

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)
KENTUCKY, INC. TO BECOME A FULL PARTICIPANT)
IN THE PJM INTERCONNECTION LLC, BASE RESIDUAL) Case No.
AND INCREMENTAL AUCTION CONSTRUCT FOR THE) 2024-00285
2027/2028 DELIVERY YEAR AND FOR NECESSARY)
ACCOUNTING AND TARIFF CHANGES)

**ATTORNEY GENERAL’S RESPONSES TO DATA REQUESTS OF
DUKE ENERGY KENTUCKY, INC.**

The intervenor, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention [“OAG”], hereby submits his Responses to Data Requests of Duke Energy, Kentucky, Inc. [“DEK” or “the Company”] in the above-styled matter.

Respectfully submitted,
RUSSELL COLEMAN
ATTORNEY GENERAL



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Certificate of Service and Filing

Pursuant to the Commission's Orders in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that an electronic copy of the forgoing was served and filed by e-mail to the parties of record. Counsel further certifies that the responses set forth herein are true and accurate to the best of their knowledge, information, and belief formed after a reasonable inquiry.

This 20th day of December, 2024



Assistant Attorney General

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WITNESS / RESPONDENT RESPONSIBLE:

LANE KOLLEN / Counsel

QUESTION No. 1

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Other than Mr. Lane Kollen and Philip Hayet, please identify any persons, including experts, whom the AG has consulted or retained with regard to evaluating Duke Energy Kentucky's Application in this proceeding.

RESPONSE:

The AG retained J. Kennedy and Associates, Inc. Other employees of J. Kennedy and Associates, Inc. assisted Mr. Kollen and Mr. Hayet. They conducted research and developed analyses under the direct supervision of Mr. Kollen and Mr. Hayet, but did contribute to "evaluating" Duke's application in this proceeding.

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WITNESS / RESPONDENT RESPONSIBLE:

Counsel

QUESTION No. 2

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For each person identified in response to Interrogatory No. 1 above, please state:

- a. the subject matter of the discussions/consultations/evaluations.
- b. the written opinions of such persons regarding Duke Energy Kentucky's Application.
- c. the facts to which each person relied upon; and
- d. a summary of the person's qualifications to render such discussions/consultations/evaluations.

RESPONSE:

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.
- d. Not applicable.

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WITNESS / RESPONDENT RESPONSIBLE:
Counsel

QUESTION No. 3
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For each person identified in response to Interrogatory No. 1 above, please identify all proceedings in all jurisdictions in which the witness/person has offered evidence, including but not limited to, pre-filed testimony, sworn statements, and live testimony or analysis. For each response, please provide the following:

- a. the jurisdiction in which the testimony, statement, or analysis was pre-filed, offered, given, or admitted into the record.
- b. the administrative agency and/or court in which the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- c. the date(s) the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- d. the identifying number for the case or proceeding in which the testimony, statement, or analysis was pre-filed, offered, admitted, or given; and
- e. whether the person was cross-examined.

RESPONSE:

Not applicable.

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WITNESS / RESPONDENT RESPONSIBLE
Counsel as to Objections

QUESTION No. 4
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Identify and provide all documents or other evidence that the AG may seek to introduce as exhibits or for purposes of witness examination in the above-captioned matter.

RESPONSE:

Objection. The question seeks information covered by the attorney-client and/or work product privileges. Without waiving these objections, counsel states that no such determinations have been made.

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WITNESS / RESPONDENT RESPONSIBLE:
LANE KOLLEN / Counsel as to Objections

QUESTION No. 5
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Please identify all proceedings in all jurisdictions in the last three years in which Mr. Lane Kollen has offered evidence, including but not limited to, pre-filed testimony, sworn statements, and live testimony or analysis. For each response, please provide the following:

- a. the jurisdiction in which the testimony, statement, or analysis was prefiled, offered, given, or admitted into the record.
- b. the administrative agency and/or court in which the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- c. the date(s) the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- d. the identifying number for the case or proceeding in which the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- e. whether the witness was cross-examined.
- f. the custodian of the transcripts and pre-filed testimony, statements, or analysis for each proceeding; and
- g. copies of all such testimony, statements, or analysis.

RESPONSE:

Objection. The question is designed to harass and is overly burdensome. Without waiving these objections, a list of the matters in which Mr. Kollen provided testimony was provided as Mr. Kollen's Exhibit LK-1. The public versions of Mr. Kollen's testimonies are available on the electronic docket files on the relevant state regulatory commission websites.

