

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

**In the Matter of:**

**ELECTRONIC APPLICATION OF KENTUCKY )  
POWER COMPANY FOR 1) A CERTIFICATE ) Case No. 2026-00001  
OF PUBLIC CONVENIENCE AND NECESSITY )  
TO CONSTRUCT A MECHANICAL DRAFT )  
COOLING TOWER AT THE MITCHELL )  
PLANT 2) APPROVAL OF CERTAIN )  
REGULATORY AND ACCOUNTING )  
TREATMENTS, AND 3) ALL OTHER )  
REQUIRED APPROVALS AND RELIEF )**

**SIERRA CLUB’S MOTION TO INTERVENE**

Pursuant to K.R.S. § 278.310 and 807 K.A.R. 5:001, Section 4(11), and the Commission’s March 6, 2026 Order in this matter, Sierra Club respectfully moves for full intervention in the above-captioned proceeding filed by Kentucky Power Company. Kentucky Power Company (“the Company”) has applied for a Certificate of Public Convenience and Necessity (“CPCN”) to (1) construct a new cooling tower for Unit 2 at the Mitchell Generating Station located in West Virginia (hereafter referred to as the “Cooling Water Tower Project”); (2) partially demolish the existing cooling tower; (3) fully demolish the cooling tower once the Mitchell plant is eventually retired; and (4) for approval to establish a regulatory asset to accumulate and defer for subsequent recovery the costs of the proposed cooling tower project.<sup>1</sup>

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<sup>1</sup> *Electronic Application of Kentucky Power Company for 1) a Certificate of Public Convenience and Necessity to Construct a Mechanical Draft Cooling Tower at the Mitchell Plant 2) Approval of Certain Regulatory and Accounting Treatments, and 3) All Other Required Approvals and Relief, Case No. 2026-00001, Application at 1 (Feb. 17, 2026) (hereafter “Application”).*

Sierra Club seeks full intervention to help ensure that the CPCN is approved only if it represents the best option to satisfy Kentucky Power's customers' interest in low-cost service.

On February 17, 2026, the Company filed its CPCN application requesting approval, among other things, to repair a cooling tower at Unit 2 of the Mitchell coal-fired power plant. The 1,560 MW Mitchell plant is located on the Ohio River roughly 12 miles south of Moundsville, West Virginia. Kentucky Power owns 50 percent of the plant; the other 50 percent is owned by West Virginia utility Wheeling Power Company, which operates the plant. Both units began operating in 1971.<sup>2</sup>

According to the Application, the estimated construction costs for the cooling tower construction is \$191 million, and Kentucky's Power's 50 percent share is approximately \$95.5 million.<sup>3</sup> The Company does not presently anticipate any incremental increase in operations and maintenance costs associated with the proposed cooling tower project.<sup>4</sup>

Sierra Club has extensive experience evaluating the issues raised in the Company's Application, including assessing the economics of major, capital investments at aging coal-fired power plant including reasonable ongoing capital and operational and maintenance costs. Sierra Club has regularly intervened successfully in matters before the Kentucky Public Service Commission, including numerous proceedings regarding CPCNs. Sierra Club participated as an intervenor in Case No. 2021-0004, which resulted in the order requiring the Company to stop taking power from the Mitchell plant by the end of 2028, and, more recently, in Case No. 2025-00175, which authorized the Company to extend its ownership interest indefinitely.

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<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* at 8.

<sup>4</sup> *Id.* at 8.

In Case Nos. 2024-0310 and 2025-00002, Sierra Club intervened in Duke’s CPCN application to retrofit its scrubber for \$125 million and submitted testimony that it was imprudent to invest in this aging and uneconomic coal plant because cheaper alternatives existed. Duke eventually withdrew its application because it pursued one of the cheaper alternatives highlighted in Sierra Club’s testimony.<sup>5</sup>

As the Commission has previously recognized, it should grant Sierra Club’s motion to intervene because Sierra Club is “likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings.”<sup>6</sup>

## **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 Kentucky Power. Sierra Club is a national, non-profit environmental and conservation organization. Sierra Club has approximately 607,030 members across its sixty-four chapters, covering all fifty states, the District of Columbia, and Puerto Rico. More than 4,100

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<sup>5</sup> *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity to Convert its Wet Flue Gas Desulfurization System From a Quicklime Reagent Process to a Limestone Reagent Handling System at its East Bend Generating Station and for Approval to Amend its Environmental Compliance Plan for Recovery by Environmental Surcharge Mechanism*, Case No. 2024-00152, Order at 1 (May 29, 2025).

