



Waltzer Wiygul Garside

LAW FIRM

Robert B. Wiygul
Partner

robert@wwglaw.com

February 3, 2020

Katherine Collier, Executive Secretary
Mississippi Public Service Commission
501 N. West Street, Suite 201A
Jackson, MS 39201

FILED
FEB 03 2020
MISS. PUBLIC SERVICE
COMMISSION

Re: Docket No. 2019-UA-231
Mississippi Power Company's Notice of IRP Cycle Pursuant to
Commission Rule 29

Dear Ms. Collier:

Enclosed please find the original and twelve (12) copies of the Sierra Club's Response to Mississippi Power Company's Opposition to Intervention in the above referenced matter. For your convenience, I have enclosed a self-addressed envelope and a copy of the first page of the Pleading, which I would appreciate your file stamping and returning to me.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Robert B. Wiygul

RBW/mn

cc: All parties of record (by electronic or U.S. mail)

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FEB 03 2020

MISS. PUBLIC SERVICE
COMMISSION

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

MISSISSIPPI POWER COMPANY
EC-120-0097-00

DOCKET NO. 2019-UA-231

IN RE: MISSISSIPPI POWER COMPANY'S NOTICE OF IRP CYCLE
PURSUANT TO COMMISSION RULE 29

**SIERRA CLUB'S RESPONSE TO MISSISSIPPI POWER COMPANY'S
OPPOSITION TO INTERVENTION**

I. INTRODUCTION

Mississippi Power's attempt to keep the Sierra Club and other interests from intervening in this process is, in one sense, understandable. The Sierra Club, representing its members in the Mississippi Power service area, has on numerous occasions provided the Commission with evidence and technical analysis that is protective of the ratepayer but contrary to the financial interests of Mississippi Power and its corporate parent, the Southern Company. In many cases this was evidence that was not developed or supplied by any other party, including the staff of the Commission. Mississippi Power's self-interest would certainly dictate that the company attempt to limit however possible the Sierra Club's participation in this proceeding.

Mississippi Power's motion should be denied for legal and policy reasons.

- The Sierra Club and its members have interests that may be adversely affected, and those interests have been clearly demonstrated in past dockets.
- Preventing ratepayers and other parties appearing through organizations discriminates against lower and middle income ratepayers without the resources to individually hire attorneys and technical consultants.
- The Commission's rules provide broad eligibility for intervention, and Mississippi Power's claims would contradict their substance and intent.

- Mississippi Power's claims are also contrary to the language and intent of the Ratepayer's Bill of Rights.
- Refusing to allow parties like the Sierra Club to intervene as parties will deprive the Commission of information necessary to perform its role, which is to stand in the place of the market to protect the ratepayer from for-profit monopolies like Mississippi Power.
- Mississippi Power's claim that refusing intervention to technically knowledgeable parties is necessary to protect the ratepayer is implausible, particularly coming from a company that in recent years has spent literally billions of dollars on unnecessary projects. The ratepayer will benefit from the Sierra Club's analysis and commitment of resources.

II. THE SIERRA CLUB AND ITS MEMBERS HAVE SUBSTANTIAL INTERESTS IN THE IRP DOCKET, AND MISSISSIPPI POWER'S ATTEMPT TO EXCLUDE ORGANIZATIONS DISCRIMINATES AGAINST LOW AND MIDDLE INCOME RATEPAYERS LIKE THE MEMBERS OF THE SIERRA CLUB

Mississippi Power suggests without evidence that the Sierra Club's intervention is "designed to enrich themselves or their members as opposed to representing the public interest." The company further suggests that the Sierra Club is an "out of state interest" that will run up the tab for ratepayers and then "move on to the next state," having "no skin in the game." MPC opposition at ¶ 3. This unfortunate language evokes an ugly xenophobia, and Mississippi Power knows perfectly well it is not true.

Sierra Club explained in its Motion to Intervene that:

The Sierra Club represents approximately 1700 members statewide with substantial interests in energy policy, control of the negative externalities associated with energy sources, minimizing negative impacts to the environment, and insuring that ratepayers do not pay for poor choices by utilities. These interests specifically

include appropriate management of integrated resource planning by Mississippi Power Company.

Historically the Commission has permitted intervention on motions like this one without requiring detailed legal briefing and factual assertions. This is a salutary practice that encourages full development of factual records, and full transparency in the Commission's business. It has very little downside in that parties do not ordinarily subject themselves to the expense and time commitment of a proceeding unless they have a real and concrete interest.

Mississippi Power knows perfectly well that Sierra Club members include Mississippi Power ratepayers who have a direct interest in Mississippi Power's planning process, and cannot otherwise afford to participate as individual members. We note again that the Sierra Club has routinely participated in Mississippi Public Service Commission proceedings for over a decade, expending a lot of money and time. There is no question that advocacy has been good for ratepayers. The Sierra Club has staff and members in the state and in Mississippi Power's service area. Sierra Club is here representing the interests of itself and those members, and it is not going anywhere.

Sierra Club attaches declarations to this motion in an abundance of caution, but believes the Commission should not require such a high barrier for participation in a utility's planning process. As Julia O'Neal explains, she is an Ocean Springs ratepayer who does not want to have to pay for dirty or wasted energy, and she does not have the time or resources to participate in these proceedings herself. Declaration of Julia O'Neal, Exhibit 1.

As a local business owner, Louis Skrmetta saw a major increase in his power bill after the Kemper plant was added into rates. Mr. Skrmetta has observed the impacts of climate change and has a specific interest in moving away from fossil fuels and to renewable energy. He is very

interested in ensuring that rates do not increase and relies on Sierra Club to protect his interests.

