

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)
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.)

Case No. 2017-00321

DUKE ENERGY KENTUCKY, INC.'S
RESPONSE TO THE COMMISSION'S ORDER GRANTING REHEARING
ON CERTAIN CONFIDENTIALITY ISSUES

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, and in response to and in compliance with the Commission's Order entered herein on June 12, 2018, respectfully states as follows:

I. Background

1. By Orders entered May 3-4, 2018, the Commission granted in part and denied in part various motions for confidential treatment filed by the Company. On May 23, 2018, the Company petitioned the Commission to grant rehearing with respect to several items for which confidential protection had been rejected. On June 12, 2018, the Commission entered an Order (the June 12th Order) granting in part and denying in part the Company's request for rehearing, as well as directing the Company to timely submit certain documentation and information. The present filing is made in satisfaction of the June 12th Order and to further underscore why portions of Duke Energy Kentucky's response to Commission Staff's Second Request for

Information, Item 90(b) (Response to Item 90(b)) and attachment TS-6 should be exempt from public disclosure.

II. Response to Item 90(b)

2. Commission Staff's Second Request for Information, Item 90 sought detailed identity and compensation information for each of Duke Energy Kentucky's registered lobbyists; specifically, Commission Staff requested, *inter alia*, "[t]he names of each of Duke Kentucky's Kentucky-registered lobbyists" and "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." As part of its Response to Item 90(b), Duke Energy Kentucky submitted (or intended to submit) sensitive compensation information for two employees of Duke Energy Business Services, namely Patrick Keal and Charles Sessions, who are registered lobbyists with the Kentucky Legislative Ethics Commission. The Company requested that this personal compensation information be afforded confidential treatment, consistent with judicial and administrative precedent.¹

3. In its June 12th Order, the Commission noted that the employee-specific compensation information for which the Company had sought confidential protection was ostensibly omitted from the confidential version of Duke Energy Kentucky's Response to Item 90(b) originally submitted as part of this proceeding.² For this reason, the Commission instructed the Company to submit an updated and accurate copy of the relevant attachment to its Response to Item 90(b). The Company is providing the requested documentation in a separate sealed envelope marked "Confidential" tendered contemporaneously herewith.

¹ See Duke Energy Kentucky's Motion for Confidential Treatment for Certain Responses to requests for Information (filed Nov. 13, 2017); see also *infra*, n. 4 and accompanying text.

² See June 12th Order, at p. 5.

4. The Commission's June 12th Order also invited the Company to further explain its argument in support of confidential protection for the base salary, fringe benefits, and incentive pay amounts contained in the attachment to the Company's Response to Item 90(b). The Company maintains this information should be afforded confidential treatment because of its unmistakably-personal nature, and because its public disclosure would substantially harm both the identified employees and the Company with little, if any, public benefit.

5. The Kentucky Open Records Act prohibits the disclosure of "[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy."³ Like the courts of this Commonwealth and this Commission have often recognized, personal income information is generally entitled to protection from public disclosure due to its sensitive nature.⁴

6. There can be no dispute that not all individuals enjoy the same reasonable expectation of privacy in their compensation information. However, while certain senior-level utility executives are often not entitled—and cannot expect—to have their compensation information remain confidential (particularly in light of required filings with federal agencies), Mr. Keal and Mr. Sessions do not hold positions that require such disclosure. Moreover, the public's interest in the lobbying of public officials, and particularly the amounts paid by or to a particular employer or agent related to lobbying activities, is already satisfied by required

³ KRS 61.878(1)(a).

⁴ See, e.g., *Zink v. Department of Workers' Claims, Labor Cabinet*, 902 S.W.2d 825, 828 (Ky. Ct. App. 1994) ("Information such as ... wage rate ... [is] generally accepted by society as [a] detail in which an individual has at least some expectation of privacy."); *Cape Pub'ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008); *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 confidential protection for employee compensation information); *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. Nov. 5, 2015) (same); *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. Dec. 2, 2015) (same).

disclosures of such information in public filings with the Kentucky Executive Branch Ethics Commission and the Kentucky Legislative Branch Ethics; to the extent the public has any valid interest in the detailed compensation amounts paid to Mr. Keal and Mr. Sessions for activities not related to lobbying (which amounts are contained in or easily deduced from the Company's Response to Item 90(b)), such an interest is woefully insufficient to warrant the invasion of personal privacy that necessarily results from the public disclosure of employee-specific compensation information.

