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COURT OF APPEALS

**COMMONWEALTH OF KENTUCKY
COURT OF APPEALS
2013-CA-001695**

**APPEAL FROM THE FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 11-CI-01613**

LOUISVILLE GAS AND ELECTRIC COMPANY

APPELLANT

V.

KENTUCKY WATERWAYS ALLIANCE,
SIERRA CLUB, VALLEY WATCH,
SAVE THE VALLEY, AND
ENERGY AND ENVIRONMENT CABINET

APPELLEES

**MOTION BY THE KENTUCKY
CHAMBER OF COMMERCE AND THE
CHAMBER OF COMMERCE OF THE UNITED
STATES OF AMERICA TO FILE AMICUS BRIEF**

Comes the Kentucky Chamber of Commerce (the “Kentucky Chamber”) and the Chamber of Commerce of the United States (the “U.S. Chamber”) (collectively “*Amici*”) and pursuant to CR 76.12(7) hereby move this Court for leave to file a brief as *Amici Curiae*. In support of this Motion, *Amici* hereby state and allege as follows:

The Kentucky Chamber is a business trade organization located in Frankfort, Kentucky, which represents the interests of over ninety thousand Kentucky businesses, of all sizes, sectors, and regions in the Commonwealth.

The U.S. Chamber is the world’s largest business federation. It represents 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country including Kentucky. It regularly advocates on issues of vital concern to the business

community, including issues relating to the integrity and the implementation of the Clean Water Act, 33 U.S.C. § 1251 et seq., and it frequently participates as *amicus curiae* in federal and State courts.

Amici together represent a broad spectrum of U.S. and Kentucky businesses that will be adversely affected by the September 10, 2013 Opinion and Order of the Franklin Circuit Court (the “Order”). Many of their members are regulated under the Clean Water Act, in Kentucky and elsewhere, and have a strong interest in the consistent, efficient, and predictable implementation of the law and in the integrity of existing permits. Therefore, they are uniquely positioned to provide additional insight to this Court on the full impact that this Order will have on their members.

Amici seek to assist this Court in its review of the Order, and, if granted leave to file the accompanying Brief, will urge this Court to reverse it. *Amici* believe that the Franklin Circuit Court incorrectly interpreted and applied the Clean Water Act and related Commonwealth law regarding standards for wastewater discharge permits, contrary to competent judicial authorities and long-standing regulatory practice, thereby upsetting a national regulatory program. As a result, the Order adversely affects the interests of a broad array of Kentucky businesses, manufacturers, coal producers, local governments, and others who currently hold or must obtain wastewater discharge permits. The Order, if allowed to stand, will cost Kentucky jobs.

For these reasons, *Amici* respectfully request that the Court grant the instant Motion and provide them with leave to file the Brief tendered herewith.

Respectfully Submitted,


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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to File Amicus Brief and Amicus Brief was mailed via United States Mail, postage prepaid to: Joe F. Childers, Joe F. Childers & Associates, The Lexington Building, 201 West Short Street, Suite 300, Lexington Kentucky 40507; Nathaniel Shoaff, Andrea Issod, Sierra Club, 85 Second Street, Second Floor, San Francisco, CA 94105; Mary A. Stephens, Energy and Environment Cabinet, Office of General Counsel, 200 Fair Oakes Lane, Frankfort, KY 40601, Counsel for Appellees; John C. Bender, R. Clay Larkin, Bingham Greenebaum Doll LLP, 300 W. Vine Street, Suite 1100, Lexington, KY 40507; Sheryl G. Snyder, Jason P. Renzelmann, Frost Brown Todd LLC, 400 West Market Street, 32nd Floor, Louisville, Kentucky 40202-3363, Counsel for Appellant; and Honorable Phillip Shepherd, Chief Circuit Judge, Franklin County Courthouse, 222 St. Clair Street, P.O. Box 678, Frankfort, KY 40602-0678 this 14 day of March, 2014. The undersigned also certifies that it did not withdraw the record on appeal from the Clerk's office.


Counsel for *Amici Curiae*