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VIA OVERNIGHT DELIVERY

October 20, 2010

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd
Frankfort, KY 40601

RECEIVED
OCT 21 2010
PUBLIC SERVICE COMMISSION

Re: Case No. 2010-00203

Dear Mr. Derouen:

Enclosed please find an original and twelve copies of *Duke Energy Kentucky's Response to the Midwest Independent Transmission System Operator's Motion to Compel* in the above captioned case.

Please date-stamp the extra two copies of the filing and return to me in the enclosed envelope.

Sincerely,

Dianne Kuhnell

Dianne B. Kuhnell
Senior Paralegal

cc: Parties of Record

RECEIVED

OCT 21 2010

PUBLIC SERVICE COMMISSION

BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION

In The Matter of:

Duke Energy Kentucky, Inc.'s Application for Approval To Transfer Functional Control of its Transmission Assets From the Midwest Independent Transmission System Operator to the PJM Interconnection Regional Transmission Organization And Request for Expedited Treatment	)))))	Case No. 2010-00203

DUKE ENERGY KENTUCKY, INC.'S RESPONSE
TO
THE MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR'S MOTION TO COMPEL

Comes now Duke Energy Kentucky, Inc., (Duke Energy Kentucky or Company) and respectfully requests that the Public Service Commission of Kentucky (Commission) deny the motion to compel filed by the Midwest Independent Transmission System Operator, Inc., (Midwest ISO). Midwest ISO alleges that Duke Energy Kentucky has mismatched its responses and provided incomplete responses to several of Midwest ISO's data requests (DRs). Midwest ISO further seeks information that is not only irrelevant to this proceeding and beyond the scope if its justification for intervention, but involves analysis performed by or involving non-jurisdictional companies in the Duke Energy Corporate family that were not the basis of Duke Energy Kentucky decision to seek realignment from the Midwest ISO and to join PJM Interconnection LLC (PJM).

As more fully explained below, with respect to the allegations involving incomplete or mismatched responses, Duke Energy Kentucky has responded fully to each DR, including subparts, contained in Midwest ISO's second set of Data Requests (DR-02). Further, any analysis performed by an entity other than Duke Energy Kentucky and which Duke Energy Kentucky did not rely upon in making its decision to realign is absolutely irrelevant and should not be subject to discovery, in this Kentucky proceeding. Moreover, any such information is not Duke Energy Kentucky's information to disclose. Midwest ISO, in seeking to elicit and compel disclosure of proprietary and non-jurisdictional analysis performed by other Duke Energy entities seems to ignore the fact that withdrawal from Midwest ISO membership is voluntary. Disclosing this information is commercially harmful to companies that are not even parties to this proceeding. Requiring members that have multi-jurisdictional utility operations to disclose any analysis performed by sister utility companies that have no bearing on decisions made by the member, has a stifling effect and acts as a clear deterrent and punishment to the member's ability to voluntarily withdraw membership. Especially where, as here, a sister utility operates in a purely competitive environment for retail electric generation service. Clearly, Midwest ISO is using this proceeding as an opportunity to seek information regarding business decisions by Duke Energy Kentucky's sister utilities in Ohio and Indiana, where there is no similar Commission proceeding regarding membership in regional transmission organizations (RTOs). The Commission should not permit Midwest ISO to corrupt this Kentucky proceeding to conduct discovery on decisions made in other jurisdictions, especially when Duke Energy Kentucky made its decision independently and not as a result of any analysis performed by the Duke Energy Ohio or Duke Energy Indiana utilities.

I. Introduction:

Counsel for Midwest ISO first served its DR-02 to Duke Energy Kentucky, by e-mail dated August 13, 2010 (Attachment 1 hereto). Those DRs were in narrative format and contained no numbering of subparts, making it impossible both to identify what were questions and what were just statements, let alone to determine the context of the multiple questions.[1] The version Midwest ISO eventually filed and that Duke Energy Kentucky later received did contain numbering of subparts. Duke Energy Kentucky thus had to re-enter the data requests as filed by the Midwest ISO in order to identify the subparts. In preparing Duke Energy Kentucky's responses in the format to be filed, it appears that those subsequently defined subparts were somehow automatically and unintentionally reformatted by Duke Energy Kentucky's word processing computer program. The fact that the automatic format occurred, and that it was different than the version Midwest ISO filed, was not discovered until Midwest ISO's counsel pointed that fact out via e-mail dated Friday, September 3, 2010, at 4:38 pm. Duke Energy Kentucky's counsel contacted Midwest ISO counsel on the first business day following receipt of the email from Midwest ISO's counsel, which was Tuesday, September 7, 2010 (Monday, September 6th was a holiday). During that call, Duke Energy Kentucky's counsel committed that it would compare the document as filed with the responses as submitted to determine whether the inadvertent reformatting affected the responses. Duke Energy Kentucky did perform such a review.

During this time, Duke Energy Kentucky was also negotiating a Confidentiality Agreement with Midwest ISO to facilitate the provision of proprietary and confidential information related to Duke Energy Kentucky's confidential response to Staff DR 02-09. Counsel for Midwest ISO provided a signed copy of the document and on or about September 20, 2010, Duke Energy Kentucky promptly provided its confidential response.

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[1] *See Attachment 1 hereto, Email dated August 12, 2010 with accompanying attachment.*

Duke Energy Kentucky admits that in its preparation of its responses to Midwest ISO's second set of Data Requests, the questions somehow were reformatted and renumbered prior to the Company's submission. As such, the numbering format of Duke Energy Kentucky's responses did not match those filed by Midwest ISO. The Company's responses to Midwest ISO's data requests did, however, contain the precise text of the Midwest ISO's questions, albeit numbered differently, along with the Company's responses. Duke Energy Kentucky apologized for this unintentional error. However, Duke Energy Kentucky denies that this inadvertent renumbering affected the Company's responsiveness to Midwest ISO's questions. Despite the inadvertent reformatting and renumbering, the Company provided responsive answers to each question and subpart. Upon notification of the numbering discrepancy, Duke Energy Kentucky undertook a review of its responses to determine whether the Company's answers were in fact affected by this accidental reformatting and renumbering. With one exception for clarification as explained in the Company's September 17, 2010, supplemental filing, Duke Energy's Kentucky's responses were not affected by the renumbering and Duke Energy Kentucky's counsel communicated this fact to Midwest ISO.[2]

Midwest ISO alleges that the Company's responses to DRs 2, 3, 4 and 12 remain incomplete. Duke Energy Kentucky has responded to the questions as posed by the Midwest ISO and has made a reasonable attempt to respond fully and completely. Midwest ISO apparently seeks further information, beyond what was asked for in its data requests. Duke Energy Kentucky is not required to provide information that was not requested and the Company responded in good faith to Midwest ISO's requests. The Midwest ISO's motion to compel should be denied.

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[2] *See Duke Energy Kentucky's Supplemental Response to MISO DR 02-005, filed September 14, 2010.*

Midwest ISO further alleges that "Duke Energy Kentucky garbled the Midwest ISO's supplemental requests, scrambling their context and cross-references, and then responded to its own version of the requests." Midwest ISO overstates the situation and Duke Energy Kentucky takes exception to any allegation that the Company has been anything but forthcoming with its responses to the Midwest ISO's numerous, albeit irrelevant, data requests. Any allegation or inference by the Midwest ISO that Duke Energy Kentucky has been evasive or unresponsive to Midwest ISO's discovery is disingenuous. Duke Energy Kentucky has been forthcoming with information, responding reasonably to each and every data request where the request itself was not objectionable or seeking privileged or proprietary information.

Upon receipt of Midwest ISO's Motion to Compel, Duke Energy Kentucky once again reviewed its responses and discovered an error in its references to page numbers in response to Midwest ISO's DR-02-05 and 02-12 and the Company has corrected the error. The page numbers referenced in its responses was to the original source document, namely the Attachment listing Duke Energy entity-owned transmission facilities under Midwest ISO control as the list appears on the Midwest ISO website, rather than the document as printed and filed as part of the Company's Application in this proceeding. As was discussed in the Company's Application, this list was taken directly from the Midwest ISO's website and is information already in the possession of Midwest ISO.[3] Nonetheless, Duke Energy Kentucky has correct ed the page reference to correspond with the Attachment pages as filed with the Company's Application in this proceeding.[4] Since the Company determined it was necessary to supplement its response to correct for this page reference error, the Company has voluntarily renumbered those two

[3] *See Application, paragraph13, at page 10, citing Midwest ISO website in Footnote 12.*
[4] See Supplemental filing date October 18, 2010.

responses to correspond to the Midwest ISO's numbering format.[5] With these corrections, no further information can be provided to DR-02-05 and DR-02-12 responses and Midwest ISO's Motion to Compel should be denied. Midwest ISO's claim that the inadvertent reformatting garbled the questions and its request that the Commission require Duke Energy Kentucky to renumber its responses is thus moot.

II. Discussion

A. Alleged Mismatched Responses[6]

1. Midwest ISO DR-02-05:

In its Motion to Compel, Midwest ISO identifies two DRs (DR-02-5 and DR-02-12) that it alleges were affected by the inadvertent reformatting and renumbering. Attachment 2 to this Response is a true and accurate copy of DR-02-05 as filed by Midwest ISO (Midwest ISO DR-02-05). Attachment 3 to this Motion is a true and accurate copy of Duke Energy Kentucky's filing, as supplemented on September 15, 2010. The differences between the numbering formats between the Midwest ISO DR-02-05 and the Duke DR-02-05 are minute and did not affect Duke Energy Kentucky's submitted responses. Specifically, the differences between the two versions of DR-02-05 as follows:

- Duke DR-02-05 identified part (A) as the beginning of the question, rather than Midwest ISO DR-02-05 (a) the sentence beginning "As to each such interconnection facility listed" The subparts are correctly identified, again but for the fact that Duke Energy Kentucky used regular numbers rather than roman numerals.
- Parts B and C accompanying subparts are nearly identical, but for the fact that Duke DR-02-05 used capital letters and regular numbers and Midwest ISO DR-02-05 used small letters and roman numerals to identify the subparts.

