

COMMONWEALTH OF KENTUCKY

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KENTUCKY PUBLIC SERVICE COMMISSION

PUBLIC SERVICE COMMISSION

In the Matter of:

The Application of Duke Energy Kentucky, )  
 Inc., For (1) A Certificate of Public )  
 Convenience And Necessity Authorizing )  
 the Acquisition of the Dayton Power & )  
 Light Company's 31% Interest in the East ) Case No. 2014-00201  
 Bend Generating Station; (2) Approval of )  
 Duke Energy Kentucky, Inc.'s Assumption )  
 of Certain Liabilities in Connection with )  
 the Acquisition; (3) Deferral of Costs )  
 Incurred as Part of the Acquisition; and (4) )  
 All Other Necessary Waivers, Approvals, )  
 and Relief.

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**PETITION OF DUKE ENERGY KENTUCKY, INC.  
 FOR CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED  
 IN ITS RESPONSES TO COMMISSION STAFF'S FIRST SET OF  
 DATA REQUESTS**

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Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, respectfully requests the Commission to classify and protect certain information provided by Duke Energy Kentucky in its responses and attachments to Data Request Nos. 3, 4, 10, 20, 23, 24, 25, 29, and 30 as requested by the Staff of the Kentucky Public Service Commission (Staff) in this case on July 28, 2014. The information that the Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information) shows sensitive economic information regarding: 1) the confidential bids submitted in response to Duke Energy Kentucky's request for proposal (RFP); 2) analysis of those bids; 3) future operational costs of the East Bend generating

station (East Bend), including, but not limited to, estimates of future outage projects and timing, forecasted maintenance expense and environmental compliance; and 4) economic dispatch information; and 5) future estimated capacity revenues and costs. Specifically, Duke Energy Kentucky is requesting confidential treatment of the following:

- a) Staff-DR-01-03 Attachments A through D depicting the Company's analysis of the RFP bids;
- b) Staff-DR-01-04 Attachment detailing the economic dispatch of Duke Energy Kentucky's generating stations in PJM on an hourly basis;
- c) Staff-DR-01-10 Response depicting estimated/ forecasted costs for CO<sub>2</sub> regulation assumed;
- d) Staff-DR-01-20 Response depicting the Company's bid analysis of RFP proposals;
- e) Staff-DR-01-23 Response describing the timing, scope, and estimated duration of a future maintenance outage;
- f) Staff-DR-01-24 Attachment describing forecast of estimated future coal costs used in the Company's analysis;
- g) Staff-DR-01-25 Attachment future projected environmental compliance costs;
- h) Staff-DR-01-29 Response detailing the Company's FRR capacity strategy including estimated costs and revenues; and
- i) Staff-DR-01-30 Response includes replacement capacity cost forecasts for future delivery years.

This information described above would allow potential competitors and possible vendors to have access to the Company's analysis of costs related to several assets and proposals

submitted confidentially as part of the RFP process, projections of environmental compliance costs at East Bend, the hourly economic dispatch of the Company's current generating fleet, the timing and scope of future outages, and present and future capacity strategies and costs. This information is not otherwise publicly available. Releasing this information will place Duke Energy Kentucky at a competitive disadvantage in that its ability to negotiate and manage its costs will be compromised as other providers, vendors, and competitors will have access to the Company's forecasts of costs and business strategies. In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of that party. Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The responses to Staff-DR-01-03 (Attachments A-D), and Staff DR-01-20, contains the Company's analysis of a specific assets bid into the RFP and why they were not selected. The assets bid into the RFP are not publicly known and if the Company's analysis is disclosed publicly, it would give potential competitors information related to that specific asset and the Company's decision not to pursue that alternative. The information submitted in response to the RFP was done so with the expectation that the bids would remain confidential. Releasing the assets, and specifically the reasoning why a particular asset was not selected would undermine the confidential RFP process and may make the Company's

ability to conduct successful RFP's difficult in the future as potential participants may be unwilling to submit a proposal if there is a likelihood their information would become public.