7. The Kentucky Open Records Act also contains an exemption that restricts dissemination of information that, due to its confidential and proprietary nature, would permit "an unfair commercial advantage to competitors of the entity that disclosed the records" if openly disclosed.⁵ Should specific compensation information related to identified members of Duke Energy Kentucky's skilled labor force be made readily available to the Company's competitors, the Company will likely face increased challenges with respect to the retention of existing employees and negotiating with potential new team members in the future. Additionally, the public disclosure of the relevant compensation information (and the resulting challenges faced by the Company) will inevitably inure to the benefit of the Company's competitors, which gain valuable, non-public information about the Company's business practices and personnel.

8. As recognized by the Commission, "[i]n determining whether materials should be exempt from disclosure, the Commission must balance the harm from disclosure with 'the effect of protecting a given document from scrutiny by the public and potential intervenors.'"⁶ In the case of the Company's Response to Item 90(b), the palpable damage that will result from the

⁵ See KRS 61.878(1)(c)(1).

⁶ See Commission's Order entered May 3, 2018, at p. 6 (quoting *Southern United Medigroup, Inc. v. Hughes*, 952 S.W.2d 195, 199 (Ky. 1997), abrogated on other grounds by *Hoskins v. Maricle*, 150 S.W.3d 1 (Ky. 2004)).

public dissemination of private employee compensation information far outweighs any justification that could be provided in support of disclosure.⁷ Based on the foregoing, Duke Energy Kentucky respectfully seeks confidential protection for the attachment to its Response to Item 90(b), as provided herewith.

III. Attachment TS-6

9. In its June 12th Order, the Commission also granted rehearing to permit further examination of Duke Energy Kentucky's request for the confidential treatment of attachment TS-6 to the Direct Testimony of Company witness Thomas Silinski. TS-6 has been described as the Company's Total Cash Compensation vs. Market document, and it contains a comparison of the average base and total compensation for several Duke Energy Kentucky positions to those of similar companies, based on applicable external survey data.⁸

10. Attachment TS-6 includes market data that was developed by and purchased from Willis Towers Watson, EAP Data Information Solutions, and Perlin, all of whom use proprietary processes and survey compilation techniques to best position employer-clients in the competitive marketplace. All three surveys referenced in TS-6 are annual salary surveys that provide benchmark information on a variety of pay components, including base pay, incentive targets, and total cash compensation. Companies participate in the survey, matching their jobs to the survey matches, and provide relevant compensation information. The survey house then aggregates the responses and prepares the survey results, which are made available to survey participants for purchase. Duke Energy Kentucky participates in and purchases the three surveys referenced. The information provided in the surveys is confidential and proprietary to the survey provider.

⁷ Of course, this is particularly true when, as here, all relevant amounts are recorded below the line and no lobbying activity costs were reflected in Duke Kentucky's forecasted test period/cost of service.

⁸ See Duke Energy Kentucky's Motion for Confidential Treatment (filed Sept. 1, 2017).

11. The market information contained in attachment TS-6, as well as the way that information is presented and compared, does not exist in the public domain and has value to utilities and other interested parties. Moreover, attachment TS-6 contains copyrighted information by Willis Towers Watson, EAP Data Information Solutions, and Perlin. Thus, Duke Energy Kentucky is requesting confidentiality for the following columns in their entirety: Survey Job Title, Survey Job Code, Market Data Base, Market Data Total Cash Compensation, % Difference DE Base vs Market Base and % Difference DE Target Total Comp vs Market Total Comp. All three surveys referenced in TS-6 include a confidentiality notice and participation terms in their survey, stating that the survey is propriety and may only be used by the purchasing company.⁹ Furthermore, Duke Energy Kentucky has nondisclosure agreements (NDAs) with both Willis Towers Watson and Perlin through Duke Energy Kentucky's relationship with Aon Consulting, which assists with Duke Energy Kentucky's survey submissions.¹⁰ These NDAs explicitly state that Duke Energy and Aon Consulting are not allowed to distribute the survey information, as it is proprietary and confidential. Considering these facts, Duke Energy Kentucky is compelled to seek confidential protection for all referenced and inferred market data in attachment TS-6 (columns Survey Job Title, Survey Job Code, Market Data Base, Market Data Total Cash Compensation, % Difference DE Base vs Market Base and % Difference DE Target Total Comp vs Market Total Comp), which is copyrighted and proprietary information purchased by the Company to benchmark and analyze employee compensation.

⁹ Documents supporting this fact with respect to Willis Towers Watson, EAP Data Information Solutions, and Perlin are attached hereto at Attachment 1, Attachment 2, and Attachment 3, respectively.

