COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Power Company For 1) A Certificate Of Public Convenience And Necessity To Construct A Natural Gas-Fired Combined Cycle Generating Facility In Lawrence County, Kentucky; 2) A Site Compatibility Certificate; 3) A Certificate Of Public Convenience And Necessity To Construct A New Transmission Substation In Boyd County, Kentucky; 4) Approval Of A Short-Term Capacity Purchase Agreement; And 5) For All Other Required Approvals And Relief	))))))))))	Case No. 2026-00324

KENTUCKY POWER COMPANY'S RESPONSE IN OPPOSITION TO EAST KENTUCKY POWER COOPERATIVE, INC.'S MOTION FOR INTERVENTION

Kentucky Power Company ("Kentucky Power" or the "Company")[1] opposes East Kentucky Power Cooperative, Inc.'s ("EKPC") Motion to Intervene filed on November 20, 2026 because EKPC cannot meet either prong of the Commission's two-prong test for permissive intervention. Kentucky Power's Electric Service Agreement ("ESA") and Letter of Agreement ("LOA") with TeraWulf, Inc. ("TeraWulf") obligates TeraWulf to provide security for the full costs of associated transmission upgrades and to bear more than its full cost of service, including network transmission service, under Tariff I.G.S. The TeraWulf ESA protects customers from the risk of providing service while also providing over $2 billion in benefits to existing customers including $100 million in winter rate relief to Kentucky Power's residential customers. And, while Tariff I.G.S. and the TeraWulf ESA ensure that Kentucky Power customers are properly protected, the transmission upgrade process at PJM, which EKPC participates in regularly, protects all

[1] Kentucky Power is the wholly owned subsidiary of American Electric Power Company, Inc. ("AEP") and participates through AEP in the PJM Interconnection, L.L.C. ("PJM") market as a Fixed Resource Requirement ("FRR") member within the AEP Load Zone (the "AEP Zone").

utilities outside of the AEP Zone by assigning any costs to the "entity sponsoring that Supplemental Project."[2] EKPC and its customers are simply not at risk in the manners claimed in its Motion to Intervene. EKPC knows this.

Thus, because EKPC is not a Kentucky Power customer, has no interest in its retail rates, is an active participant in the PJM and FERC forums where transmission costs and allocation are considered, and makes only vague and speculative claims of harm, it has failed to meet the Commission's standard for permissive intervention under 807 KAR 5:001, Section 4(11)(b). The Motion to Intervene must be denied.

I. BACKGROUND

A. The Applications in Case Nos. 2026-00323 & 2026-00324

Kentucky Power filed both applications on November 13, 2026. In Case No. 2026-00323, the Company seeks approval of the "TeraWulf ESA" and asks for an order by December 13, 2026. In Case No. 2026-00324, the Company seeks a Certificate of Public Convenience and Necessity ("CPCN") for a combined-cycle generating plant in Lawrence County ("Combined-Cycle Generation Project"), a site compatibility certificate, a CPCN for a 765/345 kV substation in Boyd County (the "Venator Substation Project"), and approval of a Bridge Capacity Agreement. It asks for the substation certificate by March 1, 2027, so that site work can begin in time to serve the Muskie Data Center Campus. The Attorney General has sought, and been granted, intervention in both proceedings.[3]

---

[2] Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. ("PJM Operating Agreement"), Schedule 6, § 1 (definition of "Supplemental Project").
[3] Order, Case No. 2026-00323 (Ky. P.S.C. Nov. 18, 2026); Order, Case No. 2026-00324 (Ky. P.S.C. Nov. 18, 2026).

B. The Venator Substation Project and PJM's Review and Approval Process

As stated in the Company's application, the Venator Substation Project is required to serve the 1,000 MW Muskie Data Campus load from the existing Baker-Hanging Rock 765kV line because "the existing local 138kV and 69kV transmission system is inadequate to serve the requested 1000 MW data center load while adhering to North American Electric Reliability Corporation ("NERC") Transmission System Planning Performance Requirements."[4] Two associated transmission lines, a 765kV and a 345kV line, are required to connect the Venator Substation Project to the Muskie Data Campus. Those lines are not at issue in this case because "the substation location is an endpoint that must be established before the associated transmission line routes can be finalized"[5] and filing sequentially allows Kentucky Power to perform necessary work on the substation while completing the siting and approval process for the associated transmission lines.[6] The Company expects to have the transmission line routes siting study completed in the first quarter of 2027.[7]

The Venator Substation Project is a Supplemental Project under PJM's Open Access Transmission Tariff ("OATT")[8] and subject to PJM's Attachment M-3 process.[9] PJM"s Attachment M-3 process is the process for review and approval of Supplemental Projects. The process requires a presentation of need and a project solution.[10] Kentucky Power's need for the Venator Substation Project was publicly posted on PJM's website and presented to PJM's

[4] Application at 11.
[5] Koehler Direct Test. at 4.
[6] *Id*.
[7] *Id*.
[8] PJM Interconnection, L.L.C., Open Access Transmission Tariff, Attachment M-3 (eff. Aug. 11, 2020)
[9] *Id.*
[10] *Id*.

