

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

The Application of Duke Energy)	
Kentucky, Inc., For (1) A Certificate of)	
Public Convenience And Necessity)	
Authorizing the Acquisition of The)	
Dayton Power & Light Company's 31%)	
Interest in the East Bend Generating)	
Station; (2) Approval of Duke Energy)	Case No. 2014-00201
Kentucky, Inc.'s Assumption of Certain)	
Liabilities in Connection with the)	
Acquisition; (3) Deferral of Costs Incurred)	
as Part Of the Acquisition; and (4) All)	
Other Necessary Waivers, Approvals, and)	
Relief.)	

ATTORNEY GENERAL'S INITIAL DATA REQUESTS
PUBLIC REDACTED VERSION

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits these Initial Requests for Information to Duke Energy Kentucky, Inc. [hereinafter referred to as "Duke" or "DEK"] to be answered by the date specified in the Commission's Order of Procedure, and in accord with the following:

(1) In each case where a request seeks data provided in response to a staff request, reference to the appropriate request item will be deemed a satisfactory response.

(2) Please identify the witness who will be prepared to answer questions concerning each request.

(3) Please repeat the question to which each response is intended to refer. The Office of the Attorney General can provide counsel for DEK with an electronic version of these questions, upon request.

(4) These requests shall be deemed continuing so as to require further and supplemental responses if the company receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.

(5) Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

(6) If you believe any request appears confusing, please request clarification directly from Counsel for the Office of Attorney General.

(7) To the extent that the specific document, workpaper or information as requested does not exist, but a similar document, workpaper or information does exist, provide the similar document, workpaper, or information.

(8) To the extent that any request may be answered by way of a computer printout, please identify each variable contained in the printout which would not be self-evident to a person not familiar with the printout.

(9) If the company has objections to any request on the grounds that the requested information is proprietary in nature, or for any other reason, please notify the Office of the Attorney General as soon as possible.

(10) As used herein, the words "document" or "documents" are to be construed broadly and shall mean the original of the same (and all non-identical copies or drafts thereof) and if the original is not available, the best copy available. These terms shall include all information recorded in any written, graphic or other tangible form and shall include, without limiting the generality of the foregoing, all reports; memoranda; books or notebooks; written or recorded statements, interviews, affidavits and depositions; all letters or correspondence; telegrams, cables and telex messages; contracts, leases, insurance policies or other agreements; warnings and caution/hazard notices or labels; mechanical and electronic recordings and all information so stored, or transcripts of such recordings; calendars, appointment books, schedules, agendas and diary entries; notes or memoranda of conversations (telephonic or otherwise), meetings or conferences; legal pleadings and transcripts of legal proceedings; maps, models, charts, diagrams, graphs and other demonstrative materials; financial statements, annual reports, balance sheets and other accounting records; quotations or offers; bulletins, newsletters, pamphlets, brochures and all other similar publications; summaries or compilations of data; deeds, titles, or other instruments of ownership; blueprints and specifications; manuals, guidelines, regulations, procedures, policies and instructional materials of any type; photographs or pictures, film, microfilm and microfiche; videotapes; articles; announcements and notices of any type; surveys,

studies, evaluations, tests and all research and development (R&D) materials; newspaper clippings and press releases; time cards, employee schedules or rosters, and other payroll records; cancelled checks, invoices, bills and receipts; and writings of any kind and all other tangible things upon which any handwriting, typing, printing, drawings, representations, graphic matter, magnetic or electrical impulses, or other forms of communication are recorded or produced, including audio and video recordings, computer stored information (whether or not in printout form), computer-readable media or other electronically maintained or transmitted information, and all other rough drafts, revised drafts (including all handwritten notes or other marks on the same) and copies of documents as hereinbefore defined by whatever means made.


(11) For any document withheld on the basis of privilege, state the following: date; author; addressee; indicated or blind copies; all persons to whom distributed, shown, or explained; and, the nature and legal basis for the privilege asserted.

(12) In the event any document called for has been destroyed or transferred beyond the control of the company, please state: the identity of the person by whom it was destroyed or transferred, and the person authorizing the destruction or transfer; the time, place, and method of destruction or transfer; and, the reason(s) for its destruction or transfer. If destroyed or disposed of by operation of a retention policy, state the retention policy.

(13) Please provide written responses, together with any and all exhibits pertaining thereto, in one or more bound volumes, separately indexed and tabbed by each response, in compliance with Kentucky Public Service Commission Regulations.

