

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 Supplemental Post Hearing Data Requests issued on April 4, 2018, 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 March 6-8, 2108 the Commission held a hearing on the merits of the Company's Application in which several Post Hearing Data Requests were identified.
4. On March 13, 2018 Commission Staff issued Post Hearing Data Requests, and

subsequently issued Supplemental Post Hearing Data Requests on April 4, 2018.

5. In response to Commission Staff's Supplemental Post Hearing Data Requests, 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 Response to Commission Staff's Supplemental Post Hearing Data Request 1, which is referred to herein as the "Confidential Information" and, broadly speaking, includes detailed information pertaining to the Company's state and federal tax returns.

7. Request No. 1 of Staff's Supplemental Post Hearing Data Requests states as follows:

Reference Duke Kentucky's response to Commission Staff's Initial Request for Information, Item 48a(10), Attachment 48(a)D, page 5 of 24, Section I, line 12, and Item 71, Attachment SFRs, WPE-1b, line 80, and Commission Staff's Post-Hearing Request for Information, Item 10, Attachment, line 11.

- a. Provide the formula used to calculate the apportionment fraction for Kentucky state income taxes.
- b. Provide the following amounts used to calculate the apportionment fraction for the test year:
 1. Kentucky Property – jurisdictional or non-jurisdictional;
 2. Kentucky Payroll – jurisdictional or non-jurisdictional;
 3. Kentucky Sales – jurisdictional or non-jurisdictional;
 4. Total Property – jurisdictional or non-jurisdictional;

5. Total Payroll – jurisdictional or non-jurisdictional; and
 6. Total Sales – jurisdictional or non-jurisdictional.
- c. Provide the actual apportionment fraction formula for Kentucky state income taxes displaying the numeric values requested in b. above and the final product of 89.0867 percent used for the test year.

8. In its response to Staff's Supplemental Post Hearing Data Request No. 1, the Company is providing an excerpt from the Company's tax returns originally labeled as STAFF-DR-01-048 D CONFIDENTIAL Attachment which contains sensitive information that is highly confidential and proprietary to the Company. This information is historically considered confidential by the Commission.

9. The Kentucky Open Records Act and applicable precedent exempt 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).

10. Furthermore, 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.

11. 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.

12. 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.

13. 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.

14. 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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Counsel for Duke Energy Kentucky, Inc.

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 April 10, 2018; 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 delivered via 2nd day delivery to the parties of record on the 10th day of April 2018.



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KYPSC CASE NO. 2017-00321
STAFF SUPPLEMENTAL POST HEARING DATA REQUESTS
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<u>DATA REQUEST</u>	<u>WITNESS</u>	<u>TAB NO.</u>
STAFF-DR-01-001 SUPP POST HEARING	Brian Neiheisel	1
STAFF-DR-01-002 SUPP POST HEARING	Bruce Sailers	2

VERIFICATION

STATE OF NORTH CAROLINA)
)**SS:**
COUNTY OF MECKLENBURG)

The undersigned, Brian Neiheisel, Director of Regulated Tax Operations, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.

Brian Neiheisel
Brian Neiheisel, Affiant

Subscribed and sworn to before me by Brian Neiheisel on this 5th day of April, 2018.



Heather Paige Blum
NOTARY PUBLIC

My Commission Expires: 1-9-2023

VERIFICATION

STATE OF OHIO)
)
COUNTY OF HAMILTON) SS:

The undersigned, Bruce L. Sailers, Pricing and Regulatory Solutions Manager, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.

Bruce L. Sailers
Bruce L. Sailers, Affiant

Subscribed and sworn to before me by Bruce L. Sailers, on this 5TH day of April, 2018.

Adele M. Frisch
NOTARY PUBLIC

ADELE M. FRISCH
Notary Public, State of Ohio
My Commission Expires 01-05-2019

My Commission Expires: 1/5/2019

Duke Energy Kentucky
Case No. 2017-00321
Staff Supplemental Post Hearing Set Data Requests
Date Received: April 4, 2018

PUBLIC STAFF-SUPP- POST HEARING-DR-01-001
(As to Attachment Only)

REQUEST:

Reference Duke Kentucky's response to Commission Staff's Initial Request for Information, Item 48a(10), Attachment 48(a)D, page 5 of 24, Section I, line 12, and Item 71, Attachment SFRs, WPE-1b, line 80, and Commission Staff's Post-Hearing Request for Information, Item 10, Attachment, line 11.

- a. Provide the formula used to calculate the apportionment fraction for Kentucky state income taxes.
- b. Provide the following amounts used to calculate the apportionment fraction for the test year:
 1. Kentucky Property – jurisdictional or non-jurisdictional;
 2. Kentucky Payroll – jurisdictional or non-jurisdictional;
 3. Kentucky Sales – jurisdictional or non-jurisdictional;
 4. Total Property – jurisdictional or non-jurisdictional;
 5. Total Payroll – jurisdictional or non-jurisdictional; and
 6. Total Sales – jurisdictional or non-jurisdictional.
- c. Provide the actual apportionment fraction formula for Kentucky state income taxes displaying the numeric values requested in b. above and the final product of 89.0867 percent used for the test year.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET (As to Attachment Only)

Duke uses a historical apportionment rate to accrue current and deferred tax expense for the tax provision throughout the calendar year. When the tax return is filed in the following year, the prior year accrual is compared to the actual amount of tax on the tax return and an entry is made to record the difference. The Tax Department analyzes the difference between the historical apportionment rates used in the provision with the most recently filed tax return after each filing season to determine if it's still appropriate to use the historical apportionment rate. The Company has proposed to use the historical apportionment rate in this proceeding (89.0867), which is below the actual apportionment rate, resulting in a benefit to customers.

a.- c. Please see STAFF-SUPP-POST HEARING-DR-01-001 PUBLIC ATTACHMENT. The confidential version of this attachment is being provided under the seal of a Motion for Confidential Treatment and will be provided to all parties upon the execution of a Confidentiality Agreement.