Transmission Expansion Advisory Committee ("TEAC") on July 7, 2026.[11] Kentucky Power expects to present its project solution at TEAC's December 1, 2026 meeting, after which PJM will perform its Do No Harm analysis.[12]

Importantly, the cost of the transmission investment needed to serve TeraWulf will not be allocated outside of the AEP transmission zone, so utilities outside the AEP zone, such as EKPC, will not bear those costs.[13] However, even if the Do No Harm analysis were to find a violation, the Attachment M-3 process dictates that PJM will work with impacted transmission owners to identify the necessary additional upgrades. If necessary Kentucky Power, through AEP, would present its modified solution at a subsequent TEAC meeting. None of those costs would become baseline through the Attachment M-3 process, and thus would remain exclusively inside the AEP transmission zone.

C. The Motion to Intervene

EKPC states its nearest interconnections with the AEP/Kentucky Power system are about 25 miles (138 kV) and 12 miles (69 kV) from the TeraWulf site.[14] According to the Motion to Intervene, EKPC "anticipates that detrimental impacts on service to EKPC customers could be experienced," but "neither EKPC nor PJM have been able to perform studies to confirm if such impacts will occur."[15] EKPC agrees that "the costs of Supplemental Projects are assigned solely

---

[11] PJM TEAC, *Transmission Expansion Advisory Committee: AEP Supplemental Projects* (July 7, 2026), https://www.pjm.com/-/media/DotCom/committees-groups/committees/teac/2026/20260707/20260707-item-10---aep-supplemental-projects.pdf.
[12] Koehler Direct Test. at 5.
[13] Vaughan Direct Test. at 38 ("The cost of service associated with the investment needed to serve Tera Wulf will not be allocated outside of the AEP transmission zone so East Kentucky Power Cooperative . . . would [be] unaffected."); *see also* PJM TEAC, *Transmission Expansion Advisory Committee: AEP Supplemental Projects* (Dec. 1, 2026), https://www.pjm.com/-/media/DotCom/committees-groups/committees/teac/2026/20261201/20261201-item-03---aep-supplemental-projects---presentation.pdf.
[14] Motion to Intervene at 4.
[15] *Id*.

to the Zone in which the Supplemental Need is located," but argues that Kentucky Power "could" instead submit the load in its PJM load forecast, in which case EKPC "could be responsible" for part of the cost of any regional upgrades.[16] EKPC also states that Kentucky Power "has not created its plan to serve TeraWulf in the same manner" as EKPC's data center tariff.[17]

Finally, EKPC hypothesized that "the matter could possibly be resolved" if Kentucky Power "would agree to indemnify or hold harmless EKPC in a written agreement fully executed prior to the December 2026 solution presentation at TEAC."[18]As of the date of this filing, Kentucky Power is not aware of any request from EKPC for such an agreement, or of any other contact from EKPC about its concern.[19]

II. LEGAL STANDARD

With the exception of the Attorney General, by and through its office of Rate Intervention ("Attorney General"),[20] intervention in Commission proceedings is permissive and within the Commission's sound discretion.[21] Two limits apply. By statute, the movant must have an interest in the "rates" or "service" of the utility.[22] 807 KAR 5:001, Section 4(11)(b) requires the movant to demonstrate "a special interest in the case that is not otherwise adequately represented" or that

---

[16] *Id*. at 3–5.
[17] *Id*. at 6.
[18] *Id.* at 5–6.
[19] Three EKPC representatives attended the July 7, 2026 TEAC meeting at which the need for this project was presented and, accordingly, EKPC has been aware of the project for months. PJM TEAC, Meeting Minutes (July 7, 2026) at 2, 4-5,https://www.pjm.com/-/media/DotCom/committees-groups/committees/teac/2026/20260707/20260707-minutes.pdf.
[20] KRS 367.150(8)(b). With regard to the Energy Planning and Inventory Commission, KRS 164.2807(10) states that: "[n]otwithstanding any provision of law to the contrary, the executive committee and the executive director, jointly or separately, shall have standing to participate as an intervening party in any case or other proceeding before the Public Service Commission."
[21] *Biddle v. Pub. Serv. Comm'n of Ky.*, 643 S.W.3d 83, 85, 88 (Ky. App. 2021) (reviewing the Commission's denial of intervention "for abuse of discretion" and noting the Commission's position that intervention by anyone other than the Attorney General "is permissive and within the sound discretion of the Commission").
[22] *EnviroPower, LLC v. Pub. Serv. Comm'n of Ky.*, No. 2005-CA-001792-MR, 2007 WL 289328, at *4 (Ky. App. Feb. 2, 2007). EKPC was the applicant in the underlying case and an appellee.

its 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 considers both prongs.