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WITNESS / RESPONDENT RESPONSIBLE:
LANE KOLLEN / Counsel As To Objections

QUESTION No. 6
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Please provide copies of any and all documents, analysis, summaries, white papers, work papers, spreadsheets (electronic versions with cells intact), including drafts thereof, as well as any underlying supporting materials created by Mr. Kollen as part of his evaluation of Duke Energy Kentucky's Application or used in the creation of Mr. Kollen's testimony.

RESPONSE:

Objection. The question seeks information that plainly is covered by the work product and/or attorney-client privileges. Without waiving these objections, Mr. Kollen did not create any documents or other materials other than his testimony and exhibit. Mr. Kollen relied on the Company's filing, including witness testimonies, exhibits, and other materials, and the Company's responses to discovery. Mr. Kollen also relied on prior Commission Orders and the Company's tariffs. Other documents, if any, are referenced in Mr. Kollen's testimony.

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WITNESS / RESPONDENT RESPONSIBLE:

LANE KOLLEN

QUESTION No. 7

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Please provide copies of any and all documents not created by Mr. Kollen, including but not limited to, analysis, articles, books, summaries, cases, reports, and evaluations, that Mr. Kollen relied upon, referred to, or used in the development of his testimony.

RESPONSE:

Refer to the response to Question 6.

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WITNESS / RESPONDENT RESPONSIBLE:
LANE KOLLEN / Counsel as to Objections

QUESTION No. 8
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Please provide any and all studies, analysis, and presentations that Mr. Kollen has created or publicly made within the last three years that involve any of the following: utility regulation, ratemaking, wholesale capacity and energy markets, PJM Interconnection LLC's (PJM) auctions, PJM capacity performance, and PJM energy markets.

RESPONSE:

Objection. The question is designed to harass and is overly burdensome. Without waiving these objections, refer to Mr. Kollen's Exhibit LK-1.

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WITNESS / RESPONDENT RESPONSIBLE:

LANE KOLLEN

QUESTION No. 9

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Referring to Mr. Kollen's testimony on page 4, the listing the PJM BLIs charges, please confirm that the Company is proposing to include both the PJM BLI charges and credits to be netted as a revenue or expense to the customer.

RESPONSE:

Confirmed.

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WITNESS / RESPONDENT RESPONSIBLE:

LANE KOLLEN

QUESTION No. 10

Page 1 of 1

Referring to Mr. Kollen's testimony on page 6, please confirm that the Company currently updates the PSM on a quarterly basis, not a monthly basis. If so, does he believe the Company is proposing to change the update to monthly?

RESPONSE:

Confirmed. No.

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WITNESS / RESPONDENT RESPONSIBLE:

LANE KOLLEN

QUESTION No. 11

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Referring to Mr. Kollen's recommendation on page 8 of his testimony that the Commission should ensure there is no double recovery of capacity costs for retirement of an existing plant, does Mr. Kollen agree that the Company should be made whole for any operating and maintenance expenses incurred, but not yet fully recovered through rates at the time of a generating unit retirement?

a. If yes, please explain how Mr. Kollen would recommend that occur through the Company's Rider PSM or another mechanism.

b. If the response is no, please explain why he believes the Company should not fully recover costs incurred prior to a unit's retirement.

RESPONSE:

a. There is insufficient information in the question for Mr. Kollen to respond. More specifically, the question provides no context as to the circumstances, scope, parameters, costs, or form of recovery that would allow Mr. Kollen to provide an informed and reasoned response.

The concern addressed by Mr. Kollen in the referenced portion of his testimony is the continued recovery of capacity costs through base rates that no longer are incurred and the recovery through the PSM of incremental capacity costs incurred to replace the capacity that was retired. The condition proposed by Mr. Kollen addresses costs no longer incurred, not costs that are incurred. Mr. Kollen's testimony states:

To avoid double recovery of some or all of these capacity costs through both base rates and PSM rates, the Commission should impose a condition that requires a credit in the PSM rates to offset the continuing recovery of non-fuel operating expenses and purchased power expense in the base rates that are no longer incurred until base rates are reset in the future and exclude recovery of these costs.

b. Refer to the response to part (a) of this question.

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WITNESS / RESPONDENT RESPONSIBLE:
LANE KOLLEN

QUESTION No. 12
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Referring to Mr. Kollen's testimony on page 10, please explain how the termination or reduction of bilateral capacity purchases impact purchased power expense.

RESPONSE:

There would be a decrease in purchased power expense due solely to the termination or reduction in specific bilateral capacity purchase agreements, all else equal.

