

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

The Electronic Application of Duke Energy)
Kentucky, Inc., for: 1) An Adjustment of the)
Electric Rates; 2) Approval of an) Case No. 2017-00321
Environmental Compliance Plan and)
Surcharge Mechanism; 3) Approval of New)
Tariffs; 4) Approval of Accounting Practices to)
Establish Regulatory Assets and Liabilities;)
and 5) All Other Required Approvals and)
Relief.)

**MOTION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT FOR CERTAIN
RESPONSES TO REQUEST FOR INFORMATION**

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to 807 KAR 5:001, Section 13 and other law, and respectfully requests the Commission to classify and protect certain information provided by the Company in its Responses to Commission Staff's Second Request for Information, the Kentucky School Board Association's (KSBA) First Request for Information and the Attorney General of Kentucky's (AG) First Request for Information issued on October 26, 2017 and October 27, 2017, respectfully stating as follows:

1. On August 2, 2017 Duke Energy Kentucky filed a Notice of Intent to File an Application seeking adjustment of its electric rates and other approvals.
2. On September 1, 2017 Duke Energy Kentucky filed an Application seeking an adjustment of its electric rates and other approvals.
3. On October 26, 2017 Commission Staff issued its Second Request for Information

to Duke Energy Kentucky and KSBA issued its First Request for Information to Duke Energy Kentucky.

4. On October 27, 2017 the AG issued its First Request for Information to Duke Energy Kentucky.

5. In response to Commission Staff's Second Request for Information, KSBA's First Request for Information, and the AG's First Request for Information, Duke Energy Kentucky is providing certain information for which it requests confidential treatment.

6. The information for which Duke Energy Kentucky seeks confidential treatment is contained in its Responses to Commission Staff's Second Requests 16, 21, 41, 59(f) and 90(b); Responses to KSBA's First Request 17, and Responses to the AG's First Requests 11(c), 33, 45, 54, 61, 63, 68 and 74, which is referred to herein as the "Confidential Information" and, broadly speaking, includes detailed information pertaining to the internal policies and procedures, capacity purchases and sales, personal compensation information of Duke Energy Kentucky employees, tax returns of Duke Energy Kentucky, information used in credit ratings, contracts with outside vendors, and other information.

7. Request No. 16 of Commission Staff's Second Request for Information states as follows:

Refer to the Henning Testimony, page 26. Provide costs that Duke Kentucky has incurred to date for short-term capacity purchases necessary to meet its Fixed Resource Requirement ("FRR") plan obligations.

8. In its response to Commission Staff's Second Request No. 16, Duke Energy Kentucky is providing information regarding the cost of short-term capacity sales and purchases. This information, if disclosed, would give other suppliers and takers in the capacity market information which would be valuable for assessing the purchase and sales strategy of Duke

Energy Kentucky including specific transactions that demonstrate the Company's capacity position. With such information, third parties would have a superior bargaining position in any bilateral capacity purchase or sale negotiations.

9. Request No. 21 of Commission Staff's Second Request for Information states as follows:

Refer to the Bellucci Testimony, page 5.

a. Provide a copy of Duke Kentucky's 2016 (12/31/2015) and 2017 Public Service Commission Property Tax Assessment from the Kentucky Department of Revenue.

10. In its response to Commission Staff's Second Request No. 21, Duke Energy is providing a copy of its Public Service Commission Property Tax Assessment. Tax records are recognized as being confidential, as a matter of law. *See* 131.190(1).

11. Request No. 41 of Commission Staff's Second Request for Information states as follows:

Refer to Morin Testimony, page 58 and Exhibit RAM-3.

a. Explain whether all combination electric and gas utilities used in the ROE analysis have any cost-recovery mechanism (referred to as a risk mitigator) similar to the proposed FERC Transmission Cost Reconciliation and Distribution Capital Rider.

12. In its response to Request No. 41, Duke Energy Kentucky is providing a copy of a survey prepared by Edison Electric Institute. The document is subject to copyright protections afforded to the Edison Electric Institute under the law of the United States as the publisher of said information. Accordingly, Duke Energy Kentucky must take reasonable steps to assure that the document is not published without the consent of the Edison Electric Institute.