¹⁰ Copies of the NDAs with respect to Willis Towers Watson and Perlin are attached hereto at Attachment 4 and Attachment 5, respectively.

12. The Kentucky Open Records Act prohibits disclosure of documents that are otherwise protected from disclosure by federal law,¹¹ such as documents subject to federal copyright laws.¹² Historically, the Commission has often afforded confidential protection to documents with copyright protection;¹³ indeed, the Commission has held that copyrighted documents which are not available for reproduction to the general public and which have been obtained through paid company subscriptions qualify for confidential protection,¹⁴ and has also held that confidential protection is appropriate for benefit and compensation studies which are the product of the investment of utility time and resources.¹⁵ Similarly, attachment TS-6 is a proprietary document, subject to federal copyright protection, that warrants protection under Kentucky law from unlimited public dissemination.¹⁶

13. As aforementioned, the Kentucky Open Records Act also restricts publication of information that, due to its confidential and proprietary nature, would permit “an unfair commercial advantage to competitors of the entity that disclosed the records” if openly disclosed.¹⁷ The information contained in attachment TS-6, if made available to the public, will allow Duke Energy Kentucky’s competitors to gain valuable insights into the Company’s and the industry’s compensation practices; essentially, public dissemination of TS-6 will result in Duke

¹¹ See KRS 61.878(l)(k).

¹² See 17 U.S.C. § 101, *et seq.*

¹³ See, e.g., *In the Matter of the Application of Water Service Corporation of Kentucky for a General Adjustment of Rates*, Order, Case No. 2015-00382 (Ky. PSC Apr. 5, 2016); *In the Matter of the Application of Duke Energy Kentucky, Inc. to Implement a Hedging Program to Mitigate Price Volatility in the Procurement of Natural Gas*, Order, Case No. 2012-00180 (Ky. PSC July 16, 2014).

¹⁴ *In the Matter of the Application of Duke Energy Kentucky, Inc. to Implement a Hedging Program to Mitigate Price Volatility in the Procurement of Natural Gas*, Order, Case No. 2012-00180 (Ky. PSC July 16, 2014).

¹⁵ See, e.g., *In the Matter of the Application of Cumberland Valley Electric, Inc. for an Adjustment of Rates*, Order, Case No. 2014-00159 (Ky. PSC May 7, 2015); *In the Matter of the Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates for Gas Service*, Order, Case No. 2013-00067 (Ky. PSC Oct. 29, 2013).

¹⁶ Pursuant to the Commission’s June 12th Order, attached hereto at Attachment 6 is an affidavit of Mr. Thomas Silinski in support of the Company’s assertion of copyright protection with respect to attachment TS-6.

¹⁷ *Supra*, n. 5.

Energy Kentucky's competitors having access to information which the Company itself worked and paid to develop. Moreover, if Duke Energy Kentucky is forced to disclose this information, it is quite possible that it will lose the ability to participate in future market compensation surveys conducted by Willis Towers Watson, EAP Data Information Solutions, Perlin or others, as those entities will not be able to ensure the protection (and thus value) of their proprietary processes and analyses.

14. The risks attendant to public disclosure of attachment TS-6 are real and may obviously place Duke Energy Kentucky at a competitive disadvantage, to the detriment of the Company, its customers, and its shareholders. Put simply, the harm that may result from the dissemination of attachment TS-6 far outweighs whatever benefit may be realized by permitting public scrutiny and use of the proprietary, copyrighted information contained within the document. For this reason, confidential protection should be afforded as requested.

IV. Conclusion

15. Duke Energy Kentucky takes seriously employee compensation issues and spends significant time and expense developing best practices for the management of its human capital. The Company believes, consistent with applicable law and precedent, that employee-specific compensation information like that contained in the Response to Item 90(b) is private and warrants protection from public disclosure; additionally, copyrighted information like that reflected in attachment TS-6 is similarly protected from disclosure under the Kentucky Open Records Act. In order to avoid the personal harm and commercial disadvantage that may result from the unrestricted dissemination of the subject materials, confidential treatment should be afforded thereto.

WHEREFORE, on the basis of the foregoing, Duke Energy Kentucky respectfully requests an Order from the Commission affording confidential treatment for the designated portions of the Company's Response to Item 90(b) and attachment TS-6, as described herein and in previous filings in this docket.

This 22nd day of June, 2018.

Respectfully submitted,

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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 June 22, 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 hand delivered to the Commission within two business days.

DSS by MEB w/permission
Counsel for Duke Energy Kentucky, Inc.