<sup>6</sup> *Electronic Application of Kentucky Power Company for Approval of (1) a Certificate of Public Convenience and Necessity to Make the Capital Investments Necessary to Continue Taking Capacity and Energy from the Mitchell Generating Station after December 31, 2028, (2) an Amended Environmental Compliance Plan, (3) Revised Environmental Surcharge Tariff Sheets, and (4) All Other Required Approvals and Relief*, Case No. 2025-00175, Order at 4 (Aug. 11, 2025); *In the Matter of: Electric Application of Kentucky Power Company for Approval of a Certificate of Public Convenience and Necessity for Environmental Project Construction at the Mitchell Generating Station, an Amended Environmental Compliance Plan, and Revised Environmental Surcharge Tariff Sheets*, Case No. 2021-00004, Order at 1 (Mar. 5, 2021).

Kentuckians belong to Sierra Club's Kentucky Chapter.<sup>7</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 the Company and/or (b) live, work, and recreate in and around the Mitchell power plant, and who will be directly affected by any Commission order regarding the proposed CPCN and other requested relief.

Sierra Club and its members who are Kentucky Power customers or otherwise directly impacted by the Company's facilities have economic and environmental interests in ensuring that Kentucky Power's investments and retention of its ownership interest in the Mitchell plant does not unduly burden its customers and provides for the least-cost means of meeting customer energy and reliability needs. Sierra Club and its members have economic and environmental interests in whether further clean energy alternatives would be more affordable or lower risk, while maintaining reliability. Sierra Club members who are Kentucky Power customers have an economic interest in ensuring that future electricity rates truly represent the least-cost option and don't include expensive and unnecessary investments in coal-fired generation.

Sierra Club is interested in, and knowledgeable about, resource planning and capital spending, and their consequences for fair, just, and reasonable rates. Cases featuring economic assessments of, and alternatives to, large investments in aging, coal-fired generating units are central to Sierra Club's interest and expertise in advocacy at public utility commissions. Sierra Club routinely provides testimony and argument on these questions, developing the record and

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<sup>7</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.

assisting commissions in identifying pathways that are lawful, practicable, cost- and risk-minimizing, and otherwise a reasonable way of providing reliable service to ratepayers.

Sierra Club and its members also have environmental and health interests in transitioning away from polluting fossil fuel generation resources as soon as possible and ensuring that there are no unnecessary investments in aging fossil fuel generation sources, including the one at issue here, which is more than 50 years old. Continued burning of fossil fuels contributes to polluting the surrounding communities and to climate change, exacerbating the increased intensity and frequency of extreme weather events that damage power lines, cause coal- and gas-plant outages in Kentucky, and cost Kentucky ratepayers money. 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 energy sources. Sierra Club seeks full intervention to ensure that Kentucky Power's investment, operational, and resource decisions are reasonable, and that Sierra Club's members' interests—many of whom are ratepayers and will bear the costs of Kentucky Power's investment decisions—are fully represented.

Specifically, Sierra Club will investigate, among other issues, whether the Company's proposed \$95.5 million investment in the Mitchell plant represents the least-cost option for Kentucky Power customers, especially in light of future environmental compliance obligations as well as the availability of lower-cost resource options. Sierra Club may advance other positions as it conducts discovery in this proceeding.

