COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO THE MANAGEMENT AND OPERATION OF KENTUCKY POWER COMPANY	)))	CASE NO. 2026-00159

JOINT MOTION OF APPALACHIAN CITIZENS' LAW CENTER, KENTUCKIANS FOR THE COMMONWEALTH, AND MOUNTAIN ASSOCIATION FOR FULL INTERVENTION AS JOINT INTERVENORS

Come now Appalachian Citizens' Law Center, Kentuckians for the Commonwealth, and Mountain Association (collectively "Joint Movants"), by and through counsel, and move the Kentucky Public Service Commission ("Commission") for leave to participate as full Joint Intervenors in the above-captioned proceeding. In support of this Joint Motion, Movants state as follows:

Introduction

1. Each of the Joint Movants has a distinct but overlapping interest in, and expertise relating to, the Commission's investigation into the management and operation of Kentucky Power Company ("Kentucky Power" or "the Company"), and a history of assisting in developing facts before the Public Service Commission ("the Commission" or "PSC").

2. This investigation arises directly out of Case No. 2025-00257, Kentucky Power's most recent general rate case, in which the Commission found that arguments raised in that proceeding raised "troubling practices and behaviors of Kentucky Power that called into question the management and operation of Kentucky Power," and concluded that a management audit should be performed.[1] Joint Movants were granted

[1] Order at 1 (Ky. PSC Jul. 02, 2026).

the status of Joint Intervenors,[2] and Appalachian Citizens' Law Center and Mountain Association were granted that status in Company's most recent demand-side management case,[3] and have participated as Joint Intervenors in several other recent Kentucky Power proceedings that the Commission has identified as informing the basis for this investigation.[4]

3. Joint Movants' interests in the Commission's investigation are distinct and different from those of the existing parties, including the Office of the Attorney General, and Joint Movants' participation is "likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings."[5] As discussed in detail below, Joint Movants bring to this investigation a developed factual and evidentiary record — built through years of discovery, testimony, and briefing in Kentucky Power proceedings — concerning many of the very management and planning practices the audit will examine, including Kentucky Power's continued investment in the Mitchell Generating Station, its

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[2] Case No. 2025-00257, Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Certain Regulatory and Accounting Treatments; and (4) All Other Required Approvals and Relief (filed Aug. 29, 2025) [*hereinafter* "2025 Rate Case"], Order (Ky. PSC, Oct. 10, 2025).

[3] Case No. 2025-00365, Electronic Application of Kentucky Power Company for (1) Approval of Continuation of Its Demand-Side Management Programs; (2) Authority to Recover Costs and Net Lost Revenues, and to Receive Incentives Associated with the Implementation of Its Demand-Side Management Programs; (3) Acceptance of Its Annual DSM Status Report; and (4) All Other Required Approval and Relief [*hereinafter* "2025 DSM Case"], Order (Ky. PSC Jan. 20, 2026).

[4] Order at 5–6 & n.20 (Ky. PSC, July 2, 2026) (citing, among others, Case No. 2021-00370, Electronic Investigation of the Service Rates and Facilities of Kentucky Power Company; Case No. 2023-00092, Electronic 2022 Integrated Resource Planning Report Of Kentucky Power Company; Case No. 2023-00159, Electronic Application of Kentucky Power Company for (1) a General Adjustment of Its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) a Securitization Financing Order; And (5) All Other Required Approvals and Relief; and Case No. 2025-00175, 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). Some or all of Joint Movants were intervenors in Case Nos. 2024-00092 and 2023-00159.

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

demand-side management and energy efficiency planning, and the effects of the Company's rates and capital investment decisions on residential and small commercial ratepayers. As shown through their prior participation, Joint Movants bring value to the discussions and deliberations of the Commission and perspectives that would otherwise not be presented for the Commission's consideration in determining wherein lies the public's interest and what is fair, just, and reasonable.

