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BEFORE THE ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF ENTERGY ARKANSAS,)
INC.'S REQUEST FOR A DECLARATORY)
ORDER APPROVING THE ADDITION OF THE)
ENVIRONMENTAL CONTROLS PROJECT AT)
THE WHITE BLUFF STEAM ELECTRIC)
STATION NEAR REDFIELD, ARKANSAS)

FILED
DOCKET NO. 09-024-U

PETITION TO INTERVENE

The Sierra Club and National Audubon Society, d/b/a Audubon Arkansas, (collectively "Petitioners") hereby request leave to intervene in the above-captioned proceeding based on the following:

1. On March 27, 2009, Entergy Arkansas, Inc. ("EAI") filed a request for declaratory relief pursuant to the Public Service Commission's general authority under the Arkansas Code to regulate the electric utilities in the state. (AR Code Section 23-2-301.) Specifically, EAI seeks a declaration from the Commission that an expenditure of \$1.04 billion to retrofit its coal-fired White Bluff Steam Electric Station is in the public interest. (EAI Petition for Declaratory Order, at p. 4.) EAI seeks approval for the retrofit work because the White Bluff plant currently does not comply with federal Clean Air Act requirements to improve and protect air quality in national parks and wilderness areas by limiting the facility's emissions of NOx and SO2 by 2013. (EAI Petition, at p. 6.)

2. In order to comply with the Clean Air Act, the proposed Environmental Controls Project ("Project") would involve extensive work to retrofit the plant's boilers with low NOx burners and installation of separated overfire air panels for NOx removal. For SO2 abatement, Entergy proposes to install flue gas desulfurization technology for both units. The Commission's Project approval would also authorize EAI to construct a railroad spur line for lime deliveries by

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rail and include ancillary equipment for lime material handling and storage, lime slaking and ash material handling and storage. (EAI Petition, at p. 7.) This is a significant endeavor that may have far reaching environmental effects.

3. According to EAI, the Project is in the public interest because, absent the retrofit work, the company would have to build additional generating capacity in the form of new coal, natural gas or nuclear power plants in order to meet baseload, or purchase replacement power. According to the petition, implementation of any of these alternatives would come at greater expense to rate payers. (EAI Petition, at p. 10.)

4. Under the Commission's rules, any person having an interest, which may be directly affected by the Commission's action, may petition the Commission to intervene so long as that interest is not adequately represented by other parties to the proceeding. (*See* Rules of Practice and Procedure, Rule 3.04.) Petitioners' intervention satisfies these criteria.

5. Sierra Club is one of the oldest conservation groups in the country with over 700,000 members nationally in sixty-four chapters in all fifty states including the District of Columbia and Puerto Rico. Approximately 3,000 Arkansans are members of the Arkansas Chapter of the Sierra Club. Importantly, Sierra Club chapter members are also Entergy customers and rate payers and/or live in the area affected by the Project.

6. Sierra Club participates in Public Service Commission/Public Utility Commission proceedings nationwide, including proceedings involving: public need determinations for new generation and transmission, power plant retrofits, renewable portfolio standards, integrated resource planning, and rate cases.

7. The Sierra Club participates in administrative proceedings nationwide concerning the permitting of new and existing coal-fired power plants. Specific to this docket, Sierra Club

brings technical and economic expertise in evaluating the viability of retrofit projects through expert analyses for air, water and waste permitting proceedings such as PSD, MACT and NPDES determinations.

8. In addition, Sierra Club brings to this docket its unique perspective and experience in advancing technical and regulatory solutions to increasing renewable and demand side energy sources to all regions of the country. Through its Clean Energy Solutions program, Sierra Club has developed expertise that encompasses a broad range of energy concerns that fully complement the myriad of technical and policy issues parties will face in this proceeding. Sierra Club has become a national and regional leader in the effort to reduce individual state's, and thereby the nation's, dependence on fossil fuels. The point of the Sierra Club's work is to affirmatively help develop affordable renewable energy and demand-side management which in turn will reduce the need for fossil-fueled power plants. This objective has the added benefit of creating well-paying, permanent jobs. Sierra Club is also a party to the SWEPCO rate case, Docket No. 09-008-U.