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

Sierra Club satisfies either of the two independently sufficient bases for timely intervention. First, Sierra Club will smoothly aid the Commission’s full consideration of the matters at hand—as it has done 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. Sierra Club Will Present Issues and Develop Facts That Will Assist the Commission in Fully Considering the Matter Without Unduly Complicating or Disrupting the Proceedings.**

The Commission should grant Sierra Club full 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>8</sup> As noted above, this CPCN application features issues that implicate Sierra Club’s expertise—including, *inter alia*, the prudence of Kentucky Power’s plan to embark on a \$195 million capital project to replace a cooling tower at a 55-year old coal plant, rather than foregoing those investments. Sierra Club plans on developing the record in this case through discovery, potentially expert testimony, witness examination, and briefing on that issue and possibly others. This will aid the Commission by scrutinizing the Company’s decision-making, elucidating viable alternatives and their risks and costs, gathering data, potentially supplying expert analysis, and otherwise informing the consideration of whether the project and its attendant costs will result in reliable service, reasonably minimize costs and risks, and render rates that are “fair, just and reasonable.” K.R.S. § 278.030(1).

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<sup>8</sup> 807 K.A.R. 5:001, Section 4(11).

This proceeding involves complex questions regarding whether a \$191 million capital retrofit to a 55-year coal-fired power plant is a public convenience and necessity. Typically, in case involving a large capital investment to an aging generation asset, the utility will examine the prospective costs to continue to operate the plant, including the capital costs for the project and other expected capital, operation and maintenance costs, and fuel costs compared to the all-in costs of an alternative generation source. These costs are typically compared over the useful life of the project. Such an analysis is critical for a 55-year-old plant because aging plants often need other major capital investments as these plants and its components were not designed to run for 80 to 85 years.<sup>9</sup>

The Company evaluated the following 4 alternatives:

Option 1: Expand and extend the paused exterior shell reinforcement project;

Option 2: Retire Unit 2 and partially demolish the existing cooling tower;

Option 3: Construct a new mechanical draft cooling tower and partially demolish the existing cooling tower; and

Option 4: Reduce the height of the existing cooling tower and continue with a reduced scope of exterior shell reinforcement.

The only alternative generation option examined by Kentucky Power was Option 2, which would have the Company acquire capacity and energy from June 2027 until May 2031, when a new combined cycle natural gas-fired plant could come online.<sup>10</sup> As a party to this proceeding, Sierra Club will ensure that the appropriate suite of alternatives are

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<sup>9</sup> Kentucky Power's economic analysis utilized a 25-year useful life for the proposed cooling tower project beginning in 2029 when the project will go into service. This economic analysis would have the plant operate until it is 84 years old. A critical part of a prudent economic analysis would be what additional major capital upgrades were included to keep this aging plant operational. Coon Direct Testimony at 12:10-23, Case No. 2026-00001. It should be noted that the useful life utilized in the economic analysis is different than the depreciable life utilized by the Company, which is 12 years.

<sup>10</sup> Coon Direct Testimony at 6:8-18, Case No. 2026-00001.

examined and that the appropriate and reasonable level of ongoing capital costs are included in the economic analysis for considered alternatives. This will help ensure that the Commission only approves the Cooling Water Tower Project if it truly is the most reasonable and cost-effective alternative.

Kentucky law requires that a utility obtain a CPCN for “the construction of any plant, equipment, property, or facility” with limited exceptions.<sup>11</sup> To receive a CPCN, a utility must show (1) a need for the construction and (2) an absence of wasteful duplication.<sup>12</sup> Need requires “a showing of substantial inadequacy of existing service.”<sup>13</sup> Wasteful duplication means “an excess of capacity over need” and “an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties.”<sup>14</sup> Demonstrating an absence of wasteful duplication requires showing that “a thorough review of all reasonable alternatives has been performed.”<sup>15</sup> The proposal selected need not be the absolute least cost, but “[t]he fundamental principle of reasonable least-cost alternative is embedded in [the] analysis.”<sup>16</sup>

Sierra Club is seeking to present testimony regarding whether the Cooling Water Tower Project proposed by Kentucky Power might be wasteful duplication in light of the full range of regulatory, capital, operating, and fuel costs that Mitchell faces to remain operational until the plant is 84 years old. Kentucky Power’s economic analysis shows that the Cooling Water Tower

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<sup>11</sup> K.R.S. § 278.020(a).

