

**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 )

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**PETITION OF DUKE ENERGY KENTUCKY, INC. FOR  
CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED  
IN ITS REBUTTAL TESTIMONY**

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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 certain information provided by Duke Energy Kentucky in its Rebuttal Testimony:

- (1) The highlighted information contained in the Confidential Rebuttal Testimony of John A. Verderame.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes information related vendor pricing, contract negotiations, supply solicitation terms, negotiation strategy, market risks, generating unit performance analysis and cost information, as well as internal cost projections.

## 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. Information for Which Confidential Treatment is Sought**

**i. The highlighted information contained in the Confidential Rebuttal Testimony of John A. Verderame**

John A. Verderame's Confidential Rebuttal Testimony contains analysis that includes detailed vendor pricing information, confidential contract negotiations, market risks, pricing forecasts, analysis of generating unit performance, and the Company's strategies and evaluations in procuring a reliable source of cost-effective reagent supply for East Bend's wet-flue gas desulfurization process. The Company requests that the highlighted information contained in Mr. Verderame's testimony be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1). The highlighted information was derived through a confidential negotiation from the supplier and proprietary cost forecasts and unit performance analysis that 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 and specific economic analysis of generating unit performance in competitive wholesale markets are generally recognized as confidential and proprietary. The highlighted information also satisfies the third element because disclosure of these contract negotiations, vendor pricing, generating unit performance analysis and risks identified would place the Company at a disadvantage with future such supply negotiations, or efforts to maximize the Company's generating units performance in competitive markets as counter-parties would have access to the Company's risk assessments, unit performance and charges from parties, potentially

resulting in a lack of bargaining power for the Company and less favorable contract terms or an inability to compete in the wholesale markets against other generating units. .

**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 27, 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*  
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Rocco D'Ascenzo