

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

In the Matter of: :

ELECTRONIC TARIFF FILING OF :
KENTUCKY POWER COOPERATIVE, :
INC. TO ESTABLISH A NEW TARIFF :
FOR DATA CENTER POWER :

Case No. 2025-00140

**MOTION OF INTERVENE OF
RETAIL ENERGY SUPPLY ASSOCIATION**

Pursuant to 807 KAR 5:001 Section 4 (11), KRS 278.310 and KRS 278.040 (2), Retail Energy Supply Association (“RESA”), by counsel, moves to intervene and be granted full intervenor status in the above-captioned proceeding and states in support thereof as follow. RESA is a trade association of energy companies providing generation solutions to customers, and while RESA’s participation on utility issues in generally in states with retail customer choice for electricity and gas supply, RESA and its members have extensive experience addressing generation construction, procurement, risk hedging, and other related issues that extend beyond the confines of retail choice. This experience, while beyond what has been specifically proposed by EKPC, is something RESA can nonetheless draw from in providing insights on EKPC’s proposal that can aid the Commission in its ultimate decision in the matter.¹

¹ RESA is aware of prior proceedings before the Commission where unique generation supply to very large loads were addressed and resolved, including through some market purchases. RESA believes its participation and comments on EKPC’s proposed structures, other structures the Commission has previously addressed, and comments on potentially other structures can aid the Commission in its ultimate decision. See, e.g., Joint Application of Kenergy Corp. and Big Rivers Electric Corp. for Approval of Contracts and for a Declaratory Order, Case No. 2013-00221, Order (Aug. 14, 2013).

On April 30, 2025, East Kentucky Power Cooperative, Inc. (“EKPC”) filed the above referenced application with the Kentucky Public Service Commission (“Commission”) in the above-captioned proceeding. In the application, EKPC proposes a data center tariff, Rate DCP, which includes procedures addressing generation supply to data centers served under Rate DCP.

In its cover letter to the proposed tariff, EKPC describes its filing as necessary to “assure that commercial relationships are fair, just and reasonable . . .” and that Rate DCP “is designed to assure that risks are appropriately identified, characterized and allocated between new data center load and traditional residential, commercial, and industrial loads.”² EKPC also acknowledges that its tariff “is not comprehensive” because “a one-size fits-all approach is not prudent.”³ EKPC further notes that “large data center loads could quickly exceed EKPC’s existing generation portfolio resources.”⁴ Accordingly, EKPC notes that its proposed tariff includes a requirement for EKPC to work with the Rate DCP data centers to identify a Dedicated Resource supplied by EKPC, bilateral power and capacity purchases, or a combination thereof.⁵ For data centers that are 250MW or greater, EKPC proposes that one or more Dedicated Resources will be required.⁶ In the proposed tariff EKPC notes that the resource could be: (a) all or portion of an electric generation facility that is owned or leased by EKPC or the data center, (b) bilateral power and capacity purchases selected by EKPC, or (c), a combination thereof.

² EKPC Cover letter at 1 (Apr. 30, 2025).

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.*

⁶ *Id.*

Attachment A to the proposed tariff contains detailed provisions for a “Qualifying Customer-Sited Dedicated Resource[.]” These requirements include that the generation resource “be interconnected to the PJM transmission system,” and that the resource “may not be interconnected ‘behind-the-meter.’”⁷ EKPC proposes that the generation resource would be registered in PJM as a capacity resource either through EKPC or the Cooperative, or by “qualifying Customer directly or through a third-party.”⁸ EKPC proposes that the resource be 100% owned by the data center customer.⁹ EKPC also proposes that the data center customer would enter a lease to lease the generation asset to EKPC.¹⁰

Following EKPC’s application, Kentucky Attorney General’s filed a motion to intervene on May 28, 2025. That same day, Nucor Steel Gallatin also filed a motion to intervene. Both parties were granted intervention by the Commission. RESA’s interests meet the intervention requirements laid out in the governing rules and statutes; therefore, the Commission should grant intervention. 807 KAR 5:001, Section 4(11)(a)(1) requires that a person requesting leave to intervene as a party to a case before the Kentucky Public Service Commission (“Commission”), by timely motion, must state his or her interest in the case and how intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Additionally, 807 KAR 5:001, Section 4(11)(b) provides that the Commission shall grant a person leave to intervene if the Commission finds that he

⁷ *Id.* at Sheet 116.