Data Services Terms and Conditions

Willis Towers Watson's surveys and the results of such surveys, including participation materials and related reports (collectively, "surveys") are made available by local Willis Towers Watson affiliated companies which are directly or indirectly controlled by Willis Towers Watson PLC (collectively referred to as "Willis Towers Watson" or the "Willis Towers Watson group") on the following terms and conditions.

Service Quality. Willis Towers Watson will collect relevant data and conduct the surveys with reasonable care. While Willis Towers Watson cannot be responsible for verifying the accuracy and completeness of each data submission, a Willis Towers Watson associate will review each data submission for overall reasonableness. Willis Towers Watson provides the surveys on an "as is" basis and does not provide a warranty or guarantee of any kind as to the accuracy or completeness of the surveys or the data or information contained therein. Survey results will be available only if there are sufficient participants in the applicable survey.

Intellectual Property Rights. Willis Towers Watson retains all intellectual property rights in the surveys. Unauthorized use or duplication without prior written permission from Willis Towers Watson is prohibited. You shall not refer to us or include any of our work product (including, without limitation, the surveys and the information they contain) in any shareholder communication or in any offering materials (or fairness opinion provided by your professional advisers) prepared in connection with the public offering or private placement of any security, unless otherwise agreed in writing.

Use of Surveys. You may use the surveys only within your own organization for internal human resources planning and may not modify, sell or transfer such surveys. Surveys may not be reproduced in employee newsletters or posted on your company's intranet. If you desire to share the surveys (in whole or in part) with a third party (including any entity controlling, controlled by, or under common control with your company, Willis Towers Watson's competitors and/or independent contractors working solely for your company), you must first obtain the written consent of Willis Towers Watson. Any use of the information contained in the surveys is not a substitute for seeking expert legal, consulting or other advice on the reasonableness or appropriateness of compensation and/or benefits levels and practices.

Limitation of Liability. The aggregate liability of Willis Towers Watson and its employees, directors, officers, agents and subcontractors (the "related persons") whether in contract, tort (including negligence), breach of statutory duty or otherwise for any losses relating to the surveys provided hereunder shall not exceed in aggregate the greater of (a) \$25,000 USD or (b) the total fees paid to Willis Towers Watson for the particular survey(s) and/or custom report(s) related to such survey(s), unless otherwise agreed in writing. Nothing in these terms shall exclude or limit the liability of Willis Towers Watson or our related persons in the case of: (a) death or personal injury resulting from Willis Towers Watson's or Willis Towers Watson's related person's negligence; (b) willful misconduct; (c) fraud; or (d) other liability to the extent that the same may not be excluded or limited as a matter of law. In no event shall Willis Towers Watson or any of our related persons be liable for any incidental, special, punitive, or consequential damages of any kind (including, without limitation, loss of income, loss of profits, or other pecuniary loss).

General. The validity and interpretation of these terms will be governed by the laws of the State of New York, United States of America, excluding its conflict of law rules. The parties submit to the exclusive jurisdiction of the State of New York, United States of America Courts to resolve any dispute between them, provided that Willis Towers Watson shall have the right to initiate proceedings in any court of competent jurisdiction in the event of breach of Willis Towers Watson's proprietary rights. The parties hereby waive any right they may have to demand a jury trial. These terms will apply to purchase orders generated by your company for survey results provided hereunder. In the event of a conflict or inconsistency between the terms and conditions of such purchase orders and these terms, these terms will prevail. Separate terms and conditions apply to use and access of online tools. You shall not assign or otherwise transfer any rights or obligations under these terms without Willis Towers Watson's prior written consent.

Participation Terms

By participating in Willis Towers Watson's surveys, you will be deemed to have agreed to the following participation terms on behalf of your company and you represent that you have authority to submit data. As a participant, your company's name will be included on survey participant lists. Survey participants must submit data on a timely basis and provide an accurate and complete data submission, including completion of all sections of the participant materials (e.g., HR Policies & Practices ("HRP") sections, Benefits Design Practices ("BDP") sections, individual employee compensation data and long-term incentive information). Benefits and HRP data submitted may be used in current and future BDP and HRP surveys. Data may be submitted directly via the Willis Towers Watson portal hosted in the USA where such data will be stored. If your company's data submission is late or does not meet the requirements for a particular survey, Willis Towers Watson may, at its discretion, limit/deny access to such survey results. For select surveys, participants must submit executive data to purchase executive products, middle management, professional and support data to purchase non-executive products and industry-specific functions/disciplines/positions to purchase associated industry-specific survey products.

