

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	)	
QUICKLIME REAGENT PROCESS TO A	)	CASE NO.
LIMESTONE REAGENT HANDLING SYSTEM AT	)	2024-00152
ITS EAST BEND GENERATING STATION AND	)	
FOR APPROVAL TO AMEND ITS	)	
ENVIRONMENTAL COMPLIANCE PLAN FOR	)	
RECOVERY BY ENVIRONMENTAL SURCHARGE	)	
MECHANISM	)	

ORDER

On November 1, 2024, Duke Energy Kentucky, Inc. (Duke Kentucky) filed six petitions for confidential treatment, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidentiality for ten years for the highlighted information contained in the supplemental direct testimony of John A. Verderame and Chad M. Donner. The highlighted information contained in all six petitions consists of identical vendor pricing information and contract negotiations for East Bend Generating Station’s (East Bend) wet-flue gas desulfurization (WFGD) process, pursuant to KRS 61.878(1)(c)(1).

LEGAL STANDARD

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records “be open for inspection by any person, except as

otherwise provided by KRS 61.870 to 61.884.”<sup>1</sup> Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.<sup>2</sup> The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.<sup>3</sup>

### DISCUSSION

The highlighted information contained in all six petitions consists of identical vendor pricing information and contract negotiations for each data request Item, as well as recalculated attachments based in the supplemental information for East Bend Generating Station’s (East Bend) wet-flue gas desulfurization (WFGD) process, pursuant to KRS 61.878(1)(c)(1).

In sum of all of its petitions, Duke Kentucky argued the application of KRS 61.878(1)(c)(1), which provides an exception to the requirement for public disclosure for records that are 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.

Having considered the petitions and the material at issue, the Commission finds that the highlighted information contained in the six petitions filed on November 1, 2024, and listed below, is generally recognized as confidential or proprietary, that disclosure of the material would permit an unfair commercial advantage to competitors of the disclosing

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<sup>1</sup> KRS 61.872(1).

<sup>2</sup> See KRS 61.871.

<sup>3</sup> 807 KAR 5:001, Section 13(2)(c).

party; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

Attorney General's First Request For Information

- Item 4,
- Item 5,
- Item 11, and
- Item 12

Attorney General's Second Request For Information

- Item 2

Sierra Club's First Request For Information

- Item 7,
- Item 25,
- Item 40,
- Item 47,
- Item 48,
- Attachment to Item 48(d),
- Item 49 with Attachment 1, and
- Item 65

Commission Staff's First Request For Information

- Item 2,
- Item 3,
- Item 5,
- Item 9,
- Item 21 with Supplemental Attachment, and
- Item 22

Commission Staff's Second Request For Information

- Item 1 with Supplemental Attachment,
- Item 8, and
- Item 9

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's six petitions for confidential treatment filed on November 1, 2024, are granted.

2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further order of this Commission.

3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Duke Kentucky shall inform the Commission and file with the Commission an unredacted copy of the designated material.

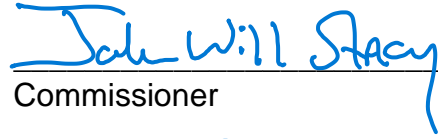
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Duke Kentucky shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Duke Kentucky is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Duke Kentucky to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:

  
Executive Director

ENTERED  
JAN 28 2025  
KENTUCKY PUBLIC SERVICE COMMISSION <sup>jdc</sup>

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