

BEFORE THE KANSAS CORPORATION COMMISSION  
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

FEB 09 2011



In the Matter of a General Investigation Into )  
KCP&L and Westar Generation Capabilities, ) Docket No. 11-GIME-492-GIE  
Including as these Capabilities May Be )  
Affected By Environmental Requirements. )

**PETITION OF SIERRA CLUB FOR INTERVENTION**

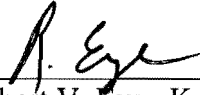
Sierra Club hereby respectfully petitions the Kansas Corporation Commission for an order allowing its intervention in the above-captioned docket. This petition is submitted under K.S.A. 77-521 and K.A.R. 82-1-225. In support of this petition the following is stated:

1. Sierra Club is a national nonprofit environmental organization founded in 1892 with over 600,000 members, including approximately 4,200 members in Kansas. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the earth; To practice and promote the responsible use of the earth's ecosystems and resources; To educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.
2. Sierra Club's Beyond Coal Campaign is dedicated to moving the country toward a cleaner energy economy that does not rely on coal. Sierra Club's work focuses on the harmful nature of coal at all stages of its lifecycle, from mining, to burning, to waste disposal, and works to promote alternatives to coal.

3. This docket expressly seeks to engage in a dialog about several issues that the Sierra Club has a significant interest in. Namely, the Commission seeks information on existing and emerging EPA regulatory requirements that include air quality, water quality, and ash disposal, and the Commission explicitly seeks to consider retrofit decisions “from its own wider view that includes in particular the public interest.” Order Opening Docket, Paragraph 5. Sierra Club’s long history of environmental advocacy makes it well suited to contribute to a discussion about the public interest, and how the public is impacted by retrofitting decisions at aging coal plants.
4. On January 27, 2011 the Commission entered an order that, *inter alia*, opened this docket to examine the generation capabilities of Kansas City Power & Light Co. and Westar in light of environmental requirements under the Clean Air Act.
5. This docket has raised issues concerning the legal, technical and economic consequences of retrofitting coal-fired power plants to meet requirements under the Clean Air Act. These issues are consistent with Sierra Club’s interests related to reducing pollution from coal-fired power plants. For example, in United States of America v. Westar Energy, Inc., U.S.D.C. (Kan.) Case No. 09-2059 (2010), Sierra Club advocated that Westar reconsider costly retrofits to its Jeffrey Energy Center coal-fired units and instead make further investments in renewable fuels, demand side management and efficient use programs. Additionally, Sierra Club intervened in an earlier Commission docket, 04-KCPE-1025-GIE, that also addressed issues related to meeting demand for electricity, emissions from coal-fired plants and alternatives to coal as a boiler fuel.

6. The disposition of the issues in the instant docket has the potential to affect and impair Sierra Club's interests. Sierra Club members in Kansas and elsewhere have consistently advocated that coal-fired power plants are threats to public health and environmental quality and should be phased-out and replaced by renewable fuel generation capacity, demand side management and efficient use programs.
7. Furthermore, several of the commission's questions address questions of federal regulation. (see e.g. Paragraph 8 (a) and (g)). Sierra Club has a long history of working on federal policy as it relates to the utility sector and is actively participating in several draft, proposed, and pending rules that will impact coal-fired generators in Kansas. Sierra Club brings a unique perspective to this docket having worked on the regulatory issues that impact power plants for decades.
8. No other party in this docket has a similar record of advocacy. Additionally, because the Commission is obligated to consider a broad range of interests, including those contrary to those of Sierra Club, the extant parties in this docket will not adequately represent Sierra Club's interests. Accordingly, Sierra Club's interests may be impaired unless its petition for intervention is granted.
9. Further, if the petition for intervention is granted, Sierra Club can assist in developing a record that will provide the Commission with evidence from knowledgeable experts related to issues specified in the order that opened this docket.
10. Therefore, based on Sierra Club's interests, granting its petition for intervention is consistent with the interests of justice.
11. Additionally, granting Sierra Club's Petition for Intervention will not unduly impair orderly and timely disposition of the issues raised herein.

WHEREFORE, Sierra Club respectfully requests that the Kansas Corporation  
Commission grant its Petition for Intervention in this docket.



---

Robert V. Eye Ks. Sup. Ct. No. 10689  
KAUFFMAN & EYE  
Columbian Building  
112 S.W. 6th Avenue, Suite 202  
Topeka, Kansas 66603-3850  
785-234-4040 phone  
785-234-4260 fax  
bob@kauffmaneye.com

VERIFICATION

STATE OF KANSAS )  
 )  
COUNTY OF SHAWNEE ) ss:

I, Robert V. Eye, of lawful age, being first duly sworn upon his oath states:

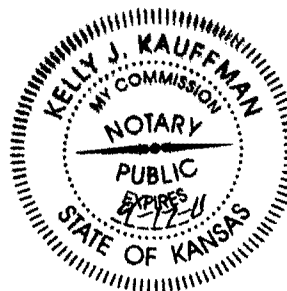
That he is an attorney for the above named petitioner; that he has read the above and foregoing Intervention, and, upon information and belief, states that the matters therein appearing are true and correct.

Robert V. Eye  
Robert V. Eye

SUBSCRIBED AND SWORN to before me this 9<sup>th</sup> day of February, 2011.

Notary Public  
Notary Public

My Commission Expires: 9/17/11



**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of February, 2011 an original and seven copies of this Petition for Intervention were hand delivered to Susan K. Duffy, Executive Director, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and that true and correct copies were deposited in the United States mail, first-class postage prepaid, properly addressed to:

NIKI CHRISTOPHER  
ATTORNEY, CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604

C. STEVEN RARRICK  
ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604

DAVID SPRINGE  
CONSUMER COUNSEL CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604

CURTIS D. BLANC, SR.  
DIR. REG. AFFAIRS KANSAS CITY POWER & LIGHT COMPANY  
ONE KANSAS CITY PLACE 1200 MAIN STREET (64105)  
P.O. BOX 418679  
KANSAS CITY, MO 64141 9679

HEATHER A. HUMPHREY  
GENERAL COUNSEL KANSAS CITY POWER & LIGHT COMPANY  
ONE KANSAS CITY PLACE 1200 MAIN STREET (64105)  
P.O. BOX 418679  
KANSAS CITY, MO 64141 9679

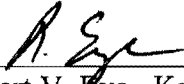
MARY TURNER  
DIRECTOR, REGULATORY AFFAIRS  
KANSAS CITY POWER & LIGHT COMPANY  
ONE KANSAS CITY PLACE 1200 MAIN STREET (64105)  
P.O. BOX 418679  
KANSAS CITY, MO 64141 9679

PATRICK T SMITH  
LITIGATION COUNSEL KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

W. THOMAS STRATTON,  
CHIEF LITIGATION COUNSEL KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

MARTIN J. BREGMAN,  
EXEC DIR, WESTAR ENERGY, INC.  
818 S KANSAS AVENUE  
PO BOX 889  
TOPEKA, KS 66601-0889

MIKE LENNEN,  
VP REGULATORY AFFAIRS WESTAR ENERGY, INC.  
818 S KANSAS AVENUE  
PO BOX 889  
TOPEKA, KS 66601-0889

  
\_\_\_\_\_  
Robert V. Eye Ks. Sup. Ct. No. 10689  
KAUFFMAN & EYE