

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. 2016-00005
Duke Energy Kentucky, Inc. From May 1,)
2015 Through October 31, 2015)

PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN ITS RESPONSES TO COMMISSION STAFF'S
THIRD SET OF DATA REQUESTS ISSUED MARCH 18, 2016

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 Nos. 2, 3, 5 and 7, as requested by Commission Staff (Staff) in this case on March 18, 2016. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information) includes Duke Energy Kentucky's confidential analysis of load and calculations regarding its dispatch and costs.

More specifically, the data contained in the Confidential responses and Attachments to Data Request Nos. 2, 3, 5, and 7 contains sensitive information, the disclosure of which would injure Duke Energy Kentucky and its competitive position and business interest. The sensitive information contained in the attachments to Data Request No. 2 include a transportation contract for Duke Energy Kentucky that is a joint contract that also includes its sister utilities. Releasing this information will place Duke Energy Kentucky and its sister utilities at a competitive disadvantage in negotiating future transportation contracts, and will dissuade other Duke Energy utilities from entering co-negotiating contracts with Duke

Energy Kentucky in order to obtain better pricing. The responses to Data Requests No. 3, 5, and 7 contains confidential analysis of Woodsdale's hourly output, heat rates at various loadings, detailed costs of operation, including but not limited to periods where the Woodsdale units operated at minimum load, and analysis of purchased power costs versus the Company's highest cost generation. Releasing this information will give potential counterparties who may sell power to Duke Energy Kentucky access to operational characteristics of Duke Energy Kentucky's generating assets for purposes of making procurement decisions.

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. The public disclosure of the information described in responses and Attachments to responses to Data Request No. 2, 3, 5 and No. 7 would damage Duke Energy Kentucky's competitive position and business interests as well as those of its sister utilities with respect to ability to negotiate future transportation contracts. If the Commission grants public access to the information requested in Data Requests No.'s 2, 3, 5 and 7, potential future vendors would have access to competitor pricing for transportation services and power suppliers would have access to Duke Energy Kentucky's valuation of its own generation assets, unit heat rates, operational costs, hourly dispatch data and pricing, thereby allowing

them to potentially manipulate the market and undermine Duke Energy Kentucky's ability to manage its costs. Moreover, competitors to potential power sale agreements would have access to Duke Energy Kentucky's pricing information thereby placing the Company at a commercial disadvantage in winning such bids.

3. The information in Attachments provided in response to Data Requests No.'s 2, 3, 5, and 7 was developed internally by Duke Energy Corporation and Duke Energy Kentucky personnel. The information specific to Duke Energy Kentucky 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. Similarly the transportation agreement that includes Duke Energy Kentucky's sister utilities was also developed internally and has been treated as confidential in other jurisdictions. The aforementioned information is distributed only to those employees who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

4. 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.

5. This information was, and remains, integral to Duke Energy Kentucky's effective execution of business decisions. And such information is generally regarded as confidential or proprietary. Indeed, as the Kentucky Supreme Court has found, "information

concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 904 S.W.2d 766, 768 (Ky. 1995).

6. In accordance with the provisions of 807 KAR 5:001, Section 13(3), the Company is filing one copy of the Confidential Information separately under seal, and one copy without the confidential information included.

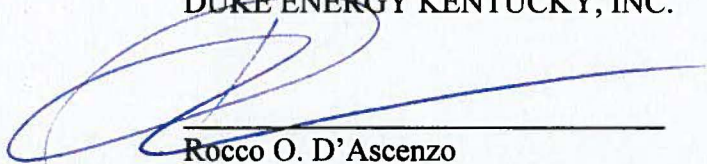
7. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests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

8. 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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