In applying the first prong, the Commission has historically looked to the nature of the interest asserted and its connection to the rates or service of the applicant utility. Because the Commission's jurisdiction is over "retail rates and service", the interest it most commonly recognizes is that of an individual or party who is a retail customer of the applicant utility.[23] Wholesale transmission relationships do not satisfy the Commission's intervention standards because any cognizable interest "falls under the exclusive jurisdiction of the FERC" and does not establish an interest in the applicant utility's retail rates.[24] Likewise, when a movant claims an interest which is indirect or contingent, the Commission has regularly denied a request predicated on that interest.[25]

With regard to the second prong, the Commission has historically found that a movant does not assist the Commission by raising matters that the Commission cannot decide, such as those involving the exclusive jurisdiction of the FERC.[26]

---

[23] Order at 3, *Application Of Kentucky Power Company For Approval Of Its 2011 Environmental Compliance Plan, For Approval Of Its Amended Environmental Cost Recovery Surcharge Tariff, And For The Grant Of A Certificate Of Public Convenience And Necessity For The Construction And Acquisition Of Related Facilities*, Case No. 2011-00401 (Ky. P.S.C. Jan. 26, 2012); *see also* Order at 9, *Electronic Tariff Filing Of East Kentucky Power Cooperative, Inc. To Establish A New Tariff For Data Center Power*, Case No. 2025-00140 (Ky. P.S.C. July 1, 2025).

[24] Order at 6–7, *Electronic Application Of Kentucky Utilities Company For An Adjustment Of Its Electric Rates And For Certificates Of Public Convenience And Necessity*, Case No. 2016-00370 (Ky. P.S.C. Feb. 1, 2017) (in which the Commission denied East Kentucky Power's motion to intervene in Kentucky Utilities Company's rate case).

[25] Order at 2, *Petition Of CTA Acoustics, Inc. To Retain Kentucky Utilities Company As Power Supplier And For Expedited Treatment*, Case No. 2003-00226 (Ky. P.S.C. July 18, 2003) (in which the Commission denied EKPC's motion requesting intervention as too remote consistent with *Inter-County Rural Electric Cooperative Corp. v. Public Service Commission*, 407 S.W.2d 127 (Ky. 1966)).

[26] Order at 6–7, *Electronic Application Of Kentucky Utilities Company For An Adjustment Of Its Electric Rates And For Certificates Of Public Convenience And Necessity*, Case No. 2016-00370 ("Because EKPC's expressed interest in this matter falls under the exclusive jurisdiction of the FERC, we further find that EKPC's intervention would

EKPC's Motion to Intervene fails both prongs of this test.

III. ARGUMENT

A. EKPC Has No Special Interest in this Proceeding

1. EKPC's cost claims are refuted by the facts and entirely speculative

EKPC's fundamental claim on which it anchors its Motion to Intervene is insufficient to satisfy the Commission's intervention standards. In EKPC's own words, it is concerned that: "[d]ue to the large scale of the load that would be served, the proximity of EKPC's system, and the existing interconnections between EKPC and AEP/KP in the area EKPC anticipates that detrimental impacts on service to EKPC customers could be experienced."[27] The nearest ties between its system and the AEP Zone are twelve (the 69 kV system) and twenty five (the 138 kV system) miles from the Muskie Data Campus.[28] Neither the 69kV nor the 138kV system will serve the Muskie Data Campus because Kentucky Power has determined that the lower-voltage systems cannot carry the 1,000 MW load and thus requires Kentucky Power to serve the Muskie Data Campus from its existing 765 kV system. This is detailed in the Company's Applications and Company Witness Koehler's Direct Testimony.[29]

In addition, the cost of a Supplemental Project stays in the zone where the need arises.[30] The Motion to Intervene claims that "Kentucky Power could submit the load into its PJM load forecast as a large load adjustment."[31] Every large load, including the 720 MW Carroll County Data Center, the 2.2GW proposed Mason County Data Center Project, and the Muskie Data

---

interject issues that would be beyond the Commission's authority and would, therefore, unduly complicate and disrupt the proceedings.").