Confidentiality and Use of Data. Participant data submitted to the surveys will be held in confidence. Willis Towers Watson takes reasonable security precautions, including the same precautions Willis Towers Watson takes to protect its own confidential information, to prevent unauthorized access. Participant data will be used by Willis Towers Watson for purposes of creating aggregated compensation survey results and/or anonymized benefits survey results which are presented in a manner that protects individual company confidentiality. Willis Towers Watson reserves the right to use participant data in multiple surveys, where relevant, which may be available to participants and non-participants. Participant data and survey results may be used by Willis Towers Watson for training, quality assurance, research and development, general promotional activities such as trends analysis and consulting services (e.g., market/job pricings) that are provided to survey participants and other selected clients of Willis Towers Watson.

Data Protection. Willis Towers Watson may pass participant data, which may include individually identifiable information, within our global network of offices and affiliates (including the Willis Towers Watson Global Resource Center) and to subcontractors and providers of IT outsourcing who will be subject to appropriate data protection standards. The Global Resource Center is located in Manila, The Philippines, and will be used to analyze such data in connection with the surveys. The Manila corporate entity is a wholly owned subsidiary in the Willis Towers Watson group, and Willis Towers Watson's operations in Manila are certified to the ISO27001 standard covering information security, including data confidentiality, integrity and availability; and are also certified to the ISO9001 standard covering quality management practices. Irrespective of where Willis Towers Watson receives or stores such data, Willis Towers Watson confirms that, acting as data processor, Willis Towers Watson will take appropriate technical, physical and organizational/administrative measures to protect such data against accidental or unlawful destruction or accidental loss or unauthorized alteration, disclosure or access. Willis Towers Watson will use such data only for the purposes described above unless a participant instructs Willis Towers Watson otherwise. Participant and Willis Towers Watson shall each comply with applicable data privacy legislation and regulations.

EAP DATA INFORMATION SOLUTIONS, LLC

2017 Energy Technical Craft Clerical Survey (ETCCS)

Notice of Copyright - ©2017 by the EAP Data Information Systems, LLC (EAPDIS)
All rights reserved.

All EAPDIS surveys/systems are copyrighted by EAP Data Information Solutions, LLC, which retains exclusive proprietary rights. Distribution of the surveys/systems and survey system results is limited solely to participating companies; it is expected that those companies will regard this information as confidential. EAPDIS surveys/systems should not be reproduced or distributed without the express written permission of EAPDIS.

Participating companies should be aware that, under unusual circumstances, information reported in EAPDIS surveys/systems might be subject to discovery in certain legal proceedings.

As a matter of policy, EAPDIS does not release individual company data and refers all such questions to the company.

For further information, please contact EAPDIS:

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EAP Data Information Solutions, LLC
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Newport, VA 24128-0058

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EAP DATA INFORMATION SOLUTIONS, LLC

Policy of Disclaimer on EAPDIS Surveys

Individuals supplying information should be aware that, while information which they supply in response to questionnaires or surveys will not **ordinarily** be made available to the public (unless otherwise noted on the questionnaire or survey form), such information is **not necessarily** "privileged" in the legal sense of the word. Consequently, such information **may be** subject to "discovery" (i.e. disclosure in legal and government proceedings).

This potential for disclosure is particularly important to consider with respect to any question which requests information which may be sensitive and for which confidentiality may be important. Accordingly, a company should not provide information (in response to a questionnaire or survey) which is considered to be a trade secret or which, regardless of its nature, the company would not otherwise disclose to the public.

When there is any question as to whether information would constitute a trade secret or whether it would be information, which the company would not otherwise disclose to the public, a company employee responding to an information request should consult with the appropriate company legal counsel before supplying a response.

ACKNOWLEDGMENTS

A particular note of thanks to the professionals and their staffs at each of the participating firms for their diligence and extensive efforts in ensuring proper matching of jobs and for the gathering and reporting of the required survey data.

