscscf/2014%20Cases/2014-00371//20150113\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2014%20Cases/2014-00371//20150113_PSC_ORDER.pdf); *In re: Application of Louisville Gas and Electric Co. for an Adjustment of Its Electric Rates*, Case No. 2014-00372, Order (Jan. 12, 2015) at 4, [https://psc.ky.gov/pscscf/2014%20Cases/2014-00372//20150112\\_PSC\\_ORDER01.pdf](https://psc.ky.gov/pscscf/2014%20Cases/2014-00372//20150112_PSC_ORDER01.pdf).

<sup>5</sup> Requiring member names infringes on Sierra Club members' rights of free association. However, if required by Commission order, Sierra Club will provide the names of one or more specific members.

alternatives would be more affordable or lower risk, while maintaining reliability. Sierra Club members who are customers of EKPC or its member cooperatives have an economic interest in ensuring that future electricity rates truly represent the least-cost option, and an interest in the safety and reliability of the electric grid.

Sierra Club and its members also have environmental and health interests in transitioning away from polluting fossil fuel generation resources as soon as possible. Continued burning of fossil fuels contributes to polluting the surrounding communities and to climate change. These outcomes adversely impact the environment and public health, contrary to the interests of Sierra Club and its members.

Finally, Sierra Club and its members have procedural and organizational interests in exercising their rights to participate in this proceeding to advocate for accelerating the electric sector's transition from high-cost, harmful fossil fuel-based generation to cleaner, more affordable energy sources that save customers money, preserve reliability, and assist impacted communities and workers. Sierra Club seeks full intervention to ensure that its and its members' interests are fully represented in ensuring that EKP's investment, operational, and resource decisions are reasonable. Specifically, Sierra Club will investigate, among other issues, whether the EKPC's proposed portfolio is the least-cost option for customers, if the assumptions used in the IRP are reasonable, and if EKPC has fully evaluated the costs of its preferred plan and alternative generation options; and if the EKPC could avoid costs by fully converting or retiring existing units and investing more in renewable energy, storage, or efficiency measures and planning. Sierra Club may advance other positions as it conducts discovery in this proceeding.

## **II. THE COMMISSION SHOULD GRANT SIERRA CLUB’S MOTION.**

Although only necessary to satisfy one, Sierra Club satisfies both of the two independently sufficient bases for timely intervention. First, Sierra Club will aid the Commission’s full consideration of the matters at hand—as it has done uniformly in the past. Second, Sierra Club has a special interest not otherwise adequately represented in this case. The Commission may grant intervention on either basis without opining on the other, and has done so on the former ground without reaching the latter.

### **A. Movants Will Assist the Commission’s Consideration Without Complication.**

The Commission should grant Sierra Club intervention because it is “likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”<sup>6</sup>

In order to ensure that utilities “furnish adequate, efficient and reasonable service” and charge “fair, just and reasonable rates,”<sup>7</sup> Kentucky regulation requires “regular reporting and commission review of load forecasts and resource plans of the state’s electric utilities to meet future demand with an adequate and reliable supply of electricity at the lowest possible cost for all customers within their service areas, and satisfy all related state and federal laws and regulations.”<sup>8</sup> For that purpose, regulations require that electric utilities file an IRP every three years.

Regulations explicitly articulate the information that utilities must include in an IRP: historical and projected demand, resource information, financial data, and other operating performance and system information.<sup>9</sup> And regulations also specify how the IRP should utilize

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<sup>6</sup> 807 K.A.R. 5:001, Section 4(11)(b).

<sup>7</sup> K.R.S. § 278.030(1)-(2).

<sup>8</sup> 807 K.A.R. 5:058 (necessity, function, and conformity).

