

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

**In the Matter of:**

THE 2011 JOINT INTEGRATED RESOURCE )  
PLAN OF LOUISVILLE GAS AND ELECTRIC ) CASE NO. 2011-00140  
COMPANY AND KENTUCKY UTILITIES )  
COMPANY )

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PETITION OF RICK CLEWETT, DREW FOLEY, JANET OVERMAN, GREGG  
WAGNER, THE NATURAL RESOURCES DEFENSE COUNCIL, AND THE SIERRA  
CLUB FOR FULL INTERVENTION

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Pursuant to K.R.S. § 278.310 and 807 K.A.R. 5:001 § 3(8), Rick Clewett, Drew Foley, Janet Overman, Gregg Wagner, the Natural Resources Defense Council (“NRDC”), and the Sierra Club (collectively “Movants”), petition that they be granted full intervention in this case. The Movants have a wealth of knowledge and experience in a wide variety of the complex and rapidly changing issues which impact Louisville Gas & Electric and Kentucky Utilities Company’s (collectively, “Companies”) Integrated Resource Plan (“IRP”), and interests in this proceeding that are not adequately represented by any other party to the proceeding. The Movants seek full intervention to help to ensure that the Companies have an IRP that results in rates and services that best satisfy their members’ interest in low cost and cleaner energy service.

This IRP proceeding comes at a critical juncture for the Companies. A number of the Companies’ coal-fired electric generating units (“coal units”) have reached or exceeded their expected service lives, raising the need for major capital investments if such units are to continue to operate. In addition, pending or expected federal Clean Air Act and Clean Water Act regulations will at long last require the Companies (and utilities throughout the country) to either

install pollution controls on coal units or to retire such units. Technological advances and changes in market conditions have made a larger suite of both supply- and demand-side options available for the Companies to provide service to their customers. And growing awareness of the public health, environmental, and economic impacts of energy production have increased the importance of the pursuit of energy efficiency and renewable energy resources from both a cost and environmental perspective. In short, the Companies face a new reality involving a growing set of costs to its existing generation fleet, an expanding set of options for how to service its customers, and an increasingly complex set of factors relevant to identifying the lowest cost mix of supply- and demand-side resources for meeting its customers' needs. The organizational Movants, on behalf of their members, have gained significant expertise on these issues in proceedings throughout the country, and seek to bring such expertise to this proceeding.

#### **I. THE MOVANTS**

Movants seek full intervention in order to ensure that their interests in lower cost and cleaner energy options are fully represented, and to bring to this proceeding their expertise in developing plans for providing a lower cost and cleaner energy future. Movants Rick Clewett, Drew Foley, Janet Overman, and Gregg Wagner are each customers of one of the two Companies that have submitted this joint IRP, are long time Sierra Club members, and have a deep interest in seeing the Companies transform to meet the new reality in a way that will be low cost and cleaner. Their addresses are as follows:

Rick Clewett  
225 Aberdeen Dr.  
Lexington KY 40517

Janet Overman

10500 McMeekian Lane, Unit 101  
Louisville, KY 40223

Gregg Wagner  
1916 Bonnycastle Ave.  
Louisville KY 40205

Drew Foley  
7406 Springvale Drive,  
Louisville KY 40241

The Natural Resources Defense Council (“NRDC”) is a national non-profit environmental organization, headquartered in New York, that has worked for its 40 year history to, among other things, promote energy efficiency and renewable energy sources, and to protect air and water quality. NRDC has 2,942 members in Kentucky, many of whom reside in the Companies’ service areas and/or live near the Companies’ existing power generating facilities. NRDC has a Midwest Office, which address is:

Natural Resources Defense Council  
2 N. Riverside Plaza, Suite 2250  
Chicago, IL 60660

Sierra Club is a national grassroots nonprofit conservation organization formed in 1872 and headquartered in San Francisco, California. Sierra Club has over 600,000 members nationally and over 4,700 members in Kentucky. The Sierra Club has a statewide chapter in Kentucky called the Cumberland Chapter and five groups including a Northern Kentucky group and a Bluegrass Group. The Cumberland Chapter’s address is:

Sierra Club  
Cumberland Chapter  
PO Box 1368  
Lexington, KY 40588-1368

## II. LEGAL BACKGROUND

The Commission's regulations regarding intervention provide that a person may seek leave to intervene in a Commission proceeding and, upon timely motion:

If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by [the] party 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, such person shall be granted full intervention.

807 K.A.R. 5:001 § 3(8)(emphasis added). In other words, full intervention must be granted if Movants either have interests in this proceeding that are not adequately represented or they offer expertise that would assist in evaluation of the IRP. As explained below, Movants satisfy both standards for intervention.

Movants are seeking intervention in an IRP proceeding that is governed by 807 K.A.R. 5:058. Pursuant to that regulation, the Companies were required to submit a

load forecast[ ] and resource plan[ ] . . . to meet future demand with an adequate and reliable supply of electricity at the lowest possible cost for all customers within their service areas, and satisfy all related state and federal laws and regulations

*Id.* This proceeding is intended to evaluate the adequacy reasonableness of the Companies' submission and to identify improvements that should be made to the IRP.