Declaration of Louis Skrmetta, Exhibit 2.

Kathy Egland is a fixed income retire educator in Gulfport who has followed Mississippi Power's actions, including the Kemper debacle. Ms. Egland states that she hopes that Mississippi Power's opposition reflects a misunderstanding of how keeping intervenors out would impact ratepayers. She testifies that MPC ratepayers do not have the resources to participate as individuals in matters like this one. She belongs to the Sierra Club because it has the ability to participate in processes like this one. Declaration of Katherine Egland, Exhibit 3.

Mississippi Power's implicit assertion that organizations may not intervene to represent the interests of their members is fundamentally discriminatory as a matter of policy. No serious observer would suggest that Mississippi Power's individual ratepayers have the resources to hire an attorney and technical consultants. Exhibit 3. One in five of Mississippi Power's customers lives in poverty. Barring the ratepayers from acting through organizations to protect their interests is not just wrong legally, it is fundamentally unjust. As Ms. Egland states, "Mississippi Power is trying to get the Commission to prevent the vulnerable, defenseless, exploited and excluded from participating or being represented in a process that is critical to their health and their lives." Exhibit 3.

The Commission should not endorse the practice of silencing low and middle income ratepayers by denying them the right to join organizations and appear before the Commission. This is particularly so since adopting this position would represent a radical departure from the Commission's historical treatment of intervention.

III. THE COMMISSION'S RULES PERMIT REASONABLE INTERVENTION, AND THE COMMISSION HAS ROUTINELY GRANTED INTERVENTION IN DOCKETS LIKE THIS ONE

The Commission's rules broadly allow for intervention of any person "when the movant has a substantial interest relating to the property, transaction or outcome of the proceeding at issue and the movant is so situated that the disposition of the proceeding may as a practical matter impair or impede his or her ability to protect that interest." RP 6.121.

The Commission has recognized that the Sierra Club meets this reasonable test in Commission proceedings by granting intervention in 14 different proceedings in the past decade. See Exhibit 4. The Sierra Club has acted to protect ratepayers and others from Mississippi Power's bad decisions and has drawn "the Commission's and Staff's attention to a particularized matter that might otherwise have gone unnoticed or not been given sufficient consideration or evidentiary support." Order Consolidating Issue and Denying Intervention, Docket Nos. 2014-UA-5 through 2014-UA-18, at 6-7 (April 1, 2014) ("2014 Order").

Most recently the Commission granted, with the acquiescence of Mississippi Power, the Sierra Club's intervention in *In re Mississippi Power Company's Reserve Margin Plan*, Docket No. 2018-AD-145. We note that many of the issues in the Reserve Margin Plan docket – economics of legacy assets, load projections and the like - will be the same as those in this Integrated Resource Plan docket. There is no principled reason that the interest necessary for intervention should be granted in one docket and not the other; indeed efficiency would dictate that intervention must be granted in both dockets.

In 2008, Sierra Club intervened in Docket No. 08-AD-158, a docket to consider adoption of integrated resource planning in the State. Sierra Club presented testimony from four experts to help advise the Commission on best practices in planning, including "public involvement right

from the beginning” of a planning process. Closing Argument of the Sierra Club Part 1 at 3, Dkt No. 08-AD 158 (September 12, 2008).

In 2009, Sierra Club intervened in Mississippi Power’s application for a certificate of public convenience and necessity and actively challenged through expert testimony, motions, cross examination, briefing, and appeals, Mississippi Power’s skewed assumptions that favored building the failed Kemper IGCC coal project. Among other issues, our expert testified that Mississippi Power had not conducted a comprehensive integrated resource planning process, and “the Company’s procedure for soliciting resources to meet its identified need has been heavily skewed to its preferred outcome.” Schlissel Direct Testimony at 2, Dkt. 2009-UA-14 (Dec. 7, 2009). Our expert also testified that Mississippi Power’s cost estimates were underestimated, that its natural gas forecasts were too high, and that there was ample available capacity in the region for purchase. *Id.* at 2-4.

The Sierra Club later intervened and participated in several subsequent dockets regarding Kemper with expertise and critique that “might have otherwise gone unnoticed.” As our expert predicted, the Kemper plant went wildly over budget to the tune of \$7 billion dollars (and never functioned as a coal plant at all), natural gas prices plummeted and even with Kemper functioning as a gas plant, and Mississippi Power is now significantly long on capacity.

In 2010, Sierra Club intervened in a docket regarding Mississippi Power’s request to add expensive pollution control devices at Plant Daniel, and submitted expert testimony that the company’s natural gas prices were too high. Docket No. 10-UA-279. In a recent docket evaluating the prudence of MPC’s recent multi-million retrofit investment in Plant Daniel, the Commission likewise recognized Sierra Club’s interest in participating in such resource decisions. Order Granting Certificate of Public Convenience and Necessity, Docket 2019-UA-

116 (order filed Oct. 28, 2019). Sierra Club has also intervened and participated extensively in the Commission's dockets considering energy efficiency standards and establishing a net metering rule, and submitted three rounds of comments on the Integrated Resource Planning Rule.

