

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE )  
GAS AND ELECTRIC COMPANY FOR AN )  
ADJUSTMENT OF ITS RATES FOR ELECTRIC )  
AND GAS SERVICE, A CERTIFICATE OF )  
PUBLIC CONVENIENCE AND NECESSITY TO )  
DEPLOY ADVANCED METERING ) CASE NO.  
INFRASTRUCTURE, APPROVAL OF CERTAIN ) 2020-00349  
REGULATORY AND ACCOUNTING )  
TREATMENTS, AND ESTABLISHMENT OF A )  
ONE-YEAR SURCREDIT )

And

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE )  
GAS AND ELECTRIC COMPANY FOR AN )  
ADJUSTMENT OF ITS RATES FOR ELECTRIC )  
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PUBLIC CONVENIENCE AND NECESSITY TO )  
DEPLOY ADVANCED METERING ) CASE NO.  
INFRASTRUCTURE, APPROVAL OF CERTAIN ) 2020-00350  
REGULATORY AND ACCOUNTING )  
TREATMENTS, AND ESTABLISHMENT OF A )  
ONE-YEAR SURCREDIT )

**MOTION OF JOINT INTERVENORS MOUNTAIN ASSOCIATION, KENTUCKIANS  
FOR THE COMMONWEALTH, AND KENTUCKY SOLAR ENERGY SOCIETY TO  
ALLOW VIRTUAL HEARING PARTICIPATION BY EXPERT WITNESSES**

Tom FitzGerald  
Kentucky Resources Council, Inc.  
P.O. Box 1070  
Frankfort, KY 40602  
(502) 551-3675  
[Fitz@kyrc.org](mailto:Fitz@kyrc.org)

Counsel for Joint Intervenors  
Mountain Association, Kentucky  
Solar Energy Society, and  
Kentuckians For The Commonwealth

August 2, 2021

Come the Joint Intervenors Kentucky Solar Energy Society, Kentuckians for the Commonwealth, Mountain Association (Case No. 2020-00349), and Metropolitan Housing Coalition (Case No. 2020-00350), (collectively "Joint Intervenors"), and respectfully move the Public Service Commission ("Commission") to allow Joint Intervenor expert witnesses James Owen and Karl Rábago to testify at the hearing scheduled for August 17 and August 18, 2021, by virtual means rather than in-person attendance at the hearing.

Joint Intervenors believe that there exists good cause to excuse witnesses Owen and Rábago from in-person attendance. As reflected in the attached letter from Witness Owen, he has both health concerns and logistical problems that would make his in-person attendance both unnecessarily risky, but also extremely inconvenient due to family obligations. As witness Owen explains:

I am currently in quarantine, awaiting a test for COVID. There is a real risk that I could become a carrier of the Delta variant and infect citizens of the Commonwealth as a result of exposures I would experience *en route*. I am especially concerned about the high transmissibility of the variant, the need to move through and spend extended time in enclosed spaces.

In addition, in-person appearance raises a significant health risk to me and my family due the current COVID outbreak. I am concerned about the risk that if I acquire a breakthrough case, I will become a carrier of the virus back into my home, my community, and the places I pass through in travel. I have a three-and-a-half-year-old who cannot be vaccinated.

Further, my wife is traveling out of state that very week and I would have to find child care for my daughter. While I understand it is a normal course of action to travel for someone who holds themselves out as an expert witness, I would again note that I have never been cross-examined in any of these proceedings and requiring my presence would be unnecessary.

In addition, actual travel will be quite costly. My clients in this proceeding are not-for-profit organizations with limited budgets. My travel could impose unnecessary financial burdens on these organizations.

Witness Owen received confirmation on August 2, 2021 that he has tested positive for COVID-19, despite having received vaccinations. In-person attendance under such circumstances would place the witness and others at unnecessary risk of exposure and illness.

Similarly, with respect to witness Rábago, there are legitimate health concerns related to in-person attendance and related travel exposures.

As noted in his letter, which is attached to this Motion,

There is a real risk that I could become a carrier of the Delta variant and infect citizens of the Commonwealth as a result of exposures I would experience en route. I am especially concerned about the high transmissibility of the variant, the need to move through and spend extended time in enclosed spaces. In addition, in-person appearance raises a significant health risk to me and my family due to the current COVID-19 outbreak. I am concerned about the risk that if I acquire a breakthrough case, I will become a carrier of the virus back into my home, my community, and the places I pass through in travel. I am 63 years old and my wife is 69, so I am personally concerned about the health risks to my immediate family as well.

In addition, actual travel will be quite costly. My clients in this proceeding are not-for-profit organizations with limited budgets. My travel could impose unnecessary financial burdens on these organizations.

Additionally, in earlier proceedings in both these cases and the recently concluded Kentucky Power Company Case, Case No. 2020-00174, both witnesses Owen and Rábago were able to fully participate and be available for cross-examination and questioning from the Commissioners without problem.