[27] Motion to Intervene at 4.

[28] *Id.*

[29] Application at 12; Koehler Direct Test. at 3.

[30] Motion to Intervene at 3.

[31] *Id*. at 4.

Campus, enters PJM's load forecast. However, that does not reclassify the Supplemental Projects required to serve that load and approved through the Attachment M-3 process as baseline projects that are eligible for regional cost allocation. PJM's Operating Agreement is clear on this point: "Supplemental Projects shall be integrated into the Regional Transmission Expansion Plan ("RTEP") approved by the PJM Board but shall not be included for cost allocation purposes."[32]

As a general matter, baseline projects originate with PJM's determination that its reliability criteria require them. FERC Form No. 715 is the exception and further illustrates why EKPC cannot reasonably expect to be harmed by Kentucky Power's Supplemental Project.[33] FERC Form No. 715 is the Transmission Owner's Annual Transmission Planning and Evaluation Report and includes the transmission owners' planning reliability criteria, its assessment practices, and an evaluation of its system's performance against those criteria.[34] The purpose of FERC Form No. 715 is to ensure conformity with the North American Electric Reliability Corporation's ("NERC") reliability standards and other reliability criteria.[35] Transmission owners file their planning criteria with FERC annually on FERC Form No. 715, and PJM applies those criteria in developing the RTEP.[36]

By contrast, PJM's Operating Agreement defines a Supplemental Project as one that "is not required for compliance" and states that "[a]ny system upgrades required to maintain the reliability of the system that are driven by a Supplemental Project are considered part of that

---

[32] PJM Operating Agreement, Schedule 6, § 1.6(a) (eff. Feb. 18, 2020).
[33] It should also be noted that within 30 days after the PJM board approves a baseline project it "shall file with FERC a report identifying the expansion or enhancement, its estimated cost, . . . and the market participants designated . . . to bear responsibility for the costs of the project." PJM Interconnection, L.L.C., Amended and Restated Operating Agreement Sched. 6 § 1.6(b).
[34] 18 C.F.R. § 141.300; FERC, *Form 715 Overview*, https://www.ferc.gov/industries-data/electric/electric-industry-forms/form-no-715-annual-transmission-planning-and-evaluation-report.
[35] PJM Operating Agreement, Schedule 6, § 1.2. (*Conformity with NERC Reliability Standards and Other Applicable Reliability Criteria*).
[36] *Id*. at Schedule 6, § 1.2(e).

Supplemental Project and are the responsibility of the entity sponsoring that Supplemental Project."[37] Supplemental Projects, including EKPC's Supplemental Project for a 720 MW project in Carroll County, Kentucky[38], are eventually "integrated into the [RTEP] approved by the PJM board but shall not be included for cost allocation purposes."[39]

The process to approve Supplemental Projects is also public and provides numerous opportunities for stakeholder engagement. At a high-level, the process is five steps: (1) a yearly assumptions meeting at which each transmission owner presents the criteria, assumptions and models it will use; (2) at least 25 days after step 1, the transmission owner presents the criteria violations, or needs and what is driving its needs; (3) at least 25 days after step 2, the transmission owner presents its proposed solution; (4) after the solutions meeting in step 3 PJM conducts a Do No Harm study, if it finds harm, the solution is modified to correct it;[40] and (5) the transmission owner posts the solution it has selected. Before and after every step in the process stakeholders have the opportunity to deliver comments to the transmission owner which it must consider if timely delivered.[41] The solution is not included in the RTEP until the entire process has

---

[37] *Id*. at § 1.

[38] Ironically, East Kentucky Power is set to present its own system need at the same December 1, 2026 TEAC meeting in which Kentucky Power will present its Venator Station Project solution, and unlike Kentucky Power's analysis, East Kentucky Power has requested a new interconnection with Ohio Valley Electric Corporation ("OVEC") that will require OVEC investment to serve East Kentucky Power load. EKPC and OVEC have entered into an "Engineering and Design Agreement for the Carroll County Data Center Project" under which EKPC has agreed to reimburse OVEC for study costs. This agreement was filed with FERC in Docket No. ER27-224. There is no agreement in place at this time for reimbursement of costs for the construction of the new interconnection.

[39] PJM Operating Agreement, Schedule 6, § 1.6(a) (eff. Feb. 18, 2020).