<sup>9</sup> 807 K.A.R. 5:058, Section 1(2).

and analyze that information: it should “discuss the facts, assumptions, and conclusions, upon which the plan is based and the actions it proposes.”<sup>10</sup> In selecting a resource mix, the utility must not only demonstrate how that resource mix satisfies reliable and adequate supply at lowest possible cost, but also test key uncertainties, including alternative resource options that may be cost-effective.<sup>11</sup> The IRP should not merely lock in an assumption, but instead toggle between them, showing “how uncertainties in those assumptions and judgments were incorporated into analyses.”<sup>12</sup> The IRP is intentionally and obviously designed to ensure that Kentuckians have access to affordable and reliable electricity by proactively planning for the future and testing assumptions. Utilities must analyze *at a granular level* the economics, reliability, and environmental risk of existing generation and contrast it with other options, including replacement generation.

This proceeding comes at a critical juncture for EKPC. Existing federal Clean Air Act and Clean Water Act regulations, finalized under the Biden administration, that could require EKPC to modify its use of coal as a fuel source at Cooper Station and Spurlock Station are in flux. Among these, the most notable is the U.S. EPA’s regulation of greenhouse gas emissions under Section 111(d) of the Clean Air Act.<sup>13</sup> While EKPC’s 2025 IRP generally discusses Section 111(d) of the Clean Air Act, the Good Neighbor Plan, the Mercury and Air Toxics Standard, National Ambient Air Quality Standards for Ozone, particulate matter, and sulfur dioxide and other newly promulgated rules, EKPC does not discuss its preferred compliance

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.* Section 8(1).

<sup>12</sup> *Id.* Section 8(5)(b).

<sup>13</sup> See New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units, 89 Fed. Reg. 39,798 (May 9, 2024).

option or the cost of these compliance options.<sup>14</sup> Instead EKPC notes it will continue to follow these rules and assess their impacts on operating facilities in the future.<sup>15</sup>

Sierra Club’s experience and expertise can further the Commission’s understanding of how these federal developments impact EKPC generation resources. For example, with regard to compliance with the Mercury and Air Toxics Standards (“MATS”) rules, EKPC notes that on March 28, 2025 it applied for a Presidential Exemption to delay compliance by two years. The IRP does not state that EPA subsequently released a list of power plants in a document labelled “Annex I” that includes EKPC’s Cooper Station and Spurlock Station among 47 power plants to which a two-year MATS exemption now applies.<sup>16</sup> In addition to the MATS developments, Sierra Club is actively tracking legal developments around a suite of federal environmental standards and procedural safeguards, ensuring that Sierra Club is in a position to aid the Commission in determining the legal status of any identified legal challenges to those standards. Specifically, Sierra Club will provide information on and input to the Commission addressing whether EKPC’s preferred generation resources represents the least-cost plan to ratepayers in light of reasonable demand growth and the full range of regulatory, capital, operating, and fuel costs that Cooper Station and Spurlock Station face long-term, even accounting for the two-year MATS compliance exemption. The Commission cannot reach a logical determination on the adequacy of the IRP without evaluating each of those issues.

Sierra Club routinely intervenes in public utility commission proceedings nationwide and in Kentucky, as discussed above. In these interventions, Sierra Club advocates for utility practices, investments, and policies that promote the development of cost-effective energy

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<sup>14</sup> EKPC IRP at 193-219.

<sup>15</sup> *See, e.g.*, EKPC IRP at 198.

<sup>16</sup> <https://www.epa.gov/system/files/documents/2025-04/regulatory-relief-for-certain-stationary-annex-1.pdf>.

efficiency and clean, renewable energy, which can reduce overall system costs, electricity rates, and pollution while also maintaining reliability. In this docket, Sierra Club and its experts will analyze and offer insight on EKPC's load forecast, demand side management ("DSM") assumptions, modeling, and supply resource decisions.