Legal Standard

4. Intervention in formal proceedings before the Kentucky Public Service Commission ("Commission") is within the sound discretion of the Commission and is governed by 807 KAR 5:001, Section 4(11), which provides in relevant part that:

> A person who wishes to become a party to a case before the Commission may, by timely motion, request leave to intervene. [ ] The motion shall include the movant's full name, mailing address, and electronic mail address and shall 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.[6]

5. 807 KAR 5:001, Section 4(11)(b) provides that the Commission shall grant a person leave to intervene if the Commission finds that they have made a timely motion for intervention and have a special interest in the case that is not otherwise adequately represented, ***or*** that their 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 Commission opened this investigation on its own motion pursuant to KRS 278.255,[7] and intervention in the resulting proceeding is likewise governed by 807 KAR 5:001, Section 4(11). No procedural

[6] 807 KAR 5:001 §4(11)(a).
[7] Order at 4 (Ky. PSC, Jul. 02, 2026).

schedule has been set in this matter, and Joint Movants accordingly move for leave to intervene within a reasonable time following the Commission's July 2, 2026 Order opening this proceeding.

6. Joint Movants constitute three separate organizations with independent leadership and decision-making processes, representing thousands of members, many of whom are Kentucky Power ratepayers with a direct and continuing stake in the outcome of the management audit ordered in this case.

7. The Attorney General has appeared in this case, as he does in Commission proceedings generally, pursuant to his statutory right under KRS 367.150(8)(b) to represent the interests of Kentucky utility consumers as a class.[8] As explained further below, that statutory mandate does not permit the Attorney General to advocate on behalf of any particular subset of consumers, and his participation accordingly does not adequately represent the more particularized interests that Joint Movants bring to this proceeding.

<u>Joint Movants</u>

8. Appalachian Citizens' Law Center ("ACLC") is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky with its office at 317 Main Street, Whitesburg, Kentucky.

9. Since its incorporation in 2001, ACLC has focused on addressing the environmental, health, and economic impacts of resource extraction in Eastern Kentucky and Central Appalachia. ACLC's primary work includes both direct representation of individuals and groups and policy and advocacy work aimed at addressing the ongoing and legacy impacts of the coal industry and the economic

[8] KRS 367.150(8)(b).

impacts of its decline. Currently, ACLC's work includes numerous efforts to address utility unaffordability throughout Eastern Kentucky. ACLC advocates for energy and water affordability on behalf of low-income residents in the region by participating as stakeholders in national and state energy and water affordability discussions and workgroups, by conducting research on utility affordability, and by directly representing the Martin County Concerned Citizens before the PSC. Earlier this year ACLC released a report on energy burden and disconnections across the Commonwealth based in part on data from the Commission, titled *Lights Out in Kentucky: Energy Burdens and Electricity Disconnections Across the State*.[9]

10. In addition to ACLC's specific focus on utility affordability, ACLC focuses its advocacy on measures to ensure that the nation's transition away from coal takes into account the extraordinary burdens Eastern Kentucky has faced and continues to face as a result of more than a century of dependence on coal. ACLC believes that responsible transition requires that new energy production and significant new energy uses must be scrutinized to ensure that, at a minimum, they are sustainable in the long term, will not burden our communities, and provide community benefits.

11. Kentuckians for the Commonwealth ("KFTC") is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky with its principal office located at 131 North Mill Street, London, Kentucky 40743.

12. KFTC is a forty-one-year-old, multi-issue grassroots organization of Kentuckians inspired by a vision to work for a brighter future for all people, no matter our color, where we come from, or how much money we have. Together, KFTC

[9] Rebecca Shelton, Rahul Agrawal Bejarano & Shelby Green, *Lights Out in Kentucky: Energy Burdens and Electricity Disconnections Across the State*, Appalachian Citizens' Law Center (Feb. 2026), https://aclc.org/wp-content/uploads/2026/02/Lights-Out-Report-Final.pdf.

members organize for a fair economy, a healthy environment, new safe energy, and an honest democracy. KFTC has twelve chapters across the state—including eastern Kentucky chapters in the Big Sandy region, Rowan County, and Kentucky River region, many of whose members are Kentucky Power ratepayers—with 12,000 members in nearly all of Kentucky's 120 counties, including over 610 members who take service in the Kentucky Power service territory. KFTC also pays electric rates to Kentucky Power at its Prestonsburg office, located at 152 North Lake Drive, Prestonsburg, KY 41653. KFTC can be reached at info@kftc.org.

