



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-172

July 7, 2025

In re: Whitney Marion/Public Service Commission

**Summary:** The Public Service Commission (“the Commission”) violated the Open Records Act (“the Act”) when it failed to respond to a request for records within five business days.

### *Open Records Decision*

On June 5, 2025, Whitney Marion (“the Appellant”) requested “access to any and all records . . . related to a potential or proposed data center project by Western Hospitality Group in Oldham County, Kentucky.” After receiving no response by June 13, 2025, the Appellant contacted the Commission, which replied that it had “forwarded [the] inquiry for an update to the Staff that coordinate these requests.” Having received no further response by June 16, 2025, the Appellant initiated this appeal.

Under KRS 61.880(1), a public agency must respond to a request for public records within five business days after receiving it. On appeal, the Commission admits it did not respond to the Appellant’s request in a timely manner “due to administrative processing error.” Thus, the Commission violated the Act.<sup>1</sup>

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to [OAGAppeals@ky.gov](mailto:OAGAppeals@ky.gov).

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<sup>1</sup> After this appeal was initiated, the Commission responded to the Appellant, stating it could not identify any records responsive to the request explaining that “Western Hospitality Group” is not a regulated utility under its jurisdiction. The Commission’s ultimate disposition of the request is not at issue in this appeal because the Appellant has challenged only the Commission’s failure to timely respond to the request.

**Russell Coleman**

Attorney General

/s/ James M. Herrick

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