

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

The Electronic Application of Duke Energy)	
Kentucky, Inc. for a Certificate of Public)	
Convenience and Necessity to Construct Phase)	Case No. 2018-00156
Two of its West Landfill and for Approval to)	
Amend its Environmental Compliance Plan for)	
Recovery by Environmental Surcharge Mechanism)	

PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN ITS RESPONSES TO COMMISSION STAFF'S
FIRST SET OF DATA REQUESTS

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, respectfully requests the Commission to classify and protect certain information provided by Duke Energy Kentucky in its response to Data Request No. 6 as requested by Commission Staff (Staff) in this case on August 8, 2018. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), shows the identity of third party vendors who provided price quotes for services requested by Duke Energy Kentucky.¹

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of that party. Public disclosure of

¹ See Data Request No. 6.

the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The Commission's request in No. 6 seeks documentation of the market inquiries of third party landfill operators (Operators) and a cost breakdown of the on-site transportation and disposal expenses. The identity of the Operators should be afforded confidential protection - if disclosed, this would very likely impair Duke Energy Kentucky's relationship with this operator as it would publicly disclose the price this particular operator would charge Duke Energy Kentucky. Keeping the identity of the potential vendor(s) confidential enables the Company to release the cost information into the public record providing a transparent review process.

3. The Confidential Information in response to No. 6 is distributed within Duke Energy Kentucky, only to those who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

4. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

5. Duke Energy Kentucky does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, with the Attorney General or other intervenors with a legitimate interest in reviewing the same for the purpose of participating in this case.

6. This information was, and remains, integral to Duke Energy Kentucky's effective execution of business decisions. And such information is generally regarded as confidential or proprietary. Indeed, as the Kentucky Supreme Court has found, "information concerning the

inner workings of a corporation is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 904 S.W.2d 766, 768 (Ky. 1995).

7. In accordance with the provisions of 807 KAR 5:001, Section 13(3), the Company is filing one copy of the Confidential Information separately under seal, and one copy without the confidential information included.

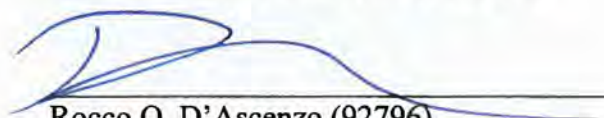
8. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests of the Company or its customers if publicly disclosed.

9. To the extent the Confidential information becomes generally available to the public, whether through filings required by other agencies or otherwise, Duke Energy Kentucky will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10)(a).

WHEREFORE, Duke Energy Kentucky, Inc., respectfully requests that the Commission classify and protect as confidential the specific information described herein.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.




Rocco O. D'Ascenzo (92796)
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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Duke Energy Kentucky, Inc.'s August 24, 2018 electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing was transmitted to the Commission directly on August 24, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; that an original and one copy of the filing is being delivered via 2nd day mail to the Commission on August 24, 2018; and that on August 24, 2018, electronic mail notification of the electronic filing will be provided to the following:

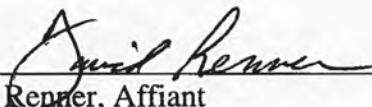
Rebecca Goodman
Office of the Attorney General
Office of Rate Intervention
700 Capitol Avenue, Ste. 20
Frankfort, KY 40601
Rebecca.Goodman@ky.gov


Rocco D'Ascenzo

VERIFICATION

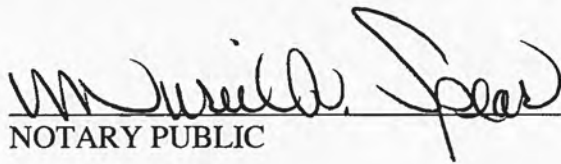
STATE OF NORTH CAROLINA)
) **SS:**
COUNTY OF MECKLENBURG)

The undersigned, David Renner, Vice President, CCP Engineering, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests and that the answers contained therein are true and correct to the best of his knowledge, information and belief.



David Renner, Affiant

Subscribed and sworn to before me by David Renner on this 21st day of August, 2018.



NOTARY PUBLIC

My Commission Expires: Oct. 20, 2018



VERIFICATION

STATE OF OHIO)
)
COUNTY OF HAMILTON) **SS:**

The undersigned, Adam Deller, Engineer III, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests and that the answers contained therein are true and correct to the best of his knowledge, information and belief.

Adam Deller
Adam Deller, Affiant

Subscribed and sworn to before me by Adam Deller on this 22ND day of August, 2018.

Adele M. Frisch
NOTARY PUBLIC

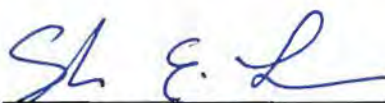
ADELE M. FRISCH
Notary Public, State of Ohio
My Commission Expires 01-05-2019

My Commission Expires: 11/5/2019

VERIFICATION

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned, Sarah E. Lawler, Director of Rates & Regulatory Planning, being duly sworn, deposes and says that she has personal knowledge of the matters set forth in the foregoing data requests and that the answers contained therein are true and correct to the best of her knowledge, information and belief.