Sierra Club's status as an organization with members who are Mississippi Power ratepayers also entitles it to intervention. Right 18 of the Mississippi Ratepayers Bill of Rights permits ratepayer intervention as of right. As the Commission acknowledged in previous Orders denying intervention, "recognizing the Commission's policy decision expressed in Rule 18 of the Ratepayers' Bill of Rights, if an entity sought to intervene as a rate-paying customer of a specific utility and identified its interest in the proceeding then there would be little ground for opposition." 2014 Order at 9 & Order Consolidating Issue and Denying Intervention, Docket No. 2016-UN-32 & 33 (May 13, 2016). It is universally accepted that organizations like Sierra Club have standing to represent their members in legal proceedings, so long as the members themselves have the necessary interest. Among other interests in the subject matter, Sierra Club represents the interests of its members who are ratepayers, as detailed above and in the attached declarations.

The few matters where the Commission has denied intervention are readily distinguishable from the current IRP docket. These include one Order from 2014 regarding utility applications for energy efficiency quick start plans and the two Orders from 2016 addressing intervention in utilities' net metering compliance filings. The Commission's denial of Sierra Club's intervention in the net metering compliance filing turned on Sierra Club's late filing, as well as the fact that in such a compliance docket, "the only purpose of this docket is to ensure that the tariffs are consistent with the Commission's Final Net Metering and

Interconnection Rules”” Order Denying Intervention, Dkt. 2016-UN-32 & 33 at 11-15 (June 29, 2016). Similarly, in the 2014 Order the Commission found that Quick Start docket was intended to ensure that the utilities’ plans complied with the filing requirements in the rule and they were intended to allow for “quick regulatory approval followed by implementation.”2014 Order at 7-8.

A planning docket is an entirely different matter, as the Commission emphasized, “[a] high degree of transparency provides important protection for the Commission and ratepayers against potentially unnecessary and costly capital expenditures and long-term operational costs.” Docket No. 2018-AD-64, Final Order at 5.

In short, Sierra Club has for over a decade demonstrated a substantial interest in the kinds of resource decisions at issue in this docket, and has made significant contributions in assisting the Commission’s development of a full record regarding past Mississippi Power’s proposals. The unstated reason that Mississippi Power does not want Sierra Club closely scrutinizing its planning process is because where necessary the Sierra Club has effectively pointed out the Company’s plans that were better for the shareholder than for the customer.

While the Commission is not subject to the rules of the courts, e.g., *Molden v. Miss State Dept. of Health*, 730 So. 2d 29, 40-41 (Miss. 1998), there is no serious question that the Sierra Club as an organization would be granted intervention in a judicial case raising the issues involved in this docket. Under Mississippi law, a movant to intervene must: “(1) ... make timely application, (2) ... have an interest in the subject matter of the action, (3) ... be so situated that disposition of the action may as a practical matter impair or impede his ability to protect his interest, and (4) his interest must not already be adequately represented by existing parties.” *Madison HMA, Inc. v. St. Dominic-Jackson Mem’l Hosp.*, 35 So. 3d 1209, 1215 (Miss. 2010)).

Mississippi Power does not contest that this intervention filing was timely, and it could not seriously contest that the disposition of Mississippi Power's IRP "may, as practical matter, impair or impede" Sierra Club's ability to protect its interests. *Brumfield v. Dodd*, 749 F.3d 399, 344 (5th Cir. 2014) (emphasis added). Here, the denial of intervention "may" impede Sierra Club's and its members' interests, some of whom are MPC customers, in avoiding the costs of MPC's continued investment in expensive and increasingly uneconomic generation assets—costs that will necessarily be passed on to ratepayers. It would likewise prejudice Sierra Club's and its members' interests in investing in clean, affordable renewable resources, which would lower electric system costs and result in environmental benefits. Conversely, continued investment in obsolete fossil fuel facilities, or neglect of energy efficiency opportunities, will result in environmental impacts inside and outside the MPC service area.

Moreover, the denial of intervention could impair Sierra Club's recognized interest in specific proceedings, like those relating to the continued operation of the uneconomic coal fired units at Plant Daniel. Indeed, in evaluating the prudence of MPC's recent \$65.5 million retrofit investment in Plant Daniel—a resource that runs only 25% of the time and which the co-owner wants to retire—the Commission recognized Sierra Club's position and interest in participating in precisely the same kinds of resource decisions that will be at issue here. Order Granting Certificate of Public Convenience and Necessity at 13, Docket 2019-UA-116 (order filed Oct. 28, 2019). MPC has even argued that a failure to intervene in the Reserve Margin Plan docket, Docket No. 2019-UA-116, forecloses challenges to future resource specific decisions. Mississippi Power Response in Opposition to Sierra Club's Motion to Require Supplementation at 3-4, Docket 2019-UA-116 (filed Sept. 30, 2019).

With respect to adequacy of representation, the general rule is that an intervenor must show only that the “representation of [its] interest may be inadequate; and the burden of making that showing should be treated as minimal.” *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972) (quotation omitted and emphasis added); *see also WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009).¹ Representation “may be inadequate,” and thus intervention is appropriate, where the interests of the existing parties are “related, but not identical,” *Trbovich*, 404 U.S. at 636, or where the parties’ interests “may not align precisely.” *Brumfield*, 749 F.3d at 345; *see also Heaton v. Monogram Credit Card Bank of Ga.*, 297 F.3d 416, 425 (5th Cir. 2002) (representation may be inadequate where interests “may diverge in the future, even though, at this moment, they appear to share common ground . . .”). This is especially true where there is a history of adversarial proceedings between the governmental body and the prospective intervenor. *E.g., Utah Ass’n of Counties v. Clinton*, 255 F.3d 1246, 1250 (10th Cir. 2001).

