

**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. 2025-00002
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 RESPONSES TO DUKE ENERGY KENTUCKY’S FIRST REQUEST
FOR INFORMATION PROPOUNDED UPON THE SIERRA CLUB**

Comes now Sierra Club, responding to Duke Energy Kentucky’s first request for information propounded upon Sierra Club.

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.1
Case No. 2025-00002

Request 1.1

Other than Ms. Chelsea Hotaling and Ranajit Sahu, please identify any persons, including experts, whom Sierra Club has consulted or retained with regard to evaluating Duke Energy Kentucky's Application in this proceeding.

Response

Sierra Club objects to this request because it seeks information within the attorney-client and work product privileges.

Person Responsible: Nathaniel Shoaff

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.2
Case No. 2025-00002

Request 1.2

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

Sierra Club objects to this request because it seeks information within the attorney-client and work product privileges.

Person Responsible: Nathaniel Shoaff

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.3
Case No. 2025-00002

Request 1.3

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 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; and
- e. whether the person was cross-examined.

Response

Sierra Club objects to this request because it seeks information within the attorney-client and work product privileges.

Person Responsible: Nathaniel Shoaff

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.4
Case No. 2025-00002

Request 1.4

Identify and provide all documents or other evidence that Sierra Club may seek to introduce as exhibits or for purposes of witness examination in the above-captioned matter.

Response

Sierra Club objects to the extent that the request seeks documents that constitute attorney work product, or which are protected by attorney/client privilege, and to the extent they seek the disclosure of Sierra Club's mental impressions, conclusions, opinions or legal theories of its attorneys concerning this proceeding and Sierra Club's cross-examination strategy. Sierra Club objects to this request as premature and improperly requiring a responding party to marshal all its available evidence or proof in advance of an evidentiary hearing. Discovery, pre-filed rebuttal testimony, and trial preparation have not been completed.

Subject to and without waiving objections, Sierra Club offers that it may seek to introduce relevant and admissible evidence, including but not limited to records already on file in this proceeding, as exhibits or for purposes of witness examination.

Person Responsible: Nathaniel Shoaff

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.5
Case No. 2025-00002

Request 1.5

Please identify whether Ms. Hotaling has any updates or corrections to her testimony submitted in Case No. 2024-00152 on December 6, 2024. If the answer is in the affirmative, please list and explain such updates or corrections.

Response

None.

Person Responsible: Chelsea Hotaling

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.6
Case No. 2025-00002

Request 1.6

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 the Sierra Club and/or Ms. Hotaling since December 4, 2024 as part the evaluation of Duke Energy Kentucky's Application in this either Case No. 2024-00152 or Case No. 2025-0002.

Response

None.

Person Responsible: Chelsea Hotaling

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.7
Case No. 2025-00002

Request 1.7

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 Dr. Sahu as part of his evaluation of Duke Energy Kentucky's Application in this case and/ or used in the creation of Dr. Sahu's testimony filed on March 28, 2025.

Response

None.

Person Responsible: Dr. Ranajit ("Ron") Sahu

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.8
Case No. 2025-00002

Request 1.8

Please provide copies of any and all documents not created by Dr. Sahu including but not limited to, analysis, articles, books, summaries, cases, reports, and evaluations, that Dr. Sahu relied upon, referred to, or used in the development of his testimony filed on March 28, 2025.

Response

Please see two EPA press releases, both dated March 12, 2025, linked to below.

<https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history>.

<https://www.epa.gov/newsreleases/trump-epa-reconsider-biden-harris-mats-regulation-targeted-coal-fired-power-plants-be>.

Person Responsible: Dr. Ranajit (“Ron”) Sahu

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.9
Case No. 2025-00002

Request 1.9

Does Dr. Sahu agree that the Mercury and Air Toxics Standards rule currently remains in place? If the response is in the negative, please explain.

Response

While the rule remains in place, the compliance timeline has been extended to July 2029 for those plants that requested a compliance exemption. As explained below in response to Question 10, EPA has delayed implementation of the MATS rule from July 2027 to July 2029 for specific generating stations. Those plants now exempt from compliance until July 2029 presumably sought the exemption via email in response to EPA's invitation to do so.

