

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 )  
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.  
2025-00002

ORDER

On January 28, 2025, Duke Energy Kentucky, Inc. (Duke Kentucky), pursuant to KRS 278.020, KRS 278.183, and 807 KAR 5:001 submitted an application to amend its Environmental Compliance Plan (Compliance Plan), to grant Duke Kentucky authority to recover the costs associated with its Compliance Plan amendment through its existing environmental surcharge, and for issuing a Certificate of Public Convenience and Necessity (CPCN) for the construction and conversion of its existing Wet Flue Gas Desulfurization (WFGD) from a quicklime handling process to a limestone handling process to continue to meet existing environmental regulations. This application is

duplicative of the subject matter and relief sought in Case No. 2024-00152 after the Commission granted Duke Kentucky leave to withdraw that application without prejudice.<sup>1</sup>

In order to simplify the processing of this application, the Commission made several related findings in the final Order in Case No. 2024-00152 relevant to this matter.

Pursuant to the Order issued in Case No. 2024-00152, the Attorney General should be granted intervention pursuant to KRS 367.150(8), and Sierra Club should be granted permissive intervention.<sup>2</sup> Case No. 2024-00197<sup>3</sup> should be incorporated into the record of this case in its entirety, as to any filings made on or before September 27, 2024.<sup>4</sup> Case No. 2024-00152 should be incorporated into the record of this case in its entirety.<sup>5</sup> Finally, Nathaniel Shoaff, Kristin Henry, and Cassandra McCraes' admission *pro hac vice* for Case No. 2024-00152 should carry over to this matter, and said admission should be granted, to the extent possible, without additional administration. However, noting in this Order should be read to supersede SCR 3.030 or the lawful discretion of the Kentucky Bar Association.<sup>6</sup>

KRS 278.183(4) authorizes the Commission to engage independent consultants to assist it in the review of an environmental compliance plan. The Commission finds that

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<sup>1</sup> Case No. 2024-00152, *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* (Ky. PSC Jan. 6, 2025), Order.

<sup>2</sup> Case No. 2024-00152, Jan. 6, 2025 Order at 5.

<sup>3</sup> Case No. 2024-00197, *Electronic 2024 Integrated Resource Plan of Duke Energy Kentucky, Inc.*

<sup>4</sup> Case No. 2024-00152, Jan. 6, 2025 Order at 5.

<sup>5</sup> Case No. 2024-00152, Jan. 6, 2025 Order at 6.

<sup>6</sup> Case No. 2024-00152, Jan. 6, 2025 Order at 6.

such an engagement is appropriate in this matter. The Commission sets forth the following process for receipt and payment of invoices for a qualified, competent consultant engaged by the Commission pursuant to KRS 278.183(4).

Pursuant to KRS 278.183(4), the costs associated with retaining a qualified, competent consultant to assist in the review of the applicant's environmental compliance plan shall be paid by the applicant and be recoverable in the environmental surcharge and not be an obligation of the Commonwealth.

The consultant engaged by the Commission will send its invoices to the Commission for review and payment; the Commission will forward the invoices as part of an Order to Duke Kentucky for reimbursement for payment. Duke Kentucky will reimburse the Commission for the amount of the invoice within 30 days of receipt of the invoice by check payable to the Kentucky State Treasurer and mailed or delivered to the Office of the General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602. The Commission finds that copies of the invoices should be entered into the record of this case. Inclusion in the record is appropriate because the costs of the consultants will be included in the environmental surcharge amount pursuant to KRS 278.183.

The Commission further finds that a procedural schedule should be established for the orderly processing of this case. The procedural schedule is attached as an Appendix to this Order. Additionally, any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the

presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky.

Witnesses who sponsor schedules, testimony, or responses to requests for information are expected to participate in person at a hearing. Witnesses sponsoring schedules, testimony, or responses to requests for information should not be excused, except following the Commission's consideration and granting of a timely motion, including just cause.

IT IS THEREFORE ORDERED that:

1. The Attorney General and Sierra Club shall be granted intervention.
2. All filings made on or before September 27, 2024, in Case No. 2024-00197 shall be incorporated by reference into the record of this matter.
3. The record of Case No. 2024-00152 shall be incorporated by reference into the record of this matter in its entirety.
4. Re-admittance of Nathaniel Shoaff, Kristin Henry, and Cassandra McCrae *pro hac vice* is granted to the extent possible; however, nothing in this Order supersedes SCR 3.030 and the Kentucky Bar Association's sole discretion on the matter. The grant of *pro hac vice* admission shall still be subject to appearance with a member of the Kentucky Bar Association.
5. The reimbursement process for consultants engaged by the Commission as outlined in this Order, and pursuant to KRS 278.183 shall be followed.

6. The procedural schedule set forth in the Appendix to this Order shall be followed.

7. Duke Kentucky shall respond to all requests for information propounded by Commission Staff, whether identified on the procedural schedule or otherwise, as provided in those requests.

8. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>7</sup> regarding filings with the Commission.

9. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere

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<sup>7</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PCS July 22, 2021), Order (in which the commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest.

10. Any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

11. Duke Kentucky shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)" and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listing on the PSC website, [psc.ky.gov](http://psc.ky.gov)." At the time publication is requested, Duke Kentucky shall forward a duplicate of the notice and request to the Commission.

12. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

13. Any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing shall be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing.

14. Witnesses who sponsor schedules, testimony, or responses to requests for information shall participate in person at any hearing scheduled in this matter. Motions to excuse a witness from testifying at a Commission hearing, to substitute another witness through the adoption of testimony, or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

15. Duke Kentucky shall file a witness list at least seven days prior to the hearing date.

16. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

17. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

18. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

19. If a witness sponsoring testimony will be unavailable for the hearing and another party wishes to adopt the testimony, the party will need to request leave in writing to substitute or replace the original witness, including identification of the information to be adopted, no less than 14 days prior to the scheduled hearing date.

PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

ATTEST:

  
\_\_\_\_\_  
Executive Director

ENTERED  
FEB 04 2025<sub>AH</sub>  
KENTUCKY PUBLIC  
SERVICE COMMISSION



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2025-00002 DATED FEB 04 2025

Last day for intervention requests to be accepted.....	02/10/2025
All initial requests for information to Duke Kentucky shall be filed no later than .....	02/14/2025
Duke Kentucky shall file responses to initial requests for information no later than.....	02/25/2025
All supplemental requests for information to Duke Kentucky shall be filed no later than .....	03/12/2025
Duke Kentucky shall file responses to supplemental requests for information no later than .....	03/19/2025
Intervenor testimony, if any, in verified prepared form shall be filed no later than.....	03/28/2025
All requests for information to Intervenors shall be filed no later than.....	04/04/2025
Intervenors shall file responses to requests for information no later than.....	04/18/2025
Duke Kentucky shall file, in verified form, its rebuttal testimony no later than.....	04/30/2025
Last day for Parties to request a Public Hearing or submit a request for the matter be decided based upon the written record .....	05/06/2025

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