Finally, as noted by witness Rábago, in both the Kentucky Power Company case, No. 2020-00174, and in the initial hearing in these consolidated cases, there were very few questions posed to either of the witnesses by any party. Given the risks of travel, the costs of travel, the very limited cross-examination made of either witness to date in this and in the prior NMS hearing in the Kentucky Power Company case, and the ability to make both witnesses available for affirmation of direct testimony and data responses and for cross-examination, Joint Intervenors respectfully request that both witnesses Owen and Rábago be excused from in-person attendance at the hearing scheduled for August 17-18, 2021 and that provision be made for their virtual participation by Zoom or similar virtual conferencing platform.

Respectfully submitted,



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Tom FitzGerald  
Kentucky Resources Council  
P.O. Box 1070  
Frankfort, KY 40602  
(502) 551-3675

[FitzKRC@aol.com](mailto:FitzKRC@aol.com)

*Counsel for Joint Intervenors,  
Mountain Association, Kentuckians  
for the Commonwealth, and  
Kentucky Solar Energy Society*

CERTIFICATE OF SERVICE

This is to certify that this electronic filing has been transmitted to the Commission on August 2, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that in accordance with the July 22, 2021 Commission Order in Case No. 2020-00085 and notwithstanding 807 KAR 5:001 Section 8(3), no original paper copy of this filing will be filed with the Commission.



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Tom FitzGerald

## Attachment 1

Letter From James Owen



July 29<sup>th</sup>, 2021

Renew Missouri Advocates, Inc.  
409 Vandiver, Building 5, Suite 205  
Columbia, Missouri 65202

Tom Fitzgerald  
Kentucky Resources Council  
Via email: [fitzkrc@aol.com](mailto:fitzkrc@aol.com)

Re: Appearing via Teleconference for the KU-LGE Hearing

To Mr. Fitzgerald,

I would like you to request permission for me to appear virtually (via Zoom or other service) as a witness in the upcoming Supplemental Hearing before the Kentucky Public Service Commission in cases 2020-00349 and 2020-00350.

My experience in prior phases of the proceeding is that my actual time for cross-examination will be very brief. In these cases to date, the utilities have not actually cross-examined me at all.

I am currently in quarantine, awaiting a test for COVID. There is a real risk that I could become a carrier of the Delta variant and infect citizens of the Commonwealth as a result of exposures I would experience *en route*. I am especially concerned about the high transmissibility of the variant, the need to move through and spend extended time in enclosed spaces.

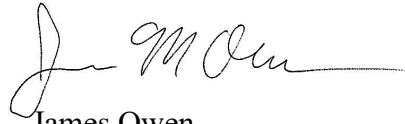
In addition, in-person appearance raises a significant health risk to me and my family due to the current COVID outbreak. I am concerned about the risk that if I acquire a breakthrough case, I will become a carrier of the virus back into my home, my community, and the places I pass through in travel. I have a three-and-a-half-year-old who cannot be vaccinated.

Further, my wife is traveling out of state that very week and I would have to find child care for my daughter. While I understand it is a normal course of action to travel for someone who holds themselves out as an expert witness, I would again note that I have never been cross-examined in any of these proceedings and requiring my presence would be unnecessary.

In addition, actual travel will be quite costly. My clients in this proceeding are not-for-profit organizations with limited budgets. My travel could impose unnecessary financial burdens on these organizations.

Please contact me at 417-496-1924 or [james@renewmo.org](mailto:james@renewmo.org) to discuss the terms of this request in more detail.

*Professionally,*

A handwritten signature in black ink, appearing to read "James Owen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James Owen  
Executive Director, Renew Missouri  
MO Bar #56835  
(417) 496-1924  
[james@renewmo.org](mailto:james@renewmo.org)



Attachment 2  
Letter From Karl Rábago



**RÁBAGO ENERGY LLC**

2025 E. 24<sup>th</sup> Avenue, Denver, Colorado 80205  
TEL 512.968.7543 eMail karl@rabagoenergy.com  
Web [www.rabagoenergy.com](http://www.rabagoenergy.com)

29 July 2021

Tom FitzGerald  
Kentucky Resources Council  
via eMail: fitzkrc@aol.com

Dear Mr. FitzGerald:

I would like you to request permission for me to appear virtually (via Zoom or other service) as a witness in the upcoming Supplemental Hearing before the Kentucky Public Service Commission in cases 2020-00349 and 2020-00350.

My experience in prior phases of the proceeding is that my actual time for cross-examination will be very brief. In these cases to date, the utilities have not actually cross-examined me at all.

There is a real risk that I could become a carrier of the Delta variant and infect citizens of the Commonwealth as a result of exposures I would experience en route. I am especially concerned about the high transmissibility of the variant, the need to move through and spend extended time in enclosed spaces.

In addition, in-person appearance raises a significant health risk to me and my family due to the current COVID-D outbreak. I am concerned about the risk that if I acquire a breakthrough case, I will become a carrier of the virus back into my home, my community, and the places I pass through in travel. I am 63 years old and my wife is 69, so I personally concerned about the health risks to my immediate family as well.

In addition, actual travel will be quite costly. My clients in this proceeding are not-for-profit organizations with limited budgets. My travel could impose unnecessary financial burdens on these organizations.

Thank you for your assistance.

Sincerely,



Karl R. Rábago