

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC., AND	)	
ITS MEMBER DISTRIBUTION COOPERATIVES	)	CASE NO.
FOR APPROVAL OF PROPOSED CHANGES TO	)	2023-00153
THEIR QUALIFIED COGENERATION AND	)	
SMALL POWER PRODUCTION FACILITIES	)	
TARIFFS	)	

ORDER

This matter arises upon the motion of the Sierra Club, filed June 5, 2023, for full intervention. As a basis for its motion, Sierra Club stated that it satisfies both requirements in 807 KAR 5:001, Section 4(11) for permissive intervention.

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.<sup>1</sup>

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely

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<sup>1</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

### DISCUSSION AND FINDINGS

Sierra Club stated that East Kentucky Power Cooperative, Inc.'s (EKPC) tariff filing implicates several areas of Sierra Club's expertise, including EKPC's capacity planning as well as Inflation Reduction Act (IRA) considerations referenced in EKPC's recent Integrated Resource Plan (IRP).<sup>2</sup> Sierra Club stated it has participated in other cases before other Commissions addressing similar issues, including providing testimony and briefing issues, and will assist the Commission in identifying and clarifying key issues. Sierra Club argued that it can assist the Commission in fully considering the issues before it without unduly complicating the proceedings, and that Sierra Club has a special interest in the matter, not otherwise represented, allowing for intervention. The motion alleged that Sierra Club members have a greater interest in institutional and policy considerations in EKPC's proposed tariff. Sierra Club noted that no other party represents similar interests in this matter.

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Sierra Club has demonstrated that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that Sierra Club is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complication the proceedings, for the reasons discussed below. The Commission finds that Sierra Club,

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<sup>2</sup> Case No. 2022-00098, *Electronic 2022 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.* (Ky. PSC Apr. 1, 2022).

representing its members in Kentucky, has a special interest in this proceeding as set out in 807 KAR 5:001, Section 4(11) because Sierra Club's members have an interest in the institutional and policy considerations that are presented in EKPC's proposed tariff. No other party to this case has similar interests as represented by Sierra Club.

The Commission finds that Sierra Club can assist the Commission by developing facts in this matter without unduly complicating the proceedings. Although not a determinative factor,<sup>3</sup> the Sierra Club has extensive prior experience in cases before this Commission. EKPC's proposed tariff implicates several issues where Sierra Club's expertise will benefit the Commission and it can help provide insight into those areas.

Based on the above, the Commission finds that Sierra Club should be granted full rights of a party in this proceeding. The Commission directs Sierra Club to the Commission's July 22, 2021, Order in Case No. 2020-00085<sup>4</sup> regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Sierra Club's motion to intervene is granted.
2. Sierra Club is entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Sierra Club shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.

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<sup>3</sup> Case No. 2018-00348, *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Ky. PSC Oct. 10, 2020).

<sup>4</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

4. Sierra Club shall adhere to the procedural schedule set forth in the Commission's May 25, 2023 Order and as amended by subsequent Orders.


5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Sierra Club shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

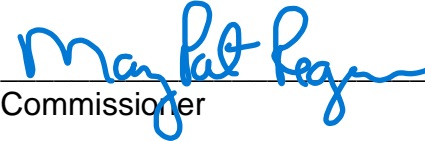
b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

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PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
JUN 16 2023  
rCS  
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SERVICE COMMISSION

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