

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY	)	
KENTUCKY, INC. FOR A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY TO	)	
CONVERT ITS WET FLUE GAS	)	Case No. 2024-00152
DESULFURIZATION SYSTEM FROM A	)	
QUICKLIME REAGENT PROCESS TO A	)	
LIMESTONE REAGENT HANDLING SYSTEM AT	)	
ITS EAST BEND GENERATING STATION AND	)	
FOR APPROVAL TO AMEND ITS	)	
ENVIRONMENTAL COMPLIANCE PLAN FOR	)	
RECOVERY BY ENVIRONMENTAL SURCHARGE	)	
MECHANISM	)	

**SIERRA CLUB’S MOTION TO EXTEND DEADLINE FOR INTERVENOR  
TESTIMONY AND RESPONSE TO DUKE ENERGY KENTUCKY’S  
MOTION FOR STAY OF PROCEEDING**

Sierra Club files this Motion to Extend the Deadline for Intervenor Testimony and Response in support of Duke Energy Kentucky’s Motion for Stay of Proceeding, filed in this docket on October 11, 2024.<sup>1</sup> Duke’s Motion cites new information – which has not yet been provided to Sierra Club, the Commission, or other parties – and is directly relevant to Sierra Club’s testimony and the Commission’s review of Duke’s Application for a Certificate of Public Convenience and Necessity (“CPCN”). In order to avoid prejudice to Sierra Club and other parties, and in the interest of efficiency, Sierra Club requests the Commission GRANT Duke’s requested stay. Additionally and alternatively, the Commission should extend the deadline for Intervenor Testimony, currently due October 16, 2024, to at least ten days after Duke provides the newly available information through updated discovery responses.

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<sup>1</sup> Duke Energy Kentucky, Inc., Motion for Stay of Proceeding, at 4 (Oct. 11, 2024) (“Motion”).

On July 25, 2024, Duke filed an application for a CPCN for the construction and conversion of its existing wet flue gas desulfurization system from a quicklime handling process to a limestone handling process to continue to meet existing environmental regulations (“Limestone Conversion Project”) at East Bend Unit 2 pursuant to the Public Service Commission’s authority under the Kentucky Revised Statutes and Kentucky Administrative Regulations to regulate the electric utilities in the state.

Duke claims that it has evaluated alternatives and determined that retrofitting East Bend is “economic in most future scenarios[.]”<sup>2</sup> The Company considered two alternatives to the proposed project: entering into a multi-year contract with a quicklime supplier (which it refers to as the status quo) and a process where a standard high calcium quicklime product was procured and mixed on-site with a magnesium hydroxide slurry to derive the correct chemical composition necessary to continue operating the existing wet flue gas desulfurization process.<sup>3</sup> The Company never evaluated other alternatives, such as converting the plant to burn gas instead of coal.

With regard to the multi-year contract alternative, the Company stated that no supplier is willing to enter into a long-term contract due to anticipated future non-utility demand resulting in upward pressure on future pricing.<sup>4</sup> The Company stated that its inability to secure a long-term contract put the East Bend Plant at risk for becoming inoperable because the quicklime is necessary for the plant to comply with its environmental regulations. Witness Verderame states that “if the station becomes unable to comply with environmental regulations, the plant cannot be operated and therefore unusable as a supply resource for customers, or to satisfy the Company’s FRR plan. In such a situation, the Company would face capacity replacement costs and

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<sup>2</sup> Duke CPCN Application at 8; *see also* Verderame Direct at 14.

<sup>3</sup> Verderame Direct at 14-15. It is important to note that the Company found the second alternative unreasonable for several reasons and thus never fully pursued. Verderame Direct at 15.

<sup>4</sup> Verderame Direct at 7.

deficiency penalties related to its FRR Plan, as well as additional replacement energy costs over a three-year period unless and until the Company can complete its transition to participation in PJM’s Base Residual Auction (BRA) and Incremental Auction constructs (IA).”<sup>5</sup> So essentially, the only truly considered alternative was deemed infeasible and risky by Duke.

According to Duke’s Motion, the Company has “recently received” a previously undisclosed “offer from its lime supplier” that may result in a “long-term lime supply contract.”<sup>6</sup> This new information is directly relevant to the actual need for this Project and to Commission’s and other stakeholders’ review of Duke’s Application for a CPCN for several reasons. First, if Duke can secure a cost-effective, long-term supply of “lime reagent” from its current lime supplier,<sup>7</sup> that could impact the feasibility of the main alternative considered – the status quo. This could moot the need for the entire proposed project. Second, it opens up the door for the consideration of additional alternatives. For instance, Duke claims in its IRP proceeding, that it might take four to five years to convert that East Bend to operate on gas.<sup>8</sup> Given that the offers for quicklime that have currently been produced in discovery do not go out four or five years,<sup>9</sup> this new long-term lime supply contract allows for the consideration of other alternatives such as gas conversion or possibly replacement with a new combined cycle plant. Third, this long-term contract could help align the timeframe associated with the need for this project and the compliance deadline for new environmental regulations, such as 111(d) of the Clean Air Act, which could impact the costs of considered alternatives.

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<sup>5</sup> Verderame Direct at 10.

<sup>6</sup> Motion at 3.

<sup>7</sup> Motion at 1.

<sup>8</sup> Duke’s Response to Staff DR-01-022(a) in Case No. 2024-00197.

<sup>9</sup> Duke’s Response to Sierra Club DR-01-007(a) CONF attachment 2.

Each of the above detailed elements could dramatically alter both Sierra Club’s testimony and the Commission’s determination as to whether the limestone conversion project meets the standard for granting the CPCN application. As explained by Duke in its Motion, the proposed stay is necessary to “enabl[e] the Commission and Intervening Parties to consider this latest information prior to submitting testimony.”<sup>10</sup> Without the stay, Sierra Club would be prejudiced by having to file testimony without the benefit of this new information and without evaluating whether and to what extent the new information alters the comparative costs between considered alternatives and possible newly feasible alternatives.

According to Duke, the updated information will be shared directly with the parties through supplemental discovery responses:

The Company submits that this new information will prompt, at a minimum, an obligation to update certain responses to discovery already provided in this proceeding. The Company further observes that such supplemental information will provide for a comprehensive evaluation, by intervenors and the Commission, of the Company’s Application, as compared to the information presently of record.<sup>11</sup>

For the foregoing reasons, Sierra Club requests the Commission GRANT Duke’s Motion for Stay of Proceedings. Additionally and alternatively, Sierra Club respectfully asks the Commission to extend the time for Intervenor Testimony to at least 10 days after such new information is provided by Duke through supplemental discovery response.

Dated: October 15, 2024

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<sup>10</sup> Motion at 4 (emphasis added).

<sup>11</sup> Motion at 3.

Respectfully submitted,

/s/ Joe F. Childers  
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**CERTIFICATE OF SERVICE**

This is to certify that the foregoing copy of Sierra Club’s Motion To Extend Deadline For Intervenor Testimony And Response To Duke Energy Kentucky’s Motion For Stay Of Proceeding in this action is being electronically transmitted to the commission on October 15, 2024, and that there are currently no parties that the commission has excused from participation by electronic means in this proceeding.

/s/ Joe F. Childers  
JOE F. CHILDERS