COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic INVESTIGATION INTO THE RATES AND SERVICES OF EAST KENTUCKY MIDSTREAM, LLC	)))	Case No. 2026-00121

**Response of East Kentucky Midstream, L.L.C.
to Kentucky Frontier's Motion to Intervene**

East Kentucky Midstream, L.L.C. ("EKM") by counsel, hereby responds in opposition and asks the Commission to deny the Motion to Intervene ("Motion") filed on behalf of Kentucky Frontier Gas, LLC ("Kentucky Frontier"). Kentucky Frontier does not meet any of the express requirements for intervention.

Intervention requires a timely motion in which the movant demonstrates either "[1] a special interest in the proceeding which is not otherwise adequately represented in the case or [2] that … 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." 807 KAR 5:001 § 4(11)(b). A claimed special interest or the issues/facts to be developed must be about matters within the Commission's jurisdiction (*e.g.*, utility rates and services).[1] Adequately demonstrating a basis for intervention requires <u>specificity</u> — "a mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient…."[2] The Commission may weigh a

[1] Case No. 2017-00179, Order denying intervention to the IBEW, at 2 (Ky. PSC Aug. 3, 2017) (quoting *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).
[2] Case No. 2019-00444, Order at 3 (Ky. PSC Dec. 20, 2019).

movant's conduct in past proceedings, however, "each case and each party's request to intervene in each case must be considered individually."[3]

1. The Motion is untimely.

Kentucky Frontier acknowledges that its Motion was not filed by the deadline established in the 7/14/26 procedural Order. Kentucky Frontier filed its motion on August 21, 2026, more than one month after the intervention deadline had passed. Kentucky Frontier asserts that it did not receive a copy of the Commission's initiating Order before the deadline passed and that it moved to intervene "as soon as" it "obtained knowledge of this proceeding" (Motion ¶6); however, it gives no clue as to when that occurred and offers no evidence demonstrating that it exercised diligence in monitoring Commission proceedings affecting EKM. Furthermore, Kentucky Frontier cannot have actually been diligent, since it ignored clear statements in Commission orders entered in the preceding case, Case No. 2022-00238 (to which it was a party) that "a separate case may be opened" (2/27/26 final Order p.24), "the Commission will proactively open an investigation" (4/8/26 Order on rehearing p.6), and "the Commission will issue an opening Order in a new case" (7/10/26 Order p.3).

Kentucky Frontier has failed to file its Motion prior to the date established in the procedural schedule or to show good cause for being untimely. Intervention should be denied for failure to satisfy this basic prerequisite.

2. Intervention would not assist the Commission.

Kentucky Frontier does not claim that its intervention would likely "present issues or develop facts that will assist the Commission" in this proceeding; the motion is also bare of any evidence or specific facts that would support a finding of likely assistance. Kentucky Frontier

[3] Case No. 2003-00478, Order at 3-4 (Ky. PSC May 3, 2004) (finding that movant was not entitled to a presumption from past assistance that intervention in the current case would assist the Commission).

has not met this standard for being granted intervention. To the contrary, its untimeliness in filing the Motion and the fact that it has not bestirred itself to request intervention to participate in the court review of the Case No. 2022-00238 orders, support a conclusion that it will be of no assistance and that its participation would unduly complicating or disrupting the proceedings. Further evidence that Kentucky Frontier's participation will not assist the Commission in this case is demonstrated by their lack of intervention in the EKM farm tap proceeding, Case No. 2023-00112.

3. Kentucky Frontier has no specific interest to support intervention.

Kentucky Frontier contends that approximately one-third of its customers and gas are solely supplied by EKM facilities and that any increase to EKM's rates to Kentucky Frontier will be passed on to Kentucky Frontier's customers. As EKM is not proposing to alter its contract with Kentucky Frontier, this assertion of a "special interest" is hypothetical and insufficient to justify intervention; it is even less than "a mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates" — which the Commission warns does not support intervention. (See fn.2 and associated text above; *see also* 7/14/26 Order in this case, pp.4-5.) The statement in Motion ¶5 — "Any rate increase to Kentucky Frontier proposed by East Kentucky Midstream in this proceeding will be passed on to the customers of Kentucky Frontier." — only further undermines the concreteness of its interest, since even if EKM proposed a rate change to Kentucky Frontier and it was approved by the PSC, it will be simply a matter then of a GCA adjustment by Kentucky Frontier, as with other suppliers' price changes.

Kentucky Frontier's asserted interest is also far too attenuated to support intervention. That interest certainly was not strong enough for Kentucky Frontier to seek intervention in the EKM farm tap tariff case (No. 2023-00112) <u>or</u> the Franklin Circuit Court review action (No. 26-

CI-00474). Kentucky Frontier's interest is, at most, that of a purchaser that may be indirectly affected by a possible future Commission action. After all, the premise of this investigation and to any change herein to rates/services is that EKM may be regulated and charge full cost-recovery rates <u>as a utility</u> — which is disputed and under review in the Franklin Circuit Court action. No change has been proposed and there may be no change made in this case.

Kentucky Frontier's Motion also incorrectly assumes that the outcome of this proceeding could directly affect the rates it pays EKM. However, Kentucky Frontier's supply by EKM is governed by contract. Any general adjustment in retail rates resulting from this investigation would not automatically alter those contractual rights or obligations. Accordingly, Kentucky Frontier's asserted interest is not direct or immediate. It is at least doubly-contingent: (1) EKM would first need to propose or become subject to an ordered rate adjustment; and (2) any such adjustment would then need to affect Kentucky Frontier notwithstanding its contract with EKM. An asserted interest based upon a chain of contingencies does not constitute the special interest required for intervention.

WHEREFORE, EKM respectfully asks the Commission to deny Kentucky Frontier's Motion to Intervene.

Respectfully submitted,

/s/ Katherine K. Yunker

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