[40] PJM Transmission Owners, *Attachment M-3 Process Guidelines*, § 3.2.4(a) (version 0.2, Aug. 15, 2022), Microsoft Word - Guidelines for Attachment M-3 Project Planning Process V0.2 081522 (pursuant to the guidelines PJM is responsible for "[p]erforming Do No Harm analysis to ensure that an Attachment M-3 Project a Transmission Owner selects for inclusion in the Local Plan does not cause additional reliability violations[]"); PJM Manual 14B: *PJM Region Transmission Planning Process*, Rev. 59, §1.1 (eff. Apr. 22, 2026).

[41] PJM Interconnection, L.L.C., Open Access Transmission Tariff, Attachment M-3(c) (eff. Aug. 11, 2020) (hereinafter "Attachment M-3").

concluded.[42] EKPC is an active participant in the Attachment M-3 process as part of the TEAC and a stakeholder.

2. The Appropriate venues for EKPC's concerns are PJM and FERC

The Federal Power Act gives FERC jurisdiction over "the transmission of electric energy in interstate commerce." 16 U.S.C. § 824(b)(1). PJM divides the cost of regional transmission among its zones under Schedule 12 of its FERC-filed tariff and a state commission must give effect to a FERC-approved allocation, and a party that disagrees with one must take its challenge to FERC.[43] The Fourth Circuit applied that rule in *Appalachian Power Co. v. Public Service Commissio'n of West Virginia*, and ruled that a state commission could not review the agreement that allocated transmission costs among the AEP companies because "FERC has exclusive jurisdiction to consider the merits of the interstate agreement."[44]

None of this limits the Commission's authority over this proceeding. Need, wasteful duplication, and siting are state questions. EKPC raises none of them. Instead, it asks the Commission to examine how the project might change flows on EKPC's system and how PJM might allocate costs. The Commission cannot grant that relief.

3. EKPC has no interest in Kentucky Power's retail rates

As a foundational matter, EKPC is interconnected with every neighbor it has, not just Kentucky Power, and of the 77 free-flowing interconnections with neighboring utilities, seven

[42] *Id*. EKPC had the opportunity to comment on the Venator Substation Project before and after the July 7, 2026 TEAC meeting and will have the opportunity to do so again before and after the December 1, 2026 TEAC meeting.
[43] *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 966, 972 (1986); *Miss. Power & Light Co. v. Miss. ex rel. Moore*, 487 U.S. 354, 371, 375 (1988).
[44] 812 F.2d 898, 900, 904 (4th Cir. 1987); *see also Ky. Power Co. v. Pub. Serv. Comm'n of Ky.*, No. 24-CI-00160, slip op. at 8 (Franklin Cir. Ct. Jan. 22, 2025).

involve AEP.[45] The Commission has not found that simply being interconnected creates a special interest in a neighboring utility sufficient to justify permissive intervention. For example, in 2014, Big Rivers Electric Corporation ("Big Rivers") moved to intervene in a CPCN proceeding filed by Louisville Gas & Electric Company ("LG&E") and Kentucky Utilities Company ("KU" and collectively "LG&E/KU"). Big Rivers argued, as EKPC does in this Motion, that it had "direct transmission interconnections with the Joint Applicants, and the decision in this matter could potentially impact Big Rivers' transmission planning activities and investment requirements."[46] The Commission denied that motion, finding that Big Rivers had failed to demonstrate any impact on its transmission service or its transmission interconnections, and EKPC has presented no facts in this proceeding to distinguish itself from that precedent. Likewise, the mere fact that EKPC and Kentucky Power are part of PJM does not give EKPC a special interest in Kentucky Power cases. Nor does a wholesale transmission relationship, which is subject to FERC's exclusive jurisdiction, give EKPC an interest in Kentucky Power's retail rates or service.[47]

In fact, EKPC took the same view of the law last year when it opposed an intervention motion in Case No. 2025-00140 filed by the Retail Energy Supply Association ("RESA"). EKPC asserted in that case that "Commission precedent always requires some tie between the intervenor and the applicant, typically as a customer," and that "intervention is a privilege and not a right."[48]

---

[45] Motion To Intervene at 1–2; East Kentucky Power Cooperative, Inc.'s, 2025 Integrated Resource Plan at 150–152 (Table 6-1), *Electronic 2025 Integrated Resource Plan Of East Kentucky Power Cooperative, Inc.*, Case No. 2025-00087 (Ky. P.S.C. Apr. 1, 2025).

[46] Order at 3, 5, *Joint Application Of Louisville Gas & Electric Company And Kentucky Utilities Company For Certificates Of Public Convenience And Necessity For The Construction Of A Combined Cycle Combustion Turbine At The Green River Generating Station And A Solar Photovoltaic Facility At The E.W. Brown Generating Station*, Case No. 2014-00002 (Ky. P.S.C. Mar. 18, 2014) (order denying Big Rivers' motion).