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WITNESS / RESPONDENT RESPONSIBLE:
LANE KOLLEN / Counsel as to Objection

QUESTION No. 13
Page 1 of 1

Is Mr. Kollen aware that the Company has authority to include all capacity purchases and capacity sales in the PSM and not base rates?

RESPONSE:

Objection. This requires a legal opinion. Mr. Kollen is not an attorney and cannot offer a legal opinion. Notwithstanding this objection and without waiving it, refer to Rider PSM and the CAP term in that tariff and the relevant Commission Orders.

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WITNESS / RESPONDENT RESPONSIBLE:
LANE KOLLEN

QUESTION No. 14
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Regarding Mr. Kollen's fifth recommendation on page 10 of his testimony that the Commission should exclude compliance and other penalty expense BLIs from the PSM and preclude the Company from recovering these avoidable expenses through PSM rates. Is Mr. Kollen including capacity performance charges and credits in his statement?

a. Is Mr. Kollen aware that the Company already has authority to recover capacity performance costs and bonus payments through the Rider PSM, and that was part of the justification for transitioning the sharing of the PSM from a 75/ 25 sharing mechanism to a 90/10 sharing mechanism?

b. Does Mr. Kollen agree that this change was part of Case No. 2017-00321,¹ in which he testified?

c. Does Mr. Kollen agree that the case in which this change occurred was fully litigated before the Commission?

d. Does Mr. Kollen agree that if the Commission removes compliance and other penalty expenses from PJM BLIs that it should also remove bonuses payments as well?

e. Is Mr. Kollen aware that as a result of Winter Storm Elliot, customers received net bonus payments?

RESPONSE:

The PSM tariff includes the costs and credits reflected in certain BLIs. In Case 2017-00321, the Commission allowed the Company to include certain BLIs, stating in its Order dated April 13, 2018, pp. 50-51: "This will [missing text in Order] capacity performance market requirements and for short-term capacity purchases necessary to meet Duke Kentucky's three-year fixed resource requirement plan." The Company seeks in this proceeding to modify the PSM tariff to include the costs and credits reflected in numerous additional BLIs in conjunction with its proposed transition from FRR to RPM. Mr. Kollen's recommendation addresses the additional BLIs.

¹ The Company's data requests, as initially filed, did not identify the case number, but this was verified through subsequent telephone conversations with Counsel for DEK.

WITNESS / RESPONDENT RESPONSIBLE:

LANE KOLLEN

QUESTION No. 15

Page 1 of 2

Is Mr. Kollen aware that there is no allocation process currently in the PSM? Is it Mr. Kollen's intention to insert an allocation process into the Company's PSM? If so, is it Mr. Kollen's intention that an allocation process be established for all components of the PSM or just the capacity costs and revenues?

RESPONSE:

The assertion there "is no allocation process currently in the PSM" embedded in the first of the three questions is incorrect. The allocation currently in the PSM tariff is based on energy. The second and third questions are based on the incorrect assertion in the first question. Nevertheless, in response to the second question, despite its incorrect premise, Mr. Kollen's direct testimony identified and described the concern with the present allocation methodology if additional revenues and costs are included in the PSM as follows:

Q. If the Commission is inclined to approve the Company's request to transition from an FRR entity to an RPM entity, is there another concern the Commission should address in this proceeding?

A. Yes. Presently, all capacity costs recovered in base rates are allocated on kW demand.² However, all revenues and expenses included in the PSM are allocated on kWh energy regardless of whether they are capacity revenues and expenses or energy revenues and expenses.³

Q. Should capacity revenues and costs be allocated in a consistent manner regardless of whether they are recovered in base rates or in the PSM?

A. Yes. The transition to RPM and the Company's proposed changes to the PSM will significantly increase the capacity revenues and expenses recovered through the PSM. The allocation of the capacity costs on demand is consistent with cost-of-service principles and the methodology adopted and utilized by the Commission for base rate purposes. The same allocation methodology should be adopted and utilized by the Commission for PSM purposes.

In response to the third question, despite its incorrect premise, Mr. Kollen described the manner in which the Company's proposed redlined version of the Rider PSM tariff should be modified as follows:

² Response to Public AG-DR-02-024(c).

³ *Id.*

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QUESTION No. 15

Page 2 of 2

Q. How should the Commission modify the Company's proposed redlined version of the PSM tariff provided as Attachment LDS-1?