[5] *Id. For the first time in its Motion to Compel, Midwest ISO requested the Duke reformat the numbering of its responses. Although, Duke Energy Kentucky believes this was not necessary, the Company has complied with this request by filing date October 18, 2010.*
[6] For purposes of its Response, Duke Energy Kentucky will respond to the Data Requests in the Order discussed in Midwest ISO's Motion to Compel.

- Duke DR-02-05 inadvertently combined the questions Midwest ISO DR-02-05 posed as parts c(iii) and (d) as multiple questions in Duke DR-02-05 C(2).

The most significant difference is that the Duke DR-02-05 response uses capital letters and regular numbers[7] and Midwest ISO DR-02-05 uses small letters and roman numerals to identify subparts.[8] The actual text of the two DRs is unchanged and the intent of both questions and Duke Energy Kentucky's responses are unaffected by the renumbering. Nonetheless, Duke Energy Kentucky responded to each part of DR-02-05, as explained below.

In Duke DR-02-05A(1)[9] Duke Energy Kentucky identified each of the three interconnection points where Duke Energy entity owned facilities are located as contained in the referenced Appendix A to the Attachment to STAFF-DR-01-006.[10] In its response, the Company, as requested, stated which Duke Energy entity owns or will own the facilities, namely Duke Energy Ohio.[11] There is no further information that can be provided in response to this question. Midwest ISO's Motion to Compel should be denied.

The response to Duke DR-02-05(A)(2)[12], as requested, identifies where the interconnection points are located in the Company's attachment to its Application in this case.[13] The facilities associated with the interconnection points are at the interconnection points identified.

Duke DR-02-05(B)[14] responds directly to the question *"Are any of the to-be-installed/constructed facilities included in the Midwest ISO's MTEP or PJM's RTEPP? If not, why? If so, identify each such facility and provide details regarding its inclusion in MTEP or*

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[7] Attachment 3.
[8] Attachment 2.
[9] a/k/a Midwest ISO DR-02-05(a)(i).
[10] Attachment 3
[11] *Id.*
[12] a/k/a Midwest ISO DR-02-05(a)(ii).
[13] *Id.*
[14] a/k/a/ Midwest ISO DR-02-05(b)]

RTEPP (or both)." The Response contains an objection to the extent Midwest ISO is seeking information already in its possession. Without waiving said objection, the Company responded that none of the facilities are in RTEPP and that the Hebron and Webster Road facilities are listed in the Midwest ISO MTEP, as projects 2871, and 2867, respectively. These facilities are being paid for by EKPC. There is no further information that can be provided in response to this response and Midwest ISO's Motion to Compel should be denied.

Duke DR-02-05(C)(1), and (C)(2)[15] fully respond to the Midwest ISO's requests. Midwest ISO DR-02-05(c)(i) asks:

> *As to each listed interconnection point with EKP:*
>
> *(i) Which Duke Energy entity's transmission or generation facilities are being (or will be) interconnected with EKP?*

Duke Energy Kentucky's response identifies that Duke Energy Ohio-owned generation or transmission facilities that will be interconnected. The Company's response to DR-02-05(A)(1)[16] already identified that Duke Energy Ohio owned all of the facilities referenced. As such, there is no further information that can be provided in response to this question. Midwest ISO's Motion to Compel should be denied.

Midwest ISO DR-02-05(c)(ii) and (iii) asks:

> *As to each listed interconnection point with EKP: "Identify where (if at all) that interconnected facility is listed on Attachment 1 to the Duke Energy Kentucky Application in this case,"* and *"[i]s a Duke Energy entity served (or to be served) through that interconnection point and, if so, which Duke Energy entity?"*

[15] a/k/a Midwest ISO DR-02-05 (c)(i), (c)(ii), and (d) respectively
[16] a/k/a Midwest ISO DR-02-05(a)(i)

Duke DR-02-05(C)(2) addressed these two questions together. The Company supplemented its response to this particular request on September 14, 2010, to provide further clarification. The responses identified the location of the interconnection facility in the Schedule obtained from the Midwest ISO website and included as Attachment 1 to the Application. The original response also indicated that the interconnection facilities do not serve Duke Energy Kentucky Load. The Company's supplemental response further clarifies that the transmission facilities are for EKPC and Duke Energy Ohio transmission and do not serve Duke Energy Kentucky load.[17] Duke Energy Kentucky has fully responded to Midwest ISO's data requests and Midwest ISO's Motion to Compel should be denied.

In Duke DR-02-05(C)(2), the question posed in Midwest ISO-02-05(d) was inadvertently reformatted and merged as a question in part of part C(2). The Company did, however, fully answer the question. Midwest ISO DR-02-05(d) asks:

> *To the extent not already done in response to subparts (a) or (c), identify which of the transmission facilities listed on Attachment 1 to the Duke Energy Kentucky application are Duke Energy Kentucky transmission assets.*

In its response reformatted as Duke-02-05 (C)(2), Duke Energy Kentucky provided a list of the Duke Energy Kentucky-owned assets that were both transferred to Midwest ISO functional control as well as those assets that were not transferred in response to this request. The Company has fully answered this request and no further information can be provided. Midwest ISO's Motion to Compel should be denied.

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[17] As previously discussed, upon review, the Company discovered that the page reference provided in the initial response was as the original source document appears on the Midwest ISO website. By supplemental filing dated October 18, 2010, the Company has now provided an updated response with the page reference to document as it appears attached to the Application filed in this proceeding.[17] With this correction, there is no further information that can be provided.

2. Midwest ISO DR-02-12

Similar to the discussion of Midwest ISO DR-02-05, Duke Energy Kentucky's responses to Midwest ISO DR-02-12[18] were inadvertently reformatted and renumbered. The numbering discrepancies were minor and since Duke Energy Kentucky included the text to the questions, Midwest ISO could follow the responses. Since Duke Energy Kentucky has voluntarily re-formatted to match Midwest ISO's numbering format, the Midwest ISO's apparent confusion regarding numbers is moot.[19] Nonetheless, irrespective of the numbering of the responses, Duke Energy Kentucky's submitted answers were not affected or impaired by the inadvertent renumbering as explained below.

Duke DR-02-12(a) and (b) are identical to Midwest ISO DR-02-12 (a) and (b). Duke DR-02-12(c),(d), and (e) correspond to Midwest ISO DR-02-12(b)(i),(b)(ii), and (b)(iii). Midwest ISO DR-02-12(c)(d) and (e) correspond to Duke DR-02-12(f),(g), and (h). The inadvertent renumbering and reformatting did not affect the Company's responses to the Midwest ISO's requests.[20]

Both Duke DR 02-12(a) and Midwest ISO 02-12(a) pose the following question:

> *Is East Bend presently attached to and dependent on transmission facilities jointly -owned by Duke Energy Ohio, DP&L, and AEP? If so, identify the relevant facilities on Attachment 1 to the DEK Application in this case. If not, list the transmission delivery facilities for East Bend and their ownership, and identify those facilities, if any, which are listed on Attachment 1 to the DEK Application.*

As requested, the Company's response identified that the transmission facilities were owned solely by Duke Energy Ohio and identified where the interconnection facility was located in the Schedule obtained from the Midwest ISO website and included as Attachment 1 to the

[18] *See Attachment 4 hereto,* Midwest ISO DR-02-12, filed August 13, 2010.
[19] *See Supplemental filing October 18, 2010.*
[20] *In its Motion to Compel, Midwest ISO only complains about the Company's responses to DR-02-12 parts*

Application.[21] Duke Energy Kentucky has fully responded to this request and no further information can be provided. Midwest ISO's Motion to Compel should be denied.

Midwest ISO DR-02-12(b) asks whether it is optional or required for the East Bend Generating Station to be in both PJM and Midwest ISO.[22] Duke Energy Kentucky's response explains how East Bend is a capacity resource for both DP&L and Duke Energy Kentucky in their respective RTOs, and in order to be considered designated resources, the ownership share of the asset is required to be modeled in only one RTO.[23]

Midwest ISO also complains that the Company's responses to Midwest ISO DR-02-12(b)(ii) and (iii)[24] [a/k/a Duke DR-02-12(c) and (d)][25] were incomplete and alleging that the Company was not responsive. Duke Energy Kentucky disagrees. Midwest ISO DR-02-12(b)(i) asks what does the option or requirement depend.[26] Duke Energy Kentucky's corresponding response states that the requirement is related to the asset share owned by each utility as capacity resources in the applicable RTO.[27] Midwest ISO DR-02-12 (b)(ii) and (iii) ask how that requirement changes once Duke Energy Ohio and Duke Energy Kentucky realign respectively. The answer to both questions is the same, "[t]he realignment of Duke Energy Ohio and Duke Energy Kentucky to PJM will result in East Bend Unit 2 being modeled as directly connected to PJM."[28] As the Company explained in its response to part (a), the transmission facilities at East Bend are owned solely by Duke Energy Ohio. As such, once Duke Energy Ohio realigns, East

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[21] Upon review, the Company discovered that the page reference provided in the initial response was as the source document appears on the Midwest ISO website. The Company has provided an updated response with the page reference to document as it appears attached to the Application filed in this proceeding. *See supplemental filing dated October 18, 2010.*
[22] *Attachment 4.*
[23] *See* Attachment 5, part (b), *Emphasis added.*
[24] *See Attachment 4 hereto.*
[25] *See Attachment 5 hereto.*
[26] Attachment 4, part b(i).
[27] *See* Attachment 5, part c.
[28] *See* Attachment 5, part d and e respectively.