NOTE: *This report is confidential and intended solely for the information and use of the client to whom it is addressed.*

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44 South Broadway, 13th Floor
White Plains, NY 10601
wtdataservices.com

Duke Energy Corporation ("Client" or "you") requests that Towers Watson Delaware Inc., on behalf of itself and its affiliates ("Willis Towers Watson") release to Aon Consulting, Inc. ("Third Party") Willis Towers Watson's survey submission materials, instructions, questionnaires and electronic input materials in connection with Willis Towers Watson's 2018 compensation surveys so that Third Party may complete submission materials on behalf of Client for participation in such surveys and permit Third Party access to results from Willis Towers Watson's 2018 compensation surveys purchased by Client (collectively, "Willis Towers Watson Information"). Client acknowledges that the Willis Towers Watson Information contains certain instructions, disclaimers, notices and other terms and agrees that Third Party's submission of the data shall be deemed to constitute Client's agreement to such terms. Client may provide the Willis Towers Watson Information to Third Party via hard copy or electronic format, as described below and must not provide Third Party with a user ID or other direct access to Willis Towers Watson's online tools. Client/Third Party has confirmed in writing the specific Willis Towers Watson Information to be shared.

Willis Towers Watson Information is only for the internal use of clients of Willis Towers Watson. Willis Towers Watson prohibits the distribution of such information to third parties without its written consent.

Willis Towers Watson consents to Client's distribution of Willis Towers Watson Information to Third Party subject to the following terms and conditions:

- Willis Towers Watson's relationship and responsibility is solely to Client with respect to all matters relating to the Willis Towers Watson Information;
- Third Party is responsible for its own due diligence with respect to all matters relating to the Willis Towers Watson Information;
- To the extent that any of the Willis Towers Watson Information contains individually identifiable information relating to Client's employees, Client is responsible for compliance with applicable data privacy laws including, without limitation, securing any necessary consent from the individual(s);
- Third Party will neither reference nor distribute the Willis Towers Watson Information or any data contained therein to any party other than Client; will not use the Willis Towers Watson Information or any data contained therein for any party other than Client or in any survey/database used for any party other than Client or in connection with the development of any similar product or material;
- Third Party will place no reliance on the Willis Towers Watson Information that would result in the creation of any duty or liability by Willis Towers Watson to Third Party;
- Notwithstanding anything to the contrary contained herein, Third Party may possess or have access to information and data ("Independent Third Party Data") substantially similar to that contained in the Willis Towers Watson Information and Third Party's use of such Independent Third Party Data shall not be restricted by the terms of this agreement; provided that Third Party represents and warrants that no Independent Third Party Data was, or will be, obtained, directly or indirectly, from any past, present or future Willis Towers Watson survey, including, without limitation Willis Towers Watson's online tools;
- Notwithstanding anything to the contrary contained herein, Third Party may import Willis Towers Watson Information into an online web tool, as hosted by Third Party's third party supplier, for the sole purpose of providing services to Client. To the extent necessary to provide such services, Third Party may provide access to its third party supplier to use and import such Willis Towers Watson Information, provided that such supplier (a) is not a competitor to Willis Towers Watson in the survey business and (b) agrees to be bound by confidentiality provisions at least as restrictive as set forth herein. Third Party remains responsible for compliance by such supplier.

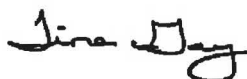
Willis Towers Watson

All notices given pursuant to this agreement will be in writing and may be given by hand delivery, sent by registered post, or delivered by recognized commercial courier, addressed to the respective party at the address designated below. Any such notice shall be deemed to have been given upon actual receipt or documented refusal of receipt.

The term of this agreement shall begin on the date of Willis Towers Watson's signature below and end on the earlier of (i) the date on which Third Party's services for Client are completed or terminated; or (ii) the date of written notice of termination from Client or Willis Towers Watson. Notwithstanding the foregoing, this agreement may be immediately terminated by Willis Towers Watson on written notice if Third Party and/or Client are in breach of any of their obligations hereunder. All Willis Towers Watson information disclosed during the term shall continue to be governed by the terms and conditions of this agreement after expiration/termination. The validity and interpretation of this agreement will be governed by the laws of the State of New York, United States of America, excluding its conflicts of law rules.

Accepted and agreed:

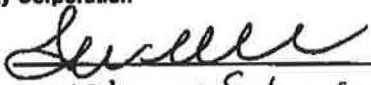
Towers Watson Delaware Inc.



By: _____
Name: Tina Gav
Title: Director, North America Survey Operations
Address: 44 South Broadway, 13th Floor
White Plains, NY 10801
Date: 03/02/2018

Accepted and agreed:

Duke Energy Corporation

By: 
Name: Thomas S. Lonski
Title: VP HR OPS & TOTAL REWARDS
Address: _____
Date: _____

Aon Consulting, Inc.

By: _____
Name: Jennifer Henrikson
Title: Vice President-Legal
Address: 200 E. Randolph, Chicago, IL 60601
Date: March 7, 2018

PERLIN & TAMBLYN ASSOCIATES, INC.