13. Request No. 59(f) of Commission Staff's Second Request for Information states as follows:

Refer to the Pratt Testimony, page 8, lines 21-23 and page 9, lines 1-7. Also, refer to the Direct Testimony of John H. Spanos ("Spanos Testimony"), page 2, lines 10-14, page 16, and the 2016 Depreciation Study, Part 1, page 9 of 346. Finally, refer to the Lee Testimony, pages 14 and 15.

f. Provide the capacity factors for each unit at Woodsdale for the ten years ending in 2016.

14. In response to Request No. 59(f), Duke Energy Kentucky is providing a chart with the Woodsdale Station – Unit Net Capacity Factors. As with the Company's response to Staff Second Request No. 16, this information, if disclosed, would give other suppliers and takers in the capacity market information which would be valuable for assessing the purchase and sales strategy of Duke Energy Kentucky. With such information, third parties would have a superior bargaining position in any bilateral capacity purchase or sale negotiations.

15. Request No. 90(b) of Commission Staff's Second Request for Information states as follows:

Refer to Duke Kentucky's response to Staff's First Request, Item 62. For the test year, provide the following information as it relates to lobbying activities:

b. For each of the registered lobbyists, the dollar amount and percentage of the lobbyist's salary, fringe benefits, any incentive pay, and expense reports recorded below the line and any lobbying activities costs reflected in Duke Kentucky's proposed cost of service.

16. In its response to Request 90(b), Duke Energy Kentucky is filing sensitive information regarding lobbyist's salary, fringe benefits and incentive pay. Amounts paid to individuals who are not within the executive management of a utility are generally recognized to be confidential and employees of a utility enjoy a reasonable expectation of privacy with regard to their specific compensation amounts.

17. Request No. 17 of KSBA's First Request for Information states as follows:

Please describe in detail the process for developing all forecast billing determinates by rate class and provide all related work papers, assumptions and documents.

18. In its response to Request No. 17, Duke Energy Kentucky is providing work files regarding billing determinates that includes specific customer account information, including account numbers and billing data for specific customers. The information being tendered herewith is critical to describing the unique usage characteristics of Duke Energy Kentucky's individual customers and load profiles.

19. Request No. 11(c) of the AG's First Request for Information states as follows:

Refer to the Direct Testimony of Mr. Doss at page 5 lines 9-19 regarding the replacement power costs forecasted in the test year.

c. Provide copies of all input and output sources from GenTrader used to source the test year forecasted costs.

20. In its response to Request No. 11(c), Duke Energy Kentucky is providing a summary of the major inputs and outputs of the GenTrader model. The GenTrader model is a business model used by the Company to develop its forecasts and the inputs and outputs used in the context of the GenTrader model would, if disclosed, reveal the Company's assumptions regarding various aspects of the Company's energy forecast. The assumptions, if disclosed, would give potential sellers of replacement power an advantage in any bilateral negotiations for replacement power. Information such as that being tendered by the Company has previously been recognized to be confidential in nature.¹

¹ *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval of the Acquisition of Existing Combustion Turbine Facilities from Bluegrass Generating Company, LLC at the Bluegrass Generating Station in LaGrange, Oldham County, Kentucky and for Approval of the Assumption of Certain Evidences of Indebtedness*, Order, Case No. 2015-00267 (Ky. P.S.C. Nov. 24, 2015) (granting motion for confidential treatment for forecasted capacity prices).; *In the Matter of the Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Letter from Jeff Derouen, Case No. 2011-00161 (Ky. P.S.C. Aug. 31, 2011).

21. Request No. 33 of the AG's First Request for Information states as follows:

Refer to the Direct Testimony of Mr. Miller at page 16 line 21 through page 17 line 14. Describe the possible alternatives to ownership and decommissioning of Miami Fort 6 that the Company is in the process of exploring.

22. In its response to Request No. 33, Duke Energy Kentucky is providing sensitive information regarding the options associated with Miami Fort 6. The Company's disposition of a retired generation asset carries with it many assumptions and options regarding the future actions the Company may take, which if prematurely disclosed could undermine the Company's ability to pursue such actions. As a result, any third parties involved in the actions ultimately determined to be taken with regard to Miami Fort 6 could gain an unfair advantage in any ensuing negotiations by having advance knowledge of the options the Company is considering.