Bend will be directly connected to, and only connected to PJM. There is no distinction that can be drawn for the questions as asked.

Midwest ISO DR-02-12(c)[29] asks whether East Bend is currently pseudo-tied to either PJM or Midwest ISO. Duke Energy Kentucky's response,[30] among other things, clearly states that DP&L's share is pseudo tied to PJM. Midwest ISO DR-02-12(d) asks whether East Bend is split between the two RTOs or if it is in both RTOs to a variable and overlapping amount.[31] Duke Energy Kentucky's response, among other things states that East Bend is split and that DP&L's share is modeled as a discrete unit in PJM and Duke Energy Kentucky's share is a discrete unit in Midwest ISO and explains why there is no overlapping.[32] Midwest ISO DR-02-12(e) asks how load is treated and whether it is in the respective RTO in proportion to ownership share.[33] Duke Energy Kentucky's response explains that load in is the RTO on an ownership basis.[34]

Based upon the questions, as drafted by Midwest ISO, the Company has fully responded to each and every part of DR 02-12. There is no further information to provide and Midwest ISO's motion to compel should be denied.

B. <u>Alleged Incomplete Responses</u>

1. <u>Midwest ISO DR-02-02(b)(i)</u>

Specifically Midwest ISO complains about the Company's response to Midwest ISO DR-02-02(b)(i). The question states as follows:

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[29] Attachment 4, part c.
[30] Attachment 5, part f.
[31] Attachment 4, part d.
[32] Attachment 5, part g.
[33] Attachment 4 part e.
[34] Attachment 5, part h.

What is the revenue requirement impact of the profit-sharing arrangement?[35]

The Company's response states that the "revenue requirement impact to customers is equal to the credits flowed through via Rider PSM as reflected in Response to Midwest ISO DR-01-12." Duke Energy Kentucky, as part of its response to Midwest ISO DR-01-12 included both the Rider PSM tariff and a schedule showing the relevant credits to customers from 2006 through second quarter 2010. Midwest ISO clearly does not grasp that Rider PSM is a profit-sharing mechanism with Duke Energy Kentucky's customers whereby to the extent that the Company can engage in off-system energy and capacity sales, customers automatically get the first $1 million dollars and 50% of any additional sales as a credit through a discrete mechanism. That profit sharing allocation is the revenue impact. Whatever the sales are, that is what customers receive as a credit to their rates under the terms of the tariff. And that is the impact to the revenue requirement. If Midwest ISO is looking for some other response, the Company does not understand what that may be based upon the question as drafted. If Midwest ISO is requesting that Duke Energy Kentucky perform a complete cost of service study and revenue requirement calculation as it would in preparation for a base rate case application, the response is the Company has not performed such an complex and time and cost intensive analysis and it is beyond the scope of this proceeding. Duke Energy Kentucky is not seeking to adjust its rates as a part of this case. Rather Duke Energy Kentucky has clearly stated that the Commission retains all jurisdiction over retail rate making and that the Company will support any rate adjustment in the Company's next rate case. Midwest ISO is free to attempt to intervene in the Company's next rate case if it is so interested in Duke Energy Kentucky's revenue requirement. Thus, Duke Energy Kentucky cannot provide any further information.

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[35] Referring to Commission Order in Case No 2003-00252.

2. Midwest ISO DR-02-03

Midwest ISO also takes issue with Duke Energy Kentucky's response to Midwest ISO DR-02-03, specifically subparts (c)[36] and (d)(i) and (ii)[37]. The first question at issue states:

> *State whether a negative value has ever occurred in a given month and, if so, how that occurred and whether that negative value reduces the overall "Off-System Sales Margin" (see, e.g., id. line 18).*

Duke Energy Kentucky's Response states:

> There have been occasions when the net result for the month is negative and it will reduce the net margin to be flowed through the Rider PSM for the year. However, Rider PSM cannot be below $0 for the year. Among other things, losses can occur as a result of how costs are allocated between native and non-native in the fuel adjustment clause (i.e., stacking); from hedges depending on market conditions; from uneconomic dispatch when units are run out of the money to avoid the cost of shut-down and start-up; and from general dispatch methodology.

The response plainly states that yes, the net result for the month has been negative, and that it will reduce the net margin flowed through the Rider for the year. The response further describes how the losses can occur, namely as a result of (1) how costs are allocated between native and non-native in the fuel adjustment clause; (2) from hedges; (3) from uneconomic dispatch to avoid cost of shut down and start-up; and (4) from general dispatch methodology. Duke Energy Kentucky has answered the Midwest ISO's question and cannot provide any further information. If Midwest ISO was looking for some other information, it is unclear based upon the question as drafted. Duke Energy Kentucky cannot provide any further information and should not be penalized for Midwest ISO's inability to ask a clearer question.

The second question Midwest ISO claims is at issue in Data Request 3 states as follows:

> *There are also "Capacity" revenues listed in the support documentation. See, e.g., TFS2010-00417, filed 7/23/10, Duke Energy Support.pdf, Sch.2 line 7.*

[36] a/k/a/ Midwest ISO DR-02-03(a)(iii).
[37] a/k/a Midwest ISO DR-02-03 (b)(i) and (ii)

(i) Describe what rev enues are included in that category.

(ii) Are the amounts listed for "Capacity" gross or net? If net, what has been excluded? Describe any related costs that are included in the "Variable Costs Allocable to Off-System Sales" (see, e.g., id. lines 10-17).

Duke Energy Kentucky's response is as follows:

See response to MISO-DR-02-001(c).

The Company's Response to Midwest ISO DR-02-001(c), including subparts, contains both a narrative response and an accompanying schedule. The narrative response to (c)(1) describes the revenue from each individual capacity sale (*i.e.*, revenues) included in the Rider PSM and further explains the change that occurred prompting the sale of excess capacity for inclusion in the Rider PSM. The schedule attached to the response shows the actual capacity revenues included in the Rider. Combined these are responsive to subpart (i) and"*[d]escribe what revenues are included in that category.*" With respect to subpart (ii), again the Company's response to Midwest ISO DR-02-001(c) includes all information Midwest ISO seeks. The aforementioned schedule shows the gross capacity revenues. Duke Energy Kentucky admits that it did not expressly state that the capacity revenues were gross, however, it should have been apparent based upon the fact that the schedule shows the quantity, price and total without any adjustments. Nonetheless, to the extent Midwest ISO has somehow been prejudiced because it could not tell whether the capacity revenues were net or gross, the Company does apologize. With respect to the second question posed in subpart (ii), "*[d]escribe any related costs that are included in the "Variable Costs Allocable to Off-System Sales, (see, e.g., id. lines 10-17)"* the Company's response to Midwest ISO DR-01(c) states that there are immaterial costs associated with the sale of capacity. The schedule referenced in the question at lines 10-17 includes a list of all the material costs used in the calculation of the Rider PSM and the total included in attachment MISO DR-02-001(c)(2) are the amounts included in the Rider calculation.

3. Midwest ISO DR-02-04

Midwest ISO also is unsatisfied with Duke Energy Kentucky's response to DR-02 04(B)(4). The question posed states as follows:

> *In its participation within PJM, has a Duke Energy entity taken a position on the issue raised by the IMM's recommendations in the 7/14/10 Analysis? If so, state each vote or other position taken, by which Duke Energy entity (or entities), and the date or time period.*

The Company's response was as follows:

> *Objection. This question is vague and overly broad. Without waiving said objection, assuming that this refers to the July 14, 2010 IMM Report on the 2013/2014 RPM BRA results, See MISO-DR-01-006. There was no vote on the IMM Analysis.*

The Midwest ISO first asked Duke Energy Kentucky about the IMM analysis in MISO DR-01-006. Duke Energy Kentucky stated its position regarding the IMM analysis and recommendations in the previous answer to Midwest ISO DR-01-006. The Company's response further states that there was no vote taken. Therefore the remainder of the Midwest ISO DR-02-04 is inapplicable. If there was no vote taken, the Company cannot "*identify each vote, or other position taken, by which Duke Energy entity (or entities), and the date or time period.*" Moreover, the fact that the question, as posed, is ambiguous as to time or date or subject matter is clearly objectionable. There is no further information that can be provided in response to the question, as asked. Midwest ISO's motion to compel should thus be denied.

C. Analyses and Studies

Midwest ISO argues that information relating to affiliates of Duke Energy Kentucky or gathered or prepared by those affiliates is within the scope or jurisdiction of this proceeding. Midwest ISO goes on to suggest that it and this Commission must analyze Duke Energy Ohio's similar decision, even if Duke Energy Kentucky did not. Midwest ISO's position is unreasonable, overreaching and designed to discourage and penalize transmission owners that elect to assert their right to voluntarily withdraw from Midwest ISO, by eliciting disclosure of all financial analysis performed by any company related to the withdrawing member.

Duke Energy Kentucky has not said that that it did not analyze and evaluate its options. It has. And Duke Energy Kentucky has provided both this Commission and Midwest ISO the Company's discrete analysis. Duke Energy Kentucky has not however, analyzed the impact of its withdrawal on any other Duke Energy entity or any other non-affiliated transmission owner. Nor has Duke Energy Kentucky considered, relied upon or evaluated any analysis performed by any other Duke Energy entity that may have considered RTO realignment. Duke Energy Kentucky has stated, time and time again that it performed its own analysis and made its own independent decision to withdraw from Midwest ISO. Any analysis performed by another entity is irrelevant to the purpose of this case, whether Duke Energy Kentucky's request to realign RTO membership is in the public interest.

