

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 Convert its Wet Flue)	Case No. 2024-00152
Gas 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)	

PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY KENTUCKY, INC. FOR CERTAIN SUPPLEMENTAL RESPONSES TO COMMISSION STAFF’S SEPTEMBER 20, 2024, SECOND REQUEST FOR INFORMATION

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to 807 KAR 5:001, Section 13(2), KRS 61.878(1)(c), and other applicable law, moves the Public Service Commission of Kentucky (Commission) for an Order granting confidential treatment to the following supplemental responses and attachments to Commission Staff’s (STAFF) Second Request for Information issued on September 20, 2024:

- (1) The highlighted information contained in the Confidential Supplemental response to STAFF-DR-02-001 and STAFF-DR-02-001 Confidential Supplemental Attachment 1;
- (2) The highlighted information contained in the Confidential Supplemental response to STAFF-DR-02-008; and,
- (3) The highlighted information contained in the Confidential Supplemental response to STAFF-DR-02-009.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes information related to internal sensitive modeling, cost projections, analysis of dispatch costs, third party/vendor pricing, market analysis, and reliability risks.

I. MOTION FOR CONFIDENTIAL TREATMENT

a. Statutory Standard

Administrative Regulation 807 KAR 5:110, Section 5 sets forth the procedure by which certain information filed with the Commission shall be treated as confidential. Specifically, the party seeking confidential treatment must establish “each basis upon which the petitioner believes the material should be classified as confidential” in accordance with the Kentucky Open Records Act, KRS 61.878. *See* 807 KAR 5:110 Section 5(2)(a)(1).

The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(c)(1) excludes from the Open Records Act:

Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records[.]

This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” Ky. OAG 97-ORD-66 at 10 (Apr. 17, 1997).

KRS 61.878(1)(c)(1) requires the Commission to consider three criteria in determining confidentiality: (1) whether the record is confidentially disclosed to an agency or required by an agency to be disclosed to it; (2) whether the record is generally recognized as confidential or

proprietary; and (3) whether the record, if openly disclosed, would present an unfair commercial advantage to competitors of the entity that disclosed the records. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment, each of which is described in further detail below, satisfies each of these three statutory criteria.

b. Responses and Attachments for Which Confidential Treatment is Sought

i. The highlighted information contained in the Confidential Supplemental response to STAFF-DR-02-001 and STAFF-DR-02-001 Confidential Supplemental Attachment 1

STAFF Request No. 02-001 states as follows:

Refer to Duke Kentucky's response to Commission Staff's First Request for Information (Staff's First Request), Item 2(a).

a. Explain, in detail, the process Duke Kentucky used to calculate the East Bend dispatch cost of a basket of market coals that is optimized to derive a blended product that serves as a least-cost market dispatch coal, inclusive of coal cost, reagent costs, and transportation.

b. Provide the calculation for quicklime that resulted in a blended coal that had a #5.62 SO₂ content and a heat content of 11703 Btu/lb. Include in the response any associated work papers or sources used for the calculation.

c. Provide the derivation of the dispatch cost and the escalation from \$3.83/MMBtu to \$4.19/MMBtu over the model horizon. Include in the response any associated work papers or sources used for the calculation.

d. Provide the calculation for the limestone scenario that resulted in the modeled coal of #6 SO₂ product at 11782 Btu/lb. Include in the response any associated work papers or sources used for the calculation.

e. Provide the derivation of the dispatch cost escalating from \$2.77/MMBtu to \$2.97/MMBtu over the model horizon from the limestone scenario. Include in the response any workpapers or sources used for the calculation.

