

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2021 INTEGRATED RESOURCE)	CASE NO.
PLAN OF DUKE ENERGY KENTUCKY, INC.)	2021-00245

ORDER

On April 29, 2022, and May 2, 2022, respectively, Sierra Club and the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (Attorney General), moved the Commission to allow their counsel to participate at the May 17, 2022 hearing in this matter via video conference. On May 4, 2022, Duke Energy Kentucky, Inc. (Duke Kentucky) moved the Commission to allow certain witnesses to testify at the hearing via video conference and identified certain witnesses whose responses to requests for information could be adopted by other witnesses such that their attendance would not be necessary. No party objected to any of the motions, and they are now before the Commission for a decision on the merits.¹

In support of its motion, Sierra Club stated that it will not be presenting witnesses at the hearing; that its current COVID-19 policy prohibits work-related travel by staff except for extraordinary essential situations; and that its remote attendance will not prejudice the Commission or any party, since they have attended previous hearings remotely without issue. Counsel for the Attorney General, who is also presenting no witnesses, indicated that he has health issues justifying his remote attendance and noted

¹ See Order (Ky. PSC May 2, 2022) (shortening the time to respond to Duke Kentucky's motion based on a discussion at a formal conference).

that such participation would not prejudice the parties because he is equipped to fully participate remotely.

In support of its motion, Duke Kentucky noted that due to the nature of this Integrated Resource Plan (IRP) proceeding that no direct testimony was offered. Duke Kentucky noted that 25 witnesses responded to requests for information but that 18 of those witnesses responded to three or fewer requests (the majority of those responded to only a single request). Duke Kentucky identified seven witnesses (Scott Park, John Swez, Matt Ruscio, Brian Bak, Ben Passty, Bruce Sailors, and Sarah Lawler) responsible for the majority of the responses to the requests for information that it anticipated would respond to the majority of the questions at any hearing and planned to attend the hearing in person. Duke Kentucky identified six witnesses (Adam Nygaard, Trish Haemmerle, David Pitts, Chris Hixon, Michael Pahutski, and Daniel Sympson) whose responses to requests for information Duke Kentucky claimed could be adopted by other witnesses such that their participation at the hearing would not be necessary. Duke Kentucky proposed that the remainder of its witnesses be permitted to attend the hearing virtually to avoid significant travel expense and days away from other work given the limited information they provided and the likelihood that they will be subject to few, if any, questions.²

Given the unique nature and purpose of IRP proceedings, the desire of all parties for some remote attendance and their bases for remote attendance, and the fact that

² The Commission notes that Duke Kentucky listed the witnesses it intends to have appear virtually. However, two of its 25 witnesses (Vicky Sullivan, Public Policy Director, and Matthew Kalemba, Director DET Planning & Forecasting) were not listed among the witnesses Duke Kentucky intends to produce in person or virtually or among the witnesses whose responses Duke Kentucky indicated could be adopted by others. The Commission assumes this was an oversight and that Duke Kentucky is proposing for those witnesses to attend the hearing remotely.

Duke Kentucky will produce the primary witnesses for examination in person, the Commission finds that good cause exists for granting each of the parties motions with respect to remote attendance. The Commission also finds that Duke Kentucky's witnesses' Adam Nygaard, Trish Haemmerle, David Pitts, Chris Hixon, Michael Pahutski, and Daniel Sympson can be excused from attending the hearing, either remotely or in person, based on the limited information they provided, likelihood that those adopting their testimony are familiar with the subject matter, and the unique nature of IRP proceedings, including specifically the fact that no substantive order from the Commission is required in this matter. However, the Commission is excusing those witnesses on the condition, based on Duke Kentucky's representations, that the witnesses adopting the responses will be able to respond to questions relating to the responses of excused witnesses, including questions regarding the bases of such responses or requesting further detail or clarification regarding such responses.

IT IS THEREFORE ORDERED that:

1. Sierra Club's motion that its counsel be permitted to attend the May 17, 2022 hearing remotely is granted.
2. The Attorney General's motion that his counsel be permitted to attend the May 17, 2022 hearing remotely is granted.
3. Duke Kentucky's motion to permit virtual examination of certain witnesses is granted.
4. Sierra Club and the Attorney General may participate in the May 17, 2022 hearing in this matter via video conference.

5. Duke Kentucky's witnesses, other than the seven witnesses identified above that Duke Kentucky indicated would attend in person, may appear at the May 17, 2022 hearing in this matter via video conference.

6. Adam Nygaard, Trish Haemmerle, David Pitts, Chris Hixon, Michael Pahutski, and Daniel Sympson are excused from appearing at the hearing in this matter on the condition that the witnesses adopting their responses to requests for information will be able to respond to questions relating to the responses.

7. Each counsel attending via video conference and each witness, when offering testimony via video conference, shall appear using a separate device with audio and video capabilities.

8. Commission Staff shall provide the parties with details for joining the hearing via video conference.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

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