⁸ *Id.*

⁹ *Id.* at Sheet 117.

¹⁰ *Id.*

or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention 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.

RESA is a non-profit 501(c)(6) organization and whose member companies supply electricity and natural gas commodity to residential, commercial, industrial, and governmental customers throughout many areas of the country. RESA's members own and operate a significant amount of generation resources in the PJM footprint. RESA's members have participated in a number of utility cases relating to serving data centers and large loads across the country, including in areas that do not have full customer retail choice for generation service.¹¹ RESA, and its members, have addressed many generation supply issues for the new hyperscale data center loads, such as those meeting and exceeding the 250MW+ threshold identified in EKPC's proposed tariff. RESA's members include generation owners and therefore RESA is well suited to provide unique feedback to the Commission in this matter on issues related to the Qualifying Customer-Supplied Dedicated Resource and the specific requirements EKPC has proposed for this type of resource. As generation owners in PJM, as well as wholesale and retail electric market participants, RESA is also well suited to provide the Commission with unique insight in response to the Bilateral Purchase option EKPC proposed in the tariff. RESA

¹¹ Ohio Public Utilities Commission of Ohio, *In the Matter of the Application of Ohio Power Company for New Tariffs Related to Data Centers and Mobile Data Centers*, Case No. 24-508-EL-ATA. Louisiana Public Service Commission, *Ex Parte, In Re: Rulemaking to Research and Evaluate Customer-Centered Options for All Electric Customer Classes as well as Other Regulatory Environments*, Docket No. R-35462; *Application of Virginia Electric and Power Company, For approval to establish a voluntary, experimental companion tariff to support carbon-free and renewable energy generation, designated Schedule CFG, pursuant to §56-234 B of the Code of Virginia*, Case No. PUR-2024-00114.

members' experience in assisting customers in the commodity and financial markets to hedge risk can also provide helpful information in the consideration of the application.

Additionally, several of RESA's members have participated in previous Commission proceedings, providing the Commission with unique perspectives for its consideration on other emerging issues.¹²

RESA's motion meets the intervention requirements. First, RESA's motion is timely and follows the Commission's procedural schedule set out in its May 23, 2025 Order. RESA's interest is not adequately represented by any other party in this proceeding, nor will its participation unduly complicate or disrupt this proceeding. Nucor is a large industrial customer. The Attorney General represents customers in Kentucky, and as noted in Nucor's motion to intervene, the discharge of that duty is primarily related to residential customers.¹³ RESA's unique position reflecting members with significant generation ownership in the PJM footprint, and elsewhere, will allow RESA to provide the Commission with unique perspective on generation supply for data centers and present the Commission with issues and facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. RESA intends to play a constructive role in developing the record to aid in the Commission's ultimate decision-making.

¹² *In the Matter of Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; and Other Relief*, Case No. 2024-00092, Order (May 28, 2024); IGS and CNEG's Reply to Columbia Kentucky's Response at 1 citing Case No. 2007-00008, *Application of Columbia Gas of Kentucky, Inc. for An Adjustment of Gas Rates*; 2009-00141, *Application of Columbia Gas of Kentucky, Inc. for An Adjustment of Gas Rates*, Case No. 2009-00141 and 2013-00167, *Application of Columbia Gas of Kentucky, Inc. for An Adjustment of Gas Rates*.

¹³ KRS 367.150 (8); Nucor Motion to Intervene at 2.

For the reasons stated above, RESA should be granted intervention in this proceeding, and RESA respectfully requests that it be granted full intervenor status in the above-captioned proceeding.

Respectfully submitted,

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