COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR A GENERAL ADJUSTMENT OF RATES, APPROVAL OF DEPRECIATION STUDY, AMORTIZATION OF CERTAIN REGULATORY ASSETS, AND OTHER GENERAL RELIEF	))))))	**CASE NO. 2025-00208**

RESPONSE TO REQUEST FOR INTERVENTION BY APPALACHIAN CITIZENS' LAW CENTER, KENTUCKIANS FOR THE COMMONWEALTH, KENTUCKY SOLAR ENERGY SOCIETY, AND MOUNTAIN ASSOCIATION

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, in accordance with 807 KAR 5:001, Section 5, and other applicable law, and for its Response to the Joint Motion of Appalachian Citizens' Law Center, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association (collectively the "Joint Movants") for full intervention as joint intervenors, respectfully states as follows:

The Joint Movant's Motion to Intervene should be denied for failing to meet the criteria required by 807 KAR 5:001(11)(b). The regulation requires that the Commission shall grant a person leave to intervene only if: 1) the movant has "a special interest in the case that is not otherwise adequately represented;" or 2) if 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." The Joint Movants have the burden of proof to establish that they

satisfy the criteria for being granted intervention[1] and the Commission may use it's "sound discretion" to determine whether a movant satisfies the high standards of the intervention regulation.[2] Joint Movants failed to show that they have a special interest that is not otherwise adequately represented or that they are likely to present issues or develop facts that will assist the Commission. Accordingly, EKPC requests that the Commission deny the Joint Movants' Motion to Intervene.

A. The Joint Movants' do not have a special interest that is not otherwise adequately represented.

The Commission laid out a requisite evidentiary basis for satisfying the regulatory standard of having a "special interest" saying:

> …any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the impact of possible modification of rates will not be deemed sufficient to establish a special interest.[3]

The Joint Movants' Motion contains nothing more than general statements regarding who the Movants are and their mission without any explanation as to how those missions relate to EKPC's ratemaking at a wholesale level. The Joint Movants' Motion presupposes that EKPC's rate case is a case where the rates in question are charged directly to a consumer – as is the case in investor-

[1] *See In the Matter of the Adjustment of Rates or Kentucky-American Water Company*, Order, Case No. 2000-00120, p. 2 (Ky. P.S.C. May 30, 2000).

[2] *See Inter-County Rural Electric Coop. Corp. v. Public Service Comm'n*, 407 S.W.2d 127, 130 (Ky. 1966) ("The regulation reposes in the Commission the responsibility for the exercise of sound discretion in the matter of affording permission to intervene.").

[3] *See Electronic Application of Flemming-Mason Energy Cooperative, Inc. for Pass-Through of East Kentucky Power Cooperative, Inc. Wholesale Rate Adjustment*, Order, Case No. 2021-00109, p. 4 (Ky. P.S.C. Apr. 15, 2021) (emphasis added).

owned, vertically integrated utility rate cases. However, fundamentally, that is not the nature of this proceeding.

Appalachian Citizens' Law Center ("ACLC"), Kentuckians for the Commonwealth ("KFTC"), and Mountain Association's *only* alleged special interest is advocating for energy affordability on behalf of low-income residents.[4] However, this alleged special interest is adequately represented by the Attorney General of the Commonwealth of Kentucky, through the Office of Rate Intervention ("Attorney General"). The Attorney General has already been granted intervention into this case and the Attorney General has significant expertise and years of experience in representing retepayers' interests in rate proceedings, including every recent prior EKPC rate case.[5] The Attorney General possesses the right and obligation to appear before regulatory bodies of the Commonwealth of Kentucky to represent consumers' interests pursuant to KRS 367.150(8) and will no doubt seek to reduce EKPC's revenue requirement for the benefit of all customers. The Joint Movants' intervention therefore is subordinate to the Attorney General's broad statutory duty. There is simply no way to differentiate between low-income residential customers and non-low-income residential customers in a wholesale rate case. In an order denying intervention, the Commission reaffirmed that the Attorney General represents the generalized interest the Joint Movants claim in this case:

> The Commission further finds that Petitioner has failed to establish that it has a special interest in this matter that is not otherwise adequately represented, notwithstanding Petitioner's generalized representation that its current members would be impacted by Big Rivers' application. Big Rivers provides power to

[4] Joint Motion of Appalachian Citizens' Law Center, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association for Full Intervention as Joint Intervenors ("Joint Motion"), pp. 3-4, 6, 9.

