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VIA EMAIL: PSCED@ky.gov

March 31, 2023

Ms. Linda Bridwell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

RECEIVED

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PUBLIC SERVICE
COMMISSION

Re: Case No. 2015-00187

In the Matter of the Application of Duke Energy Kentucky, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Liabilities Associated with Ash Pond Asset Retirement Obligations

Dear Ms. Bridwell:

Pursuant to the December 15, 2015 Order, Paragraph 6 in the above captioned case, Duke Energy Kentucky, Inc. hereby submits its updated ARO calculations reflecting any studies, reports, or changes in other assumptions for the East Bend ARO balance as of December 31, 2022.

In addition, please find enclosed one copy of Duke Energy Kentucky, Inc.'s Petition for Confidential Treatment. Also attached is (1) one copy of the confidential document being filed under seal.

Respectfully submitted,

/s/Rocco D'Ascenzo

Rocco D'Ascenzo
Deputy General Counsel

Attachments

cc: John G. Horne, II

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

The Application of Duke Energy Kentucky, Inc.)
For an Order Approving the Establishment of a) Case No. 2015-00187
Regulatory Asset for the Liabilities Associated)
With Ash Pond Asset Retirement Obligations.)

**PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN THE ATTACHMENT TO ITS ANNUAL REPORT**

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 the attachment to its Annual Report as requested by Commission Staff (Staff) in this case on December 15, 2015. The information that Staff seeks through the Order and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), shows confidential ARO calculations reflecting assumptions for projected ARO costs on an annual basis related to the East Bend ARO balance.¹

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain critical infrastructure information per KRS 61.878(1)(m). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the record would permit an unfair advantage to competitors. Public disclosure

¹ See Order, Paragraph 6 (December 15, 2015).

of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The information contained in the report shows projected costs for various closure and compliance costs related to coal combustion residuals act (CCR) compliance. Releasing this information publicly will provide potential vendors with detailed information regarding what Duke Energy Kentucky anticipates spending in future years to comply with CCR. Releasing this information will put Duke Energy Kentucky at a disadvantage in terms of its ability to negotiate contracts and attempt to manage and reduce costs because counterparties would know what Duke Energy Kentucky believes it would have to spend.

3. The information contained in the annual report was developed internally by Duke Energy Corporation and Duke Energy Kentucky personnel, 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 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.

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

5. 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.

6. 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).

7. 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.

8. 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.

9. 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.

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo (92796)

Deputy General Counsel

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on March 31, 2023; and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

John G. Horne, II
The Office of the Attorney General
Utility Intervention and Rate Division
700 Capital Avenue, Ste 118
Frankfort, Kentucky 40601

/s/Rocco D'Ascenzo

Rocco D'Ascenzo