Sierra Club easily meets that minimal burden. First, Sierra Club’s specific and long-standing interests in avoiding MPC’s continued investment in highly-polluting fossil resources, and its interests in investing in affordable renewable energy, cannot be adequately represented by the Commission, as a decision maker in the process. The Commission has the job of representing all interests, including the interests of the “public utility” itself, not just those of the Sierra Club. For example, the Fifth Circuit has found that the federal government did not adequately represent the interests of an intervenor where the government “must represent the broad public interest,”

¹ Because “Rule 24 of the Federal Rules of Civil Procedure and Rule 24 of the Mississippi Rules of Civil Procedure use virtually the same language to describe the requirements for intervention of right and permissive intervention,” the Mississippi Supreme Court has held that “it is useful for [courts] to look to the federal judiciary for guidance” in evaluating motions to intervene. *State Tobacco Litigation*, 958 So.2d 790, 806, n.16 (2007).

and not just the interests of the intervenors. *See Sierra Club v. Glickman*, 82 F.3d 106, 110 (5th Cir. 1996) (per curiam); *Sierra Club v. Espy*, 18 F.3d 1208 (5th Cir. 1994). This is true even where the government and intervenor may share common positions in a matter. *See, e.g., Sierra Club v. Glickman*, 82 F.3d at 110; *Sierra Club v. Espy*, 18 F.3d at 1208; *Kneeland v. National Collegiate Athletic Ass'n*, 806 F.2d 1285, 1288 (5th Cir. 1987).

In addition, while Sierra Club has great respect for the Commission and the Staff, Sierra Club has a specific position and expertise, and has frequently introduced evidence and positions that were not developed by the Staff.² The discussion above demonstrating the role Sierra Club has played in prior dockets, and what it has contributed to those dockets, further evidence that its interests here would not be adequately represented by the Staff and the Commission.

IV. FULL FACTUAL DEVELOPMENT IS CRITICAL TO THE IRP PROCESS

The Mississippi Supreme Court has emphasized that the Commission “is the counterpart of the marketplace by which other businesses are measured.” *State ex. rel Allain v. Miss. Pub. Serv. Comm'n*, 435 So.2d 608 (Miss. 1983). Markets operate by collecting all the information they can, not by cutting off their sources of information. Yet that is just what MPC wants the Commission to do.

Prior Commission orders recognize the value added by intervenors, noting that intervention “promotes, among other things, efficiency and thoroughness because a party with a particular interest will be motivated and can be expected to present evidence to protect that vested interest, drawing the Commission’s and Staff’s attention to a particularized matter that might otherwise have gone unnoticed or not been given sufficient consideration or evidentiary support.” 2014 Order at 6-7. This is nowhere more true than in the IRP process.

² MPC also asserts that the Sierra Club’s interest is no different from the “general public interest.” This concept does not form a developed part of Mississippi law of intervention, and in any case the assertion is factually incorrect.

In the Commission's Final Order adopting the Integrated Resource Planning and Reporting Rule the Commission stated that one of its "primary motivations" for adopting the rules was to ensure "a high degree of transparency" to provide "important protection for the Commission and ratepayers against potentially unnecessary and costly capital expenditures and long-term operational costs." Dkt. 2018-AD-64, Final Order at 5.

The Commission emphasized that "the [IRP] Rule establishes a transparent process that allows stakeholders a reasonable opportunity to participate and that fosters the development of a sound administrative record." *Id.* at 7-8. The Commission weighed the recommendations of the utilities, with those of Sierra Club and others, and struck a balance, agreeing that "the process 'must include meaningful participation options for these stakeholders to provide input into the resource plan's development,' but leaving the utility with the "ultimate responsibility for resource planning decisions." *Id.* at 15.

The Commission plainly did not intend for the Commission staff, the Commission itself and the attorney general to be the only possible involved stakeholders, as Mississippi Power now suggests. *See* MPC opposition at p. 3-4, 6. In fact, Mississippi Power's current position represents a stark reversal from its comments on the proposed IRP rule, in which the Company repeatedly espoused the benefits of a robust and transparent process, asserting that "the public will not only benefit from additional certainty surrounding future utility plans, but will also be allowed to participate in future, related proceedings." Dkt. 18-AD-64, MPC August 1, 2018 Comments at 6; *see also* February 15, 2019 Comments § III. Nowhere in Mississippi Power's three sets of comments on the proposed IRP rule does the Company suggest the restrictive participation standard it now proposes, and it should not be permitted to do so now.

It bears emphasis that if the standard is what MC claims, no one would ever be permitted to intervene.

Sierra Club has gained significant expertise on issues that will be presented in this docket by participating in IRP dockets nationwide and will bring its expertise to bear in this proceeding to assist the Commission's full, fair, and efficient consideration of the issues at hand.

Sierra Club's staff and consultants have extensive experience in resource planning, analyzing the potential for cost effective renewable energy, demand response, energy storage, and energy efficiency. Sierra Club routinely intervenes and is extensively involved in resource planning and similar dockets in a number of states, including Arkansas, California, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nevada, North Carolina, Oregon, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Texas, Utah, Virginia, Washington, and West Virginia. Sierra Club's recommendations are favorably cited by Commissions; for example, the Kentucky Staff Report on the Companies' 2011 IRP cited approvingly to several recommendations made by the Sierra Club.³

Full participation in this docket is necessary to probe into Mississippi Power's filings and help fully develop the record for the Commission. Though Rule 29 contemplates the informal exchange of information in workshops, Sierra Club has no assurance that Mississippi Power will provide critical information or even that it will be permitted to fully participate. Without the ability to obtain discovery and participate as a full party, Sierra Club cannot protect its interests and its members' interests in avoiding expensive and highly-polluting resource decisions and