Particularly in light of that experience, Sierra Club respectfully submits that its participation will help develop a thorough record, stimulate a robust evaluation of the issues, and inform the Commission's ultimate decision about the reasonableness, adequacy, and prudence of EKPC's 2025 IRP. Through discovery, the filing of expert testimony, examination of witnesses, and legal briefing, Sierra Club will help to illuminate the economic and environmental risks associated with continued reliance on fossil fuel-fired generation, as well as the potential benefits of meeting energy and capacity needs with additional affordable, renewable energy generation or storage capacity. Sierra Club has knowledge of and experience with these kinds of questions, having previously studied, argued, and helped resolve them before the Commissions in Kentucky and other states. Sierra Club has particular expertise with analysis of how utilities should evaluate compliance costs and compliance options associated with the suite of new environmental regulations, including the U.S. EPA's greenhouse gas rule under Clean Air Act Section 111(d), the revised Effluent Limitation Guidelines Rule ("ELG"), the revised Mercury and Air Toxics Standards Rule ("MATS"), the Good Neighbor Plan, and other federal rules. Sierra Club will aid the Commission by helping to identify, clarify, and apply key principles that bear on whether EKPC's proposals "furnish adequate, efficient and reasonable service" and otherwise comport with all applicable laws and regulations.<sup>17</sup>

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<sup>17</sup> K.R.S. § 278.030(2).



Moreover, Sierra Club’s participation will not unduly complicate or disrupt the proceeding, and will not be unduly duplicative of that of any other party to this case. Sierra Club will comply with all Commission rules and deadlines, as it has in the past. The Commission’s deadline for motions to intervene in this matter is April 25, 2025 and the deadline for initial requests for information is May 16, 2025. In sum, Sierra Club’s participation here will “assist the commission in fully considering” these important issues without any “undu[e] complicati[on].”<sup>18</sup>

**B. Movants Have Special Interests Not Otherwise Adequately Represented.**

The Commission should also grant Sierra Club intervention for the independently sufficient reason that it “has a special interest in the case that is not otherwise adequately represented.”<sup>19</sup> No other party to this docket adequately represents the institutional and policy interests of Sierra Club and its members, including as it pertains to the environment and public health. Sierra Club’s members have a unique interest in avoiding continued investment in expensive fossil fuel energy resources and infrastructure, especially in light of current and impending environmental regulations and the rapid development of renewable energy and storage technology. Sierra Club and its members possess the economic, environmental, and public health interests described above.

Sierra Club is uniquely situated to represent its interests and the interests of its members in this proceeding as a result of its expertise and experience in energy policy and law, renewable energy generation, energy efficiency, and environmental regulations. Sierra Club’s interests are “special,”<sup>20</sup> because they are quantitatively unique—Sierra Club and its members value their interests more deeply on average than the community at large—and qualitatively unique—Sierra

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<sup>18</sup> 807 K.A.R. 5:001, Section 4(11)(b).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

Club publicly advocates for, invests in, and otherwise champions these interests in exceptional ways. These interests are implicated “in the case,”<sup>21</sup> due to the proposed supply-side and demand-side management plans.

Finally, Sierra Club’s special interests in the case are “not otherwise adequately represented,”<sup>22</sup> because no other party has either the same expertise or the inclination to advocate in the same ways that Sierra Club will. The Attorney General, for instance, has neither the capacity nor the inclination (as his office has stated on the record in the past) to fully represent Sierra Club’s more focused interests in conservation and the like, because he must represent the values and prerogatives of ratepayers generally—a broad, mixed obligation that has at times caused his office to take positions at odds with Sierra Club. Sierra Club’s intervention is necessary to adequately represent its unique interests in this proceeding.

### **III. CONCLUSION**

Sierra Club respectfully requests that the Commission permit Sierra Club to fully intervene in this proceeding, as it has in other recent proceedings.

Dated: April 24, 2025

Respectfully submitted,

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

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### **CERTIFICATE OF SERVICE**

This is to certify that the foregoing copy of Sierra Club's Motion to Intervene in this action is being electronically transmitted to the Commission on April 24, 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