Respectfully submitted,

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ATTORNEY GENERAL



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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

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this 28th day of July, 2014



Assistant Attorney General

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1. Refer to page 5 of the application, paragraph 8, which discusses DP&L's intentions to "no longer participate in the joint ownership of East Bend and further, to transfer or sell its ownership interest in East Bend." Please provide all correspondence, announcements, and other documents that evidence this assertion.
2. Refer to page 9 of the application, generally, regarding the relative installed capacity of East Bend being larger than Miami Fort 6 and, therefore, the potential for excess generating capacity as referenced in footnote 19. Explain whether such a scenario, if DEK assumes full ownership of East Bend, will result in wasteful duplication. If not, why not?
3. Refer to page 14 of the application, paragraph 19. During negotiations with DP&L regarding the proposed adjustments to the purchase price of \$12.4 million for a 31% interest in East Bend, did DEK request banding the maximum and minimum adjustments to the price?
 - a. If yes, please provide any and all communications, notes, presentations or other documents referencing such a discussion. If no, please explain why banding the adjustments to stabilize the purchase price was not discussed.
4. Refer to the testimony of Witness Henning at page 20, line 11, referencing East Bend's currently deriving a significant portion of its fuel from Kentucky coal. What exact percentage of East Bend's coal deliveries for calendar years 2010 through 2014 to date were derived from Kentucky coal production?
 - a. Please provide in electronic spreadsheet format (with data in all cells and rows fully intact and accessible, together with formulas), the data upon which DEK relies to determine the percentages per year.
5. Provide a list of companies with whom DEK has current contracts for coal supply to East Bend. For each company listed provide the following information:
 - a. The date the contract was executed and the date it expires;
 - b. The location (including county and state) of the coal company, which is the counterparty to the contract;
 - c. The current and anticipated transport method for delivery to East Bend; and

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- d. The terms of how the coal price will be calculated during the relevant period pursuant to the contract's terms.
6. Reference the Geers testimony at p. 14, wherein Mr. Geers states that if the CSAPR Rule is eventually implemented, the East Bend plant is "well positioned" to comply with the Rule. Please define and discuss what Mr. Geers means by the phrase "well positioned."
 - a. Is it possible the EPA could add additional requirements or strengthen compliance requirements in the final iteration of CASPR? If not, why not?
 - b. Under what scenarios could or might DEK be required to spend additional sums to meet CSAPR compliance? Please discuss in detail.
 7. Reference the Geers testimony in general, and in particular at pp. 14-17. Please describe the impact on the East Bend plant if the EPA adopts an ozone standard of either: (i) 75 ppb, or (ii) any more stringent standard, such as in the range of 60 to 70 ppb.
 - a. On p. 17 of his testimony, Mr. Geeres states that if the greater Cincinnati area is found out of attainment with the EPA ozone standard, that ". . . it is likely that more restrictive NO_x limitations will be imposed upon East Bend [b]ecause East Bend has an SCR, it is well-positioned to comply with such limits." Please identify and discuss what Mr. Geers means by "well-positioned."
 - (i) If East Bend's SCR cannot achieve the limitations imposed on the station, describe what measures DEK would or might have to take to meet compliance.
 8. Reference the Immel testimony at p. 15, wherein he states that ". . . in anticipation of tighter NO_x emission limits from either CSAPR implementation or ozone NAAQS, the Company projects a need to upgrade the existing SCR system to remove additional NO_x emissions." Provide an approximate cost estimate for this upgrade. If there is any difference in cost based on the compliance standards that might have to be met (i.e., ozone at 60 ppb, and at 70 ppb), provide the estimates on the basis of both these standards.
 9. Reference the Geers testimony at p. 11, wherein he states that the combination of a wet FGD and SCR reduces mercury, and "only minor process changes and/or

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minor chemical addition systems" will be required at the East Bend plant to meet the MATS mercury standard on a continuing basis.

- a. Please describe the minor process changes and/or minor chemical addition systems in more detail.
- b. If DEK should conclude that an upgrade to East Bend's existing SCR system is required to achieve compliance with anticipated tighter NO_x emission limits, as described in question number 3, above, would or could that upgrade remove enough mercury to achieve compliance with the MATS mercury standard?
- c. Please provide an approximate cost estimate for these minor process changes and/or minor chemical addition systems on an annual basis.

10. Reference the Wathen testimony at pp. 13-14, wherein he states that the 2011 Sargent & Lundy study estimated demolition costs of Miami Fort 6 at approximately \$4.3 million (2011 dollars), and that although depreciation expenses for the demolition have been recovered in base rates since the date DEK obtained the plant, the company ". . . will evaluate whether additional recovery is necessary for retirement when the actual retirement costs are determined." Please state:

- a. when the company will know if such additional recovery is necessary;
- b. if any additional recovery is necessary, how much; and
- c. how and when the company will notify the Commission and the Attorney General of that determination.