³ Staff Report (Mar. 13, 2013), In re 2011 Joint Integrated Resources Plan of Louisville Gas & Electric Company and Kentucky Utilities Company, Case No. 2011-00140, at 23-24 (noting that the Commission had already accepted the Environmental Intervenors' suggestion that LG&E and KU should commission a market potential study for DSM, with Staff again encouraging the same); id. at 41 (agreeing with the Environmental Intervenors that LG&E and KU should have considered the impact of potential carbon rules; stating the next IRP should respond to Environmental Intervenors' comments regarding selection of the target reserve margin).

advocating for affordable energy efficiency and renewable options. As Mississippi Power itself concedes, and the rule makes clear, many of the Company's resource decisions in this proceeding will be automatically carried over to the Company's formulary rate plans, which effectively "eliminat[es]" the need for a separate inquiry into Mississippi Power's energy efficiency and DSM riders, as well as certain cost recovery mechanisms. *See* MPC Feb. 15, 2019 Comments § I; *see also* IRP Rule 400.

In sum, Mississippi Power does not articulate any legitimate reason for excluding Sierra Club from the current docket. The company asserts that it will incur a cost in responding to data requests, MPC opposition at ¶ 3, but it does not provide any documentation of these claimed costs. Further, if MPC is providing the information necessary for the staff and the Commission to evaluate its resource planning, the marginal cost of providing it to the Sierra Club is extremely modest.

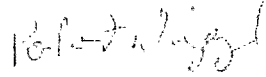
What is really expensive to the ratepayer is a poorly informed IRP process that results in a portfolio of expensive resources that don't fully benefit the ratepayer, like the portfolio of excess capacity that Mississippi Power has now. What saves money, even if Mississippi Power has to spend some time responding to data requests, is a collaborative IRP process where stakeholders like Sierra Club bring experience and expertise to help identify least cost resource options.⁴

Mississippi Power's goal in opposing Sierra Club and other group's motions to intervene is to silence opposition and prevent any ratepayers from participating in the planning process. The Commission should reject that attempt and permit the intervention.

⁴ Indeed Mississippi Power should think about saving ratepayer money - and the Commission's time - by not employing their high cost lawyers to oppose the common sense intervention of Sierra Club in this docket.

Respectfully submitted this 31st day of January, 2020.

Mississippi Chapter Sierra Club



By:

Robert B. Wiygul
Waltzer Wiygul & Garside
1011 Iberville Drive
Ocean Springs, MS 39564
Tel: (228) 872-1125
Fax: (228) 872-1128
robert@wwglaw.com

CERTIFICATE OF SERVICE

I, Robert B. Wiygul, counsel for Sierra Club do hereby certify that in compliance with RP6.122(2) of the Commission's Public Utilities Rules of Practice and Procedure (the "Rules").

(1) An original and twelve (12) true and correct copies of the filing have been filed with the Commission by United States Postal Service this date to:

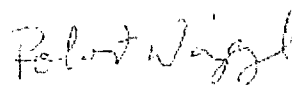
Katherine Collier, Executive Secretary
Mississippi Public Service Commission
501 N. West Street, Suite 201-A
Jackson, MS 39201

(2) An electronic copy of the filing has been filed with the Commission via e-mail to the following address: efile.psc@psc.state.ms.us

(3) An electronic copy of the filing has been served via e-mail to the following address:

See attached Exhibit A

This the 31st day of January, 2020.



Robert B. Wiygul (MS Bar #7348)

EXHIBIT A

Alexander C. Martin II
Alicia S. Hall
Crystal Utley Secoy
Forest Bradley-Wright
Frank F. Farmer
Heather Reeves
Jeremy C. Vanderloo
Joshua Smith
Katherine Collier
Katherine Hamilton
Leo Manuel
Ricky Cox
Robert B. Wiygul
Robert C. Grenfell
Shawn S. Shurden
Simon Mahan
Tad Campbell
Tianna H. Raby
Virden Jones

amart12@entergy.com
ahall4@entergy.com
cutle@ago.state.ms.us
forest@cleanenergy.org
frank.farmer@psc.state.ms.us
hreeves@balch.com
jvande1@entergy.com
joshua.smith@sierraclub.org
katherine.collier@psc.state.ms.us
katherine@aem-alliance.org
lmanuel@balch.com
rcox@balch.com
robert@wwglaw.com
rgrenfe@entergy.com
ssshurde@southernco.com
simon@southernwind.org
tad.campbell@mpus.ms.gov
traby@entergy.com
virden.jones@psc.state.ms.us

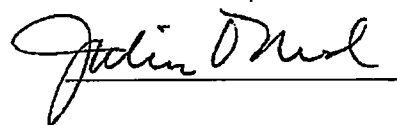
DECLARATION OF JULIA O'NEAL

1. My name is Julia O'Neal. I live at 231 Holcomb Blvd., Ocean Springs MS 39564 (mail: P.O. Box 165, Ocean Springs, MS 39566),
2. I am over 21 years of age and have personal knowledge of everything in this declaration. I could competently testify to these matters if called as a witness.
3. I am presently a lifetime member of the Sierra Club; I have been a member since 2010 and I am active in the state chapter executive committee. I support the Club's position on the importance of long-range utility planning both nationally and statewide.
4. I am a customer of Mississippi Power and my bills are typically around \$70 in both the winter (I have gas heat) and the summer. Before installing solar panels, my bills were around \$200 in the summer. My house is small, tight and efficient, and I installed solar panels in early 2019. (I have had the efficiency audit that the Mississippi Public Service Commission's Efficiency Rule made possible).
5. Mississippi Power's planning process has a direct effect on me. I, too, want to plan for a more renewable and cleaner future; I may switch to an electric vehicle (EV) for a car at some point and I already have an electric moped. I trust Sierra Club to protect me from solar tariffs and to protect our 2.5 cent "adder" – even though we are only given cost "avoidance" in exchange for what our distributed generators send back to the grid.
6. I am interested in ensuring that Mississippi Power gives fair consideration to investments in clean generation, demand response, energy storage, energy efficiency, and renewable energy—all of which produce safe and sustainable jobs while reducing both electric system costs for both customers and utilities and reliance on dirty, climate-threatening