Nor does it appear that the MATS regulation will remain in place long term. Not only has EPA already extended the MATS compliance deadline to July 2029 for power plants that requested an exemption, but in an April 9, 2025 Executive Order, the President instructed EPA and other federal agencies to issue rules by September 30, 2025, sunseting a wide array of federal regulations, with the rescission of any covered regulations to take effect by September 30, 2026. The Executive Order, titled, "Zero-Based Regulatory Budgeting to Unleash American Energy," will apply to EPA regulations promulgated under a list of federal statutes that EPA must submit to the President within 30 days of the Executive Order.

<https://www.whitehouse.gov/presidential-actions/2025/04/zero-based-regulatory-budgeting-to-unleash-american-energy/>.

Person Responsible: Dr. Ranajit ("Ron") Sahu

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.10
Case No. 2025-00002

Request 1.10

Does Dr. Sahu agree that the US EPA has not suspended or stayed the implementation of new Mercury Air Toxics Standards issued on May 7, 2024, and Greenhouse Gas Performance Standards that were finalized on April 25, 2024. If the response is in the negative, please explain.

Response

No. On March 12, 2025, U.S. EPA invited the owners and operators of coal-fired power plants to email EPA to request a two-year exemption from a long list of federal environmental standards, including MATS. EPA subsequently published a list of 47 power plants that will not need to comply with the MATS regulation until July 2029, if ever.

According to EPA:

To advance President Trump's Executive Orders and Power the Great American Comeback, EPA set up an electronic mailbox to allow the regulated community to request a Presidential Exemption under section 112(i)(4) of the Clean Air Act. Submissions to request a Presidential Exemption were due by March 31, 2025.

The Clean Air Act allows the President to exempt stationary sources of air pollution from compliance with any standard or limitation under section 112 for up to two years if the technology to implement the standard is not available and it is in the national security interests of the United States to do so. Submitting a request does not entitle the submitter to an exemption. The President will make a decision on the merits.

An exemption may be extended for up to two additional years and can be renewed, if appropriate. On March 12, 2025, EPA requested that facilities and/or affected sources subject to the regulations below submit information about why their facility and/or affected source meets the requirements under Clean Air Act Section 112(i)(4) for a Presidential exemption while EPA reconsiders these rules:

- ["National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review"](#) (89 FR 38508; May 7, 2024) (MATS Rule)

....

U.S. EPA, "Clean Air Act Section 112 Presidential Exemption Information," (last updated April 14, 2025), <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-section-112-presidential-exemption-information>.

On March 12, 2025, U.S. E.P.A. Administrator Lee Zeldin also announced that the agency will reconsider the Mercury and Air Toxics Standards (MATS) from the Biden-Harris Administration. <https://www.epa.gov/newsreleases/trump-epa-reconsider-biden-harris-mats-regulation-targeted-coal-fired-power-plants-be>.

On April 8, 2025, President Trump issued a series of Executive Orders and Proclamations, including one titled, “Declaratory Relief for certain stationary sources to promote American Energy,” that delays the MATS compliance deadline from July 2027 to July 2029, for certain sources listed in Annex I. <https://www.whitehouse.gov/presidential-actions/2025/04/regulatory-relief-for-certain-stationary-sources-to-promote-american-energy/>.

EPA subsequently published the Annex I list of 47 generating stations on its website: <https://www.epa.gov/system/files/documents/2025-04/regulatory-relief-for-certain-stationary-annex-1.pdf>.

EPA also announced on March 12, 2025 that it will reconsider the Greenhouse Gas Performance Standards. U.S. EPA, “Trump EPA Announces Reconsideration of Biden-Harris Rule, ‘Clean Power Plan 2.0’, That Prioritized Shutting Down Power Plants While Raising Costs on American Families,” (Mar. 12, 2025), <https://www.epa.gov/newsreleases/trump-epa-announces-reconsideration-biden-harris-rule-clean-power-plan-20-prioritized>.