Management Consultants
34 Sycamore Avenue - Suite 2F
Little Silver, N.J. 07739
732-747-0899

Third Party Non-Disclosure Agreement

In connection with the release of confidential data to Aon Consulting, Inc, on behalf of itself and its affiliates (collectively, "Aon"), related to work Aon is performing for Duke Energy Corporation ("Authorizing Organization"), this Third Party Non-Disclosure Agreement ("Agreement") executed as of the 14th day of March, 2018, sets forth the terms and conditions for the protection of the confidential information (as that term is defined below). The undersigned parties agree as follows:

- Aon will treat with strict confidentiality any and all information *including, but not limited to, all survey materials (survey reports, survey data, consulting reports, questionnaires, data input forms, survey results, all communications, and all related information)* furnished by Perlin & Tamblyn Associates, Inc. in connection with Aon's rendering of consulting or survey services to Authorizing Organization (collectively, "confidential information").
- Aon will not disclose any confidential information to any person or party not directly employed by, or affiliated through ownership with, the Authorizing Organization other than as permitted under this Agreement.

By the parties' acknowledgement below, the parties confirm that:

- Aon and members of its firm will treat confidential information provided by Perlin & Tamblyn Associates, Inc. with strict confidentiality.
- Other than as permitted under this Agreement, no confidential information will be distributed, released, or communicated to: (1) persons not employed by Aon, except for Authorizing Organization; and/or (2) any media organization.
- Aon agrees that the confidential information will not be used for any purpose other than in connection with the services it provides to the Authorizing Organization. At the conclusion of Aon's project for the Authorizing Organization, Aon will return all confidential information to the Authorizing Organization, and Aon will retain no copies. Notwithstanding, anything to the contrary in this Agreement, but subject to the terms and conditions of this Agreement, Aon may (i) only retain copies of confidential information that are required to be retained by law or regulation, (ii) only retain copies of its work product that contain confidential information for archival purposes or to defend its work product and (iii) in accordance with legal, disaster recovery and records retention requirements, only store such copies and derivative works in an archival format (e.g. tape backups), which may not be returned or destroyed.
- All confidential information will be used for the exclusive purpose of completing the current assignment for the Authorizing Organization and will not be used for any other purposes, clients, projects, or presentations.
- Unless otherwise set forth in this Agreement, all confidential information will be made available only to those members of Aon and the Authorizing Organization working on Aon's or the Authorizing Organization's project teams.
- Perlin & Tamblyn Associates understands that Aon may possess or have access to information and data ("Independent Aon Data") substantially similar to that contained in the Perlin & Tamblyn Associates' confidential information. Aon's use of Independent Aon Data shall not be restricted by the terms and conditions of this Agreement, provided that Aon represents and warrants that that no Independent Aon Data was, or will be, obtained directly or indirectly from any Perlin & Tamblyn Associate's confidential information. Additionally, confidential information shall not include information that: (i) is or becomes public other than through a breach of this


Agreement; (ii) is already known to Aon prior to the date of this Agreement and with respect to which Aon does not have an obligation of confidentiality; or (iii) which is disclosed to Aon t by a person or entity not party to this Agreement and who is entitled to disclose such information without breaching an obligation of confidentiality.

- Notwithstanding anything aforesaid, If Aon is required to disclose confidential information as part of a judicial process, government investigation, legal proceeding, or other similar process, to the extent permitted by law, Aon will give prior written notice of such requirement to Perlin & Tamblyn Associates to the extent legally permissible. Reasonable efforts will be made to provide this notice in sufficient time to allow Perlin & Tamblyn Associates to seek an appropriate confidentiality agreement, protective order, or modification of any disclosure, and Aon will reasonably cooperate in such efforts.
- Notwithstanding anything to the contrary herein, Aon may, if requested by the Authorizing Organization, import the confidential information into an online web tool, as hosted by Aon's third party supplier, for the sole purpose of providing services to the Authorizing Organization. To the extent necessary to provide such services, Aon may provide access to its third party supplier to use and import such confidential information, provided that such supplier agrees to be bound by confidentiality provisions at least as restrictive as the terms set forth in this Agreement. Data imported into such online web tool shall only be used for Authorizing Organization.
- Data imported to Aon's proprietary web tool(s) shall only be used for Authorizing Organization.
- This Agreement shall be effective as of the date and year above cited and the term shall extend through and until a period of one (1) year thereafter unless the term of this Agreement is extended, in writing, by the mutual agreement of the parties hereto. This Agreement may be terminated by Perlin & Tamblyn Associates on thirty (30) days prior written notice to Aon if Aon is in breach of any of its obligations under this Agreement, and has not cured such breach with in the thirty (30) day notice period.