In its Motion to Compel, Midwest ISO points to several responses to data requests in arguing that the Company should provide non-jurisdictional analysis performed by Duke Energy entities other than Duke Energy Kentucky. Midwest ISO intentionally and self-servingly misconstrues Duke Energy Kentucky's responses inferring the Company is being evasive or worse deceptive regarding its analysis to leave the Midwest ISO. The Commission should not be swayed by Midwest ISO's baseless and self-serving inferences. Duke Energy Kentucky has provided responses where required and objections only when necessary, as is within its right to do so.

In PSC Staff DR-01-10, Duke Energy Kentucky (contrary to Midwest ISO's allegations), did not say that it performed no study or analysis whatsoever; rather, the response stated (as asked) that Duke Energy Kentucky had not performed a study to determine impacts on other Kentucky transmission owners. Nor was Duke Energy Kentucky obligated to perform such an analysis. Midwest ISO conveniently ignores that Duke Energy Kentucky's response goes on to explain why the Company believes there will not be any significant impacts and that RTO costs are always changing due to changing in RTO membership allocations.

In Midwest ISO DR-01-02(b) and (c), 13, 14, and 16(f)(iii), Duke Energy Kentucky merely stated that it had not performed the particular analysis that was identified in the data request. Midwest ISO DR 01-02(b)(i) asks the Company to provide Duke Energy Kentucky's MTEPP allocation for a recent 12-month period. Since Midwest ISO assesses MTEPP, Midwest ISO has that information in its possession. And Duke Energy Kentucky was well within its right to object to such a dubious request. Midwest ISO DR 01-02(b)(ii) asks Duke Energy Kentucky to perform a specific and complex calculation and analysis that the Company had not performed. Duke Energy Kentucky is not obligated to provide or perform any new calculation or analysis, especially one as complex as requested by Midwest ISO simply at the whim of Midwest ISO. Again, Duke Energy Kentucky was within its right to object to this request. Similarly, in Midwest ISO DR-01-13, 14 and 16, Midwest ISO requests Duke Energy Kentucky to perform new, complex and time consuming analysis that the Company did not perform. Again, Duke Energy Kentucky is not obligated to provide or perform any new or complex analysis simply at the whim of the Midwest ISO.

Staff DR-02-009 referenced a study performed by Midwest ISO whereby Midwest ISO claimed "Duke could earn nearly $8 billion" for combined Ohio and Kentucky assets, and asks whether the Duke Companies have performed or reviewed any analysis to determine what Duke Kentucky and Duke Ohio could earn annually on capacity payments in PJM, and if yes, provide a summary of the analysis results. Duke Energy Kentucky provided the summary of its own analysis. The Company clearly states that Duke Energy Ohio and Duke Energy Kentucky did not perform or review a combined analysis. The response goes on to explain the FERC affiliate restrictions that preclude the sharing of this information. Duke Energy Ohio made its decision to withdraw from the Midwest ISO independently and without seeking Duke Energy Kentucky's permission. Although Duke Energy Ohio's decision created the opportunity for Duke Energy Kentucky to realign, Duke Energy Kentucky performed its own independent analysis to determine if realigning was in the best interest of the Company and its ratepayers. Duke Energy Kentucky did not ask for Duke Energy Ohio's justification to realign because it was irrelevant to Duke Energy Kentucky. The response further describes that Duke Energy Ohio operates in a competitive market in another state and that releasing any information regarding Duke Energy Ohio's operations, including any analysis would be financially harmful to Duke Energy Ohio and its customers.

Midwest ISO DR-02-07(d) is the first general request for studies or analyses. Duke Energy Kentucky responded to each part of the request, objecting only to parts c and d.[38] Subpart d asks for "all written or documented analyses that consider DEK's realigning with PJM, not realigning if Duke Ohio realigns or the effects of either action - even if the analysis is not

[38] Midwest ISO DR-02-07(c) asks for Duke Energy Kentucky specific analysis. The Company has provided Midwest ISO the Company's analysis under protection of an executed Confidentiality Agreement and to the Commission under seal with a Motion for Protective Order.

specific to DEK." Clearly, Midwest ISO is seeking discovery of information that involves affiliates of Duke Energy Kentucky. That is simply not relevant to this proceeding. Midwest ISO is using this proceeding as an opportunity to seek information regarding analysis performed by Duke Energy Kentucky's sister utilities in Ohio and Indiana, where there is no similar Commission proceeding regarding RTO membership decisions. The Commission should not permit Midwest ISO to corrupt this Kentucky proceeding to conduct discovery on underlying analysis supporting business decisions made by other companies, in other jurisdictions, especially when Duke Energy Kentucky did not rely upon such analysis.

Now, in its Motion to Compel, Midwest ISO demands that the Duke Energy Kentucky "provide all analyses, studies, memos, information, and other data requested relating to realignment (or not) and the effects of realignment (or alternatives) that:

- were prepared by or on behalf of DEK; or
- affected the decision to realign DEK or was reviewed or considered in the course of making the decision; or
- relate (in whole or in part) to the decision regarding DEK or to the effects on DEK or realignment or its alternatives; or
- were considered or relied upon (by someone other than DEK's counsel in preparing DEK's application, testimony or date responses filed in this proceeding."[39]

Duke Energy Kentucky objects to this request on several grounds, least of which is Midwest ISO's demand exceeds the scope of its own data requests and is clearly an attempt to conduct additional discovery. Midwest ISO should not be permitted expand the scope of discovery already submitted. This is especially true considering the data request seeking irrelevant and non-jurisdictional analysis, Midwest ISO DR-02-07, is already unreasonably broad, unduly burdensome and seeks confidential and arguably privileged information that does not involve

[39] Midwest ISO Motion to Compel at 7.

Duke Energy Kentucky, is not created by Duke Energy Kentucky, and was not relied upon by Duke Energy Kentucky in evaluating whether or not to withdraw from the Midwest ISO and realign with PJM.[40]

Duke Energy Ohio operates in a competitive market where generation customers have the opportunity to choose their electric supplier and switch away from the utility. Undeniably, Duke Energy Ohio would not have decided to realign its RTO membership if it was not in its best interests to do so. Duke Energy Ohio did not consult with Duke Energy Kentucky prior to making its decision to realign, nor did it provide any analysis to Duke Energy Kentucky for Duke Energy Kentucky to use or consider in making its decision whether or not to realign. Duke Energy Ohio's decision created the opportunity for Duke Energy Kentucky to realign due to Duke Energy Kentucky's dependence upon Duke Energy Ohio's transmission system to supply Kentucky load.

Duke Energy Kentucky's decision to leave the Midwest ISO was, of course, studied. And its study was provided to Midwest ISO in response to discovery in this proceeding. Other considerations supporting Duke Energy Kentucky's realignment, including complexities of remaining in Midwest ISO, pseudo-tying the Company's entire load, likely additional metering and personnel, as well as benefits of Duke Energy Kentucky's jointly-owned generating units being entirely in a single RTO, are discussed in the Company's Direct Testimony, Application and in responses to Discovery in this proceeding. This analysis and the supporting considerations were the basis for Duke Energy Kentucky's decision to realign with PJM.

Duke Energy Kentucky's decision to realign, like the realignment decision of Duke Energy Ohio, was reviewed and approved by Duke Energy Corporation's executive

[40] In its Motion to Compel, Midwest ISO does at least clarify that privileged and attorney work product is not being sought.

management. Duke Energy Ohio presented its analysis to the Company's executive management in a document prepared by and under the direction of Duke Energy Corporation's counsel. This document included legal analysis and a discussion, in redacted form, of impacts to other Duke Energy entities including Duke Energy Kentucky.

Pursuant to a request by the executive management team of Duke Energy Corporation, counsel began the evaluation of the legal impacts to each of the affiliated companies of a move away from Midwest ISO. In preparing its legal advice, the team of attorneys tasked with this job evaluated the law and, with specific advice from other technical experts, the legal ramifications of the possible move. The document identified separately, but not on a combined basis, the financial assumptions and impacts to Duke Energy Ohio and Duke Energy Kentucky. The document was prepared and presented in such a way as to separate and redact Kentucky and other regulated information so that it would not be made available to Duke Energy Ohio's and other non-regulated personnel within Duke Energy Corporation.

Counsel oversaw the creation of this document, the compiling of its information and prepared the final legal advice. That advice discussed each of Duke Energy Ohio and Duke Energy Kentucky, but most advice covered both affiliates. Clearly, this information is protected under attorney-client privilege, as well as attorney work product prepared in preparation for the cases that would be filed here, and at the FERC and should not be produced.

Ignoring for a moment the claim of privilege and attorney work product, the information in the document also includes confidential and proprietary commercial information belonging to Duke Energy Ohio. This Commission has followed Kentucky courts precedent regarding confidential and proprietary commercial information, that "to prevent discovery of such information, the party must demonstrate that disclosure will work a clearly defined and serious injury."[41] If this requirement is met, the burden shifts to the party seeking discovery to establish that disclosure of the information is relevant and necessary.[42] Upon such a showing, a balancing of the parties' interests occurs.[43] If the party seeking discovery proves unable to meet its burden, discovery is denied.[44] Indeed, as the Kentucky Supreme Court has found, "information concerning the inner workings of a corporation is 'generally accepted as confidential or proprietary.'"[45] It must be recognized that, if this Commission were to require the production of the legal advice supplied to Duke Energy Kentucky, much information concerning the business of Duke Energy Ohio would also become public.