11. Reference the Immel testimony at p. 8, wherein he references the Spring 2014 planned outage for East Bend.

- a. In addition to the maintenance items Mr. Immel described on pp. 8-9, were any other maintenance-related issues identified since the date that his testimony was filed?
- b. Have the boiler issues been resolved? If not, please elaborate and provide estimates for when they should be completed, together with cost estimates for each such item.
- c. Is East Bend currently back on-line? If so, when did it return on line?
- d. Are any additional maintenance measures needed on the boiler or elsewhere in the plant?

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- e. Were any other issues identified during the Spring 2014 planned outage? If so, please describe in detail.

12. Reference the Immel testimony at p. 15, lines 5-12, wherein he states that with regard to the CCR Rule, DEK foresees a potential need to close East Bend's existing bottom ash pond and convert the plant to dry bottom ash handling, in addition to the existing dry fly ash handling.

- a. Please provide a cost estimate for these changes.
- b. Regardless of whether the final CCR Rule adopts Subtitle C or Subtitle D, if DEK decides to close the pond, describe what measures would have to be taken with the remaining ash at the bottom of the pond, together with any and all other measures that would have to be taken at the site of the ash pond in order to achieve compliance with the CCR Rule, and any and all other federal and state environmental regulations.
- c. Is the pond currently lined?
 - (i) If so, is the lining in compliance with the CCR Rule?
 - (ii) If the pond is not lined or if the lining is not compliant with the CCR Rule, and if the final CCR Rule adopts Subtitle D, would the cost of permanently closing the pond, removing the ash and placing it into compliant landfills be less than the option of removing the existing ash in the pond, placing it into compliant landfills, and then installing a compliant lining in the pond and begin reusing the pond?
 - (iii) Please provide an approximate cost estimate for achieving compliance under both potential options in subpart (ii), above.
 - (iv) Please confirm that FGD byproducts are not stored in the pond.
- d. When an ash pond is dewatered, describe what is done with the water that once was in the pond.
- e. Provide the approximate distance of the ash pond from the Ohio River.
- f. Is the ash pond located within the flood plane? If so, identify the flood plain year (i.e., the 100-year flood plain, etc.).
- g. Provide the approximate height and length of the dike (or dam) for the East Bend pond.
 - (i) How frequently is the dike/dam inspected? Provide a copy of the most recent inspection report.

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- (ii) Are there any inspection protocols or regulations pertaining to dikes/dams for such as ponds? If so, please provide citations.
 - (iii) When was the last time an engineering study was performed on the dike/dam? Provide a copy of the most recent such study.
 - (iv) Of what material(s) is the dike/dam composed?
 - h. Do any pipes or culverts run underneath the pond? If so:
 - (i) Of what material(s) is the pipe/culvert composed?
 - (ii) Can any of the chemicals in the wet ash corrode any of the material(s) of which the pipe/culvert is composed?
 - (iii) If the pipe/culvert were to leak, where would the fluids from the pipe/culvert's discharge flow to?
 - (iv) When was the last time the pipe/culvert was inspected? Please provide a copy of such report.
 - (v) How old is the pipe/culvert?
 - i. Please provide a copy of the NPDES permit of which Mr. Geers speaks on p. 25, lines 11-13 of his testimony. Have there ever been any discharges from the ash pond into the Ohio River which were not compliant with the terms of the NPDES permit? If so, provide dates, and any regulatory actions resulting therefrom, including but not limited to any fines which may have been imposed.
 - j. Has DEK implemented, or considered implementing, any changes in how it manages the East Bend ash pond since the time that Duke Energy Carolinas announced it would engage in a near-term engineering review of its ash ponds located in North Carolina, and that the company is developing a comprehensive longer-term ash basin strategy including a review of the effectiveness of ash storage management and practices? If so, please describe. If not, why not?
 - k. Has DEK implemented, or considered implementing, any changes in how it manages the East Bend ash pond since the 2008 TVA coal ash pond collapse? If so, please describe. If not, why not?
 - l. Has DEK, or any parent or affiliate located in the Duke Energy Midwest Region, engaged in any engineering study(ies) similar to Duke Energy Carolinas' comprehensive longer-term ash basin strategy including a review of the effectiveness of ash storage management and practices? If so, please describe and provide a copy of all such studies.
13. Reference the Geers testimony at p. 22, lines 15-16 wherein he speaks of the need to install "balance-of-plant" waste water treatment systems at East Bend to

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achieve compliance with the EPA's Effluent Guidelines and CCR Rule. Please explain the term "balance-of-plant," and provide an approximate cost estimate for installation of such facilities at East Bend.