generation. For the electricity I use beyond what my panels generate, I want to know that the best in renewables and efficiency is being deployed. I don't want to pay for dirty or wasted energy.

7. I believe that Mississippi Power's planning process needs close scrutiny by the Commission and interested stakeholders that are willing to contribute the time and resources to assist the Commission. Mississippi Power's poor planning resulted in the failed experimental Kemper IGCC coal plant that we never needed in the first place and that cost ratepayers billions of dollars. Sierra Club provided critical information to the Commission in the Kemper proceedings, predicting that cost overruns and gas futures would be much lower than the company's projections.
8. I expect the Sierra Club to represent my interests in the upcoming proceedings. I do not have the time or resources to participate as an individual in these proceedings.
9. Mississippi Power's proposed actions would keep folks who don't want to hire lawyers or participate themselves from having any effective way to participate in Commission proceedings that affect them.
10. I declare under penalty of perjury that the foregoing is true and correct.

DATED: January 29, 2020

A handwritten signature in black ink, appearing to read "Justin O'Neil", is written over a horizontal line.

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

**MISSISSIPPI POWER COMPANY
EC-120-0097-00**

DOCKET NO. 2019-UA-231

**IN RE: MISSISSIPPI POWER COMPANY'S NOTICE OF IRP CYCLE
PURSUANT TO COMMISSION RULE 29**

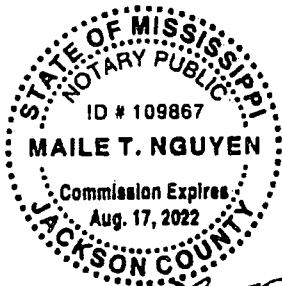
DECLARATION OF LOUIS P. SKRMETTA

- 1) My name is Louis Skrmetta. I live at 520 Beach Boulevard Unit 608 Biloxi, Mississippi 39530.
- 2) I am over 21 years of age and have personal knowledge of everything in this declaration. I could competently testify to these matters if called as a witness.
- 3) I am an active member of Sierra Club; I have been involved with the Club for over 20 years and I have been a member of the state Executive Committee for over 10 years. I initially joined the Sierra Club because I admired their involvement in challenging the proposed project to place gas drilling rigs in the Mississippi Sound and next to the Mississippi barrier islands.
- 4) I am the owner and operations manager of a business that provides ferry service within the Gulf Island National Seashore. Both my business and I are customers of Mississippi Power. My residential bills average around \$300/month and my companies' bills average around \$1500/month. The various parts of my business (including dockside vessels, ticket operations, and the warehouse) spend a lot of money with Mississippi Power.
- 5) I am interested in the Mississippi Powers' IRP process because I want to see them invest in an accelerated path towards clean energy and solar power. This is a specific interest that I want to be sure is adequately represented. Personally and in my business, I am seeing the impacts of climate change, and we must transition away from fossil fuels. As a local

business owner, I am also very invested in ensuring that rates do not increase. Previously, I was involved with and provided public comments during the Kemper County IGCC planning process because of my interest in its large financial and environmental impacts.

- 6) Mississippi Power's actions financially hurt me and the broader community. Based on their actions in Kemper County, we saw a major increase in our power bill. Mississippi is one of the poorest states in the union and a place that doesn't need any more financial burden on its ratepayers.
- 7) I believe that the Sierra Club's involvement in this IRP is important because the Sierra Club has the resources and the expertise to provide needed oversight for the public. I know what the Sierra Club has done in the past to oppose sticking the ratepayer with \$6 billion in Kemper County, and I have continued admiration for their commitment to protecting the natural landscape of Mississippi and the Mississippi gulf coast where I was born and raised.
- 8) I declare under penalty of perjury that the foregoing is true and correct.

DATED: January 31, 2020.



A handwritten signature in cursive script, appearing to read "Maile T. Nguyen".

A handwritten signature in cursive script, appearing to read "Louis Skrmetta".

Louis Skrmetta

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

**MISSISSIPPI POWER COMPANY
EC-120-0097-00**

DOCKET NO. 2019-UA-231

**IN RE: MISSISSIPPI POWER COMPANY'S NOTICE OF IRP CYCLE
PURSUANT TO COMMISSION RULE 29**

DECLARATION OF KATHERINE EGLAND

My name is Katherine Egland. I am a retired educator, and I am a long time resident of Gulfport, Mississippi. I am a Mississippi Power customer and a member of the Sierra Club. I am a Mississippi Power ratepayer, and I am a member of the community that has to pay whatever costs for electric power the Commission determines that Mississippi Power can pass on to the ratepayer. As a ratepayer I have followed Mississippi Power's actions over the past decade, including the saga of the Kemper power plant. I have been advised of Mississippi Power's motion to prevent the Sierra Club intervening in this docket. It would be easy to read that action as smug and arrogant. But I hope that it is just that Mississippi Power does not have a clear understanding of what keeping reasonable organizations like the Sierra Club out of the decision making process means to its customers.