As this Commission is well aware, Ohio is deregulated. Thus, information publicized here could have serious negative impacts on the ability of Duke Energy Ohio to compete in the marketplace. If Duke Energy Ohio's competitors had access to the Company's assumption regarding the PJM capacity market and its evaluation of its generation resources and dispatch-ability, Duke Energy Ohio's generation would be at a competitive disadvantage and the financial impacts would be catastrophic. Duke Energy Ohio's ability to compete in the deregulated market would be limited as its competitors would have the ability to undermine Duke Energy Ohio's efforts to optimize its generation portfolio. Duke Energy Ohio has not provided its confidential and proprietary analysis to any entity. Further, no other competitive marketer in Ohio is required to provide such information in any public forum. Further, since the Ohio Public Utilities Commission (PUCO) does not have jurisdiction over Duke Energy Ohio's decision to realign RTO membership, the PUCO has not required Duke Energy Ohio to provide its analysis

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[41] *See Green River Steel v. Kentucky Utilities Company, Case No. 10300 (Order at 2)(January 6, 1989).*
[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] *Hoy v. Kentucky Industrial Revitalization Authority*, Ky., 904 S.W.2d 766, 768.

in Ohio. If third parties, including affiliated and unaffiliated competitors were able to gain Duke Energy Ohio's proprietary analysis, Duke Energy Ohio could be competitively prevented from achieving the value estimated in completing its RTO realignment.

Midwest ISO does not need any analysis performed by any entity other than Duke Energy Kentucky. Nor has Midwest ISO articulated any reason why it should have such information. Midwest ISO does not have a confidentiality agreement with Duke Energy Ohio and is not obligated to protect such information. Duke Energy Ohio is not a party to this proceeding. Duke Energy Ohio has not filed any testimony and will not have any witness available to be cross examined regarding its analysis. Duke Energy Kentucky did not perform an analysis for Duke Energy Ohio, is not supporting an analysis performed by Duke Energy Ohio and will not testify regarding any analysis performed by Duke Energy Ohio. The proceeding in Kentucky only involves Duke Energy Kentucky. Duke Energy Indiana's decision to remain in the Midwest ISO is just as irrelevant as Duke Energy Ohio's decision to realign with PJM. The only issue that is important in this proceeding is whether Duke Energy Kentucky's decision to transfer operational control over the 138 kV side of eighteen transformers form Midwest ISO and to realign with PJM is in the public interest. Duke Energy Kentucky did not rely upon Duke Energy Ohio's financial analysis in making its decision to realign with PJM. And Duke Energy Ohio's assumptions regarding the performance of its assets in PJM are completely irrelevant to how Duke Energy Kentucky analyzed its own assets.

D. Alleged Other Incompleteness

Midwest ISO also takes issue with Duke Energy Kentucky's responses to other data requests, alleging that the Company has been evasive and incomplete in its responses. Again, Duke Energy Kentucky denies this allegation and at all times has been forthcoming and has attempted to reasonably interpret Midwest ISO's questions and be complete with responses. Although Midwest ISO identifies several data requests by number[46] as being somehow incomplete, it only provides one specific example, DR-02-06a. Duke Energy Kentucky is at a loss as to how its responses identified on page 8 of Midwest ISO's Motion to Compel are incomplete as Midwest ISO failed to explain or in any way articulate why it believes Duke Energy Kentucky was non-responsive. Nonetheless, in an effort to resolve this issue, Duke Energy Kentucky will go through each of the DRs identified by Midwest ISO and explain its response.

DR-02-6a asks for an estimate of the number of years that payment will be made for RTEPP costs of projects currently under way. Duke Energy Kentucky's response is accurate and complete. As long as the grid requires upgrades and modification, Duke Energy Kentucky will have to pay for associated RTEPP projects while it is a member of PJM. Duke Energy Kentucky has not performed any specific analysis regarding number of years the Company will be in PJM or forecasted what projects are in cue and how long those costs will be allocated PJM members. As Duke Energy Kentucky explains in response to DR-02-06(b) in service dates of RTEPP projects continue to be moving target and the allocation of expansion costs are not known. Duke Energy Kentucky cannot respond to questions of which it has not performed any such analysis. There is no further information that can be provided to this response.

Midwest ISO is also critical to the Company's response to Midwest ISO DR-02-01(c)(iii). The question asks "[s]how the derivation (and provide all workpapers) of the capacity sales "profit" to be included in the Rider PSM calculation, including gross revenues and each

[46] *See Motion to Compel at page 8.*

deduction therefrom." Duke Energy Kentucky's response, among other things states that the amounts provided on attachment MISO-DR-02-01(c)(2) in the total column were the amounts in the PSM calculation. As for the costs included against the gross total for capacity as reflected in the referenced schedule, there are no variable costs. Variable costs relate to such things as MISO energy charges, emission allowance expenses, fuel, etc., anything that varies with kWh. There is no variable cost associated with capacity. There are no other workpapers other than what was referenced in the response and what Midwest ISO already had in its possession as referenced in Data Request DR-02-03. There is no further information that can be provided to this response based upon the question as asked. If Midwest ISO is looking for some additional information, Duke Energy Kentucky cannot tell based upon the question as authored.

Midwest ISO claims the Company's responses to several subparts of DR-02-02 are incomplete. Midwest ISO DR-02-02(a) asks about three categories of costs (Bilateral sales, Hedges, and RSG Make-Whole payments) included in Duke Energy Kentucky's TFS2010-00417 filing. Duke Energy Kentucky's response explains what those categories are and where in the filing Midwest ISO can find the actual costs associated with each of those categories in the Company's PSM filing referenced by the Midwest ISO. If Midwest ISO seeks some other or additional information it is unclear based upon the question as drafted. Duke Energy Kentucky made a good faith and reasonable attempt to respond to Midwest ISO's request.

Midwest ISO also lists the Company's response to DR-02-02(b)(iii) as being incomplete.[47] The question, referencing the Commission's Order in Case No 2003-00252, asks whether the Company takes the position that "Rider PSM applies to any off system sales other

[47] *Id. Duke Energy Kentucky has already responded to the Midwest ISO's allegations regarding DR-02-02(b)(i)in this filing and will not repeat those arguments here.*

than from the facilities transferred in the transactions considered in Case No. 2003-00252?" Again, Duke Energy Kentucky's response is complete. Duke Energy Kentucky does not own any other generating assets other than what was acquired in Case No. 2003-00252. Anything else is speculation.[48] The Commission's Order in Case No. 2003-00252 directly addresses the issue as to what assets are included in Rider PSM, and further addresses the treatment of generating assets Duke Energy Kentucky may acquire in the future. Duke Energy Kentucky is not obligated to read and interpret Commission Orders for Midwest ISO, especially those that Midwest ISO already has in its possession, has specifically referred in drafting its question, and where the answer appears on the exact same page Midwest ISO references in the question. Duke Energy Kentucky has made a good faith and reasonable attempt to respond to Midwest ISO's request and should not be penalized for Midwest ISO's failure to articulate what information it seeks.

Similarly, Midwest ISO DR-02-02d(ii) asks Duke Energy Kentucky to confirm that, "as part of its request and the resulting calculations under Rider PSM, DEK agreed to absorb any net costs (when costs exceed revenues for ancillary market transactions in any given month) and hold rate payers harmless."[49] The Company's response is clear and complete. The Commission's Order referenced by Midwest ISO speaks for itself and Duke Energy Kentucky "made no explicit agreement to absorb incremental costs related to its participation in the ancillary services market." Duke Energy Kentucky said "no." There is no further information that can be provided to this response. Again, if Midwest ISO is seeking some other information,

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[48] *See response to Duke DR-02-02 (d), as filed August 25, 2010.*
[49] *See Midwest ISO DR-02-(d(i).*

it is unclear form the question as drafted. Duke Energy Kentucky should not be penalized for Midwest ISO's apparently incomprehensible question.

Finally, Midwest ISO identifies the Company's response to DR-02-03(c)(i) as incomplete.[50] Midwest ISO DR 02-03(c)(i) asks as follows:

> *c. The support documentation lists "MISO and Other Costs" as a category of "Variable Costs Allocable to Off-System Sales." See, e.g., TFS2010-00417, filed 7/23/10, Duke Energy Support.pdf, Sch.2 line 14.*
>
> *i. What are "Other Costs"? Are there any "Other Costs" associated with Bilateral Sales?*

Duke Energy Kentucky's response states "The MISO and Other Cost line only includes MISO costs."[51] To put it another way, there are no other costs, just MISO costs. Duke Energy Kentucky cannot identify something that does not presently exist. The Company's response is complete and no further information can be provided. Midwest ISO's Motion to Compel should be denied.

III. CONCLUSION

For the reasons stated above, Midwest ISO's Motion to Compel should be denied. Duke Energy Kentucky has responded to each Data Request and cannot provide any further information based upon the questions as asked. With respect to confidential analysis performed by entities other than Duke Energy Kentucky, such analyses are irrelevant to this proceeding and if produced will cause clear and serious harm. This Commission should deny Midwest ISO's Motion.

[50] On page 8 of its Motion to Compel, Midwest ISO also identified DR-02-4(c), DR-02-06(a) and DR-02-12(b)(ii) and (iii) as incomplete. Duke Energy Kentucky has already addressed those data requests in its response and will not repeat the argument here.

[51] *See Duke Energy Kentucky Response DR-02-03(e)(i), filed August 25, 2010.*

Respectfully submitted,
DUKE ENERGY KENTUCKY, INC.