14. With regard to the ash landfills at the East Bend facility:

- a. How close is each landfill (including the proposed new West Landfill) to the Ohio River?
- b. Do any such landfills lie within the flood plain? If so, please identify the flood plain year (i.e., the 100-year flood plain, etc.).
- c. Are the existing landfills lined?
 - (i) If so, does the lining for each landfill comply with the CCR Rule?
 - (ii) If not, does DEK foresee a need or potential need to line one or more of the landfills? Provide a cost estimate to achieve compliance.
- d. Does DEK believe it will be necessary to line the proposed new West Landfill? If so, please explain why and provide an approximate cost estimate.
- e. Do any pipes or culverts run underneath any of the landfills? If so:
 - (i) Of what material(s) is the pipe/culvert composed?
 - (ii) Can any of the chemicals in the ash corrode any of the material(s) of which the pipe/culvert is composed?
 - (iii) If the pipes/culverts were to leak, where would any fluids from the pipes' /culverts' discharge flow to?
 - (iv) When was the last time such pipes/culverts were inspected? Please provide a copy of such reports.
 - (v) How old is the pipe/culvert?
- f. Referencing the Geers testimony at p. 25, lines 8-13, is it accurate to conclude that any and all discharges from the landfills are directed into the ash pond?
 - (i) If so, are such discharges permitted under DEK's NPED's permit?
 - (ii) If not, explain whether any regulatory actions have been taken regarding any such unpermitted discharges, the dates thereof, together with any fines which may have occurred as a result.
 - (iii) Have there been any discharges from the landfills directly into the Ohio River? If so, explain whether any regulatory

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actions have been taken, the dates thereof, together with any fines which may have occurred as a result.

(iv) Has DEK implemented, or considered implementing, any changes in how it manages East Bend's landfills since the time that Duke Energy Carolinas announced it would engage in a near-term engineering review of its ash ponds located in North Carolina, and that the company is developing a comprehensive longer-term ash basin strategy including a review of the effectiveness of ash storage management and practices? If so, please describe. If not, why not?

g. Has DEK implemented, or considered implementing, any changes in how it manages East Bend's landfills since the 2008 TVA coal ash pond collapse? If not, why not?

15. Provide a description of DEK's current ground water monitoring activities at East Bend, with regard to both the ash pond and the landfills.

a. Explain whether DEK will change or add to any groundwater monitoring activities at East Bend in order to achieve compliance with the CCR Rule, Effluent Guidelines, and/or any and all other applicable federal and state laws and/or regulations. If so, please describe any such planned activities. Please supplement your response to this question on an on-going basis as more information becomes available.

16. If DEK should have to go to the expense of removing ash from its pond, landfills, or both, would those additional costs change any of the RFP modeling results, and if so, how? Please discuss.

17. Does DEK, or its subsidiaries, affiliates and/or parent entities, maintain any liability insurance policies, including but not limited to tail liability, that do or could provide coverage for any potential exposures arising from the East Bend ash pond and/or landfills? If so:

- a. Provide the amount of premiums paid for such policies for 2012, 2013 and 2014 to date. For each such policy, provide an explanation of the reason for any increases in premiums.
- b. Provide copies of any and all applicable dec sheets.

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- c. Following the ash spill at Duke Energy's Dan River coal plant in North Carolina, did DEK make any changes to its liability insurance portfolio? If so, please describe.
18. Does Dayton Power & Light [hereinafter: "DP&L"] currently maintain any liability insurance policies, including but not limited to tail liability, that do or could provide coverage for any potential exposures arising from the East Bend ash pond and landfills? If so:
 - a. Provide the amount of premiums paid for such policies for 2012, 2013 and 2014 to date. For each such policy, provide an explanation of the reason for any increases in premiums.
 - b. Provide copies of any and all applicable dec sheets.
 - c. If the Commission should approve the instant application, please describe what measures DEK will take to replace the amounts of liability insurance coverage that DP&L has to date maintained with regard to the East Bend plant.
 - (i) Provide an estimate for any additional premiums DEK will pay once DP&L is removed from the risk.
19. Reference the Wathen testimony at pp. 18-19, wherein he states the company is seeking approval to defer the costs associated with purchasing DP&L's share of the East Bend plant. Please explain:
 - a. Is DEK seeking a regulatory asset for this purpose?
 - b. Beginning at what date will DEK seek to recover these costs?
 - c. For how many years does the company propose to amortize the costs?
20. Provide a draft of the tariff changes to Rider PSM which the company seeks in both the instant case, and in Case No. 2014-00078.
 - a. With regard to any true-ups arising from or in any manner associated with Rider PSM and the changes proposed to it, please state when the Commission staff and the Attorney General will have opportunity to pose data requests.
21. Refer to page 10 of the application, footnote 20 regarding the operation of Rider PSM. For calendar year 2013 and 2014 to date, how much in net off-system sales for energy and ancillary services has flowed back to customers under Rider PSM?

