

**COMMONWEALTH OF KENTUCKY  
BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION**

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PUBLIC SERVICE  
COMMISSION

In The Matter of:

The Application of Duke Energy Kentucky, Inc.,     )  
for a Declaratory Order that the Construction     )  
of a New Landfill Constitutes an Ordinary     )     Case No. 2015-00089  
Extension in the Usual Course of Business or,     )  
in the Alternative, for a Certificate of Public     )  
Convenience and Necessity.     )

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**PETITION OF DUKE ENERGY KENTUCKY, INC.  
FOR CONFIDENTIAL TREATMENT OF INFORMATION  
CONTAINED IN ITS RESPONSES TO THE ATTORNEY GENERAL'S  
SECOND SET OF REQUESTS FOR INFORMATION**

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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 to Data Request Nos. 3 and 12 including attachments, as requested by the Office of the Attorney General (Attorney General) in this case on May 1, 2015. The information that the Attorney General seeks through discovery in the responses to Data Requests Nos. 3 and 12, and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), shows the identify of third party vendors who provided price quotes for services requested by Duke Energy Kentucky and associated and detailed construction costs and sensitive market and performance data for the Company's East Bend generating station (East Bend), respectively.<sup>1</sup>

In support of this Petition, Duke Energy Kentucky states:

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<sup>1</sup> See Data Request No. 3, including attachments.

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 Commission's request in No. 3 seeks documentation of the market inquiries of third party vendors (Vendors). The identity of the Vendors should be afforded confidential protection - if disclosed, this would very likely impair Duke Energy Kentucky's relationship with these Vendors as it would publicly disclose the detailed pricing information this particular Vendor would charge Duke Energy Kentucky for construction services. The confidential detailed costs of the construction associated with the East Bend Landfill are identified in the accompanying attachments and were derived from a competitive bidding process. Disclosing this information would provide the Vendor's competitors with sensitive pricing information that they could use to disadvantage the Vendor in future projects.

3. The Confidential Information in the Attachment to Response No., 12 shows sensitive market and Generation Availability Data Systems (GADS) information for East Bend over the past several years. This GADS information is highly sensitive as it would provide potential competitors or counterparties for capacity purchases with Duke Energy Kentucky's historic and likely present and future capacity positions. This information could be used to disadvantage the Company in future negotiations for capacity or in competing for power contracts. This detailed availability information, if

made public, could allow competitors and potential counterparties to have a distinct advantage over Duke Energy Kentucky in negotiations and could allow them to make pricing decisions they would not otherwise be in a position to make, thereby harming the Company or its customers through increasing costs.

4. The Confidential Information in responses to No. 3 and No. 12 is distributed within Duke Energy Kentucky, only to those who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

5. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

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

7. 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*, 904 S.W.2d 766, 768 (Ky. 1995).

8. 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 ten copies without the confidential information included.

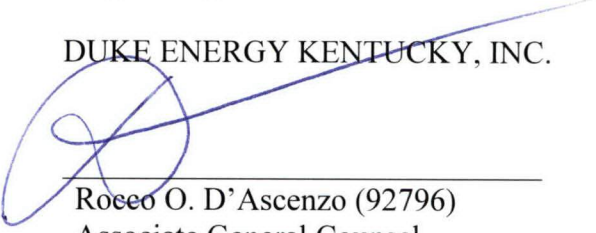
9. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests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

10. 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**

This is to certify that a copy of the foregoing has been served via overnight mail to the following party on this 8<sup>th</sup> day of May 2015.



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Rocco O. D'Ascenzo

Hon. Gregory Dutton  
Hon. Jennifer Hans  
Office of the Attorney General  
Utility Intervention and Rate Division  
1024 Capital Center Drive  
Frankfort, Kentucky 40601