<sup>12</sup> *Ky. Utils. Co. v. Pub. Serv. Comm’n*, 252 S.W. 2d 885, 890 (Ky. 1952); *In re Elec. Application of Ky. Power Co. for a CPCN to Rebuild the Wooton-Stinnett Portion of the Hazard-Pineville 161 KV Line in Leslie Cnty., Ky.*, Case No. 2022-00118, at 16-17 (Ky. P.S.C. Sept. 22, 2022).

<sup>13</sup> *In re Elec. Application of Ky. Power Co. for a CPCN*, Case No. 2022-00118, at 16 (Ky. P.S.C. 2022) (quoting *Ky. Utils. Co.*, 252 S.W. 2d at 890)

<sup>14</sup> *Id.*

<sup>15</sup> *In re Elec. Application of Ky. Power Co. for a CPCN*, Case No. 2022-00118, at 16 (Ky. P.S.C. Sept. 22, 2022).

<sup>16</sup> *Id.* at 16–17.

Project is more economic than a new combined-cycle gas plant. Sierra Club wants to ensure that the Company didn't overlook other reasonable major capital investments that might be needed to keep this aging coal plant operational. The Commission must examine the full suite of prospective operating costs of Mitchell Unit 2 compared to viable alternatives in order to accurately determine what is the least cost option and to prevent wasteful duplication. Mitchell Unit 2 will likely face other major capital improvements to keep it operational for multiple decades. If Kentucky Power failed to account for other reasonable capital costs, the Company is asking ratepayers to fund piecemeal work that could become unnecessary or an excessive investment once the Company evaluates the Cooling Water Tower Project cost issue in conjunction with the full suite of capital investments needed to keep this aging plant operational. Sierra Club wants to ensure that the Commission evaluates the full capital costs facing Mitchell, so it can accurately determine the least cost option for moving forward and prevent wasteful duplication. Sierra Club is not advocating any particular resource mix or alternative at this time and instead seeks to contribute to a robust examination of the comparative costs and benefits of viable options, in light of all reasonably foreseeable costs. In its December 30, 2025 decision in Case No. 2025-00175, the Commission specifically emphasized the ways in which Sierra Club's participation and expert testimony examined key issues and helped the Commission fully consider the matters presented by Kentucky Power. In that docket, which addressed Kentucky Power's ownership interest in the Mitchell plant, Kentucky Power's evaluation of near-term (2029-2031) and long-term (post-2031) alternatives were central to the Commission's deliberations. On both counts, the Commission noted that Sierra Club's witness offered the Commission useful testimony. First, the Commission stated that it "agrees, at least in part, with the testimony of Sierra Club's witness Glick that there are flaws in Kentucky Power's

methodology and that Kentucky Power’s analysis was not conducted with the level of rigor that the Commission would expect to see for a decision of this magnitude.”<sup>17</sup>

Second, the Commission noted that Sierra Club’s witness presented a compelling near-term alternative that Kentucky Power failed to explore. The Commission specifically credited Sierra Club’s witness’s testimony that Kentucky Power should have explored a near-term alternative in which it entered into a short-term power purchase agreement (“PPA”) with Wheeling Power through the end of 2031.<sup>18</sup> While the Commission ultimately granted the CPCN, it concluded that, “[w]ith respect to the short-term PPAs for capacity and energy from Mitchell Plant, the Commission does believe that the best practice would have been for Kentucky Power to do more to investigate the possibility of a PPA with Wheeling Power . . . .”<sup>19</sup>

Third, the Commission found that Sierra Club’s witness gave useful testimony addressing long-term alternatives for the Mitchell plant and the analysis submitted by Kentucky Power. The Commission stated that it was “also concerned about Kentucky Power’s consideration of long-term alternatives,” and found that “a resource assessment step is generally important in resource planning as alleged by Sierra Club’s witness Glick, because it helps to ensure that alternative resource options are considered.”<sup>20</sup>

As in Case No. 2025-00175 and prior dockets, Sierra Club’s participation here will not only “assist the commission in fully considering” the issues, but will do so without unduly

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<sup>17</sup> *Electronic Application of Kentucky Power Company for Approval of (1) a Certificate of Public Convenience and Necessity to Make the Capital Investments Necessary to Continue Taking Capacity and Energy from the Mitchell Generating Station after December 31, 2028, (2) an Amended Environmental Compliance Plan, (3) Revised Environmental Surcharge Tariff Sheets, and (4) All Other Required Approvals and Relief*, Case No. 2025-00175, Final Order at 4 (Dec. 30, 2025) (hereafter, “Case No. 2025-00175 Final Order”);

<sup>18</sup> *Id.* at 33.