Energy costs are a particular concern for the elderly, very young, ill and people on fixed incomes. Homes may have cooling bills in the summer of up to \$300-400 per month. A 16% increase in this bill, or \$48-64, represents money that could have been used for food, medicine or other necessities.

Like a lot of people my husband and I carefully planned, worked and saved for decades for our retirement. As a result I was able to take an early retirement at the time he reached full retirement. Despite our conservation and efficiency efforts, rising energy costs continue to represent a significant chunk of the budget of our fixed monthly income. We especially worry

about some of our friends and relatives who have taken drastic measures to keep their energy costs within their much lower incomes and budgets. I can tell you from personal experience that a few of them even chose to largely eliminate the use of their central air and heating system in an effort to keep their energy costs to manageable amounts within their monthly incomes.

I am also a volunteer with an organization which partners with emergency agencies in disaster preparedness training for local churches with many minority, low income and elderly members. Our organization promotes community sustainability and resilience. One common thread in speaking with various church members throughout our training is concern about meeting rising energy costs.

I am aware of people in my own community in South Mississippi who are at times forced to choose between their energy bill, food, medical care and life preserving prescription drugs. Rising power bills can relegate ratepayers to inhumane living conditions. Mississippi has the highest percentage of minority residents with the lowest income per capita than any other state in the nation. The poverty rate in Mississippi Power's service area is in the high teens up to well over 20%.

Mississippi Power Company seems to be saying that the only people besides Mississippi Power and the government who can participate in utility planning are individual ratepayers. These are people who are struggling to pay their utility bills and keep up with necessities. They need to be able to act together through groups like the Sierra Club to make their voices heard. They can't hire lawyers and technical people. They can't take days off work to come to Jackson. Mississippi Power is trying to get the Commission to prevent the vulnerable, defenseless, exploited and excluded from participating or being represented in a process that is critical to their health and their lives.

One reason I belong to the Sierra Club is that I know they will participate as a party in things like this integrated resource planning process. They have a perspective and knowledge that is useful to the Commission, and I know it protects my interests.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 31st day of January, 2020.

Katherine J. Eglund
Katherine Eglund

MS PSC List of Matters

| Docket No. | Title of Proceeding | Summary of SC Involvement |
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| <u>01-UN-548</u> | NOTICE OF INTENT OF MISSISSIPPI POWER COMPANY TO CHANGE RATES FOR ELECTRIC SERVICE IN ITS CERTIFICATED AREAS IN THE TWENTY-THREE COUNTIES OF SOUTHEASTERN MISSISSIPPI | Intervened, <u>Intervention Approved</u> . |
| <u>03-UN-898</u> | NOTICE OF INTENT OF MISSISSIPPI POWER COMPANY TO CHANGE RATES FOR ELECTRIC SERVICE IN ITS CERTIFICATED AREAS IN THE TWENTY-THREE COUNTIES OF SOUTHEASTERN MISSISSIPPI | Intervened, <u>Intervention Approved</u> |
| <u>08-AD-477</u> | ORDER ESTABLISHING DOCKET TO CONSIDER STANDARDS ESTABLISHED BY THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007, SECTION 111(d) OF PUBLIC UTILITY REGULATORY POLICIES ACT (16 USC §2621) | Intervened, <u>Intervention Approved</u> , Submitted Comments, Submitted 2 sets of Direct Testimony by 2 Experts, Presented Witness, Testimony at Hearing |
| <u>08-AD-158</u> | PROCEEDING TO REVIEW STATEWIDE ELECTRIC GENERATION NEEDS | Direct and Reply Testimony, including exhibits, of: <u>-Preliminary Testimony - Carl Pechman/Reply Testimony - Pechman,</u> <u>-Preliminary Testimony - William Steinhurst/Steinhurst Reply Testimony,</u> <u>-Reply Testimony Ezra Hausman, and</u> <u>-Preliminary Testimony Hale Powell/Reply Testimony Powell;</u> Sierra Club Closing Argument (pt 1, 2) |
| <u>09-UA-14</u> | PETITION OF MISSISSIPPI POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE ACQUISITION, CONSTRUCTION, AND OPERATION OF AN ELECTRIC GENERATING PLANT, ASSOCIATED TRANSMISSION FACILITIES, ASSOCIATED GAS PIPELINE FACILITIES, ASSOCIATED RIGHTS-OF-WAY, AND RELATED FACILITIES IN KEMPER, LAUDERDALE, CLARKE, AND JASPER COUNTIES, MISSISSIPPI | Intervened, <u>Intervention Approved</u> , Submitted a series of data requests, testimony, motions, expert testimony and cross-examination at hearing, briefing and appeal of decision to Mississippi Supreme Court |
| <u>10-UA-279</u> | PETITION OF MISSISSIPPI POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE ACQUISITION, CONSTRUCTION AND OPERATION OF ENVIRONMENTAL CONTROL EQUIPMENT AND | Intervened, <u>Intervention Approved</u> , Filed data requests and motions, expert testimony and cross-examination at hearing, briefing |

