

**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 )	
DESULFURIZATION SYSTEM FROM A )	CASE NO.
QUICKLIME REAGENT PROCESS TO A )	2025-00002
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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**MOTION FOR LEAVE TO WITHDRAW APPLICATION  
WITHOUT PREJUDICE**

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**I. INTRODUCTION**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), pursuant to 807 KAR 5:001, Section 5(1), by counsel, respectfully moves the Kentucky Public Service Commission (Commission) for leave to withdraw its Application in this proceeding without prejudice. Since, and as a direct result of the filing of this Application for a Certificate of Public Convenience and Necessity (CPCN) to convert its Wet Flue Gas Desulfurization System (WFGD) from a magnesium enhanced quicklime (MEL) based handling system to that of a Limestone based reagent system (Limestone Conversion) (Application), new and unanticipated information that did not exist at the time of filing—specifically a much more favorable and secure contract opportunity—now suggests that the need to continue with the Limestone Conversion is no longer present and when

factoring the significant and non-recurring capital investment necessary to compete the Limestone Conversion, that withdrawing the project is the least cost, most reasonable solution for customers in the foreseeable term. Additionally, as a result of unforeseeable and unpredictable potential changes in federal environmental policy, the need for WFGD upgrades to meet environmental regulations merits additional review by the Company. For these reasons, and as more fully set forth below, the Company respectfully requests to withdraw its Application, without prejudice.

## **II. DISCUSSION**

Duke Energy Kentucky filed its Application in this proceeding seeking approval of a CPCN to complete the Limestone Conversion project and to amend its environmental compliance plan and adjust its environmental surcharge on January 28, 2025. This Application constituted a resubmittal of the same project that was voluntarily withdrawn by the Company by Commission Order on January 6, 2025 in Case No. 2024-00152.<sup>1</sup> By Order dated February 4, 2025, the Commission consolidated the record in Case No. 2024-00152 into this proceeding (collectively the Consolidated Case). If approved, the CPCN results in an approximate \$125 million, non-recurring capital investment to convert and upgrade its WFGD with recovery through the Company's Environmental Surcharge Mechanism. To date, the Company has incurred some costs necessary to support this Application, including engineering, evaluation and design costs necessary to comply with environmental regulations, and support for the filing.

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<sup>1</sup> *The Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity to Convert its Wet Flue 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*, Case No. 2024-00152, Application (July 25, 2024) (Initial CPCN).

As the record in this consolidated case shows, the need for the Limestone Conversion was driven by four (4) primary reasons:

- 1) a lack of competitive market for MEL;
- 2) increasing costs of MEL for the last several years that adversely impact the economics of the Company's East Bend station;
- 3) fuel security concerns due to limited MEL supply and a lack of willingness by a supplier to enter into longer-term contracts; and
- 4) compliance with newly promulgated and effective environmental compliance regulations, most specifically the Mercury Air Toxics Standard (MATS) update in 2024 necessitating equipment upgrades afforded through the Limestone Conversion.<sup>2</sup>

The Company's Application, supporting testimonies, data analysis, and discovery responses substantiate the Company's position that, based upon the facts available at the time of the Application, the Limestone Conversion CPCN was the necessary and least cost solution for compliance, and was in the customers' best interests.

Throughout the pendency of the Limestone Conversion CPCN case, Duke Energy Kentucky has kept the Commission and intervening parties apprised of developments that impacted the Company's analysis of need for the project, including notification of new, and unanticipated MEL supply opportunities that arose during the pendency of this Application and the Company's efforts in pursuit of potentially lower cost alternatives.<sup>3</sup> The Company updated its analysis in each instance to reflect this new information, and to

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<sup>2</sup> See e.g., Direct Testimony of John A. Verderame, pp.6-9 and 14 (Jan. 28, 2025).

<sup>3</sup> *Id.*

date, has continued to recommend pursuing the Limestone Conversion.<sup>4</sup>

Recently and as a direct result of its efforts and diligence in pursuing this Application, the Company was unexpectedly presented with the opportunity to negotiate an even lower-cost, longer term, compliance solution than what has previously been possible. This new compliance solution results in a longer-term MEL supply contract at a significantly reduced cost relative to the most recent MEL pricing and with additional supply protection compared to what has been experienced and available over the last several years. Through these carefully negotiated and highly favorable contract terms, the Company has been able to address the Company's aforementioned supply concerns and reasons for pursuing the Limestone Conversion investment, for at least the foreseeable future.

