

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF KENTUCKY	)	
POWER COMPANY FOR APPROVAL OF A	)	CASE NO.
SPECIAL CONTRACT WITH EBON	)	2022-00387
INTERNATIONAL, LLC	)	

ORDER

This matter arises from two motions filed by parties in this case. On March 22, 2023, Mountain Association (MA), Kentuckians for the Commonwealth (KFTC), Appalachian Citizens' Law Center (ACLC), Sierra Club, and Kentucky Resources Council, Inc. (KRC) (collectively, Joint Intervenors), filed a motion requesting the Commission to schedule a hearing in this proceeding.<sup>1</sup> On March 24, 2023, Kentucky Power filed a motion requesting to strike portions of Joint Intervenors' motion. On March 27, 2023, Joint Intervenors filed a response to Kentucky Power's motion. The Commission will issue a decision regarding the request for hearing in a separate Order.

In their motion, Joint Intervenors set forth multiple arguments why Kentucky Power had not met its burden of proof in this matter and requested a hearing, pursuant to the procedural date for parties to either request a hearing or request to submit the matter for a decision on the written record.

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<sup>1</sup> On March 16, 2023, the Attorney General and Kentucky Industrial Utility Customers (KIUC) (jointly, Attorney General/KIUC) also filed a request that a hearing be scheduled. On March 20, 2023, Kentucky Power filed a response stating that it did not object to Attorney General/KIUC's request, and that Kentucky Power would not make a separate filing requesting to schedule a hearing.

In Kentucky Power's motion filed in response to Joint Intervenors, Kentucky Power argued that Joint Intervenors' motion was an unfair attempt to brief issues presented in the case; inappropriately injected into this proceeding issues arising from a different case, Kentucky Power's integrated resource plan filed in Case No. 2023-00092;<sup>2</sup> and violated the procedural schedule.

In their response, Joint Intervenors asserted that the procedural schedule did not limit what arguments could be raised to support the request for a hearing, and that Kentucky Power did not cite to any authority to grant the motion to partially strike.

Having reviewed the motion and response, and being otherwise sufficiently advised, the Commission finds that Kentucky Power's motion to partially strike should be denied. This is because no restrictions were placed on the content of a request or motion for hearing, only that the parties could request a hearing or request that a decision be made on the written record by a date certain. More importantly, the Commission has a statutory duty to weigh the evidence and make findings of fact, and then render conclusions of law based upon the evidence presented. Thus, the Commission is the arbiter and will reach a decision after consideration of evidence and legal arguments presented in the case record.<sup>3</sup>

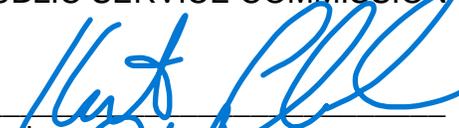
IT IS THEREFORE ORDERED that Kentucky Power's motion to strike is denied.

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<sup>2</sup> Case No. 2023-00092, *Electronic 2022 Integrated Resource Planning Report of Kentucky Power Company* (filed Mar. 20, 2023).

<sup>3</sup> See Case No. 2015-00283, *Application of Windstream Communications, Inc. for a Declaratory Order Affirming that the Interconnection Regimes under KRS 278.530 and 47 U.S.C. § 251 are Technology Neutral* (Ky. PSC Aug. 6, 2018), Order.

PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Vice Chairman

  
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Commissioner

ENTERED  
MAY 15 2023  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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