

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC. FOR	)	
1) A CERTIFICATE OF PUBLIC CONVENIENCE	)	CASE NO.
AND NECESSITY TO CONSTRUCT A NEW	)	2024-00310
GENERATION RESOURCE; 2) A SITE	)	
COMPATIBILITY CERTIFICATE; AND 3) OTHER	)	
GENERAL RELIEF	)	

ORDER

This matter arises upon the motion of the Sierra Club, filed October 28, 2024, for full intervention.<sup>1</sup> As a basis for its motion, Sierra Club stated that it will present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding.<sup>2</sup> Sierra Club moves to intervene in this proceeding on behalf of itself and its members who live and purchase utility services in Kentucky, many of whom are residential customers of East Kentucky Power Cooperative, Inc. (EKPC) and its owner-member cooperatives.<sup>3</sup>

Sierra Club claimed to have a special interest in the proceeding because its members, who are customers of EKPC, have a unique stake in promoting cleaner, cost-effective energy solutions that reduce reliance on fossil fuels.<sup>4</sup> Its concerns go beyond

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<sup>1</sup> Sierra Club’s Motion to Intervene (Motion) (filed Oct. 28, 2024).

<sup>2</sup> Sierra Club’s Motion at 5.

<sup>3</sup> Sierra Club’s Motion at 5.

<sup>4</sup> Sierra Club’s Motion at 10–11.

general ratepayer interests, focusing specifically on environmental protection, public health, and long-term cost savings associated with renewable energy, energy efficiency, and compliance with environmental regulations.<sup>5</sup> Sierra Club stated it will contribute through expert testimony, witness examination, and legal briefing, ensuring that their involvement is productive and focused on clarifying key issues like compliance costs, alternative solutions, and the true demand needs.<sup>6</sup>

Sierra Club also argued that its intervention will aid the Commission's decision-making by bringing issues to light that may otherwise be overlooked, such as the long-term costs and risks associated with continued investment in fossil fuels under new regulatory conditions.<sup>7</sup> It has intervened successfully in similar cases in Kentucky and nationwide, where its involvement has contributed to a more thorough evaluation of cost-effective and reliable energy solutions.<sup>8</sup> According to the motion, Sierra Club's focus on ensuring that EKPC's proposal aligns with both demand projections and compliance obligations will help develop a more complete record, ultimately aiding the Commission in determining whether the Liberty RICE Facility and other generation plans are prudent and necessary.<sup>9</sup>

#### LEGAL STANDARD

The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), has a statutory right to intervene in a

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<sup>5</sup> Sierra Club's Motion at 10.

<sup>6</sup> Sierra Club's Motion at 8–9.

<sup>7</sup> Sierra Club's Motion at 7–9.

<sup>8</sup> Sierra Club's Motion at 8.

<sup>9</sup> Sierra Club's Motion at 9.

Commission case, pursuant to KRS 367.150(8)(b). The Attorney General was granted intervention by Order dated October 31, 2024.<sup>10</sup> Intervention by all others, with limited exception, is permissive and is within the sole discretion of the Commission.<sup>11</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 the Sierra Club satisfies the second prong of 807 KAR 5:001, Section 4(11). Specifically, Sierra Club has demonstrated that its 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.

Sierra Club's planned contributions to this case include presenting expert testimony, conducting witness examination, and submitting legal briefing on critical issues such as compliance with environmental regulations, evaluation of renewable energy alternatives, and the long-term economic implications of EKPC's proposed investments. These contributions will aid in the development of a comprehensive record, ensuring that

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<sup>10</sup> Order (Ky. PSC Oct. 31, 2024).

<sup>11</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

the Commission has the necessary information to evaluate whether the proposed Liberty RICE Facility represents a prudent and cost-effective solution.

Additionally, Sierra Club brings expertise and a history of effective participation in similar cases, both in Kentucky and other jurisdictions. This experience demonstrates the organization's ability to provide meaningful insights without causing undue complication or disruption to proceedings. Sierra Club has successfully participated in past cases before the Commission, consistently contributing to robust evaluations and informed decision-making.

The Commission finds that Sierra Club's proposed involvement in this case will support the statutory mandate to fully consider all relevant factors affecting EKPC's application. Its participation will enhance the depth and quality of the record, ensuring that issues such as demand projections, compliance pathways, and environmental considerations are thoroughly addressed.

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>12</sup> regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. Sierra Club's motion to intervene is granted.

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<sup>12</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. 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.

4. Sierra Club shall adhere to the procedural schedule set forth in the Commission's October 9, 2024 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.

PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Commissioner

  
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Commissioner

ATTEST:

  
\_\_\_\_\_  
Executive Director

ENTERED  
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KENTUCKY PUBLIC  
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