Aon Consulting, Inc. and the Authorizing Organization further agree that any employees and employees of any parent or affiliate who are provided with any confidential information shall be bound by confidentiality terms and conditions substantially similar to those contained in this Agreement.

The above is agreed to and accepted: March 14, 2018
(Date)

By:  President
Perlin & Tamblyn Associates, Inc. Officer Signature and Title

By:  VP TOTAL REWARDS & HR OPS
Authorizing Organization: Duke Energy Corporation Officer Signature and Title

By:  Jennifer Henrikson, VP-Legal
Aon Consulting, Inc. Officer Signature and Title

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.

AFFIDAVIT OF THOMAS SILINSKI

Comes now the Affiant, Thomas Silinski, and, after being duly sworn, does hereby state
as follows:

1. My name is Thomas Silinski. I am Vice President, Total Rewards and Human Resource Operations, for Duke Energy Business Services LLC, which is an affiliate service company of Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company).
2. I have served as a witness on behalf of Duke Energy Kentucky in this proceeding and I sponsored certain Direct Testimony filed in this docket on or about September 1, 2017. The primary purpose of my involvement in this matter has been to discuss and describe the Company's employee compensation practices and policies.
3. Attached to my Direct Testimony are a number of exhibits, including attachment TS-6. Attachment TS-6 is the Company's Total Cash Compensation vs. Market document, and it contains a comparison of the average base and total compensation

for several Duke Energy Kentucky positions to those of similar companies, based on applicable external survey data.


4. Attachment TS-6 contains copyrighted information by Willis Towers Watson, EAP Data Information Solutions, and Perlin, all of whom use proprietary processes and survey compilation techniques to best position employer-clients in the competitive marketplace. All three surveys are prepared annually and provide benchmark information on a variety of pay components, including base pay, incentive targets, and total cash compensation. Companies participate in the survey, matching their jobs to the survey matches, and provide relevant compensation information. The survey house then aggregates the responses and prepares the survey results, which are made available to survey participants for purchase.
5. Duke Energy participated in all three surveys referenced, and utilizes the results to benchmark positions in the company to determine market competitive pay.
6. In order to gain access to attachment submitted as TS-6, Duke Energy Kentucky agrees to the participation terms instituted by the survey house. A true and accurate copy of these terms, for each survey house, is being submitted by the Company contemporaneously with this Affidavit. Pursuant to the terms, attachment TS-6 is copyrighted material that Duke Energy Kentucky may not freely reproduce, distribute, sell, or otherwise use. The terms explain the scope of the Company's ability to access, use, and license to the information, which by such terms, are also subject to copyright and trademark protections. In addition to the terms, Duke Energy Kentucky has provided nondisclosure agreements (NDA) for Willis Towers Watson and Perlin, which were entered in with Aon Consulting, who assists with Duke Energy Kentucky's survey submissions. The NDAs also explicitly state the

confidential and proprietary nature of the surveys and that the information may not be distributed. Besides the participation terms and NDAs, there are no other contracts, licenses, or other agreements indicating how Duke Energy Kentucky may permissibly use attachment TS-6 or the information therein.

- 7. The Company relies on surveys and studies like that provided by Willis Towers Watson, EAP Data Information Solutions, and Perlin to develop and refine its employee compensation practices. Such studies have value (a conclusion evidenced by the fact that Duke Energy Kentucky paid for all three surveys referenced in TS-6), and I believe Duke Energy Kentucky will be harmed—and its competitive advantage diminished—if attachment TS-6 is allowed to be publicly disseminated. Moreover, Duke Energy Kentucky’s ability to access this information in the future may be restricted if it cannot abide by the survey terms and protect the confidential and copyrighted material contained therein.

Further, the Affiant sayeth naught.

The foregoing Affidavit is true and correct to the best of my knowledge, opinion, and belief as of this 21st day of June 2018.



Thomas Silinski, Vice President
Duke Energy Business Services LLC

STATE OF North Carolina

COUNTY OF Mecklenburg

Subscribed and sworn to by the Affiant, Thomas Silinski, Vice President of Duke Energy Business Services LLC, before me, the Notary Public, on this 21st day of June 2018.

Phoebe P. Elliott
Notary Public
Mecklenburg County, NC


NOTARY PUBLIC

My Commission Expires: June 26, 2021