9. The National Audubon Society has more than one million members and supporters in twenty-three states, and has a presence in all fifty states through more than four hundred and fifty certified chapters and through its nature centers, sanctuaries, and education and science programs. The National Audubon Society participates in public proceedings focusing on energy conservation and renewable energy nationwide, including Arkansas. Indeed, it is a party to two current Commission dockets, the SWEPCO rate case, Docket No. 09-008-U, and the Innovative Ratemaking Proceeding, Docket No. 08-137-U. Audubon Arkansas serves as the state office of the National Audubon Society. Audubon Arkansas has more than 3,500 members

with nine local Audubon chapters, many of whom are Entergy customers and rate payers and/or live in the area affected by the Project.

10. Petitioners' have reviewed all of EAI's evidentiary support for its petition. According to EAI, the retrofit Project is the most cost effective option of the alternatives it evaluated. (EAI Petition, at p. 10.) However, the Company simply evaluated construction of new natural gas, coal or nuclear generating capacity. (*Id.*) This narrow range of alternatives skewed the actual economic merits of the Project. For example, as a party to the proceeding, Petitioners would evaluate other alternatives such as building less new fossil-fuel generation and making up the increment with renewables and efficiency. Similarly, Petitioners would bring their technical and economic expertise to evaluate the resource and cost efficiencies associated with EAI ramping up some of its currently underutilized capacity. For instance, it is Petitioners' understanding that EAI operates several natural gas plants in Arkansas that are either offline or operate at a fraction of permitted capacity. These underutilized plants include the Willow Glen, Lake Catherine, Lynch and Mabelvale facilities. Petitioners are not advocating any particular resource mix or alternative at this time, we simply endorse a robust examination of viable options.

11. Based on the foregoing, Petitioners have demonstrated a unique interest in the outcome of this proceeding. In addition, the interests of Petitioners differ significantly from other parties to this proceeding and cannot be adequately represented by any existing or future participant, given the unique nature of their interests. To date, no other party has alleged an environmental interest as the basis for their request to intervene. And neither the Commission staff nor the Attorney General's office will marshal the same level of environmental expertise, if any, as Petitioners. (*See, e.g.*, Attorney General's response to the Commission's Order No. 7 in

Docket No. 09-008-U, "It is the AG's view that petitioners [Sierra Club and Audubon] have articulated interests which are distinct from those of the general body of ratepayers, represented by the AG.") Allowing petitioners to intervene will serve the public interest because no other party to this proceeding has the capacity or the incentive to assure that Petitioners' concerns are addressed. Finally, the other parties may have interests that are adverse to the Petitioners.

12. Pursuant to Rule 2.03 of the Commission's *Rules of Practice and Procedures*, the following persons should be included on the official service list in this proceeding and all communications concerning this matter should be addressed to the following persons:

Gloria D. Smith
Sierra Club Law Program
85 Second Street
San Francisco, CA 94105
415.977.5532 phone
415.977.5793 fax
gloria.smith@sierraclub.org

Joanne Spalding
Sierra Club Law Program
85 Second Street
San Francisco, CA 94105
415.977.5725 phone
415.977.5793 fax
joanne.spalding@sierraclub.org

WHEREFORE, Petitioners request that they be permitted to intervene as a party in this proceeding, with all rights attendant thereto.


Respectfully submitted,



Gloria D. Smith
Sierra Club, senior staff attorney

CERTIFICATE OF SERVICE

I, Violet Lehrer, do hereby certify that on the 7th of August, 2009, a true and correct copy of the foregoing Petition to Intervene was electronically mailed to all parties on the service list for this docket.


Violet Lehrer