## III. MOVANTS SHOULD BE GRANTED FULL INTERVENTION

### A. This Petition to Intervene is Timely Filed

This request to intervene is timely. The Companies filed their IRP on April 21, 2011, only a little over one month before this Petition is being filed. While the Commission recently issued a scheduling order for this proceeding, that order did not include a deadline for intervention. This Petition does, however, precede the deadline for intervenors to submit

interrogatories and requests for production of documents to the Companies. As such, this Petition is timely.

**B. Movants Will Present Issues and Develop Facts That Will Assist the Commission in Fully Considering the Matter Without Unduly Complicating or Disrupting the Proceedings.**

Movants should be granted full intervention because they are “likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.” 807 K.A.R. 5:001 § 3(8). This proceeding involves complex questions regarding the development of a low cost and low risk energy plan for the Companies within the context of rising costs for existing coal units, expanding availability of cost effective supply- and demand-side alternatives to such coal units, and increased awareness of the significant economic and environmental impacts that coal-fired generation can have. Movants NRDC and Sierra Club, on behalf of their members including the individual Movants herein, have a wealth of knowledge and experience regarding these critical issues.

In particular, NRDC and Sierra Club’s staff and consultants have extensive experience in resource planning, analyzing the potential for cost effective energy efficiency, and in the laws and regulations regulating energy production. NRDC and Sierra Club have jointly or individually intervened and/or provided testimony on these issues in a multitude of similar proceedings in a number of states including Ohio, Michigan, Missouri, Illinois, Wisconsin, New York, Oregon, California, New Jersey, and Iowa. NRDC and Sierra Club recently intervened in Duke Energy Ohio’s IRP proceeding before the Ohio Public Utilities Commission and have intervened in a proceeding before the Missouri Public Service Commission regarding Ameren’s IRP filing in that state. NRDC and Sierra Club have also regularly presented testimony before

the U.S. Congress and various state legislatures on issues related to the electric utility industry, including energy efficiency, renewable energy, and coal generation.

Through full intervention, NRDC and Sierra Club, on behalf of their members including the individual Movants, will be able to use its expertise and consultants to provide current data and analysis to support and possibly accelerate the Companies' proposal to retire Cane Run, Green River, and Tyrone coal units, explore additional steps for lowering costs by reducing the Companies' coal dependency, and present evidence and argument in support of policies that would promote aggressive implementation of energy efficiency and renewable energy sources, combined heat and power, and other low carbon generation sources as the most reasonable and prudent approach for the Companies to provide low cost and low risk service to their customers.

The Companies' IRP deals with complicated topics. However, the Movants helping the Commission to explore many of the assumptions and inputs into the 2009 IRP will not unduly complicate the matter. Rather, it will allow for a more robust examination to ensure that the Companies have the best IRP possible. Finally, the Movants are represented by experienced counsel and will comply with all deadlines in the proceeding established by the Commission. As such, Movants' participation will not disrupt this proceeding.

**C. Movants Have Special Interests in This Proceeding Which Are Not Adequately Represented.**

As noted above, 807 K.A.R. 5:001 § 3(8) provides two alternative bases for granting full intervention. Parties either need to have a special interest not adequately represented or be likely to present issues and facts that will help the Commission fully consider the matter. As explained in Section III.B., above, the Movants will likely 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 the Movants' special interest. Nevertheless, as explained below, the Movants also have special interests that are not adequately represented.

The individual Movants are all customers and rate payers of either Louisville Gas & Electric or Kentucky Utilities Company. As such, they help fund the Companies' operations, and their bills will be directly impacted by the decisions the Companies make about how to provide service to their customers. In addition, Movants live within the Companies' service territories and, therefore, are impacted by the economic, public health, and environmental effects of the resource decisions that the Companies make. Organizational Movants NRDC and Sierra Club each have members who are customers and ratepayers of the Companies and, therefore, have the same interests as the individual Movants. In addition, Movants' desire to promote energy efficiency, peak demand reduction, renewable energy, and cost-effective low carbon energy sources in Kentucky is directly related to the issues of this proceeding, in which the Companies have proposed and the parties are evaluating the resource plan for the Companies for the next 15 years.

Movants' interests are not adequately represented by any of the parties in the proceeding, as none of the other parties can adequately represent the organizational Movants' interests as national organizations that are interested in both environmental protection and promotion of energy efficiency, renewable energy, combined heat and power, and other low carbon generation sources as the most reasonable and cost effective way for the Companies to maintain essential electric services. In addition, unlike the individual Movants, none of the existing parties to the proceeding are individual ratepayers and customers of the Companies and, therefore, their interests will not be fully represented unless full intervention is provided to Movants herein.

#### IV. CONCLUSION

For the foregoing reasons, the Movants respectfully request full intervention in this matter.

Respectfully submitted,



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Dated: May 25, 2011



**CERTIFICATE OF SERVICE**

I certify that I mailed a copy of this Petition For Full Intervention by first class mail on May 25, 2011 on the following:

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