- A. The CP and CAP terms in the PSM cost recovery formula represent the net capacity performance revenues and expense and the net capacity sales revenues and capacity purchase expense. The sum of these two terms times the 90% customer sharing should be allocated to customer class on kW demand instead of on kWh energy. The portion allocated to residential and any other class that is not billed on the basis of demand then can be converted to a kWh energy charge for those classes.⁴

⁴ See Kollen Direct Testimony at 10-11, Case No. 2024-00285.

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WITNESS / RESPONDENT RESPONSIBLE:
LANE KOLLEN

QUESTION No. 16
Page 1 of 1

Is Mr. Kollen's recommendation that the Company should bill customers on a demand basis or only allocate capacity costs and revenues on a demand basis but continue to bill all costs as an energy charge on a kwh basis?

RESPONSE:

No, to both questions. Refer to Mr. Kollen's direct testimony at 11 wherein he provided a detailed description of the appropriate allocation process, consistent with the allocation process reflected in base rates.

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WITNESS / RESPONDENT RESPONSIBLE:

PHIL HAYET / Counsel as to Objections

QUESTION No. 17

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Please identify all proceedings in all jurisdictions in the last three years in which Mr. Hayet has offered evidence, including but not limited to, pre-filed testimony, sworn statements, and live testimony or analysis. For each response, please provide the following:

- a. the jurisdiction in which the testimony, statement, or analysis was prefiled, offered, given, or admitted into the record.
- b. the administrative agency and/or court in which the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- c. the date(s) the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- d. the identifying number for the case or proceeding in which the testimony, statement, or analysis was pre-filed, offered, admitted, or given.
- e. whether the witness was cross-examined.
- f. the custodian of the transcripts and pre-filed testimony, statements, or analysis for each proceeding; and
- g. copies of all such testimony, statements, or analysis.

RESPONSE:

Objection. The question is designed to harass and is overly burdensome. Without waiving these objections, a list of the matters in which Mr. Hayet provided testimony was provided as Mr. Hayet's Exhibit PMH-1. Counsel for DEK is just as capable of performing this public research as is the Attorney General.

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WITNESS / RESPONDENT RESPONSIBLE:

PHIL HAYET / Counsel as to Objections

QUESTION No. 18

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Please provide copies of any and all documents, analysis, summaries, white papers, work papers, spreadsheets (electronic versions with cells intact), including drafts thereof, as well as any underlying supporting materials created by Mr. Hayet as part of his evaluation of Duke Energy Kentucky's Application or used in the creation of Mr. Hayet's testimony.

RESPONSE:

Objection. The question seeks information that plainly is covered by the work product and/or attorney-client privileges. Without waiving these objections, Mr. Hayet's work papers are included in this response.

See Question 18 Attachment 1.xlsx provided with these responses.

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WITNESS / RESPONDENT RESPONSIBLE:

PHIL HAYET / Counsel as to Objections

QUESTION No. 19

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Please provide copies of any and all documents not created by Mr. Hayet including but not limited to, analysis, articles, books, summaries, cases, reports, and evaluations, that Mr. Hayet relied upon, referred to, or used in the development of his testimony.

RESPONSE:

Objection. The question is unduly burdensome and is designed to annoy and harass. Without waiving these objections, Mr. Hayet did not maintain a list of all documents that were relied on, referred to, or used in the development of his testimony. Mr. Hayet primarily relied on the Company's filing, including witness testimonies, exhibits, and other materials, and the Company's responses to discovery. Mr. Hayet referred to documents on the PJM website, mainly PJM's Market Manual 18, and documents on the Commission's website, related to LGE/KU's 2024 Joint IRP (Case No. 2024-00326), DEK's CPCN Application to Convert its Wet Flue Gas Desulfurization System from a Quickline Reagent Handling Process to a Limestone Reagent Process (Case No. 2024-00152), and DEK's 2024 IRP (Case No. 2024-00197).

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WITNESS / RESPONDENT RESPONSIBLE:

PHIL HAYET / Counsel as to Objections

QUESTION No. 20

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Please provide any and all studies, analysis, and presentations that Mr. Hayet has created or publicly made within the last three years that involve any of the following: created or publicly made within the last three years that involve any of the following: utility regulation, ratemaking, wholesale capacity and energy markets, PJM Interconnection LLC's (PJM) auctions, PJM capacity performance, and PJM energy markets.

RESPONSE:

Objection. The question is designed to harass and is overly burdensome. Without waiving these objections, refer to Mr. Hayet's Exhibit PMH-1.