Person Responsible: Dr. Ranajit (“Ron”) Sahu

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.11
Case No. 2025-00002

Request 1.11

Does Dr. Sahu agree that under implementation of the Mercury Air Toxics Standards issued May 7, 2024, Duke Energy Kentucky must maintain continuous compliance under all operating conditions? If not, please explain why.

Response

Agreed.

Person Responsible: Dr. Ranajit (“Ron”) Sahu

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.12
Case No. 2025-00002

Request 1.12

Is Dr. Sahu aware of any official action by the EPA, outside of the referenced press release, guaranteeing a blanket 2-year compliance exemption to the May 2024 MATS rule? If yes, please provide.

Response

Yes. Please see the response to Question 1.10, above.

Person Responsible: Dr. Ranajit (“Ron”) Sahu

Duke Energy Kentucky Inc.'s First Set of Requests for Information to Sierra Club
DEK-1.13
Case No. 2025-00002

Request 1.13

Is Dr. Sahu recommending that the Commission reject any MATS related capital investment at East Bend if the Commission were to issue an Order denying the Company's Limestone Conversion Application.

- a. If so, is it Dr. Sahu's opinion that no capital funding is required for East Bend's MATS compliance.
- b. If the answer to part (a) above is in the affirmative, provide all evidence, analysis, and data that supports Dr. Sahu's conclusion that no capital funding is required for East Bend to comply with MATS.

Response

No. If the Commission denies the capital expenditure related to the Limestone Conversion Project it has options about how to handle MATS compliance.

Person Responsible: Dr. Ranajit ("Ron") Sahu

Dated: April 18, 2025

Respectfully submitted,

/s/ Joe F. Childers
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Childers & Baxter, PLLC
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CERTIFICATE OF SERVICE

This is to certify that the foregoing copy of Sierra Club's Responses To Duke Energy Kentucky's First Request For Information Propounded Upon The Sierra Club in this action is being electronically transmitted to the Commission on April 18, 2025, 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

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MECHANISM)

**AFFIDAVIT OF CHELSEA HOTALING
IN SUPPORT OF SIERRA CLUB’S RESPONSES TO DUKE ENERGY KENTUCKY’S
FIRST REQUEST FOR INFORMATION PROPOUNDED UPON THE SIERRA CLUB**

COMMONWEALTH OF KENTUCKY)

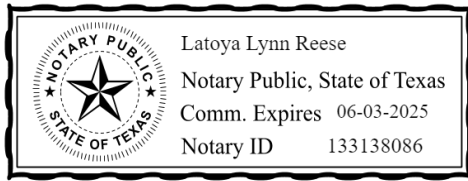
The undersigned, Chelsea Hotaling, being duly sworn, avers that she has personal knowledge of the matters set forth in the foregoing responses to requests for information to Sierra Club, and that the answers contained therein are true and correct to the best of her knowledge, information, and belief.

Chelsea Hotaling

Chelsea Hotaling

State of Texas, County of Denton

SUBSCRIBED, ACKNOWLEDGED, AND SWORN to before me by Chelsea Hotaling this 17 day of April, 2025.



Notarized Online with NotaryLive.com

Latoya Lynn Reese

Notary Public
Notary ID no.: 133138086

My Commission expires: 06/03/2025

**COMMONWEALTH OF KENTUCKY
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**AFFIDAVIT OF RANAJIT SAHU
IN SUPPORT OF SIERRA CLUB’S RESPONSES TO DUKE ENERGY KENTUCKY’S
FIRST REQUEST FOR INFORMATION PROPOUNDED UPON THE SIERRA CLUB**

COMMONWEALTH OF KENTUCKY)

The undersigned, Ranajit Sahu, being duly sworn, avers that he has personal knowledge of the matters set forth in the foregoing responses to requests for information to Sierra Club, and that the answers contained therein are true and correct to the best of his knowledge, information, and belief.

Ranajit Sahu

Ranajit Sahu

SUBSCRIBED, ACKNOWLEDGED, AND SWORN to before me by Ranajit Sahu this
17th day of April, 2025.



Emon Christian Moore

Notary Public

Notary ID no.: 8033469

My Commission expires: 09/30/2026

Commonwealth of Virginia, County of Frederick

Notarized remotely online using communication technology via Proof.