The Company explained this new supply opportunity in its recently submitted Confidential Rebuttal Testimony of John A. Verderame filed on April 30, 2025. As Mr. Verderame's Rebuttal Testimony expounds, after prior refusals by the supplier to discuss longer term contracts, Duke Energy Kentucky was once again approached by its current MEL supplier in an effort to convince the Company not to pursue the Limestone Conversion.<sup>5</sup> Mr. Verderame explained that his team was evaluating this new proposal and was attempting to negotiate acceptable contract terms that appropriately balanced risk between the supplier and the Company on behalf of its customers.<sup>6</sup> Based upon the economics of the new and unexpected MEL contract opportunity, the new contract provides a net benefit to customers over the term of the contract versus the approximate

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<sup>4</sup> *Id.*

<sup>5</sup> Rebuttal Testimony of John A. Verderame, pp. 4-6 (Apr. 30, 2025).

<sup>6</sup> *Id.*, p. 7.

\$125 million Limestone Conversion investment.<sup>7</sup> This contract opportunity fundamentally changes the economics supporting the Limestone Conversion during the new and expanded contract term and is only available if the Company withdraws its Limestone Conversion proposal and does not pursue a similar project to cease using MEL during the new contract term.<sup>8</sup> The fact that the contract conditions the favorable new terms in part on the Company's withdrawal of this Application demonstrates that the Company's filing and pursuit of the Application to this point benefited customers. Given the protections the Company has successfully negotiated, the Company believes that this is an acceptable and reasonable resolution of issues that produces a net benefit to customers over the expanded contract term.

Additionally, due to recently announced potential changes in federal environmental policy that are likely to impact the environmental regulations that also drove the need for WFGD upgrades,<sup>9</sup> the Company is concurrently reviewing its compliance strategy, including whether it remains necessary to complete these upgrades. Like the new contract opportunity, these recently announced changes in environmental policy were neither anticipated nor foreseeable when the Company first began evaluating the Limestone Conversion prior to its initial filing in July of 2024. Moreover, notwithstanding the change in administration that occurred following the 2024 Presidential election, the scope of any potential policy changes and the final result of such new policy remains uncertain and unpredictable. The Company is considering whether a stand-alone WFGD upgrade project

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<sup>7</sup> *Id.*, p. 6.

<sup>8</sup> *Id.*, p. 5.

<sup>9</sup> See Rebuttal Testimony of Julie Walters, pp. 6-7 (Apr. 30, 2025); Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241 (Apr. 8, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/04/reinvigorating-americas-beautiful-clean-coal-industry-and-amending-executive-order-14241/>

is the better solution for compliance if indeed, the new, stricter, Mercury and Air Toxics Standards 2024 update remains viable and effective. In the event the Company's analysis is affirmative, the Company will file a new CPCN to address the WFGD upgrades specifically necessary for MATS compliance.

### **III. CONCLUSION**

Notwithstanding the Company's request to withdraw its Application a second time, the Company respectfully submits that its pursuit of this Limestone Conversion project was prudent and in the best interests of customers. It is only through its diligent and continued efforts to pursue compliance strategies that supported the ongoing operation of its coal-fired generation and to find the least cost solution for customers that this new, longer-term supply alternative came to fruition. The Company's previous attempts to negotiate such terms were rejected and it was only with the possibility of converting to a new reagent alternative that the existing supplier became willing to consider a longer-term supply relationship. The Company submits that this unexpected and unforeseeable opportunity results in an overall net savings to customers during the new contract term versus pursuing the estimated \$125 million capital investment in converting to a limestone handling system. For these reasons, the Commission should grant the Company's Motion to Withdraw its Application Without Prejudice in these proceedings.

This the 14<sup>th</sup> day of May, 2025.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.

/s/Rocco 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 May 14<sup>th</sup>, 2025; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

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