[5] *Electronic Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Rates, Approval of Depreciation Study, Amortization of Certain Regulatory Assets, and Other General Relief*, Case No. 2021-00103 (Ky. PSC Order March 5, 2021); *Application of East Kentucky Power Cooperative, Inc. For General Adjustment of Electric Rates*, Case No. 2010-00167 (Ky. PSC Order June 15, 2010); *General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc.*, Case No. 2008-00409 (Ky. PSC Order November 25, 2008); *General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc.*, Case No. 2006-00472 (Ky. PSC Order February 19, 2007).

> approximately 112,000 customers and each one of those customers will be impacted financially by the issues in this rate case.[6]

The alleged "special interest" of the Joint Movants to protect low-income customers is duplicative of the Attorney General's interest in this case. Joint Movants cannot have a "special interest in the case that is not otherwise adequately represented" as required by 807 KAR 5:001(11)(b) and should be denied intervention.

Moreover, EKPC does not have low-income customers as it does not have retail electric rates. EKPC's only customers are its sixteen Owner-Member distribution cooperatives. EKPC sells wholesale electric power to its Owner-Members who in turn sell the electric power to their end-use customers. The fact that EKPC does not have any retail customers or retail rates negates any special interest the Joint Movants allege. The Joint Movants failed to satisfy their burden of proof that they have a special interest in this proceeding that will not be adequately represented by another party to the proceeding.

Finally, at least one of the Joint Movants, ACLC, does not allege that it, or any of its members, is a customer of EKPC or any of EKPC's Owner-Members. There is no specific allegation in the motion that demonstrates any substantive connection on the part of ACLC to EKPC or any of the Owner-Member cooperatives. Therefore, ACLC cannot have a special interest in this matter and cannot present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.[7]

---

[6] *Application of Big Rivers Electric Corporation for a General Adjustment in Rates Supported by Fully Forecasted Test Period*, Case No. 2020-00350, Order (Ky. P.S.C. Dec. 9, 2020) (stating the requirements for a person requesting permissive intervention in a Commission proceeding).

[7] *See In the Matter of Electronic Application of Duke Energy Kentucky, Inc. for (1) An Adjustment of the Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and, (4) All other Required Approvals and Relief*, Order, Case No. 2019-00271, (Ky. P.S.C. Oct. 14, 2019) ("The Commission's jurisdiction is limited to regulating the rates charged, and the service provided, by Duke Kentucky to its retail customers. Here, ChargePoint has not established that it pays any retail rate to Duke Kentucky or that it receives any retail service from Duke Kentucky. Thus, ChargePoint has not established any direct interest in

The remaining Joint Movants allege that they have members who get their electric utility service from distribution cooperatives that purchase wholesale power from EKPC; however, the Commission has consistently held that a person's status as a customer is ***not*** a special interest meriting full intervention.[8]

Because the Joint Movant's alleged special interest is adequately represented by the AG or is otherwise nonexistent due to the lack of low-income customers of a lack of connection to EKPC

