

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF KENTUCKY	)	CASE NO.
POWER COMPANY ROCKPORT DEFERRAL	)	2022-00283
MECHANISM	)	

ORDER

On November 1, 2022, Kentucky Power Company (Kentucky Power) filed a motion requesting that two of its witnesses, Heather M. Whitney and Allyson L. Keaton, be permitted to appear virtually at the November 28–29, 2022 hearing scheduled in this case. Additionally, Kentucky Power requested that one of its attorneys, Christen M. Blend, be permitted to participate virtually at the November 28–29, 2022 hearing.

In support of its motion, Kentucky Power argued that Ms. Whitney, Ms. Keaton, and Ms. Blend reside outside of Kentucky and travel to the hearing is problematic due to the ongoing COVID-19 pandemic. Kentucky Power stated that neither witness provided direct testimony or is expected to provide rebuttal testimony. Kentucky Power stated that Ms. Whitney sponsored a total of 12 responses to requests for information and Ms. Keaton sponsored one response. Kentucky Power also noted the witness that provided testimony, Brian K. West, and its other attorneys in this case will appear in person at the hearing. Finally, Kentucky Power stated that Ms. Whitney, Ms. Keaton, and Ms. Blend are equipped with the technology necessary to participate virtually and that they would participate in a test of technology with Commission Staff to ensure that their audio and video capabilities are sufficient. Kentucky Power argued that allowing Ms. Whitney and

Ms. Keaton to testify virtually and allowing Ms. Blend to participate virtually would not prejudice the Commission or any other party.

Based upon the motion and being otherwise sufficiently advised, the Commission finds that Kentucky Power's motion should be denied with respect to Ms. Whitney. When a utility submits witness testimony or when a utility witness sponsors responses to data requests in a case, the witness is expected to be available to testify at any Commission hearing in that case. Such witnesses are integral to the investigation of case. Additionally, the Commission expects counsel and witnesses to participate in person at any hearing but will consider motions for virtual participation for counsel and witnesses who can establish good cause to participate virtually.<sup>1</sup>

Taken alone, residency in another state has not been treated as good cause to excuse in person attendance by a witness.<sup>2</sup> Further, Ms. Whitney sponsored, or co-sponsored, 12 of 28 responses to requests for information, and many of the responses that Ms. Whitney co-sponsored contained subparts but do not identify which witness sponsored each respective subpart. While Kentucky Power has stated that Mr. West will participate in person at the hearing, it is not clear how much detail he would be able to provide to clarify any responses that Ms. Whitney either sponsored or co-sponsored. Thus, the Commission finds that Kentucky Power failed to establish good cause to permit

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<sup>1</sup> See Case No. 2021-00365, *Electronic Application of Kenergy Corp. for a Certificate of Public Convenience and Necessity for the Construction of a High-Speed Fiber Network and for Approval of the Leasing of the Network's Excess Capacity to an Affiliate to be Engaged in the Provision of Broadband Service to Unserved and Underserved Households and Businesses of the Commonwealth* (Ky. PSC Mar. 17, 2022), Order; see also Case No. 2021-00481, *Electronic Joint Application of American Electric Power Company, Inc., Kentucky Power Company and Liberty Utilities Co. for Approval of the Transfer of Ownership and Control of Kentucky Power Company* (Ky. PSC Mar. 10, 2022), Order.

<sup>2</sup> See Case No. 2021-00365, (Ky. PSC Mar. 17, 2022), Order.

Ms. Whitney to participate virtually at the hearing, and accordingly, finds that Kentucky Power's motion should be denied with respect to Ms. Whitney.

Conversely, the Commission finds that Kentucky Power has established good cause to permit Ms. Keaton and Ms. Blend to participate remotely at the hearing, and therefore, finds that Kentucky Power's motion should be granted with respect to Ms. Keaton and Ms. Blend considering the anticipated limited level of their involvement in the November 28-29, 2022 hearing. However, to avoid potential issues at the hearing, the Commission finds that Ms. Keaton and Ms. Blend should conduct a test of technology with Commission Staff before the hearing to ensure that their audio and video capabilities are sufficient and that each person participating virtually should use a separate device with audio capabilities.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion for Allyson L. Keaton and Christen M. Blend to participate remotely at the November 28–29, 2022 hearing is granted
2. Kentucky Power's motion for Heather M. Whitney to participate virtually in November 28–29, 2022 hearing is denied.
3. Commission Staff shall contact Kentucky Power with instructions for conducting a test of technology and participating remotely in the hearing for Ms. Keaton and Ms. Blend.
4. Each counsel attending via conference and each witness, when offering testimony via video conference, shall appear using a separate device with audio and video capabilities.

PUBLIC SERVICE COMMISSION

  
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Chairman

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Vice Chairman

  
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Commissioner



ATTEST:

  
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Executive Director

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