[47] Order at 6, *Electronic Application Of Kentucky Utilities Company For An Adjustment Of Its Electric Rates And For Certificates Of Public Convenience And Necessity*, Case No. 2016-00370 (Ky. P.S.C. Feb. 1, 2017).

[48] East Kentucky Power Cooperative Inc.'s Sur-Reply in Opposition to Motion to Intervene at 2 & n.3, *Electronic Tariff Filing Of East Kentucky Power Cooperative, Inc. To Establish A New Tariff For Data Center Power*, Case No. 2025-00140 (Ky. P.S.C. June 17, 2025).

The Commission agreed with EKPC and denied the motion to intervene, reasoning that it had historically found "third parties lacked the kind of cognizable relationship to the regulated utility (which is after all the entity over which the Commission has jurisdiction) to satisfy the special interest prong."[49] Though EKPC is a Kentucky utility, whereas RESA was not, the relationship that EKPC relies on in this Motion to Intervene and the one at issue in RESA are identical because they are based on the parties' connections to PJM.

The Commission has only in exceedingly rare circumstances found any reason to deviate from its general rule. In Case No. 2012-00169, LG&E/KU sought to intervene in EKPC's application under KRS 278.218 to transfer functional control of its transmission facilities to PJM, citing their interconnections with EKPC. EKPC objected, arguing that "this Commission does not have jurisdiction to address the transmission issues, if any, noted by the Companies in their Petition," and that "all issues governing transmission operations are addressed exclusively by the [FERC]."[50] The Commission granted intervention.[51] In Case No. 2016-00370, the Commission later explained that, while it "has on limited occasions allowed a person who was not a retail customer to intervene in a transfer or change-of-control case filed under . . . KRS 278.218, the statutory requirement that those transactions be 'consistent with the public interest' allows the Commission broader discretion in determining intervention to fully investigate the potential

[49] Order at 9, *Electronic Tariff Filing Of East Kentucky Power Cooperative, Inc. To Establish A New Tariff For Data Center Power*, Case No. 2025-00140 (Ky. P.S.C. Jul. 1, 2025).
[50] EKPC's Response and Objections to Petition for Full Intervention at 6, *Application of East Kentucky Power Cooperative, Inc. To Transfer Functional Control Of Certain Transmission Facilities To PJM Interconnection, LLC*, Case No. 2012-00169 (Ky. P.S.C. May 22, 2012); EKPC's Sur-Reply at 2, *Application of East Kentucky Power Cooperative, Inc. To Transfer Functional Control Of Certain Transmission Facilities To PJM Interconnection, LLC,* Case No. 2012-00169 (Ky. P.S.C. June 1, 2012).
[51] Order at 3-4, *Application of East Kentucky Power Cooperative, Inc. To Transfer Functional Control Of Certain Transmission Facilities To PJM Interconnection, LLC*, Case No. 2012-00169 (Ky. P.S.C. June 13, 2012).

impacts of those types of transactions."[52] This case includes nothing related to a transfer or change-of-control and the Commission has no analogous authorizing statutory language on which it may grant intervention.

B. EKPC's intervention would unduly complicate the proceeding

EKPC states that it "will present evidence" about the effect of Kentucky Power's transmission solution, including "any costs EKPC could incur that are not identified by PJM's Do No Harm analysis."[53] EKPC's position is a thinly veiled attempt to litigate, in front of the Commission, the adequacy of the Do No Harm analysis which has not yet been performed, on a solution that has not been presented yet. The Commission has held that intervention to raise matters under FERC's jurisdiction "would interject issues that would be beyond the Commission's authority and would, therefore, unduly complicate and disrupt the proceedings."[54] Not only does EKPC not meet the Commission's standard for permissive intervention, if EKPC is granted intervention in this proceeding it would open a path to Kentucky Power's confidential exhibits such as cost forecasts, bids for gas supply, and the terms of the Bridge Capacity Agreement. To manage those concerns and ensure that Kentucky Power is not unfairly disadvantaged by EKPC's participation would add unnecessary burdens on the Commission and unduly complicate this proceeding.