23. Request No. 45 of the AG's First Request for Information states as follows:

Provide the pension and OPEB actuarial reports for Duke Energy, DEO, and the Company and/or other support for the test year pension expense and OPEB expense included in the test year.

24. In its response to Request No. 45, Duke Energy Kentucky is providing sensitive information regarding pension and OPEB information. Salary and benefit information is personal and private information and should not be in the public realm. Furthermore, the surveys, studies and presentations used by Duke Energy Kentucky to determine compensation and benefit offerings are highly confidential and subject to proprietary protection of third party vendors. The Commission has previously granted confidential protection to these types of surveys, studies, etc.² Additionally, public disclosure of the information being provided by the Company would unnecessarily provide interested parties and Duke Energy Kentucky's competitors with access to exclusive information regarding employee compensation. By

² *In the Matter of the Application of Water Service Corporation of Kentucky for a General Adjustment of Rates*, Order, Case No. 2015-00382 (Ky. P.S.C. Apr. 5, 2016).

knowing what Duke Energy Kentucky compensates each of its employees, or outside vendors, it would be very easy for other utilities to attempt to poach Duke Energy Kentucky's workforce and management, and charge Duke Energy Kentucky a higher rate for outside services. Such public disclosure could unfairly harm Duke Energy Kentucky's competitive position in the marketplace for utility management and a skilled workforce, to the detriment of Duke Energy Kentucky and its customers. For these reasons, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment. Indeed, the Commission has already recognized the confidential nature of the Confidential Information and has afforded confidential treatment to similar compensation and wage documents in prior proceedings.³

25. Request No. 54 of the AG's First Request for Information states as follows:

Provide a copy of DEK's 2015 and 2016 federal income tax returns.

26. In its response to Request No. 54, Duke Energy Kentucky is providing its 2015 and 2016 federal tax returns. Tax documents are recognized as confidential as a matter of law. *See* KRS 131.190(1).

27. Request No. 61 of the AG's First Request for Information states as follows:

Provide all work papers and supporting documentation used and relied upon by Dr. Morin in the preparation of his Direct Testimony and exhibits which have not already been provided. Provide all spreadsheets in Excel format with cell formulas intact.

28. In its response to Request No. 61, Duke Energy Kentucky is providing sensitive IHS forecasts and other IHS material. The material being provided is subject to the copyrights of

³ *Id.*, *See also*, *In the Matter of the Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Order, Case No. 2014-00371 (Ky. P.S.C., Jan. 29, 2016).

persons other than Duke Energy Kentucky. Accordingly, the Company has an obligation to use reasonable efforts to protect the copyright interests of the IHS forecasts and other IHS material.

29. Request No. 63 of the AG's First Request for Information states as follows:

Provide all bond rating agency reports (Standard and Poor's, Moody's, Fitch) on Duke Energy from 2014 through the most recent month in 2017.

30. In its response to Request No. 63, Duke Energy Kentucky is providing sensitive credit rating information. Information provided to credit rating agencies is confidential in nature and describes the inner workings of the Company. The Commission has previously recognized that such information is confidential in nature.⁴ If said information was made available to the public, it could be used to the detriment of Duke Energy Kentucky.

31. Request No. 68 of the AG's First Request for Information states as follows:

Provide a schedule in electronic spreadsheet format showing the Company's average daily and end of month borrowings from the Duke Energy Money Pool for each month in 2016, 2017 to date and projected for each month thereafter through the end of the test year. In addition, provide the interest rates applicable to those borrowings on a daily basis and on average for each month. Provide a copy of all source documents relied on for the projected cost of short-term debt during the test year.

32. In its response to Request No. 68, Duke Energy Kentucky is providing sensitive information regarding the credit spread on the current Sale of Accounts Receivables. The information being disclosed herewith is not publicly known and documents the borrowing and lending actions of the Company and other affiliates that are part of the Duke Energy Money

⁴ *In the Matter of the Application of Louisville Gas & Electric Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Letter from Jeff Derouen, Case No. 2011-00162 (Ky. P.S.C. Nov. 29, 2011).