3. The responses to Staff DR-01-04, Staff DR-01-29, and Staff DR-01-30 contain sensitive market information related Duke Energy Kentucky's generating fleet, including economic dispatch, anticipated capacity market costs, and strategies to meet reliability requirements in PJM. The hourly dispatch information contained in Staff DR-01-04, if publicly disclosed would allow potential competitors to determine how the Company's generating fleet performs in PJM and thus the likelihood of their dispatch in the future. This would put Duke Energy Kentucky at a competitive disadvantage and competitors could potentially use this information to make decisions regarding their own dispatch that could adversely impact prices for Duke Energy Kentucky's customers. The anticipated capacity market costs contained in Staff DR-01-29 and Staff DR-01-30 would provide potential competitors with the Company's forecasts of future revenues, anticipated costs, and price the Company has paid for capacity option rights to meet its reliability obligations in PJM. This information would place the Company in a competitive disadvantage if it needs to procure capacity through bilateral negotiations as counterparties would know what Duke Energy Kentucky has paid any might be willing to pay.

4. The responses to Staff-DR-01-10 and Staff-DR-01-24 (Attachment) depict the Company's proprietary analysis and results of modeling of costs of environmental compliance under various scenarios. This analysis and the modeling assumptions depicted therein, if publicly disclosed would give the Company's competitors and possible vendors keen insight into how the Company views its compliance strategy and forecasts that market. Releasing this information could place the company at a disadvantage is it negotiates for

materials, supplies, and equipment as potential vendors would know what the Company anticipates to spend on various projects under certain scenarios. Moreover, this information would give the Company's competitors in the energy markets insight into how the Company views the costs of potential regulation impacting its business and dispatch. This information could cause other market participants to make decisions they would not otherwise have made thereby potentially affecting energy and capacity prices in the various markets (*e.g.* day-ahead, real-time, bilateral, *etc.*)

5. The responses to Staff-DR-01-23 and Attachment to Staff-DR-01-25 includes Duke Energy Kentucky's anticipated scope of future maintenance projects, including the likelihood of timing for such outages and projected costs for future environmental compliance projects. Disclosure of this information will grant vendors and other market participants a distinct advantage in that they would be able to anticipate the Company's asset performance and dispatch of East Bend in the future. Duke Energy Kentucky submits that the information contained in Staff-DR-01-23 and Staff DR-01-25, if openly disclosed, would give its vendors and competitors (specifically other PJM participants), access to competitively sensitive, confidential information, which in turn could cause energy and capacity prices to consumers to be above competitive rates, and would permit competitors of Duke Energy Kentucky to gain an unfair competitive advantage in the marketplace. Competitors and vendors could use this information to anticipate the Company's future costs and equipment needs and even outage timing to make decisions regarding pricing that they may not otherwise make in the absence of this information.

6. The Confidential Information described herein was developed internally by Duke Energy Corporation and Duke Energy Kentucky personnel or on its behalf, is not on

file with any public agency, and is not available from any commercial or other source outside Duke Energy Kentucky. The aforementioned information in these responses is distributed within Duke Energy Kentucky only to those employees who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

7. Duke Energy Kentucky does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, the Attorney General or other intervenors with a legitimate interest in reviewing the same for the purpose of participating in this case.

8. This information was, and remains, integral to Duke Energy Kentucky's effective execution of business decisions. And such information is generally regarded as confidential or proprietary. Indeed, as the Kentucky Supreme Court has found, "information concerning the inner workings of a corporation is 'generally accepted as confidential or proprietary.'" *Hoy v. Kentucky Industrial Revitalization Authority*, Ky., 904 S.W.2d 766, 768 (Ky. 1995).

9. In accordance with the provisions of 807 KAR 5:001, Section 13(3), the Company is filing one copy of the Confidential Information separately under seal, and one copy without the confidential information included.

10. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests of the Company or its customers if publicly disclosed.

11. To the extent the Confidential information becomes generally available to the

public, whether through filings required by other agencies or otherwise, Duke Energy Kentucky will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10)(a).

WHEREFORE, Duke Energy Kentucky, Inc., respectfully requests that the Commission classify and protect as confidential the specific information described herein.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing filing was served on the following via electronic mail, this 8 day of August 2014:

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