Sarah E. Lawler, Affiant

Subscribed and sworn to before me by Sarah E. Lawler on this 10th day of August, 2018.



NOTARY PUBLIC

ADELE M. FRISCH
Notary Public, State of Ohio
My Commission Expires 01-05-2019

My Commission Expires: 1/5/2019

KyPSC Case No. 2018-00156
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STAFF-DR-01-001

REQUEST:

Refer to the Direct Testimony of David Renner (Renner Testimony) at 4.

- a. Define “open footprint for waste placement.”
- b. Explain why Duke Kentucky proposes to construct the West Landfill Cell 2 with a footprint of 37 acres given that the West Landfill cell 1’s 38-acre footprint “creates unnecessary operational constraints, particularly during the winter months.”
- c. Explain whether the combination of the West Landfill Cell 1 and Cell 2 will provide the 55 open acres needed to properly form Poz-o-tec.

RESPONSE:

- a. The current operational permit allows for a maximum of 55 acres of active open airspace in the landfill. The terms “open footprint for waste placement” is industry permitting language to describe the area in which the landfill is currently open for waste placement. This is defined as all areas available for waste placement within the cell footprint; and do not have either temporary or permanent cover placed. The East Bend operational permit allows for a maximum of 55 acres of active open footprint for waste placement in the landfill.
- b. The operational constraint discussed, primarily relates to Poz-o-tec material having adequate time to effectively cure and harden. This time translates into additional space requirements particularly during cooler weather periods such as

winter, where the material requires additional time to fully cure out. The footprint of cell 1 is 37 acres, which does not allow adequate space for proper curing before material can be placed in the next lift. The Cell 2 footprint is contiguous to Cell 1 and will provide the additional area that is needed to properly form Poz-o-tec.

- c. Yes, as stated in part b, the combination of Cells 1 and 2 together provide the necessary 55 acre open footprint to properly form Poz-o-tec.

PERSON RESPONSIBLE: David Renner

**Duke Energy Kentucky
Case No. 2018-00156
Staff First Set Data Requests
Date Received: August 8, 2018**

STAFF-DR-01-002

REQUEST:

Refer to the Renner Testimony, Exhibit DR-1, at 1 of 2. Regarding Project EB020290 Lined Retention Basin West, provide the most current total spending to date on this project and whether the project is expected to be completed at or below its estimated cost.

RESPONSE:

Total spending to date on Project EB020290 Lined Retention Basin West through July, 2018 is \$5,823,140, excluding AFUDC. It is currently projected that this project will be completed below the estimated cost listed in Exhibit DR-1, at page 1 of 2, listed as \$24 million.

PERSON RESPONSIBLE: David Renner

STAFF-DR-01-003

REQUEST:

Refer to the Direct Testimony of Adam S. Deller (Deller Testimony) at 2-3. Explain why the West Landfill requires a “lined leachate collection system” in addition to the Poz-o-tec process.

RESPONSE:

The West Landfill is permitted as a Special Waste Landfill under Kentucky's Solid Waste Regulations, which is a facility designed and permitted for specific low hazard wastes such as utility wastes (fly ash, bottom ash, scrubber sludge). The "lined leachate collection system" is a design requirement to operate a Special Waste Landfill capable of accepting all of the fly ash, bottom ash, and Poz-o-tec waste streams.

PERSON RESPONSIBLE: Adam Deller

REQUEST:

Refer to the Deller Testimony at 4. Provide a breakdown of the annual \$3.5 million on-site disposal expenses related to the proposed construction of the East Bend Landfill Cell 2.

RESPONSE:

The annual onsite disposal expenses of \$3.5 million include the onsite transportation costs to haul the Poz-o-tec material from the point of production at the WSP to the landfill for placement in the Landfill Cell. This cost is not directly related to the proposed construction of the East Bend Landfill Cell 2, but is listed to provide a comparison to third party offsite landfill transportation and disposing costs that are discussed in Deller Testimony, pages 8 - 9.

PERSON RESPONSIBLE: Adam Deller

REQUEST:

Refer to the Deller Testimony at 7.

- a. For each of the past five years, state how often Duke Kentucky has needed additional fly ash from the generating sources other than East Bend to produce Poz-o-Tec.
- b. For each of the past five years, provide the transportation cost paid by Duke Kentucky to receive fly ash from generation sources other than East Bend.
- c. At lines 7-8, a reference is made to the fact that the costs of transporting ash from the other generating sources was borne by Duke Kentucky on certain occasions. For the past five years, confirm that there were occasions on which Duke Kentucky did not have to pay any transportation costs associated with receipt of fly ash from generation sources other than East Bend, and state the reasons why no transportation cost was incurred by Duke Kentucky.