13. As an organization, KFTC has been involved with issues affecting low-income residential ratepayers as well as the transition from fossil fuels for over thirty years. KFTC has significant experience in educating the public and supporting both public comments and expert testimony in rate cases and has gained a deep understanding of the needs of residential customers across the state for energy efficiency, demand side management, and a healthy energy system, and the consequences for communities of the transition to clean energy. As a member-based organization with deep roots in the region, KFTC is uniquely positioned to be a voice for the needs and interests of KPCo residential ratepayers, particularly low-income ratepayers, many of whom are also KFTC members.

14. Mountain Association is a non-profit corporation in good standing incorporated in the Commonwealth of Kentucky, with an office at 433 Chestnut Street, Berea, Kentucky, 40403.

15. Mountain Association works with people in Eastern Kentucky and Central Appalachia to create economic opportunity, strengthen democracy, and support the

sustainable use of natural resources. Mountain Association's energy programs work to strengthen the region's residents, small businesses, local governments, communities, and nonprofits by helping to reduce energy costs and consumption, increase energy security, and build resilience in the face of climate change. Mountain Association has worked with small commercial KPCo customers over fifteen (15) years providing financing to access investments in energy efficiency and renewable energy, resulting in reduced operating expenses. In that time, they have helped many commercial KPCo customers make energy upgrades, as well as identifying numerous costly billing errors. At the same time, Mountain Association has assisted energy contractors with technical trainings and equipment financing to grow their businesses.

16. On December 4, 2020, Kentucky Energy and Environment Cabinet Secretary Rebecca Goodman announced Mountain Association as the recipient of the 2020 Environmental Pacesetter Award, given for innovative efforts in protecting the environment and setting an example of environmental stewardship.[10]

17. Mountain Association focuses a key part of its programs and research on assisting small commercial ratepayers in Eastern Kentucky, who are often not represented in PSC cases, with cost saving measures. It also watches the effects of investments in energy infrastructure on the rate base. Mountain Association staff distill policy-related information and communicate that information out in a variety of accessible ways to help Eastern Kentuckians better understand how their everyday lives could be impacted by decisions at the state and federal level, such as those at

[10] KYDEP, "Gov. Andy Beshear and Secretary Rebecca Goodman Announce Annual Environmental Awards of Excellence," Naturally Connected (Dec. 4, 2020), https://kydep.wordpress.com/2020/12/04/gov-andy-beshear-and-secretary-rebecca-goodman-announce-annual-environmental-awards-of-excellence/.

issue in the Commission's audit of Kentucky Power's management and operations. Mountain Association and staff also possess significant experience in assisting residential, small commercial, and governmental entities with installation of energy efficiency measures, distributed energy resources, and understanding net metering tariffs. Mountain Association staff has previously offered related expert testimony based in part on that expertise.[11]

Application of Standard

18. As stated above, 807 KAR 5:001 Section 4(11)(b) provides that the Commission will grant full intervention status if the person "has special interests 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."

19. The special interests of Joint Movants in this investigation are squarely within the Commission's jurisdiction over the management, operations, rates, and service of Kentucky Power under KRS 278.030, KRS 278.250, and KRS 278.255, and, as discussed below, are not adequately represented by existing parties.

20. The participation of Appalachian Citizens' Law Center, Kentuckians for the Commonwealth, and Mountain Association as Joint Intervenors will neither complicate nor disrupt this proceeding, since discovery, testimony, and witnesses will be jointly offered by the three organizations, who have adopted internal procedures to assure timely decision-making and coordinated participation with one voice, as they have

[11] *See, e.g.*, Case No. 2020-00174, Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service; (2) Approval Of Tariffs And Riders; (3) Approval Of Accounting Practices To Establish Regulatory Assets And Liabilities; (4) Approval Of A Certificate Of Public Convenience And Necessity; And (5) All Other Required Approvals And Relief, Direct Testimony of Joshua Bills, Commercial Energy Specialist, Mountain Association (Oct. 7, 2020) [*hereinafter* "2020 Rate Case"].

consistently done in prior Kentucky Power proceedings, including Case Nos. 2025-00257, 2025-00365, 2024-00115, and 2023-00159.