Pool. This information is highly-confidential and should not be disclosed. Information pertaining to similar agreements has previously been recognized to be confidential.⁵

33. Request No. 74 (a) and (c) of the AG's First Request for Information states as follows:

Reference the Stipulation approved by the Commission in Case No. 2016-00152, page 4, paragraph 4.a., which states "The Parties agree that in its next base electric rate case, estimated to be filed before December 31, 2019, Duke Energy Kentucky shall make appropriate adjustments to its rate case test period to reflect: 1) the projected deployment costs [or actual costs if deployment is completed]; 2) ongoing costs of operations; 3) an adjustment to reflect the non-fuel-related portion of the Benefit Type: Increased Revenues reflected in Confidential Exhibit DLS-4..."

a. Provide a copy of Confidential Exhibit DLS-4 from Case No. 2016-00152.

c. Provide all workpapers, worksheets, calculations, estimates, assumptions, and other materials used to develop the rate case test year adjustments associated with the above-referenced items 2 and 3 from approved Stipulation paragraph 4.a. The amounts provided in response to 1.b. should appear in/tie to amounts indicated in these materials.

34. In its response to Request No. 74 (a), Duke Energy Kentucky is providing a copy of Confidential Attachment DLS-4 from Case No. 2016-00152 and, in its response to Request No. 74(c), Duke Energy Kentucky is providing sensitive information regarding the source for WPD-2.26a which was based on the savings agreed upon in Case No. 2016-00152. The information is already subject to a pending motion for confidential information in Case No. 2016-00152 and such request should be respected herein.

35. Contemporaneous with the filing of this Motion, Duke Energy Kentucky is tendering documentation responsive to Commission Staff's Request Nos. 16, 21, 41, 59 and 90;

⁵ *In the Matter of the Application of Water Service Corporation of Kentucky for a General Adjustment of Rates, Order, Case No. 2015-00382 (Ky. P.S.C. Apr. 5, 2016) (granting motion for confidential treatment for affiliate lending agreement)..*

KSBA's Request No. 17; and the AG's Request Nos. 11, 33, 45, 54, 61, 63,68 and 74. The Confidential Information provided is proprietary information that is retained by Duke Energy Kentucky on a "need-to-know" basis. The Confidential Information is distributed within Duke Energy Kentucky only to the Chief Executive Officer, Senior Management and the Board, who must have access for business reasons, and it is generally recognized as confidential and proprietary in the energy industry and in business generally.

29. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(a); KRS 61.878(1)(c)(1); *Zink v. Department of Workers Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky. App. 1994); *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The Confidential Information includes information regarding job titles and historical compensation amounts for years other than the test year for Duke Energy Kentucky employees.

30. Furthermore, some of the information for which Duke Energy Kentucky is seeking confidential treatment was either developed internally, or acquired on a proprietary basis, by Duke Energy Corporation and Duke Energy Kentucky personnel, is not on file publicly with any public agency, and is not publicly available from any commercial or other source. 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 utility industry.

31. Duke Energy Kentucky does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable protective agreement entered into with any intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

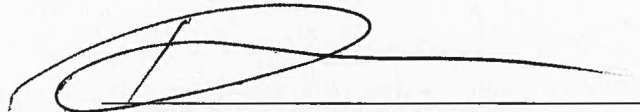
32. In accordance with the provisions of 807 KAR 5:001, Section 13(2)(e), the Company is filing one copy of the Confidential Information separately under seal, and the appropriate number of copies with the Confidential Information redacted.

33. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of twenty 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 if publicly disclosed.

34. 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,



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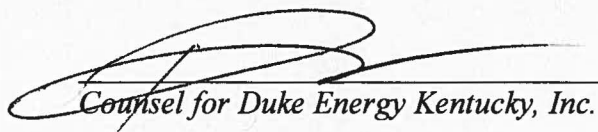
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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on November 13, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand delivered to the Commission on the 14th day of November, 2017. I hereby certify that a copy of the foregoing filing was served on the following via overnight mail, this 13th day of Novemer, 2017.


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