

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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 BEND GENERATING STATION;)	CASE NO.
(2) APPROVAL OF DUKE ENERGY KENTUCKY, INC.'S)	2014-00201
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)	

ORDER

On August 29, 2014, Duke Energy Kentucky, Inc. (Duke Kentucky), filed a petition, pursuant to 807 KAR 5:001, Section 13, requesting that the Commission grant confidential treatment for information provided by Duke Kentucky in its responses and attachments to data request numbers 4, 5, 7, 8, and 9 as requested by the Attorney General in this case on August 19, 2014.

As a basis for its request, Duke Kentucky states that the information for which Duke Kentucky seeks confidential treatment shows sensitive economic information regarding future operational costs of Duke Kentucky's generation fleet, including estimates of forecasted maintenance expenses and environmental compliance, as well as confidential critical utility infrastructure described in confidential inspection logs. Specifically, Duke Kentucky is requesting confidential treatment of the following:

- a) AG-DR-02-04 Response discussing future outages and scope of work to be performed:

- b) AG-DR-02-05 Attachment describing, in detail, maintenance projects considered at the East Bend station and budget estimates of costs:
- c) AG-DR-02-07 Response discussing information previously provided under seal discussing future maintenance expenditures:
- d) AG-DR-02-08 Attachment describing critical utility infrastructure consistent with KRS 61.878(1)(m), including recent inspection report of facilities at East Bend describing wastewater systems; and
- e) AG-DR-02-09 discussing information previously provided under seal regarding confidential inspection reports containing critical utility infrastructure, and various actions taken or to be taken by the Company.

Duke Kentucky furthers states that this information could allow potential competitors and possible vendors to have access to Duke Kentucky's estimated maintenance costs and environmental compliance costs that they could then use to estimate Duke Kentucky's future performance, including outage timing and maintenance expenses, including the cost of compliance and equipment needs.

More precisely, the Commission finds that under the Kentucky Open Records Act, it is entitled to withhold from public disclosure information disclosed to it "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" The designated material contained in AG-DR-02-04, AG-DR-02-05, AG-DR-02-07, and AG-DR-02-09 is generally recognized as confidential or proprietary, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS

61.878(1)(c)(1) and 807 KAR 5:001, Section 13, and should not be placed in the public record.

Regarding AG-DR-02-08 the Commission also finds that under the Kentucky Open Records Act, it is entitled to withhold from public disclosure information disclosed to it to the extent that open disclosure would have a “reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act” The right to protect from public disclosure includes,

(f) infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to...water...and;

(g) the following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps or specifications of structural elements...of any building or facility owned, occupied, leased, or maintained by a public agency.¹

IT IS THEREFORE ORDERED that:

1. Duke Kentucky’s petition for confidential protection for the designated material is granted.
2. The designated material shall not be placed in the public record or made available for public inspection for ten years.
3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

¹ KRS 61.878(1)(m).

4. Duke Kentucky shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

5. If a non-party 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, then 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 following 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.

By the Commission

ENTERED
JUL 15 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

*Kristen Ryan
Senior Paralegal
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45202

*Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45202

*Lawrence W Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Mark David Goss
Goss Samford, PLLC
2365 Harrodsburg Road, Suite B325
Lexington, KENTUCKY 40504

*Rocco O D'Ascenzo
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201