Duke Kentucky's retail rates or service, much less one that is not otherwise adequately represented. Because only retail customers of Duke Kentucky have an interest in its rates or service ChargePoint failed to establish that it should be permitted to intervene based on a special interest that is not otherwise adequately represented."); *In the Matter of the Tariff Filing of East Kentucky Power Cooperative, Inc. and its Members Distribution Cooperatives for Approval of Proposed Changes to Their Qualified Cogeneration and Small Power Production Facilities Tariffs and Implementation of Separate Tariffs for Power Purchases from Solar Generation Qualifying Facilities*, Order, Case No. 2017-00212, p. 4 (Ky. P.S.C. Sept. 22, 2017) ("In reviewing the pending motions to intervene, we find that neither Great Blue Heron nor Bluebird Solar receives service from EKPC, pays any rates to EKPC, or is a customer of EKPC. Therefore, Movants lack the necessary special interest in the rates and service of EKPC sufficient to justify intervention."); *In the Matter of the Adjustment of Rates of Columbia Gas of Kentucky, Inc.*, Order, Case No. 2007-00008 (Ky. P.S.C. May, 3, 2007); *In the Matter of The Application of Columbia Gas of Kentucky, Inc. for an Order Issuing a Certificate of Public Convenience and Necessity to the Extent Such a Certificate is Required to Construct a Pipeline to Service Cooper Tire, Inc. in Mt. Sterling, Kentucky*, Order, Case No. 1996-00015, p. 1 (Ky. P.S.C. Feb. 27, 1996) ("Western has no facilities and provides no service in the area which is the subject of this dispute. Western's interest is therefore too remote to justify full intervention.").

[8] *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294, Order (Ky. PSC Nov. 16, 2018) (denying intervention requests of Don Daugherty, Travis Goodin, Conrad Lanham, Teresa Miller, and Elizabeth Shannon because their requests did not articulate a special interest in the proceeding, only a general interest that they shared in common with all other KU customers. Additionally, the Commission noted that these individuals did not show that they were likely to present issues or to develop facts that would assist the Commission in resolving the matter); *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2018-00295, Order (Ky. PSC Nov 16, 2018) (denying intervention request of Teresa Miller because her request did not articulate a special interest in the proceeding, only a general interest that she shared with all other LG&E customers. Additionally, the Commission noted that she did not show that she was likely to present issues or to develop facts that would assist the Commission in resolving this matter); *Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2009-00198, Order (Ky. PSC Aug. 28, 2009) (denying intervention to customer Tammy Stuart on grounds that she lacked a special interest meriting intervention, as well as expertise that would assist the Commission); *Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2009-00174, Order (Ky. PSC June 26, 2009) (denying Rep. Jim Stuart's Motion to Intervene because he had neither a special interest in the proceeding nor was he likely to assist the Commission to render a decision); *Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc. People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Ince. For the Establishment of a Home Energy Assistance Program*, Case No. 2007-00337, Order (Ky. PSC Sept. 14, 2007) ("[H]old[ing] a particular position on issues pending in … [a] case does not create the requisite 'special interest' to justify full intervention under 807 KAR 5:001, Section 3(8)(b).").

or its Owner-Members, the Joint Movant's have failed to show any special interest in this case and their motion to intervene should be denied.

B. The Joint Movants are not likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Because the Joint Movants lack an interest in this proceeding that is not adequately represented by other parties, they may only intervene if they can show that they will present issues or develop facts that will assist the Commission without unduly complicating or disrupting the proceeding.[9] The Joint Movants do not allege any expertise or experience with ratemaking nor does the request allege whether they will file expert testimony. The Joint Movants do not identify any specific issue or component of this specific case that they will address, or facts they intend to develop, and the Commission has regularly denied intervention when a movant's proffered interest is "too remote to justify intervention".[10]

The Joint Movants argue that they have participated in other cases before the Commission but offer no insight into how they may assist in this case. Of note, the Joint Movants failed to move to intervene in any of EKPC's previous rate cases and did not move to intervene in in any of EKPC's Owner-Members' pass-through cases. Even if the Joint Movants had intervened in the pass-through cases the statutory mandates of the pass-through statute prevent the commission from making rate preferences within the residential class.[11] The Joint Movants' intervention in the KU and LG&E

[9] Case No. 2020-00350, Order (Ky. P.S.C. Dec. 9, 2020) (stating the requirements for a person requesting permissive intervention in a Commission proceeding).