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CERTIFICATE OF SERVICE

I certify that a copy of the attached Requests for Information to Midwest ISO on behalf of Duke Energy Kentucky, Inc. has been served by UPS overnight mail to the following parties on this 20th day of October, 2010:

Rocco O. D'Ascenzo

Hon. Dennis Howard Office of the Attorney General Utility Intervention and Rate Division 1024 Capital Center Drive Frankfort, Kentucky 40601	Katherine K Yunker John B. Park Yunker & Park, PLC P.O. Box 21784 Lexington, KY 40522-1784
Keith Beall Esquire P.O. Box 4202 Carmel, Indiana 46082-4202	Honorable Jason R Bentley Attorney at Law McBrayer, McGinnis, Leslie & Kirkland PLLC 305 Ann Street Suite 308 Frankfort, KY 40601

Kuhnell, Dianne B

From:	Katie Yunker [yunker@desuetude.com]
Sent:	Friday, August 13, 2010 6:57 PM
To:	Kuhnell, Dianne B
Subject:	Ky.PSC 2010-00203 supplemental data requests
Attachments:	MISO-DEK SuppRequests.doc; ATT00001.htm

Ms. Kuhnell:

Attached is a Word (.doc) file of the data requests from the Midwest ISO served and filed today. I am sending them to you to be of assistance to Duke Energy in preparing the responses.

Katie Yunker

1. In its response designated as the "MISO-DR-01-012(d) attachment," DEK provides a spreadsheet showing what are represented to be dollar values and percentages from application of DEK's profit-sharing mechanism rider (Rider PSM).

Are the amounts presented in the MISO-DR-01-012(d) attachment and described as "Absolute Dollar Amount of Profits from off-system sales of energy" (row "i") the entirety of the off-system sales profits to be included in the calculation of the Rider PSM Factor (*i.e.*, equal the "P" in the formula provided in KY P.S.C. Electric No. 2, 14th Rev'd Sheet No. 82 p.1/2)? If not, provide the dollar amount of profits from all off-systems sales that were included for each quarter through and including 2010 Q2.

Confirm that the 3rd quarter 2009 dollar amounts as to each component underlying the percentages provided in the MISO-DR-01-012(d) attachment are as follows:

Energy Sales	- $715,385
Ancillary Services Sales	- $45,749
Capacity Sales	$710,047

If one or more of these is not correct, provide the dollar value for each discrete component by quarter for each quarter shown in the MISO-DR-01-012(d) attachment.

With respect to the "capacity sales" for which data is given in the MISO-DR-01-012(d) attachment (2009 Q3 – 2010 Q2):

What changed (or began) that caused amounts for capacity sales to be included in the overall off-system sales profits?

Identify and describe what is the "capacity" that is being sold, to whom, and how.

Show the derivation (and provide all workpapers) of the capacity sales "profit" to be included in the Rider PSM calculation, including gross revenues and each deduction therefrom.

The dollar amounts provided for "Absolute Dollar Amount of Profits from off-system sales of energy" on the MISO-DR-01-012(d) attachment are of the same magnitude but do not match the amounts given as the "Off-System Sales Margin Allocated to Customers" for the respective quarter in the support documentation provided for the initial Rider PSM tariff and each revision.

Compare, e.g., MISO-DR-01-012(d) attachment Q1 2010 ($1,063,958) *with* TFS2010-00046, filed 1/28/10, Duke Energy Support Doc.pdf, Sch.2 line 23 ($982,429). Explain the difference in amounts shown on the MISO-DR-01-012(d) attachment and on the support documentation.

2. In the MISO-DR-01-012(a) attachment, DEK provides the Rider PSM pages from its tariff ("Rider PSM Tariff"), KY.P.S.C. Electric No. 2, 14th Rev'd Sheet No. 82, issued 4/30/10 and effective 6/2/10.

How are negative profits (as reflected, for example, in the 3rd quarter 2006) treated in calculating "P" for the Rider PSM Factor?

The Commission found that the "sharing" of off-system sales profits in the Rider PSM was reasonable and acceptable in the circumstances, in its12/5/03 Order pp. 19-20, Case No. 2003-00252.

What is the revenue requirement impact of the profit-sharing arrangement (*see id.* p.20 n.34)?

Does DEK still acknowledge that such profit-sharing from off-system sales between ratepayers and shareholders departs from typical rate-making treatment (*see id.* p.19)? If not, explain.

Does DEK take the position that the Rider PSM applies to any off-system sales other than from the facilities transferred in the transactions considered in Case No. 2003-00252? If so, explain.

Is it DEK's intention to share any capacity profits received under the PJM RPM with ratepayers?

Does DEK take the position that shareholders' receiving a portion or all of capacity revenue is critical from an economic perspective to the "business decision" to realign with PJM? Explain.

Confirm that ratepayers are credited with 100% of the net margins on sales of emission allowance (*see* Rider PSM Tariff (page 1/2)). If this is not correct, state how and with whom the ratepayers share the net margin on sales of emission allowances.

In Case No. 2008-00489, DEK sought and obtained approval to modify Rider PSM to include as an "eligible profit" the net revenues related to its provision of ancillary services in the Midwest ISO Ancillary Services Market (ASM). *See* 1/30/09 Order.

Confirm that, as part of its request and the resulting calculations under Rider PSM, DEK agreed to absorb any net costs (when costs exceed revenues for ancillary market transactions in any given month) and hold ratepayers harmless.

Explain the mechanics of how ASM net costs are reflected in the Rider PSM Tariff and then show how they are reflected in the calculation of the Rider PSM Factor.

3. The support documentation provided with each Rider PSM Tariff revision lists categories of "Off-System Sales Revenue" and "Variable Costs Allocable to Off-System Sales." *See, e.g.*, TFS2010-00417, filed 7/23/10, Duke Energy Support.pdf, Sch.2.

The support documentation lists categories of "Off-System Sales Revenue" other than the three components listed on the MISO-DR-01-012(d) attachment, namely: Bilateral Sales; Hedges; and MISO RSG Make Whole Payments. *See, e.g.*, TFS2010-00417, filed 7/23/10, Duke Energy Support.pdf, Sch.2 lines 4-6. As to each of these three identified categories:

Describe what revenues are included in that category and any related costs included in the "Variable Costs Allocable to Off-System Sales."

State with which component it was included on the MISO-DR-01-012(d) attachment and why.

State whether a negative value has ever occurred in a given month and, if so, how that occurred and whether that negative value reduces the overall "Off-System Sales Margin" (*see, e.g., id.* line 18).

There are also "Capacity" revenues listed in the support documentation. *See, e.g.*, TFS2010-00417, filed 7/23/10, Duke Energy Support.pdf, Sch.2 line 7.

Describe what revenues are included in that category.

Are the amounts listed for "Capacity" gross or net? If net, what has been excluded? Describe any related costs that are included in the "Variable Costs Allocable to Off-System Sales" (*see, e.g.*, *id.* lines 10-17).

The support documentation lists "MISO and Other Costs" as a category of "Variable Costs Allocable to Off-System Sales." *See, e.g.*, TFS2010-00417, filed 7/23/10, Duke Energy Support.pdf, Sch.2 line 14.

What are "Other Costs"? Are there any "Other Costs" associated with Bilateral Sales?

For each month of the first two quarters of 2010, describe and state the amount of each "Other Cost" included among "Variable Costs Allocable to Off-System Sales" and with which category or categories of Off-System Sales Revenues it is associated.

What "MISO ... Costs" are included among "Variable Costs Allocable to Off-System Sales" (*see, e.g.*, *id.* line 14)? As to each, state with which category or categories of Off-System Sales Revenues it is associated, and the PJM equivalent for that cost, if any. What other PJM costs will be included in this category if DEK realigns?

4. In MISO-DR-01-004, DEK provides more information about past and present Duke Energy participation in PJM.

What is the current annual Membership fee for PJM for the four Duke Energy entities presently in PJM? Would the fee be the same regardless of whether DEK becomes a member? Explain.

With the requested realignment of Duke Energy Ohio and DEK into PJM and DEK's becoming a member:

In what sector(s) would DEK participate?

What change, if any, would there be in the sector(s) in which Duke Energy Ohio participates or in which the other current-member Duke Energy affiliates participate?

Who would be the primary voting member?

In its participation within PJM, has a Duke Energy entity taken a position on the issued raised by the IMM's recommendations in the 7/14/10 *Analysis*? If so, state each vote or other position taken, by which Duke Energy entity (or entities), and the date (or time period).

5. Appendix A to the STAFF-DR-01-006 Attachment — an Interconnection Agreement between Duke Energy Business Services, LLC acting as agent for Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. and East Kentucky Power Cooperative, Inc. (Midwest ISO FERC Electric Tariff, 4th Rev'd Vol. No.1, Orig. Service Agmt No.2168) — contains facility schedules listing "Duke Energy-Owned Interconnection Facilities" for points of interconnection.

As to each such interconnection facility listed:

Which Duke Energy entity owns (or in the case of to-be-installed/ constructed facilities, <u>will</u> own) the facility?

Identify where (if at all) that facility is listed on Attachment 1 to the DEK Application in this case.

Are any of the to-be-installed/constructed facilities included in the Midwest ISO's MTEP or PJM's RTEPP? If not, why? If so, identify each such facility and provide details regarding its inclusion in MTEP or RTEPP (or both).

As to each listed interconnection point with EKP:

Which Duke Energy entity's transmission or generation facilities are being (or will be) interconnected with EKP?

Identify where (if at all) that interconnected facility is listed on Attachment 1 to the DEK Application in this case.