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

<sup>20</sup> *Id.* at 37.

complicating or disrupting the proceedings. 807 K.A.R. 5:001 § 4(11)(b). Sierra Club is represented by experienced counsel and will comply with all Commission rules and deadlines, as it has in the past.

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

As noted above, 807 K.A.R. 5:001, Section 4(11) provides two alternative bases for granting full intervention. Parties either need to have a special interest not adequately represented or present issues and facts that will help the Commission fully consider the matter. As explained, Sierra Club will present issues and facts that will help the Commission fully consider the matter. Therefore, the Commission can grant full intervention on that basis alone and need not consider Sierra Club's special interest. Nevertheless, as explained below, Sierra Club also has special interests that are not adequately represented.

Sierra Club has members who are customers of Kentucky Power and will therefore bear the costs associated with Kentucky Power's operational and investment decisions. Accordingly, the Commission's decision about whether to grant the Company's application to invest approximately \$95.5 million into a \$191 million repair project at a 55-year old coal-fired power plant will directly impact Sierra Club members' electricity bills. In addition, Sierra Club members live within the Kentucky Power service territory and, therefore, are impacted by the economic, public health, and environmental impacts of Kentucky Power's continued investment in the aging, and increasingly expensive, Mitchell power plant. In addition, Sierra Club's desire to ensure that utilities in Kentucky do not imprudently invest in fossil-fuel generation when other less-carbon intensive and less expensive alternatives are available directly relates to the issues in this proceeding.

Sierra Club's interests are not adequately represented by any of the parties in the proceeding, as none of the other parties can adequately represent Sierra Club's interests as an

organization that works to ensure utilities do not unwisely invest in coal-fired generation. Sierra Club’s participation will help ensure that any approved investments represent the most reasonable and cost-effective way for Kentucky Power to maintain essential electric services and meet demand.

The Attorney General cannot adequately represent Sierra Club’s interests.<sup>21</sup> The Attorney General has the unenviable task of representing all consumers and all of their diverse interests, even if some of the interests are diametrically opposed to each other. In fact, courts have “repeatedly held that private companies can intervene on the side of the government, even if some of their interests converge.”<sup>22</sup> That is because “government entities are usually charged with representing the interests of the American people, whereas aspiring intervenors, like the [Sierra Club] here, are dedicated to representing their personal interests or the interests of their members or members’ businesses.”<sup>23</sup> While the Attorney General is tasked with representing the

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<sup>21</sup> In addition to the Kentucky Power dockets cited above, the Commission has granted Sierra Club and other environmental organizations intervention in several dockets in which the Attorney General had already intervened. *See, e.g., In re: Elec. Application of Duke Energy Kentucky, Inc., for (1) an Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities*, Case No. 2022-00372, Order (Jan. 6, 2023), [https://psc.ky.gov/pscscf/2022%20Cases/2022-00372//20230106\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2022%20Cases/2022-00372//20230106_PSC_ORDER.pdf); *In re: Elec. Joint Application of Kentucky Utilities Co. and Louisville Gas and Electric Co. for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand-Side Management Plan*, Case No. 2022-00402, Order (Feb. 9, 2023), [https://psc.ky.gov/pscscf/2022%20Cases/2022-00402//20230209\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2022%20Cases/2022-00402//20230209_PSC_ORDER.pdf); *In re: Elec. 2024 Integrated Resource Plan of Duke Energy Kentucky*, Case No. 2024-00197, Order (Aug. 6, 2024), [https://psc.ky.gov/pscscf/2024%20Cases/2024-00197//20240806\\_PSC\\_ORDER.pdf](https://psc.ky.gov/pscscf/2024%20Cases/2024-00197//20240806_PSC_ORDER.pdf).

