

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)	
KENTUCKY, INC. FOR (1) AN ADJUSTMENT OF)	
ELECTRIC RATES; (2) APPROVAL OF NEW)	CASE NO.
TARIFFS; (3) APPROVAL OF ACCOUNTING)	2022-00372
PRACTICES TO ESTABLISH REGULATORY)	
ASSETS AND LIABILITIES; AND (4) ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	

ORDER

On April 13, 2023, Kentucky Broadband and Cable Association (KBCA) filed a motion seeking to allow virtual participation of KBCA's witnesses, Patricia Kravtin and Jason Keller, and KCBA's counsel at the May 9, 2023, through May 12, 2023, hearing scheduled in this case.

As a basis for its motion, KBCA stated that its witness, Ms. Kravtin, will be traveling back to the United States on the first day of the hearing. KBCA further stated that Ms. Kravtin planned the trip prior to being retained as a witness in this case.

Regarding Mr. Keller, KBCA argued that he should be allowed to participate virtually because, while Mr. Keller sponsored responses to information requests, he did not provide written testimony. KBCA further argued that if the Commission requires Mr. Keller to participate as a witness at the hearing, then he should be allowed to participate virtually because KBCA does not anticipate calling Mr. Keller as a witness.

Regarding its counsel, KBCA requested that its lead counsel be allowed to participate virtually because lead counsel resides outside of Kentucky. KBCA stated that

its Kentucky-based counsel will participate in person, but also requested that “its counsel” be allowed to participate virtually in multiple requests in the motion.¹

KBCA maintained that allowing its witnesses and its counsel to participate virtually will save significant time and expense for KBCA that would otherwise be necessary for each person to participate in person for the hearing. KBCA asserted that its witnesses and counsel have access to the technology necessary to appear virtually and offered to test its technology with Commission Staff prior to the hearing.

Based upon the motion and being otherwise sufficiently advised, the Commission finds that KBCA has not established good cause to allow Patricia Kravtin to participate virtually. Although the KBCA implied in its motion it was unaware witnesses would be required to participate in person until March 23, 2023, the Order establishing the procedural schedule issued by the Commission on December 19, 2022, set forth the expectation that witnesses shall participate in person at the hearing.² Ms. Kravtin will be available and is expected to testify in person. As to Mr. Keller, although he sponsored responses to information requests and thus subject to the same expectation set forth in the Commission’s March 23, 2023 Order, his responses were limited to confirming that KBCA engaged Ms. Kravtin as a witness and confirmed that KBCA does not have agreements with any other entity regarding this case. Based on Mr. Keller’s limited responses and participation, the Commission finds that KBCA has established good cause to grant the motion; therefore, Mr. Keller’s should be allowed to appear virtually appearance at the hearing.

¹ See KBCA’s Motion to Appear Virtually (filed Apr. 13, 2023), at 1, 3.

² Order (Ky. PSC Dec. 19, 2022), ordering paragraph 8.

As to KBCA's counsel, the Commission notes that five counsel are representing KBCA in this matter: two Kentucky-based counsel and three Washington, D.C.-based counsel. The Commission further notes that KBCA's motion does not identify which counsel are requested to participate virtually and which may participate in person. Consistent with practice for in-person hearings, such as this hearing, the Commission finds that any counsel who will actively participate in cross-examination of any witness should appear in person. For that reason, the Commission finds that local counsel should appear in person as stated in the request for virtual participation. Saving money and time, in and of themselves, does not constitute good cause to grant a motion for virtual participation. For that reason, the Commission further finds that any counsel based outside of Kentucky who plans to cross-examine witnesses should attend the hearing in person. Finally, the Commission finds that any counsel who does not plan to actively participate in the hearing may appear virtually at the hearing.

IT IS HEREBY ORDERED that:

1. KBCA's motion is denied in part and granted in part.
2. Patricia Kravtin shall participate in person at the May 9, 2023, through May 12, 2023, hearing.
3. Jason Keller may participate virtually in the May 9, 2023, through May 12, 2023, hearing.
4. Local counsel for KBCA shall participate in person at the May 9, 2023, through May 12, 2023, hearing.
5. All KBCA counsel actively participating in cross-examination of a witness shall participate in person at the May 9, 2023, through May 12, 2023, hearing.

6. KBCA counsel who will not participate in cross-examination of a witness may participate virtually in the May 9, 2023, through May 12, 2023, hearing.

7. KBCA shall notify Commission Staff of the party or parties that will be participating virtually pursuant to this Order within one day of the date of service of this Order.

8. Commission Staff shall contact the participants with instructions for participating remotely.

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PUBLIC SERVICE COMMISSION



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Vice Chairman



Commissioner



ATTEST:



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