

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST )  
KENTUCKY POWER COOPERATIVE, INC. FOR )  
A CERTIFICATES OF PUBLIC CONVENIENCE )  
AND NECESSITY AND SITE COMPATIBILITY )  
CERTIFICATES FOR THE CONSTRUCTION OF )  
A 96 MW (NOMINAL) SOLAR FACILITY IN )  
MARION COUNTY, KENTUCKY AND A 40 MW )  
(NOMINAL) SOLAR FACILITY IN FAYETTE )  
COUNTY, KENTUCKY AND APPROVAL OF )  
CERTAIN ASSUMPTIONS OF EVIDENCES OF )  
INDEBTEDNESS RELATED TO THE SOLAR )  
FACILITIES AND OTHER RELIEF )

CASE NO.  
2024-00129

ORDER

This matter arises upon the motion of Fayette Alliance, Inc. (Fayette Alliance), filed May 22, 2024, for full intervention in this matter involving East Kentucky Power Cooperative, Inc.'s (EKPC's) applications for Certificates of Public Concern and Necessity (CPCN) for solar power facilities, including a facility to be constructed in Fayette County. On May 31, 2024, Fayette Alliance also filed a motion seeking leave to submit data requests upon EKPC pending the Commission's decision on intervention.

As a basis for its intervention motion, Fayette Alliance stated that that it is a non-profit organization that advocates for the protection of farmland in Fayette County.<sup>1</sup> Fayette Alliance argued that it has a special interest in examining whether the proposed solar facility should be built on farmland-zoned land in Fayette County, and this interest

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<sup>1</sup> Fayette Alliance's Motion to Intervene (filed May 22, 2024) at 1.

is not otherwise represented in the case.<sup>2</sup> Fayette Alliance also argued that it will present issues or develop facts that will assist the Commission in fully considering the matters without unduly complicating or disrupting the proceedings.<sup>3</sup> Fayette Alliance stated that it is in a unique position as the primary land-use advocacy group in Fayette County to assist the Commission in evaluating whether EKPC's proposed CPCNs and Site Compatibility Certificates for a solar facility should be approved.

### 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>4</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 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

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Fayette Alliance has demonstrated that it has a special interest

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<sup>2</sup> Fayette Alliance's Motion to Intervene at 4.

<sup>3</sup> Fayette Alliance's Motion to Intervene at 4.

<sup>4</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented and that Fayette Alliance is likely to present issues or develop facts that will assist the Commission in considering this matter without undue complication the proceedings, for the reasons discussed below.

Since the Fayette County solar facility is planned to be built on a parcel zoned agricultural, Fayette Alliance, an organization advocating for protection of farmland, has a special interest in the case. The only other intervenor is Lexington-Fayette Urban County Government (LFUCG), which has an interest in zoning issues but is not specifically advocating to protect agricultural land.

Fayette Alliance also noted its expertise regarding its knowledge of regional soil and environmental impacts which could assist the Commission in evaluating the case. Moreover, Fayette Alliance's participation is not expected to unduly complication the proceedings.

Based on the above, the Commission finds that Fayette Alliance should be granted full rights of a party in this proceeding. Fayette Alliance shall be permitted to submit data requests to EKPC. The Commission directs Fayette Alliance to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>5</sup> regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Fayette Alliance's motion to intervene is granted.

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<sup>5</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).

2. Fayette Alliance 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. Fayette Alliance's motion for leave to submit data requests upon EKPC is granted.

4. Fayette Alliance 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.

5. Fayette Alliance shall adhere to the procedural schedule set forth in the Commission's May 14, 2024 Order and as amended by subsequent Orders.

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

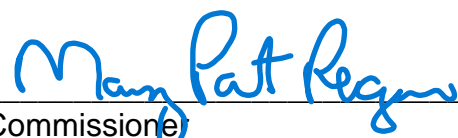
a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

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

PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Vice Chairman

  
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Commissioner

ENTERED  
JUN 06 2024  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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