RESPONSE:

- a. Duke Energy Kentucky required offsite ash to supplement the ash from production onsite at East Bend for use in fixation, to produce the Poz-o-tect product, on a weekly basis.
- b. The average cost per year over the past five years is:

2013 - \$742,481.15

2014 - \$453,075.21

2015 - \$510,100.21

2016 - \$630,413.81

2017 - \$495,847.58

- c. In general the cost of transportation was borne, at least in part, by Duke Energy Kentucky. Between 2013-2016, Duke Energy Kentucky received fly ash from one generating source for which they did not pay any associated transportation costs. Duke Energy Kentucky no longer has an agreement with this generating source for fly ash.

PERSON RESPONSIBLE: Adam Deller

REQUEST:

Refer to the Deller Testimony at 7-8.

- a. Provide the identity of the third-party offsite landfill referenced on these pages.
- b. Define what is meant by “reasonable proximity” and identify the third-party offsite landfills within this distance.
- c. Provide the most recent date on which Duke Kentucky conducted a market inquiry for transportation of generator waste offsite.
- d. Provide any written documentation received by Duke Kentucky as a result of its most recent market inquiry.
- e. Provide the supporting documentation in connection with Duke Kentucky’s \$76 per-ton estimate for transporting and disposing of generator waste offsite in a commercial landfill.

RESPONSE:

- a. The identity of the third party offsite landfill is [REDACTED] located in Georgetown, Ohio.
- b. Three important factors in this inquiry was the distance to the offsite Landfill; the capability of the site to accept this specific type of waste; and the ability to handle the volumes of waste produced at East Bend Station. This Landfill identified is the closest landfill to East Bend Station that is potentially capable of handling the

type of waste and potentially the generated waste volumes based off of the verbal interaction. The other Landfill that was approached verbally for inquiry was the [REDACTED] located in Walton, KY. This landfill indicated they were not capable of accepting this "Special" waste and additionally were not sized to handle the volumes of waste produced from East Bend Station.

- c. This market inquiry took place in the first and second week of June 2018.
- d. No written documentation was requested in this round of inquiries since the requests were made verbally.
- e. As supporting documentation for the \$76/ton listed in the testimony, the [REDACTED] verbally quoted a disposal fee of \$60 per ton. The additional cost (\$16 per ton) would be for loading and trucking the material the approximate 50 miles from East Bend Station to the landfill, this was a rough budgetary estimate based on on-site hauling costs. This price was significantly higher than the expected on-site landfill costs, so no additional inquiry was completed. These estimates are in 2018 dollars and do not include any provisions for fuel price adjustments that may be required in the future.

PERSON RESPONSIBLE: Adam Deller

**Duke Energy Kentucky
Case No. 2018-00156
Staff First Set Data Requests
Date Received: August 8, 2018**

STAFF-DR-01-007

REQUEST:

Refer to the Deller Testimony, Attachment ASD-1. Define “TPC (Class 5),” “ADV 1 Request,” and “ETC.”

RESPONSE:

TPC (Class 5): Total Project Cost, which is the total cost of the project. Class 5 refers to a type of estimate, which is industry Project Management standard terminology. A class 5 estimate is a high level estimate typically with accuracies between 50% low or high.

ADV 1 Request: Advanced 1 funding – Duke Energy Kentucky internal terminology for Capital Spend funding approval level; most typically comprised of front end Engineering or Environmental spend.

ETC: Estimated to complete. This is Project Management industry standard terminology for remaining spend to project completion.

PERSON RESPONSIBLE: Adam Deller

REQUEST:

Refer to the Direct Testimony of Sarah E. Lawler (Lawler Testimony), Attachment SEL-1, page 2 of 2.

- a. Refer also to the Deller Testimony, Attachment ASD-1. Provide the components of the 2018 Cumulative Gross Plant of \$748,838 in the same format as Attachment ASD-1.
- b. Refer also to the Application at 4. Provide the projected life of the West Landfill.
- c. Refer also to Exhibit 4, page 44 of 510. Confirm that Duke Kentucky plans to place Cell 2 in service in the fourth quarter of 2019 when construction is completed. If this cannot be confirmed, explain.

RESPONSE:

- a. The \$748,838 on Attachment SEL-1, page 2 of 2 represents the amounts on Attachment ASD-1 in the column entitled "ADV1 Request." In total these amounts are off by \$52. On SEL-1, this \$52 was inadvertently included in 2019 instead of 2018.
- b. The West Landfill is designed to accept at least 30 years of Generator Waste from the East Bend Station, including other permitted stations. Based on current projected waste production and placement rates, the West Landfill is estimated to reach permitted design capacity in 2056.

- c. As referenced in Exhibit 4, page 44 of 510; Duke Energy Kentucky currently estimates construction to be completed in late 2019. As a condition of the Construction permit, KDEP requires construction certification reports to be submitted and approved prior to waste placement in the cell. Upon receiving these approvals it is Duke Energy Kentucky's plan to place Cell 2 into service.

PERSON RESPONSIBLE: Sarah Lawler (a)
David Renner (b, c)