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- a. Did the extreme weather in January 2014 significantly impact this current net? Please explain your answer, including the cost per MWh at which off-system sales cleared.
22. Has any litigation been filed against DEK, its parent entities or affiliates/subsidiaries regarding East Bend? If so, identify and provide a status. Include in your description actions filed in any state or federal courts, as well as any actions pending before state and/or federal regulatory agencies.
- a. Have any Notices of Intent to Sue or Notices of Regulatory Actions been filed, and if so, by whom? If so, provide copies.
23. Have any fines (state and/or federal) been issued regarding air or water pollutants from East Bend? Please identify and provide a status.
24. Did DEK conduct any due diligence studies regarding DP&L's liability or potential liability exposures (including environmental liabilities) arising from DP&L's ownership stake in East Bend? If so, please provide a copy of any and all such studies, together with an itemized listing of all such liabilities and potential liability exposures.
- a. For each environmental liability listed reference: (i) any and all relevant rulemakings, agreements or existing orders relating to the liability; and (ii) DEK's plans to correct or otherwise remediate the liability and the estimated cost of such planned action.
 - b. Refer to the testimony of Witness Henning at page 18 regarding the assumption of liabilities by DEK. In the event the Commission should approve of DEK's plan to assume DP&L's environmental liabilities, does DEK believe this creates a presumption that the costs of remediating or otherwise addressing those liabilities may be passed to ratepayers via the environmental surcharge, or in base rates?
25. Reference the Northrup testimony at pp. 11-12 and Attachment JSN-3, wherein he states that DEK rejected [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] offer because it [BEGIN CONFIDENTIAL] [REDACTED] [REDACTED] " [END CONFIDENTIAL]. Please explain the meaning of the statement in quotes, above.

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- a. Is DEK aware that in its most recent IRP filing, [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] will not need any additional upgrades to achieve compliance with all existing final and draft federal environmental regulations?
26. Reference the Northrup testimony at p. 10, wherein he states DEK [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
- a. Explain why this was done.
 - (i) Was this done in whole or in part as a [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]
 - b. Please identify the entity who offered this [BEGIN CONFIDENTIAL] [REDACTED], [END CONFIDENTIAL] and the cost thereof.
27. Describe any and all additional risks arising in whole or in part from the contemplated transaction for which the company believes it will seek hedging or additional hedging. Describe each such risk in detail, together with amounts of hedging/additional hedging for each such risk, and the types of hedging.
- a. Does DEK believe there is or could be a need to hedge against the risk posed by lack of diversity in its generation fleet?
 - b. Describe the risks DEK faces if East Bend sustains a forced outage of significant duration, in the event Miami Fort 6 is retired.
 - (i) What measures could the company take to mitigate against this risk?
28. With regard to costs of energy production at both Miami Fort 6 and East Bend, please provide the following, in both \$/KW/month and \$/MWh:
- a. Current costs of production for both plants;
 - b. Projected costs of production for both plants in 2015 and 2016, assuming both plants remain open together with any and all environmental upgrades which would be necessary for each plant to achieve timely compliance;
 - c. Projected costs of production at East Bend assuming: (i) an upgrade to East Bend's SCR in order to comply with anticipated tighter NO_x

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emissions restrictions from either CSPAR or the anticipated ozone NAAQS; and (ii) any and all other environmental upgrades which DEK believes will be necessary, including but not limited to compliance with the CCR and Effluent Rules, for each of 2015, 2016, 2017 and 2018;

- d. With regard to your response to subpart (d), above, provide the same information in a table juxtaposed with the price per MWh from the top seven (7) bids of DEK's RFP; and
- e. Assuming the application is approved in its entirety, please provide the projected "all-in" rate impact upon the monthly bill of an average residential class customer, for each of 2015, 2016, 2017 and 2018. For purposes of this question, the term "average residential class customer" means the average level of consumption for a DEK residential customer. Also for purposes of this question, the term "all-in" rate means the amount of base rates, average monthly fuel adjustment charge, average monthly environmental surcharge, together with any other costs included in residential class customers' bills.