In supplemental response to STAFF Request No. 02-001, Duke Energy Kentucky includes in its response and accompanying attachment, confidential negotiated contract terms, detailed market risk evaluations involving internal dispatch costs that provide sensitive generating unit operational characteristics, vendor pricing information and assumptions, identified reliability risks, pricing forecasts spanning several years into the future, and the Company's strategies for

optimizing its unit operations, including evaluations in procuring a reliable source of cost-effective fuel and reagent supply for East Bend's wet-flue gas desulfurization process. The Company requests that the highlighted information contained within the response and supplemental Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1) and additionally requests that the Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b). The highlighted information in the response to Staff Request No. 02-001 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The highlighted information satisfies the second element of the standard, as negotiated pricing information is generally recognized as confidential and proprietary. The confidential information also satisfies the third element because disclosure of these modeling inputs and results, and negotiated contract terms and the risks identified would place the Company at a disadvantage with future such negotiations, as counter-parties would have access to the Company's risk assessments, and charges from parties, potentially resulting in or exacerbating a lack of bargaining power for the Company and have a chilling effect on vendors willingness to negotiate out of concern they prices could be used against them in the future by other parties, thereby resulting in less favorable contract terms. The attachment includes detailed modeling and optimization assumptions that disclose sensitive operational characteristics and business strategies to operate its coal unit. If released, this information would place the Company at a significant disadvantage in the wholesale electric markets and undermine its ability to manage its position and negotiate prices for fuel and reagents necessary to operate its generating units in a low-cost efficient manner.

ii. The highlighted information contained in the Confidential Supplemental response to STAFF-DR-02-008

STAFF Request No. 02-008 states as follows:

Refer to Duke Kentucky's response to Staff's First Request, Item 21 and refer to Application at page 6, paragraph 14. Confirm Duke Kentucky did no further analysis to support the impact the higher cost of lime-based reagent has on the unit's capacity factor and dispatch ranking. If not confirmed, provide in the response any work papers or documents supporting the estimates and cost of the lime.

In supplemental response to STAFF Request No. 02-008, Duke Energy Kentucky provides details regarding recent confidential contract negotiations for lime reagent supply. The Company requests that the highlighted be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1). The highlighted information in the response is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The highlighted information satisfies the second element of the standard, as negotiated pricing information is generally recognized as confidential and proprietary. The confidential information also satisfies the third element because disclosure of these negotiated contract terms and the risks identified would place the Company at a disadvantage with future such negotiations, as counter-parties would have access to the Company's risk assessments, and charges from parties, potentially resulting in or exacerbating a lack of bargaining power for the Company and have a chilling effect on vendors willingness to negotiate out of concern they prices could be used against them in the future by other parties, thereby resulting in less favorable contract terms.

iii. The highlighted information contained in the Confidential Supplemental response to STAFF-DR-02-009

STAFF Request No. 02-009 states as follows:

Refer to Duke Kentucky's response to Staff's First Request, Item 22 and refer to the Application at page 6, paragraph 15. Provide a more detailed financial and benefit/cost analysis for each of the three alternatives that were considered for the Limestone Conversion Project. Include in the response any estimates of expenses, any cost benefit analysis performed, and any supporting documentation for each of the three alternatives.

In supplemental response to STAFF Request No. 02-009, Duke Energy Kentucky provides detailed information regarding confidential contract negotiations and terms from a direct solicitation by a potential reagent supplier. The Company requests that the highlighted be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).

The highlighted information in the response is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The highlighted information satisfies the second element of the standard, as negotiated pricing information is generally recognized as confidential and proprietary. The confidential information also satisfies the third element because disclosure of these negotiated contract terms and the risks identified would place the Company at a disadvantage with future such negotiations, as counter-parties would have access to the Company's risk assessments, and charges from parties, potentially resulting in or exacerbating a lack of bargaining power for the Company and have a chilling effect on vendors willingness to negotiate out of concern they prices could be used against them in the future by other parties, thereby resulting in less favorable contract terms.

c. Request for Confidential Treatment

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 impair the interests of the Company if publicly disclosed.

To the extent the Confidential Information becomes 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.

/s/ Rocco O. D'Ascenzo

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on November 1, 2024; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/Rocco D'Ascenzo

Rocco D'Ascenzo