Is a Duke Energy entity served (or to be served) through that interconnection point and, if so, which Duke Energy entity?

To the extent not already done in response to subparts (a) or (c), identify which of the transmission facilities listed on Attachment 1 to the DEK application are DEK transmission assets.

6. DEK describes in STAFF DR-01-004(e) the basis (daily; not one lump sum) on which it would be assessed RTEPP costs. Provide the information requested as to:

an estimate of the number of years that payments will be made for the RTEPP costs of projects currently underway; and

an estimate of the amount of the payment in each year.

7. In its responses to the Midwest ISO and Commission Staff data requests, DEK (a) claims that it is DEK's choice or "business decision" to realign with PJM, *see, e.g.*, MISO-DR-01-020, -021; and (b) states that it "believes" or "anticipates" that moving to PJM (relative to remaining in the Midwest ISO) will or has the potential to be beneficial, *see, e.g.*, MISO-DR-01-013(a), STAFF-DR-01-009; but (c) has not performed various analyses or made determinations about the risks, costs, or other effects of that move, *see, e.g.*, MISO-DR-01-013(b), STAFF-DR-01-010.

Did DEK make an independent decision to realign on its own analysis that realignment was in its best interest? If so, identify the person(s) within DEK whose decision it was. If not, who made the decision and on consideration of whose interests?

There is a reference in MISO-DR-01-021 to "Duke Energy Kentucky's analysis of the situation." Provide any writing or document constituting, memorializing, or reflecting DEK's "analysis of the situation" — whether a study, calculations, memo, summary of results, or description of an analysis made. As to each unwritten or undocumented analysis, identify by whom and when performed and describe the analysis.

Other than those provided in subpart (b), provide all written or documented analyses by or on behalf of DEK about realigning with PJM, not realigning if Duke Energy Ohio realigns, or the effects of either action.

Other than those provided in subparts (b) and (c), provide all written or documented analyses that consider DEK's realigning with PJM, not realigning if Duke Energy Ohio realigns, or the effects of either action — even if the analysis is not specific to DEK.

8. In MISO-DR-01-011(b), DEK states that its load would be fully hedged with DEK resources, such that there would be $0 paid to acquire capacity. Describe how that result (full hedging; $0 payment) would be accomplished.

9. Refer to DEK response MISO-DR-01-017(g)(i). Confirm that "ATC" is an acronym for "available transfer capability." How does the proposed realignment into PJM address or resolve the lack of firm ATC?

10. Duke Energy Ohio's Vermillion plant (located in Indiana) will remain in the Midwest ISO (*see* MISO-DR-01-016(c)) even if Duke Energy Ohio realigns with PJM.

How would that be accomplished?

Identify what transmission facilities listed on Exhibit 1 to the DEK Application in this case are associated with the Vermillion plant and as to each, by whom it is owned and whether it will remain in the Midwest ISO with the Vermillion plant.

Other than as identified in subpart (c), which of Duke Energy Ohio's transmission facilities listed on Exhibit 1 to the DEK Application will remain in the Midwest ISO?

11. In MISO-DR-01-016, DEK provides some information requested regarding use of the pseudo-tying setup described by Swez (p.11 *l*.4 – p.12 *ll*.13).

Is the pseudo-tying setup described the same as that proposed to be used for Duke Energy Indiana generation or load that is now connected to the Midwest ISO only through Duke Energy Ohio, *e.g.*, the Madison generating facility? If not, describe the difference(s) between the setups.

Does DEK now allocate any resources "to monitor the nuances and potential conflicting signals" between the Midwest ISO and other RTOs/ISOs? If not, why? If so, what resources? Is this function handled for DEK by any Duke Energy affiliate and, if so, which one(s) and will that cease upon a realignment of Duke Energy Ohio with PJM?

What is "Regulated Portfolio Optimization" (*see* MISO-DR-01-016(d)(ii)), is it provided to DEK by an affiliate (and, if so, which one), and what is the associated cost borne by DEK's ratepayers?

Which Duke Energy entity currently employs "the groups responsible for energy scheduling and transmission operations" (*see* MISO-DR-01-016(e)) for DEK?

Identify each Duke Energy affiliate that is handling energy sales for DEK and whether it is doing so in the Midwest ISO market, the PJM market, or both; as to each, state whether the affiliate will cease to do so upon a realignment of Duke Energy Ohio with PJM.

In MISO-DR-01-016(f)(ii), DEK states that with a pseudo-tying setup, it "would require resources to manage and operate all load, generation, transmission, energy scheduling, and system operations." How does DEK currently manage and operate its load, generation, transmission, energy scheduling, and system operations? To the extent that a Duke Energy affiliate performs all or part of these functions for DEK, identify the affiliate, the functions performed, the cost to DEK, and whether (and how much) of that cost is borne by DEK ratepayers.

12. With respect to DEK's East Bend Generating Station, which Swez (p.9 *ll.*11-15) describes as currently "operated fully" by DEK, jointly-owned with PJM member Dayton Power and Light Company (DP&L), and receiving signals from both the Midwest ISO and PJM:

Is East Bend presently attached to and dependent on transmission facilities jointly-owned by Duke Energy Ohio, DP&L, and AEP? If so, identify the relevant facilities on Attachment 1 to the DEK Application in this case. If not, list the transmission delivery facilities for East Bend and their ownership, and identify those facilities, if any, which are listed on Attachment 1 to the DEK Application.

Is it optional for East Bend to now be "in" both PJM and the Midwest ISO, or is it required?

On what does that option or requirement depend (*e.g.*, the split of its ownership between Midwest ISO and PJM members, the split membership of the owners of the attached transmission facilities, etc.)?

How does that option or requirement change (if at all) if Duke Energy Ohio realigns with PJM? Explain.

How does that option or requirement change (if at all) if DEK realigns with PJM? Explain.

Is East Bend presently pseudo-tied to either PJM or the Midwest ISO? Explain.

Is East Bend split between PJM and the Midwest ISO, or is it "in" each RTO to a variable and possibly overlapping amount?

How is the load associated with East Bend now treated? Is it "in" PJM and the Midwest ISO in proportion to its ownership or some other fixed factor?

4. In MISO-DR-01-004, DEK provides more information about past and present Duke Energy participation in PJM.

   a. What is the current annual Membership fee for PJM for the four Duke Energy entities presently in PJM? Would the fee be the same regardless of whether DEK becomes a member? Explain.

   b. With the requested realignment of Duke Energy Ohio and DEK into PJM and DEK's becoming a member:

      i. In what sector(s) would DEK participate?

      ii. What change, if any, would there be in the sector(s) in which Duke Energy Ohio participates or in which the other current-member Duke Energy affiliates participate?

      iii. Who would be the primary voting member?

   c. In its participation within PJM, has a Duke Energy entity taken a position on the issued raised by the IMM's recommendations in the 7/14/10 *Analysis*? If so, state each vote or other position taken, by which Duke Energy entity (or entities), and the date (or time period).

5. Appendix A to the STAFF-DR-01-006 Attachment — an Interconnection Agreement between Duke Energy Business Services, LLC acting as agent for Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. and East Kentucky Power Cooperative, Inc. (Midwest ISO FERC Electric Tariff, 4th Rev'd Vol. No.1, Orig. Service Agmt No.2168) — contains facility schedules listing "Duke Energy-Owned Interconnection Facilities" for points of interconnection.

   a. As to each such interconnection facility listed:

      i. Which Duke Energy entity owns (or in the case of to-be-installed/ constructed facilities, will own) the facility?

      ii. Identify where (if at all) that facility is listed on Attachment 1 to the DEK Application in this case.

b. Are any of the to-be-installed/constructed facilities included in the Midwest ISO's MTEP or PJM's RTEPP? If not, why? If so, identify each such facility and provide details regarding its inclusion in MTEP or RTEPP (or both).

c. As to each listed interconnection point with EKP:

i. Which Duke Energy entity's transmission or generation facilities are being (or will be) interconnected with EKP?

ii. Identify where (if at all) that interconnected facility is listed on Attachment 1 to the DEK Application in this case.

iii. Is a Duke Energy entity served (or to be served) through that interconnection point and, if so, which Duke Energy entity?

d. To the extent not already done in response to subparts (a) or (c), identify which of the transmission facilities listed on Attachment 1 to the DEK application are DEK transmission assets.

6. DEK describes in STAFF DR-01-004(e) the basis (daily; not one lump sum) on which it would be assessed RTEPP costs. Provide the information requested as to:

a. an estimate of the number of years that payments will be made for the RTEPP costs of projects currently underway; and

b. an estimate of the amount of the payment in each year.

7. In its responses to the Midwest ISO and Commission Staff data requests, DEK (a) claims that it is DEK's choice or "business decision" to realign with PJM, *see, e.g.*, MISO-DR-01-020, -021; and (b) states that it "believes" or "anticipates" that moving to PJM (relative to remaining in the Midwest ISO) will or has the potential to be beneficial, *see, e.g.*, MISO-DR-01-013(a), STAFF-DR-01-009; but (c) has not performed various analyses or made determinations about the risks, costs, or other effects of that move, *see, e.g.*, MISO-DR-01-013(b), STAFF-DR-01-010.

a. Did DEK make an independent decision to realign on its own analysis that realignment was in its best interest? If so, identify the person(s) within DEK

Duke Energy Kentucky
Case No. 2010-00203
MISO Second Set Data Request
Date Received: August 13, 2010

REVISED **MISO-DR-02-005**

REQUEST:

A. Appendix A to the STAFF-DR-01-006 Attachment — an Interconnection Agreement between Duke Energy Business Services, LLC acting as agent for Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. and East Kentucky Power Cooperative, Inc. (Midwest ISO FERC Electric Tariff, 4th Rev'd Vol. No.1, Orig. Service Agmt No.2168) — contains facility schedules listing "Duke Energy-Owned Interconnection Facilities" for points of interconnection.