21. Existing parties to the proceeding do not adequately represent the interests of Joint Movants. No current party, including the Attorney General, represents the specific perspective and interests of Joint Movants. As noted above, the Attorney General appears in this case pursuant to his statutory right under KRS 367.150(8)(b) to represent Kentucky utility consumers generally; that same statute does not allow him to advocate for any subset of consumers.[12] Notably, it was concerns the Attorney General raised regarding Kentucky Power's management of the very capital investment and planning decisions in which Joint Movants have long been active — including the most recent rate case that spurred this docket — that the Commission identified as a principal basis for opening this investigation.[13] Joint Movants' own testimony, discovery, and briefing in Case No. 2025-00257 addressed many of these same underlying management and planning practices from the perspective of the residential, low-income, and small commercial ratepayers Joint Movants represent.[14] Joint Movants' intervention here accordingly rests on grounds similar to those underlying the Attorney General's own participation, with the additional, particularized interest — in representing subsets of consumers the Attorney General's mandate does not permit him to represent — that independently supports intervention under 807 KAR 5:001, Section 4(11)(b).

22. Joint Movants also have particular interest and expertise in developing issues around continued reliance on large capital generating facilities, energy efficiency and minimization of energy use (and the impact on rates, or the impact of rates on

[12] KRS 367.150(8).
[13] Order at 5–6 (Ky. PSC, Jul. 02, 2026).
[14] Case No. 2025-00257, Joint Intervenors' Supplemental Post-Hearing Brief (filed Feb. 16, 2026).

efficiency), and the role of demand-side management as an alternative to costly supply- and capital-side investment — issues squarely within the scope of the Commission's audit of “any other internal workings” of Kentucky Power.[15]

23. Joint Movants intend to present issues and develop facts through to comment on the draft request for proposal, the preliminary draft audit report, and the final audit report, that will assist the Commission in fully considering the matter regarding, among other issues: the prudence of and rate impacts flowing from Kentucky Power's continued investment in and reliance on fossil generation, as well as fuel procurement; the adequacy of Kentucky Power's planning for and investment in its distribution system serving Eastern Kentucky; the role of Kentucky Power's demand-side management and energy efficiency programs as alternatives to capital-intensive supply-side investment; and, more generally, the effects of Kentucky Power's management and planning decisions on residential ratepayers (particularly low-income ratepayers) and small commercial ratepayers.

24. Movant ACLC has a particularized interest and expertise in utility unaffordability throughout Eastern Kentucky, and the ongoing and legacy impacts of the coal industry and the economic impacts of its decline. The clients ACLC serves are primarily low-income residents of Eastern Kentucky. Since 2018, ACLC has led a number of initiatives to better understand the growing problem of water unaffordability and to advocate for measures to address the issue. That work has grown into a broader focus on utility unaffordability generally, including ACLC's ongoing research and analysis on issues related to utility disconnections for nonpayment in Kentucky and the practices — including the management and investment practices at issue in this audit —

[15] KRS 278.255(2); Order at 4–5 (Ky. PSC, Jul, 02, 2026).

that alleviate or exacerbate the threat of disconnections for residential customers across the state. It is clear that ACLC has a special interest in the case that is "not otherwise adequately represented" and that ACLC's intervention as a Joint Intervenor "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."

25. Movant KFTC has a particularized interest and expertise in the impacts of rates charged by KPCo, including effects on low-income ratepayer-members throughout Eastern Kentucky and across the state. KFTC's members include ratepayers that bear the costs and risks of Kentucky Power's management and investment decisions, and have a direct interest in supporting reasoned, well-informed Commission oversight of those decisions by putting forward expertise on rate-making and effects on low-income Kentuckians and Kentuckians of color, including from members who participate regularly in the organization's New Energy and Transition (NET) Committee. It is clear that KFTC has a special interest in the case that is "not otherwise adequately represented" and that KFTC's intervention as a Joint Intervenor "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."