---

[52] Order at 6, *Electronic Application Of Kentucky Utilities Company For An Adjustment Of Its Electric Rates And For Certificates Of Public Convenience And Necessity*, Case No. 2016-00370 (Ky. P.S.C. Feb. 1, 2017).
[53] Motion to Intervene at 5.
[54] Order at 6–7, *Electronic Application Of Kentucky Utilities Company For An Adjustment Of Its Electric Rates And For Certificates Of Public Convenience And Necessity*, Case No. 2016-00370 (Ky. P.S.C. Feb. 1, 2017). In Case No. 2025-00140, EKPC stated the undue complication standard in the following manner: "[i]njecting matters and 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." EKPC's Response at 3, *Electronic Tariff Filing Of East Kentucky Power Cooperative, Inc. To Establish A New Tariff For Data Center Power*, Case No. 2025-00140 (Ky. P.S.C. June 11, 2025) (citing 807 KAR 5:001, Section 4(11)(b)).

C. Kentucky Power's TeraWulf ESA protects Kentucky Power customers and will not subject non-parties to subsidizing any incremental costs associated with serving the Muskie Data Campus.

The Motion to Intervene concludes with several unsupported and entirely false assertions. The first is EKPC's claim that "parties other than TeraWulf will be subsidizing Kentucky Power's combined cycle and the transmission upgrades."[55] The Application, the record, and the accompanying testimonies of Company witnesses detail at length exactly how the ESA with TeraWulf ("TeraWulf ESA") operates and why it protects and benefits customers.

The fact that the large load provisions of Kentucky Power's Tariff I.G.S. adequately protects customers does not mean that EKPC's large-load tariff will necessarily be deficient, as a matter of customer protection, however, it is far less likely to result in any of the benefits associated with Kentucky Power's approach in Tariff I.G.S. and the TeraWulf ESA. Nonetheless, Kentucky Power and the Commission, through its Orders approving both Companies' tariffs, recognize that there is more than one reasonable solution to mitigating the risks associated with serving large-load customers.

Most utility solutions for large-load customers involve one of two approaches. A utility can provide service under existing tariffs with added protections to ensure that existing customers are not negatively impacted by the increase in load on the system while ensuring that the utility retains the rights to the system assets for the benefit of all customers (the "System Asset Approach"). This is Kentucky Power's approach. A utility can also establish a tariff where the new large load is served exclusively by dedicated resources (the "Dedicated Resource Approach"). This

[55] Motion to Intervene at 6. The Motion to Intervene's lone cited authority for its claim is "*See generally* Application and accompanying testimony."

is the approach in EKPC's data center tariff. Both approaches protect existing customers from the incremental costs to serve the large load.

The difference is that for utilities, like Kentucky Power, which utilize the System Asset Approach when adding large loads, the large load customers benefit through access to needed capacity and energy, the utility benefits through increased sales, and existing customers benefit because existing costs are spread out over more billing units as well as the benefits associated with the newer, and more efficient, generating and transmission assets. For utilities, like EKPC, which utilize the Dedicated Resource Approach when adding large loads, only the large load customers and the utility itself benefit. EKPC's existing customers are not likely to see the rate reduction benefits attendant to the increase in billing units that Kentucky Power's will.

The TeraWulf ESA exemplifies how, when properly executed, adding load to the system directly benefits customers. TeraWulf will take service under Tariff I.G.S. at full rates, "with no discounts or exemptions."[56] The Commission approved the large load provisions in Kentucky Power's Tariff I.G.S. finding that they "appropriately balance[s] Kentucky Power's need to ensure financial stability when taking on large-load customers and the need to protect existing customers from potential stranded costs."[57]

The TeraWulf ESA modifies and strengthens the protections in Tariff I.G.S. in the following ways:

---

[56] Application at 5, *Electronic Application Of Kentucky Power Company For: (1) An Order Approving The Terms And Conditions Of The Electronic Service Agreement Between Kentucky Power Company And DB Long Hunts Data LLC, A Subsidiary Of TeraWulf, Inc. Pursuant To Tariff I.G.S.; (2) Authorization To Enter Into The Agreement; (3) And All Other Required Approvals And Relief*, Case No. 2026-00323 (Ky. P.S.C. Nov. 13, 2026) ("ESA Application").

[57] Order at 5, *Tariff Filing of Kentucky Power Company to Revise Its Industrial General Service Tariff*, Case No. 2024-00305 (Ky. P.S.C. Mar. 18, 2025).