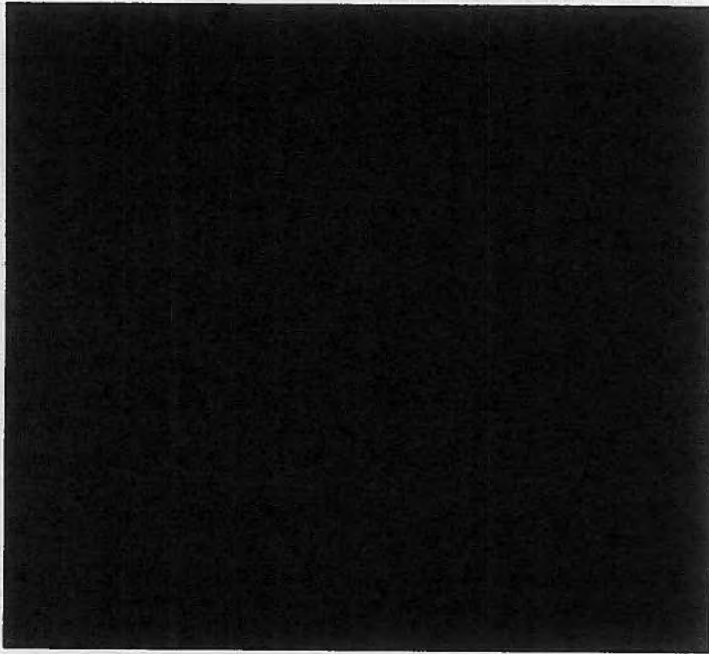
PERSON RESPONSIBLE: Brian Neiheisel

CONFIDENTIAL PROPRIETARY TRADE SECRET

Cinergy Corp & Affiliates
 2015 KY Corporation Income Tax & LLET Return
 Apportionment Factor Schedule

	Kentucky Sales	Total Sales	Average value of Kentucky Real/Tangible Property	Average Value of Total Real/Tangible Property	Kentucky Payrolls	Total Payrolls
CINERGY CORP	2,502,582	42,318,275	-	184,411,014	-	-
DUKE ENERGY OHIO, INC.	-	4,924,981,656	98,717,394	8,341,144,633	873,670	41,976,113
DUKE ENERGY KENTUCKY, INC.	445,449,130	470,435,214	1,579,547,334	1,932,771,661	16,140,082	17,761,451
KO TRANSMISSION COMPANY	1,743,657	1,743,657	20,673,331	20,680,572	-	-
MIAMI POWER CORPORATION	8,259	37,539	118,701	563,552	-	-
TRI-STATE IMPROVEMENT COMPAN	-	40,080	744,406	7,294,883	-	-
TOTAL CINERGY CORP & AFFILIATES	449,703,628	5,439,536,431	1,687,801,166	10,486,866,316	17,013,762	69,767,564

	Cinergy Corp & Affiliates	DEK - Standalone
Sales factor	8.2673%	94.6887%
Sales factor	8.2673%	94.6887%
Property Factor	18.1898%	81.7245%
Payroll Factor	28.4713%	90.7693%
Total	61.1957%	361.8712%
Average Apportionment	15.2989%	90.4678%



Difference between tax return and historical provision rate:

Duke uses a historical apportionment rate to accrue current and deferred tax expense for the tax provision throughout the calendar year. When the tax return is filed in the following year, the prior year accrual is compared to the actual amount of tax on the tax return and an entry is made to record the difference. The Tax department analyzes the difference between the historical apportionment rates used in the provision with the most recently filed tax return after each filing season to determine if it's still appropriate to use the historical apportionment rate.

Cinergy Corp & Affiliates 2015 KY Corporate Tax Return - Apportionment Schedule

DEK Historical Apportionment Calculation**Sales:**

Kentucky Sales	447,685,792
Total Sales	463,067,887
Sales Factor	96.6782%
Sales Factor * 2	193.3564%

Property:

Average Value KY Property	1,270,231,375
Average Value Total Property	1,620,003,007
Property Factor	78.4092%

Payroll:

Kentucky Payroll	13,959,113
Total Payroll	16,504,179
Payroll Factor	84.5793%

Apportionment Percentage	89.0862%
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Duke Energy Kentucky
Case No. 2017-00321
Staff Supplemental Post Hearing Set Data Requests
Date Received: April 4, 2018

STAFF-SUPP-POST HEARING-DR-01-002

REQUEST:

Refer to Duke Kentucky's response to Commission Staff's Fourth Request, Item 15, Attachment 1, Tab 1. CUs FROM ET FILE, cell AG5. Explain in detail how the levelized fixed carrying charge for poles of 10.03 percent was calculated and why it differs from the 12.83 percent levelized fixed carrying charge calculated for fixtures.

RESPONSE:

The detail calculation of the LFCR is provided in STAFF-DR-04-015 Attachment 2.XLSX. The calculation is for the fixture LFCR rate of 12.83%. As shown in cell A34, the service life of fixtures is 15 years. The difference between the poles LFCR of 10.03% is a service life of 30 years.

PERSON RESPONSIBLE: Bruce Sailors