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| | RELATED FACILITIES ON THE VICTOR J. DANIEL ELECTRIC GENERATING FACILITY IN JACKSON COUNTY, MISSISSIPPI | |
| <u>10-AD-259</u> | PROPOSAL OF THE MISSISSIPPI PUBLIC SERVICE COMMISSION TO AMEND THE PUBLIC UTILITIES RULES OF PRACTICE AND PROCEDURE CONCERNING FILING OF CONFIDENTIAL INFORMATION | Filed Petition to Intervene, <u>Limited Intervention Allowed</u> (unable to provide testimony/cross examine) |
| <u>10-AD-2</u> | ORDER ESTABLISHING DOCKET TO INVESTIGATE THE DEVELOPMENT AND IMPLEMENTATION OF ENERGY EFFICIENCY PROGRAMS AND STANDARDS. | Filed Petition to Intervene, <u>Intervention Approved</u> , Filed 3 Sets of Comments (3/22/2010, 9/16/2011, 2/1/2013), 1 Response to Entergy's Motion, 1 Set of Public Comments, & 1 Request for Discovery/Rebuttal Comments |
| <u>11-AD-2</u> | ORDER ESTABLISHING DOCKET TO INVESTIGATE THE DEVELOPMENT AND IMPLEMENTATION OF NET METERING PROGRAMS AND STANDARDS. | Filed Petition to Intervene, <u>Intervention Approved</u> , Participated in Preliminary Workshop, Filed 5 Rounds of Comments. <u>Final Version - Report</u> |
| <u>13-UA-189</u> | PETITION OF MISSISSIPPI POWER COMPANY FOR FINDING OF PRUDENCE IN CONNECTION WITH THE KEMPER COUNTY INTEGRATED GASIFICATION COMBINED CYCLE GENERATING FACILITY | Filed Petition to Intervene, <u>Intervention Approved</u> , filed motions and <u>Direct/Rebuttal</u> Testimony by 1 Expert (David A. Schlissel), Withdrew Intervention |
| <u>13-UN-39</u> | IN RE: NOTICE OF INTENT OF MISSISSIPPI POWER COMPANY FOR A CHANGE IN RATES TO ESTABLISH A RATE MITIGATION PLAN IN CONNECTION WITH THE KEMPER COUNTY IGCC PROJECT. | Filed Petition to Intervene, <u>Intervention Approved</u> , Withdrew Intervention |
| <u>13-UN-14</u> | NOTICE OF INTENT OF MISSISSIPPI POWER COMPANY FOR A CHANGE IN RATES RELATED TO THE KEMPER COUNTY IGCC PROJECT | Filed Petition to Intervene, <u>Intervention Approved</u> , Filed motions |
| <u>14-AD-165</u> | THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S PROPOSED RULE ON CARBON DIOXIDE EMISSIONS FROM EXISTING FOSSIL-FUEL FIRED ELECTRIC GENERATING UNITS UNDER SECTION 111(d) OF THE CLEAN AIR ACT. | Filed Petition to Intervene, <u>Intervention Approved</u> , Submitted 1 Round of <u>Comments</u> |

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| <u>14-UN-10</u> | NOTICE OF INTENT OF MISSISSIPPI POWER COMPANY TO ESTABLISH THE ENERGY EFFICIENCY QUICK START PLAN AND COST RECOVERY RATE CLAUSE | Filed Petition to Intervene, <u>Intervention Denied</u> |
| <u>14-UA-18</u> | APPLICATION FOR APPROVAL OF ENERGY EFFICIENCY QUICK START PORTFOLIO PLAN | Filed Petition to Intervene, <u>Intervention Denied</u> |
| <u>16-UN-32</u> <u>16-UN-33</u> <i>(Consolidated)</i> | NOTICE OF INTENT OF MISSISSIPPI POWER COMPANY TO ESTABLISH THE RENEWABLE NET METERING ENERGY RATE | Filed Petition to Intervene, <u>Intervention Denied</u> |
| <u>17-AD-112</u> | ENCOURAGING STIPULATION OF MATTERS IN CONNECTION WITH THE KEMPER COUNTY IGCC PROJECT. | MS Chapter Filed Petition to Intervene, <u>Intervention Approved</u> , Filed 2 data requests (<u>1</u> , <u>2</u>), Submitted 2 sets of Testimony with <u>1 Expert Witness</u> , Filed <u>1 Round of Comments</u> and <u>1 Statement of Issues</u> |
| <u>18-AD-64</u> | COMMENTS ON ORDER ESTABLISHING DOCKET TO INVESTIGATE THE DEVELOPMENT AND IMPLEMENTATION OF AN INTEGRATED RESOURCE PLANNING RULE | Filed Petition to Intervene, Filed 3 Rounds of Comments <u>Final Order</u> |
| <u>19-UA-116</u> | PETITION OF MISSISSIPPI POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ENVIRONMENTAL COMPLIANCE ACTIVITIES AUTHORIZING THE CLOSURE OF THE ASH POND, CONSTRUCTION OF LOW VOLUME WASTEWATER TREATMENT FACILITIES, AND CONVERSION OF BOTTOM ASH COLLECTION FACILITIES FOR THE PLANT VICTOR J..DANIEL ELECTRIC GENERATING FACILITY IN JACKSON COUNTY,MISSISSIPPI | Filed Petition to Intervene, <u>Intervention Approved</u> , Filed Motion to Require Supplementation of the Order & Revised Scheduling Order, Filed Comments on Proposed Order, Filed Expert Testimony by 1 Expert. <u>Final Order</u> |
| <u>19-UA-231</u> | MISSISSIPPI POWER COMPANY'S NOTICE OF IRP CYCLE PURSUANT TO COMMISSION RULE 29 | Filed Petition to Intervene |
| <u>19-UA-232</u> | ENTERGY MISSISSIPPI, LLC'S NOTICE OF IRP CYCLE PURSUANT TO COMMISSION RULE 29 | Filed Petition to Intervene |