<sup>22</sup> *See, e.g., Hardin v. Jackson*, 600 F.Supp. 2d 13, 16 (D.D.C. 2009).

<sup>23</sup> *County of San Miguel v. MacDonald*, 244 F.R.D. 36, 48 (D.D.C. 2007) (internal quotation marks omitted); *see also Purnell v. City of Akron*, 925 F.2d 941, 949-950 (6th Cir. 1991) (granting intervention in a wrongful death suit when intervenors’ interests were personal and narrower than the current defendants); *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 737 (D.C. Cir. 2003) (movant satisfied its burden where it sought to protect interests that were “more narrow and parochial” than the government’s interests [internal quotations omitted]); *Am. Horse Prot. Ass’n v. Veneman*, 200 F.R.D. 153, 159 (D.D.C. 2001) (granting intervention where intervenors had “more narrow interests and concerns” than the government entity); *Jansen v. City of Cincinnati*, 904 F.2d 336, 343 (6th Cir. 1990) (granting intervention when intervenors agreed with the government’s conclusion but differed in their rationale); *S. Utah*

overall, and sometimes conflicting, public interests in this proceeding, Sierra Club has a narrower interest and concern. Sierra Club has a specific, and special, interest in ensuring that fossil fuel generation is not unnecessarily built and that any investments in coal-fired generation reflect the least-cost reliable option after a robust examination of all viable alternatives. Sierra Club's participation will ensure those interests are adequately presented to the Commission.

The Attorney General has previously encouraged the Commission to allow public interest groups to intervene when the "Attorney General is not capable of providing the same perspective and representation" as a public interest group.<sup>24</sup> Moreover, the Commission cannot interpret its regulations to provide that the mere fact that the Attorney General intervened in this case to mean that Sierra Club's interests are adequately represented, for that is the situation in every case. Such an interpretation would render the intervention provision for parties other than the Attorney General superfluous, which would run contrary to the rules of statutory and regulatory interpretation.<sup>25</sup>

Finally, although Sierra Club and its members could submit public comments, the ability to offer a public comment is not a substitute for the complete participation afforded to parties. While a public comment is filed in the case record, public commenters are not deemed parties to the proceedings and are not named as parties to any appeal.<sup>26</sup> Only parties to the proceedings are afforded the right to review confidential information (subject to appropriate protective

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*Wilderness v. Norton*, 2002 WL 32617198, at \*5 (D.D.C. 2002) (concluding that a government entity may not adequately represent specific interests of private entity).

<sup>24</sup> See *In re: Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates for Gas Service*, Case No. 2009-00141, Attorney General's Comments Regarding Motion of Stand Energy Corporation Customer Group to Intervene at 1-2 (June 17, 2009) (arguing that the Commission should grant the SEC Customer Group's motion to intervene), [https://psc.ky.gov/PSCSCF/2009%20cases/2009-00141/20090617\\_AG\\_Comments.PDF](https://psc.ky.gov/PSCSCF/2009%20cases/2009-00141/20090617_AG_Comments.PDF).

<sup>25</sup> See *Lexington-Fayette Urban County Gov't v. Johnson*, 280 S.W.3d 31, 34 (Ky. 2009); *Univ. of the Cumberlands v. Pennybacker*, 308 S.W.3d 668, 683-84 (Ky. 2010).

<sup>26</sup> 807 K.A.R. 5:001, Section 4(11)(e).

agreements),<sup>27</sup> to ask and answer requests for information,<sup>28</sup> to participate in conferences with Commission staff,<sup>29</sup> to offer testimony from an expert witness, and to cross-examine witnesses at a hearing, if requested.

The Commission should grant Sierra Club intervention as it has special interests that are not adequately represented.

### III. CONCLUSION

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

Dated: March 13, 2026.

Respectfully submitted,

/s/ Joe F. Childers

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<sup>27</sup> 807 K.A.R. 5:001, Section 13(6).

<sup>28</sup> 807 K.A.R. 5:001, Section 4(12).

<sup>29</sup> 807 K.A.R. 5:001, Section 9(4).

**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 March 13, 2026, 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