As to each such interconnection facility listed:

1. Which Duke Energy entity owns (or in the case of to-be-installed/ constructed facilities, will own) the facility?
2. Identify where (if at all) that facility is listed on Attachment 1 to the DEK Application in this case.

B. Are any of the to-be-installed/constructed facilities included in the Midwest ISO's MTEP or PJM's RTEPP? If not, why? If so, identify each such facility and provide details regarding its inclusion in MTEP or RTEPP (or both).

C. As to each listed interconnection point with EKP:

1. Which Duke Energy entity's transmission or generation facilities are being (or will be) interconnected with EKP?
2. Identify where (if at all) that interconnected facility is listed on Attachment 1 to the DEK Application in this case. Is a Duke Energy entity served (or to be served) through that interconnection point and, if so, which Duke Energy entity? To the extent not already done in response to subparts (a) or (c), identify which of the transmission facilities listed on Attachment 1 to the DEK application are DEK transmission assets.

RESPONSE:

A

1

- Mt. Zion – Boone – Duke Energy Ohio owns the Duke facilities associated with this interconnection point.

- Hebron Interconnection Point – Duke Energy Ohio owns the transmission facilities to which the new EKPC owned transmission substation will be connected.
- Webster Road Interconnection Point – Duke Energy Ohio owns the transmission facilities to which this new EKPC transmission substation will be connected.

2

- Mount Zion - Boone is listed on page 64 of Attachment 1 (Buffington – Boone). Webster Road and Hebron (EKPC) are not listed. They are not yet constructed.

B

- Objection. This Document Request seeks to elicit information regarding MTEP that is already within the possession of the Midwest ISO and thus must be construed as harassing in nature. Without waiving said objection, none of the facilities are in the PJM RTEPP. The Hebron and Webster Road facilities are listed in the MISO MTEP, as projects 2871, and 2867, respectively. These facilities are being paid for by EKPC.

C

1

- The Mount Zion – Boone Interconnection is between Duke's Mt. Zion Station, and EKPC's Boone Station.
- EKPC's Hebron Transmission Station will be connected to Duke Energy Ohio's Miami Fort to Crescent circuit.
- EKPC's Webster Road Station will be connected to Duke Energy Ohio's Silver Grove – Kenton – Hands- Buffington circuit.

2

- Mt Zion – Boone is listed on page 64 of Attachment 1. This interconnection is not for the purpose of serving Duke Energy Kentucky load.
- Miami Fort to Crescent is listed on page 64 of Attachment 1. Hebron is not for the purpose of serving Duke Energy Kentucky load.
- Silver Grove – Buffington is listed on page 64 of Attachment 1, and is not for the purpose of serving Duke Energy Kentucky load.

Transmission Interconnections with East Kentucky Power Cooperative are associated with Duke Energy Ohio Transmission, and are for the purpose of strengthening the interconnected transmission systems of EKP, and Duke Energy. Duke Energy Kentucky does have a delivery point at Longbranch, which is a radial feed on the EKP side of the "Mount Zion – Boone" interconnection point.

The transmission interconnection, originally known as Buffington – Boone, and now known as Mt. Zion – Boone, predates the delivery point, at Longbranch, by a number of years, and was not created for the purpose of delivering power to a specific load delivery point.

The following assets listed on Attachment 1 are Duke Energy Kentucky owned facilities:

From page 20 – Augustine, Belleview, Cold Spring, Constance, Crescent, Dayton

From Page 21 – Donaldson, Florence, Hands, Hebron, Kenton, Kentucky University, LaFarge, Longbranch, and Silver Grove

From page 22 – Wilder, York

From Page 34 (nontransferred facilities)– Alexandria South, Atlas, Beaver, Blackwell, Buffington, Claryville, Cold Spring, Constance

From page 35 (nontransferred facilities)– Covington, Crittendon, DeCoursey, Dixie, Dry Ridge, Empire, Grant, Johnson Controls, Kenton, Levi Strauss, Limaburg, Marshall, Newport Steel, Oakbrook, Richwood, Thomas Moore, Verona, Villa, White Tower, Wilder

PERSON RESPONSIBLE: Ron Snead
Objection as to (B) – Legal

these functions for DEK, identify the affiliate, the functions performed, the cost to DEK, and whether (and how much) of that cost is borne by DEK ratepayers.

12. With respect to DEK's East Bend Generating Station, which Swez (p.9 *ll*.11-15) describes as currently "operated fully" by DEK, jointly-owned with PJM member Dayton Power and Light Company (DP&L), and receiving signals from both the Midwest ISO and PJM:

    a. Is East Bend presently attached to and dependent on transmission facilities jointly-owned by Duke Energy Ohio, DP&L, and AEP? If so, identify the relevant facilities on Attachment 1 to the DEK Application in this case. If not, list the transmission delivery facilities for East Bend and their ownership, and identify those facilities, if any, which are listed on Attachment 1 to the DEK Application.

    b. Is it optional for East Bend to now be "in" both PJM and the Midwest ISO, or is it required?

        i. On what does that option or requirement depend (*e.g.*, the split of its ownership between Midwest ISO and PJM members, the split membership of the owners of the attached transmission facilities, etc.)?

        ii. How does that option or requirement change (if at all) if Duke Energy Ohio realigns with PJM? Explain.

        iii. How does that option or requirement change (if at all) if DEK realigns with PJM? Explain.

    c. Is East Bend presently pseudo-tied to either PJM or the Midwest ISO? Explain.

    d. Is East Bend split between PJM and the Midwest ISO, or is it "in" each RTO to a variable and possibly overlapping amount?

    e. How is the load associated with East Bend now treated? Is it "in" PJM and the Midwest ISO in proportion to its ownership or some other fixed factor?

Duke Energy Kentucky
Case No. 2010-00203
MISO Second Set Data Request
Date Received: August 13, 2010

MISO-DR-02-012

REQUEST:

With respect to DEK's East Bend Generating Station, which Swez (p.9 *ll.*11-15) describes as currently "operated fully" by DEK, jointly-owned with PJM member Dayton Power and Light Company (DP&L), and receiving signals from both the Midwest ISO and PJM:

a. Is East Bend presently attached to and dependent on transmission facilities jointly-owned by Duke Energy Ohio, DP&L, and AEP? If so, identify the relevant facilities on Attachment 1 to the DEK Application in this case. If not, list the transmission delivery facilities for East Bend and their ownership, and identify those facilities, if any, which are listed on Attachment 1 to the DEK Application.

b. Is it optional for East Bend to now be "in" both PJM and the Midwest ISO, or is it required?

c. On what does that option or requirement depend (*e.g.*, the split of its ownership between Midwest ISO and PJM members, the split membership of the owners of the attached transmission facilities, etc.)?

d. How does that option or requirement change (if at all) if Duke Energy Ohio realigns with PJM? Explain.

e. How does that option or requirement change (if at all) if DEK realigns with PJM? Explain.

f. Is East Bend presently pseudo-tied to either PJM or the Midwest ISO? Explain.

g. Is East Bend split between PJM and the Midwest ISO, or is it "in" each RTO to a variable and possibly overlapping amount?

h. How is the load associated with East Bend now treated? Is it "in" PJM and the Midwest ISO in proportion to its ownership or some other fixed factor?

RESPONSE:

a. East Bend Station is connected to the Tanner's Creek to East Bend Circuit, and the East Bend to Terminal Circuit. Both of these circuits are listed on page 61 of Attachment 1. Duke Energy Ohio is the sole owner of these circuits.

b. Duke Energy Kentucky's ownership share of East Bend is a Designated Network Resource in MISO and Dayton Power & Light's (DPL) share of East Bend is a capacity resource in PJM. In order for the separate shares to fulfill the obligations of a DNR, they are required to be modeled in only one market (presently, the DPL share must remain in PJM, and the Duke Energy Kentucky share in MISO).

c. As stated in item "b," the requirement for East Bend Unit 2 to be in both MISO and PJM is related to the designation of separate ownership shares as capacity resources in each RTO.

d. The realignment of Duke Energy Ohio and Duke Energy Kentucky to PJM will result in East Bend Unit 2 being modeled as directly connected to PJM.

e. See response to d.

f. DPL's ownership share of East Bend is currently pseudo tied to PJM. This arrangement is required in order to facilitate operations, and comply with NERC Standards. Duke Energy Kentucky is the party that is responsible for the operation of these assets (i.e., East Bend is within the metered boundaries of Duke's system and by definition the Midwest ISO).

g. Currently, East Bend is split between MISO and PJM markets. While the physical unit is located within the metered boundaries of the Midwest ISO, DPL's share of East Bend Unit 2 is modeled as a discreet generating unit in PJM. Duke Energy Kentucky's share is modeled as a discreet unit by MISO. Each of the RTOs can use only that part of the unit that is in their model. Overlapping, in this context, would seem analogous to double counting energy, or capacity. This would be a violation of NERC Standards. Duke Energy does not double count capacity or energy. We also are extremely confident that DPL, MISO and PJM do not double count. Duke Energy Kentucky believes each of these parties to have a strong culture of compliance.

h. Auxiliary load associated with East Bend is allocated to each of the joint owners, on an ownership share basis. This means the auxillary load is in the RTOs on an ownership share basis as well.

PERSON RESPONSIBLE: Ron Snead (a, f, g)
G.R. Burner (b, c, d, e, h)