WITNESS / RESPONDENT RESPONSIBLE:

PHIL HAYET / Counsel as to Objections

QUESTION No. 21

Page 1 of 1

Refer to the first condition stated in Witness Hayet's Direct Testimony, page 5, lines 7-10. Please answer the following:

- a. Is the witness aware of Kentucky Revised Statute (KRS) 278.264 and the conditions in that statute for retirement of any fossil generation?
- b. If the response to part (a) is in the affirmative, Does Mr. Hayet view his first condition to be different that that required under KRS 278.264?
- c. If the response to part (b) is in the affirmative, please explain how Mr. Hayet's condition is different than what is required under the law.
- d. Does the Kentucky Attorney General believe that Duke Energy Kentucky's application or testimony in this proceeding states or implies that the Company would not continue to own generation to serve its Kentucky customers? If the response is in the affirmative, please explain where the Application or testimony takes such a position.
- e. Does Mr. Hayet believe that Duke Energy Kentucky's application or testimony in this proceeding states or implies that the Company would not continue to own generation to serve its Kentucky customers? If the response is in the affirmative, please explain where the Application or testimony takes such a position.

RESPONSE:

Objection, to the extent that the question seeks legal conclusions. Mr. Hayet has never held himself out as an attorney. Without waiving this objection, Mr. Hayet states as follows:

- a. Yes.
- b. Yes.
- c. Mr. Hayet included the stated preference that the replacement capacity be located within DEK's zone in Kentucky.
- d. Objection. Counsel for the Attorney General do not provide testimony in this proceeding. Without waiving this objection, see the response to subpart e., below.
- e. Mr. Hayet does not believe DEK's application or testimony states or implies DEK would not continue to own generation to serve Kentucky's customers. However, Mr. Hayet also does not believe that DEK's application or testimony commits to DEK owning or contracting for sufficient replacement capacity to serve Kentucky's customers.

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WITNESS / RESPONDENT RESPONSIBLE:

PHIL HAYET

QUESTION No. 22

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Has Mr. Hayet reviewed the Company's Integrated Resource Plan (IRP) filed in Case No. 2024-0197? If the response is in the affirmative, does Mr. Hayet agree that the Company's IRP filed in Case No 2024-0197 shows that the Company plans to continue to own and operate dispatchable generation to serve its Kentucky customers?

RESPONSE:

Yes, Mr. Hayet has reviewed parts of the Company's IRP. Yes, the IRP shows that the Company plans to continue operating dispatchable generating units that will serve its Kentucky customers.

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WITNESS / RESPONDENT RESPONSIBLE:
PHIL HAYET

QUESTION No. 23
Page 1 of 1

Refer to the second condition stated in Witness Hayet's Direct Testimony, page 5, lines 12-17, where the witness suggests a limit of 9% of auction purchases. Please explain how Witness Hayet would calculate this limitation.

a. Is this limit envisioned to be based upon the capacity position assuming all Duke Energy Kentucky's generation resources clear at 100% of offered UCAP, or is it envisioned that this limit would be based on the actual cleared generation UCAP?

b. Is the limit envisioned to be based on PJM's target installed reserve margin, or is the limit envisioned to be based on the cleared reserve margin that can occur along the sloped demand curve in the PJM capacity auction?

RESPONSE:

- a. The limit is envisioned to be based upon the capacity position assuming all of DEK's resources clear at 100% of the offered UCAP.
- b. The limit is envisioned to be based on PJM's target installed reserve margin.

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WITNESS / RESPONDENT RESPONSIBLE:
PHIL HAYET

QUESTION No. 24
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Refer to the second condition stated in Witness Hayet's Direct Testimony, page 5, lines 12-17, where the witness proposes a six-year grace period to cure any long-term capacity imbalance, is the witness aware of the backlog in the PJM interconnection queue? If the response is in the affirmative, how does the PJM queue backlog impact the witness's suggested timeline?

RESPONSE:

Yes, Mr. Hayet is aware of the backlog in the PJM interconnection queue, and even though backlogs have increased, six years is long enough to construct new plants. See Mr. Hayet's testimony beginning at p. 19, l. 13 through p. 20 l. 2.

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WITNESS / RESPONDENT RESPONSIBLE:

PHIL HAYET

QUESTION No. 25

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Refer to page 21, Line 19 of Witness Hayet's testimony, what does Witness Hayet consider a "significant resource addition" as that term is used in his testimony?

RESPONSE:

Mr. Hayet did not have a specific resource size in mind. An example could be a 664 MW 1x1 CC resource addition.