

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

In the Matter of an Examination of the )  
Application of the Fuel Adjustment Clause of ) Case No. 2015-00236  
Duke Energy Kentucky, Inc. From )  
November 1, 2014 Through April 30, 2015 )

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**PETITION OF DUKE ENERGY KENTUCKY, INC.**  
**FOR CONFIDENTIAL TREATMENT OF INFORMATION**  
**CONTAINED IN ITS RESPONSES TO COMMISSION STAFF'S**  
**REQUESTS IN THE APPENDIX TO ORDER**  
**DATED AUGUST 14, 2015**

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Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, respectfully requests the Commission to classify and protect certain information provided by Duke Energy Kentucky in its response to Data Request No. 20, as requested by Commission Staff (Staff) in this case on August 14, 2015. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information) includes bid tabulation information that was done in response to coal solicitations.

More specifically, the response contained in the Confidential Attachment to No. 20 contains sensitive information, the disclosure of which would injure Duke Energy Kentucky and its competitive position and business interest. The sensitive information contained in response to Data Request No. 20 includes bid tabulations for several coal vendors that responded to written and verbal coal solicitations, respectively. Releasing this information would give other coal suppliers access to each-other's costs which would act to the detriment

of Duke Energy Kentucky and its customers in the future as vendors would know how competing suppliers price their commodities.

In support of this Petition, Duke Energy Kentucky states:

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

2. Disclosure of the factors underlying Duke Energy Kentucky's bid analysis/selection process (No. 20 Confidential Attachment) would damage Duke Energy Kentucky's competitive position and business interests. If the Commission grants public access to the information requested in No. 20 Confidential Attachment, potential bidders could manipulate the bid solicitation process to the detriment of Duke Energy Kentucky and its ratepayers by tailoring bids to correspond to and comport with Duke Energy Kentucky's bidding criteria and process. Potential future suppliers could tailor their bids in the future having knowledge of how their competitors are pricing similar product thereby manipulating the market and undermining the Company's ability to manage costs.

3. The information in response to No. 20 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 Commission has treated the same information described herein as confidential in other utilities' responses to the same data requests such as Louisville Gas and Electric Company Case No. 2008-521<sup>1</sup> and Kentucky Utilities Case 2008-520<sup>2</sup> and for Duke Energy Kentucky in Case No. 2008-00522<sup>3</sup>.

5. Duke Energy Kentucky does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, the Staff 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*, Ky., 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 ten (10) copies 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

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<sup>1</sup> Case No. 2008-521, Letter granting Confidential treatment, March 20, 2009.

<sup>2</sup> Case No. 2008-520, Letter granting Confidential treatment, March 20, 2009.

<sup>3</sup> Case No. 2008-522, Letter granting Confidential treatment, March 20, 2009.

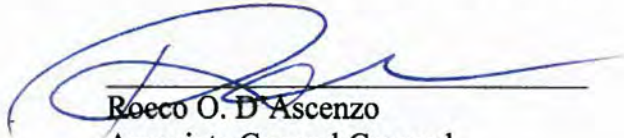
sensitive so as to likely impair the interests of the Company or its customers if publicly disclosed.

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.



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing filing was served on the following via overnight mail, this 28<sup>th</sup> day of August, 2015:

Jennifer Hans  
The Office of the Attorney General  
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