[10] *See, e.g., Electronic Application of Kentucky Power Company for (1) a General Adjustment of its Rates for Electric Service; (2) an Order Approving its 2017 Environmental Compliance Plan; (3) an Order Approving its Tariffs and Riders; (4) an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) an Order Granting All Other Required Approvals and Relief*, Case No 2017-00179 (Ky. PSC Aug. 28, 2009) (denying intervention of customer Riverside Generating Company, LLC).

[11] *See* KRS 278.455.

rate cases are distinguishable because those rate cases involved fully litigated retail rates. The other cases the Joint Movants cite are all in the nature of resource planning cases and EKPC did not object to their participation in those dockets where EKPC was involved.

The only Movant that alleges a special interest other than protecting low-income customers is Kentucky Solar Energy Society ("KYSES"). Joint Movants state that KYSES has a special interest in promoting renewable energy sources, energy efficiency, and conservation.[12] However, the drivers in this rate case are not based on generation; rather, this rate case is primarily motivated by interest expenses and inflation.[13] EKPC's application specifically states:

> The principal drivers of this application are to account for the multiple years of above-average inflation that EKPC – like all other businesses and residences – experienced over the past few years. In addition to inflationary pressures, interest rose in recent years which has a negative impact upon EKP's debt costs. … This rate increase does not incorporate any of the investment for new generation resources…[14]

KYSES's desire to promote renewable energy sources, energy efficiency, and conservation is irrelevant to this case and therefore cannot amount to a special interest and cannot present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. This case will not address any changes to DSM, generation, modeling, load forecasting, or any solar projects. KYSES argues that it has special knowledge regarding effects of net metering tariffs on current and prospective solar customers. However, those matters are not at issue in this case. Joint Movants do not have any unique insight to offer that would not unduly complicate or burden the proceedings. Injecting matters and

[12] *Id.* p. 5.

[13] Application pp. 3, 14 ¶¶4, 35.

[14] *Id.* Exhibit 4.

questions not at issue into a proceeding are the very definition of "unduly complicating or disrupting the proceeding," which the Commission's regulation expressly prohibits.[15] KYSES has no valid interest in this matter and their intervention can only serve to unduly complicate and disrupt the proceedings. The proper way for the Joint Movants to participate in this case is through filing written public comments or offering verbal comment at public hearings.[16] As such, Joint Movant's motion should be denied.

C. The Motion Fails to Satisfy the Procedural Requirements for Intervention

Finally, Joint Movant's motion fails to satisfy the procedural requirements for intervention. A party seeking intervention *shall* include with their motion, "the movant's full name, mailing address, and electronic email address…."[17] While Joint Movants include their names, they fail to include mailing addresses (including the address of their principal office instead) and electronic email address. Failure to comply with filing requirements set forth in the Commission's regulation suggests, that the Joint Movant's in this matter could unduly burden the proceedings by failing to abide by Commission regulations. While this omission is no doubt easily cured, it suggests indifference or lack of attention that could again lead to unduly complicating or disrupting the proceedings.

CONCLUSION

For the foregoing reasons, EKPC respectfully requests that the Commission deny the Joint Movants' Motion to Intervene in this case.

This the 29th day of August 2025.

---

[15] *See* 807 KAR 5:001, Section 4(11)(b).

[16] *See* 807 KAR 5:001, Section 4(11)(e).

[17] 807 KAR 5:001, Section 4(11)(a)1.

Respectfully Submitted,

L. Allyson Honaker
Heather S. Temple
Meredith Cave
HONAKER LAW OFFICE, PLLC
1795 Alysheba Way, Suite 1203
Lexington, Kentucky 40509
(859) 368-8803
allyson@hloky.com
heather@hloky.com
meredith@hloky.com
Counsel for East Kentucky Power Cooperative, Inc.

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on August 29, 2025, and that there are no parties that the Commission has excused from participation by electronic means in this proceeding. Pursuant to prior Commission Orders, no paper copies of this filing will be made.

Counsel for East Kentucky Power Cooperative, Inc.