- $100 million in winter bill credits for residential customers, paid by TeraWulf over ten years;[58]
- up to $465 million in carrying charges on the combined-cycle plant during construction, paid by TeraWulf, which avoids about $1.3 billion in revenue requirement over the plant's life;[59]
- market-priced energy for TeraWulf's load until the plant is in service, so that the new load does not raise fuel costs for other customers;[60]
- a $756 million letter of credit securing TeraWulf's obligations, including the cost of the transmission work, which Kentucky Power may collect from TeraWulf, up to about $320 million, if TeraWulf terminates the agreement or delays or cancels its facility;[61] and
- TeraWulf cannot utilize any expanded reduction rights during the first ten years of the term, and after that only on 42 months' notice and payment of an exit fee.[62]

Kentucky Power estimates that the new load will reduce the revenue collected from existing customers between 6.0 to 8.4 percent a year from 2029 through 2032,[63] and that customer benefits over the life of the agreement will exceed $2.1 billion.[64] The load, all other things being equal, will also lower zonal transmission rates because TeraWulf adds more billing units than cost.[65] As Company Witness Vaughan explains in his testimony, having compared the TeraWulf ESA with more than twenty approved large-load tariffs, the TeraWulf ESA "provides the greatest level of benefits and protections for existing customers of any large load agreement."[66] The Motion to Intervene is conspicuously silent as to any of these terms, and has made no comparable statement

---

[58] Vaughan Direct Test. at 6, Case No. 2026-00323 ("Vaughan ESA Test.").

[59] ESA Application at 5, 7.

[60] Vaughan ESA Test. at 8–9.

[61] ESA Application at 7; Elliott Direct Test., Exhibit AJE-2 at 2, 9–11, *Electronic Application Of Kentucky Power Company For: (1) An Order Approving The Terms And Conditions Of The Electronic Service Agreement Between Kentucky Power Company And DB Long Hunts Data LLC, A Subsidiary Of TeraWulf, Inc. Pursuant To Tariff I.G.S.; (2) Authorization To Enter Into The Agreement; (3) And All Other Required Approvals And Relief*, Case No. 2026-00323 (Ky. P.S.C. Nov. 13, 2026) ("Elliott ESA Test.").

[62] ESA Application at 7.

[63] *Id*. at 5–6.

[64] *Id*. at 8–9.

[65] Vaughan ESA Test. at 17.

[66] *Id.*

regarding its own analysis of its tariff and any agreement with 720 MW Carroll County Data Center Project and the reported 2.2GW Mason County Data Center Project.

EKPC's second unfounded claim in Paragraph 14 of its Motion to Intervene argues that: "[w]ithout EKPC's intervention in this proceeding, it will be difficult to assist the Commission in understanding the proposed transmission solution for interconnecting a hyperscale load and whether these costs will be shifted from the data center to other customers and utilities in the PJM regional zone."[67] EKPC has no unique knowledge or experience that the Commission, Commission staff, the Attorney General, Kentucky Power, or other potential intervenors lack. The Commission regularly hears cases involving issues of this nature and Commission staff faithfully and expertly advises the Commission on each.

Also, Kentucky Power is a PJM member, it participates in TEAC alongside EKPC, and the Attorney General, as the consumer advocate for the Commonwealth routinely intervenes in both EKPC and Kentucky Power proceedings, including in Integrated Resource Plan ("IRP") filings, rate cases, and CPCN cases. Each of these parties, including Kentucky Power, owe the Commission candor and honesty,[68] making any PJM specific expertise that EKPC asserts redundant and unnecessary. Kentucky Power is already properly equipped to assist the Commission, Commission staff, and the Attorney General in evaluating this case. Consequently, EKPC's intervention would offer the Commission nothing of substance while simultaneously unduly complicating this proceeding.

---

[67] *Id*.

[68] Kentucky Power has faith that EKPC will honor its obligation of honesty and candor to the Commission, PJM, and FERC in any ongoing and future filings involving the 720 MW Carroll County Data Center Project and the reported 2.2 GW Mason County Data Center Project and that in doing so, it will enable those tribunals to provide appropriate oversight of that project without requiring the intervention of a neighboring utility and transmission owner.

IV. CONCLUSION

EKPC has no interest in Kentucky Power's retail rates. The concerns it claims are unsupported by the record. Its Motion to Intervene is based on reasoning the Commission has rejected time and again and which is at odds with EKPC's own prior actions. EKPC cannot develop any facts or issues which have any bearing on the Commission's consideration and disposition of this case. The concerns EKPC claims are premature and the proper venue to raise them are at PJM and FERC. Each statement demonstrates that the Motion to Intervene has failed to satisfy both the special interest and undue complication prongs of 807 KAR 5:001, Section 4(11)(b). Thus, the Commission should deny the Motion to Intervene.

Respectfully submitted,



Kenneth J. Gish, Jr.
Harlee P. Havens
Jurgens van Zyl
STITES & HARBISON PLLC
250 West Main Street
Suite 2300
Lexington, Kentucky 40507-1758
Telephone: (859) 226-2300
kgish@stites.com
hhavens@stites.com
jvanzyl@stites.com

COUNSEL FOR KENTUCKY POWER COMPANY