26. Movant Mountain Association has a particularized interest and expertise in the effects of Kentucky Power's management and investment decisions on communities, low-income individuals, and small businesses in Eastern Kentucky. Mountain Association staff have direct experience collaborating with KPCo customers to help them understand, reduce, and afford energy bills, and develop more resilient and reliable energy resources, including behind-the-meter alternatives to the capital

investments this audit will examine. Mountain Association also closely tracks the effects of Kentucky Power's investments in energy infrastructure on rate base, and has particular expertise regarding whether demand-side and distributed alternatives were adequately considered in lieu of continued reliance on aging supply-side assets such as the Mitchell Plant. It is clear that Mountain Association has a special interest in the case that is “not otherwise adequately represented” and that Mountain Association’s intervention as a Joint Intervenor “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.”

27. In the Company's 2025 DSM case, the Commission agreed that ACLC, KFTC, and Mountain Association's participation was “likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating or disrupting the proceedings due to their areas of involvement and their knowledge of and participation in previous and varied Kentucky Power cases.”[16] Joint Movants' participated in that case, as well as the Company’s 2025 and 2023 rate cases, and 2024 DSM case, in each of which Joint Movants developed a substantial factual record — including testimony addressing the very management and planning practices this investigation will examine — without unduly complicating or disrupting the proceedings.[17]

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[16] 2025 DSM Case, Order at 3 (Jan. 20, 2026).

[17] *See*, *e.g.*, 2023 Rate Case, Direct Testimony of Tyler Comings on Behalf of Joint Intervenors (Oct. 2, 2023); 2023 Rate Case, Direct Testimony of Joshua Bills on Behalf of Joint Intervenors (Oct. 2, 2023); 2023 Rate Case, Direct Testimony of Andrew McDonald on Behalf of Joint Intervenors (Oct. 2, 2023); 2023 Rate Case, Joint Intervenors' Post-Hearing Brief (Dec. 22, 2023); 2024 DSM Case, Direct Testimony of Stacy L. Sherwood on Behalf of Joint Intervenors (filed Aug. 21, 2024; corrected testimony filed Dec. 20, 2024); 2024 DSM Case, Direct Testimony of Bradley G. Harris on Behalf of Joint Intervenors (Aug. 21, 2024); 2024 DSM Case, Post-Hearing Brief of Joint Intervenors (Jan. 22, 2025); 2024 DSM Case, Post-Hearing Response Brief of Joint Intervenors (Feb. 3, 2025); 2025 Rate Case, Direct Testimony of Roger D. Colton on Behalf of Joint Intervenors (filed Nov. 17, 2025); 2025 Rate Case,

WHEREFORE, for the reasons stated above, Joint Movants Appalachian Citizens' Law Center, Kentuckians for the Commonwealth, and Mountain Association respectfully request to be accorded the status of full Joint Intervenors, and that each party to the case be directed to serve upon the undersigned counsel, all future pleadings and documents that are filed in this case.

[Signatures on following page]

Posthearing Brief of Joint Intervenors (Feb. 3, 2026); 2025 Rate Case, Reply Brief of Joint Intervenors (Feb. 10, 2026); 2025 Rate Case, Supplemental Brief of Joint Intervenors (Feb. 16, 2026); Case No. 2025-00257, Brief of Joint Intervenors on Rehearing (July 17, 2026); 2025 DSM Case, Direct Testimony of Stacy Sherwood on Behalf of Joint Intervenors (Mar. 18, 2026); 2025 DSM Case, Posthearing Brief of Joint Intervenors Appalachian Citizens’ Law Center and Mountain Association (Jul. 27, 2026); 2025 DSM Case, Posthearing Response Brief of Joint Intervenors Appalachian Citizens’ Law Center and Mountain Association.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

In accordance with the Commission's July 22, 2021 Order in Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19,* this is to certify that the electronic filing was submitted to the Commission on August 14, 2026; that the documents in this electronic filing are a true representation of the materials prepared for the filing; and that the Commission has not excused any party from electronic filing procedures for this case at this time.

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Byron L. Gary