

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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	)	CASE NO.
LEASING OF THE NETWORK'S EXCESS	)	2021-00365
CAPACITY TO AN AFFILIATE TO BE ENGAGED	)	
IN THE PROVISION OF BROADBAND SERVICE	)	
TO UNSERVED AND UNDERSERVED	)	
HOUSEHOLDS AND BUSINESSES OF THE	)	
COMMONWEALTH	)	

ORDER

On March 14, 2022, Kenergy Corp. (Kenergy) filed a motion requesting Commission approval for Kenergy's witness, Jonathan Chambers, to appear remotely at the March 31, 2022 hearing scheduled in this matter. Kenergy stated that it did not object to the hearing being held virtually, and that Mr. Chambers is Kenergy's only out of state witness.

The Commission scheduled this hearing by Order entered December 28, 2022, which scheduled an in person hearing and allowed the parties to file a motion requesting counsel or the party's witnesses to appear remotely.

Based upon a review of the motion and case record, and being otherwise sufficiently advised, the Commission finds that Kenergy failed to establish good cause for its witness, Jonathan Chambers, to appear remotely, and therefore the motion should be denied. To the degree that Kenergy relies on Mr. Chamber's status as a resident of

another state to excuse his in-person participation at the hearing, that is inconsistent with the practice followed by other utilities who make their out-of-state witnesses available to testify in person at Commission hearings. The Commission further states that status as a resident of another state, taken alone, has not been treated as good cause to excuse a witness's in-person attendance. As the Commission stated in a recent Order in Case No. 2021-00481, and consistent with other Orders entered in the past year, the Commission prefers in person testimony, but will consider motions for virtual participation for counsel and witnesses who can establish good cause to participate virtually.<sup>1</sup> Because Kenergy's motion failed to establish good cause, the motion is denied.

Additionally, the Commission expects that counsel for jurisdictional utilities, especially counsel who regularly practice before the Commission such as Kenergy's counsel, will comply with Commission regulations. Commission regulation 807 KAR 5:001, Section 8(5) requires a party who is electronically filing a document to include a cover letter named "Read 1st" and sets forth what information should be included in the Read 1st cover letter. Because Kenergy's counsel has not complied with this regulation in recent filings, the Commission puts Kenergy's counsel on notice that future filings may be rejected for failing to comply with electronic filing procedures, including but not limited to the requirement to file a Read 1st cover letter with each electronic filing.

IT IS THEREFORE ORDERED that Kenergy's motion for Jonathan Chambers to participate virtually at the March 31, 2022 hearing is denied without prejudice.

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<sup>1</sup> See 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).

By the Commission

ENTERED  
MAR 17 2022 rCS  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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Executive Director

Case No. 2021-00365

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