COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

THE ELECTRONIC APPLICATION OF DUKE ENERGY KENTUCKY, INC., FOR AUTHORITY TO 1) ADJUST NATURAL GAS RATES 2) APPROVAL OF A DECOUPLING MECHANISM 3) APPROVAL OF NEW TARIFFS; 4) ALL OTHER REQUIRED APPROVALS, WAIVERS, AND RELIEF Case No. 2018-00261

MOTION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY KENTUCKY, INC. FOR CERTAIN RESPONSES TO COMMISSION STAFF’S SECOND REQUEST FOR INFORMATION AND TO THE KENTUCKY ATTORNEY GENERAL’S OFFICE’S FIRST 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 issued on October 10, 2018, and the Kentucky Attorney General’s Office’s First Request for Information issued on October 10, 2018, respectfully stating as follows:

1. On August 1, 2018 Duke Energy Kentucky filed a Notice of Intent to File an Application seeking adjustment of its electric rates and other approvals.


4. On October 10, 2018 the AG issued its First Request for Information to Duke Energy Kentucky.

5. In response to Commission Staff’s Second 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 Requests 35, 72, and 86 of Commission Staff’s Second Request for Information and Responses to Requests 89, 96, 109, 111, 112, and 115, which is referred to herein as the “Confidential Information” and, broadly speaking, includes detailed information pertaining to the internal policies and procedures, personal compensation information of Duke Energy Kentucky-employees, contracts with outside vendors, and other information.

7. Request No. 35 of Commission Staff’s Second Request for Information states as follows:

Refer to the Morin Testimony, Attachment RAM-2, page 1 of 1.

b. Provide the most recent ROE and the date of the ROE publication for each utility in the natural gas proxy group.

8. In its response to Request No. 35, Duke Energy Kentucky is providing copies of The Value Line reports for each company. The reports being provided are subject to the copyrights of persons other than Duke Energy Kentucky and are provided pursuant to paid subscriptions of those third parties. Accordingly, the Company has an obligation to use reasonable efforts to protect these copyright interests. Failure to follow the terms of these requirements could both subject the
Company and other involved parties to potential legal actions for breach as well as an inability to use these resources in the future.

9. Request No. 72 of Commission Staff’s Second Request for Information states as follows:

Refer to the Direct Testimony of William Don Wathen Jr. (Wathen Testimony), pages 6 and 7, regarding the implementation of advanced metering in its territory.
b. Provide a comparison of the projected cost savings contained in Case No. 2016-00152 and actual cost savings by account number and name, by month, from the beginning of the advanced metering program through the end of the forecasted test year.

10. In its response to Request 72, Duke Energy Kentucky is filing sensitive and detailed information regarding these actual cost savings that was previously granted confidential protection by this Commission. Releasing this information will make it difficult for the Company to achieve these anticipated savings as counterparties and potential vendors will know the Company’s business plan and assumptions for costs, including, but not limited to, labor to complete the deployment. Counterparties could use this information to price their services such that the Company would be limited to achieving the anticipated benefits.

11. Request No. 86 of Commission Staff’s Second Request for Information states as follows:

Refer to Duke Kentucky’s response to Staff’s First Request, Item 61. For the forecasted test year, provide the following information as it relates to lobbying activities:
a. For each of the registered lobbyist, 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.

12. In its response to Request 86, Duke Energy Kentucky is filing sensitive information regarding salary, fringe benefits, and incentive pay for specific employees that are not otherwise
reported or made public. In the interest of protecting these employees, this information should be
treated as sensitive and confidential or else risk being able to recruit and retain qualified individuals
out of fear of personal information becoming public.

13. Request No. 89 of the AG’s First Request for Information states as follows:

Pension and OPEB Expenses

Provide the two most recent pension and OPEB actuarial reports for
Duke Energy, DEO, and the Company.

14. In its response to Request No. 89, 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. 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 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.1

1 Id., See also, In the Matter of the Application of Kentucky Utilities Company for an Adjustment of its Electric Rates,
15. Request No. 96 of the AG’s First Request for Information states as follows:

Provide a copy of DEK’s 2016 and 2017 federal income tax returns.

16. In its response to Request No. 96, Duke Energy Kentucky is providing copies of its federal income tax returns. Tax documents are recognized as confidential as a matter of law. See KRS 131.190(1).

17. Request No. 109 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.

18. In its response to Request No. 109, Duke Energy Kentucky is providing copies of The Value Line reports for each company. The reports being provided are subject to the copyrights of persons other than Duke Energy Kentucky. Accordingly, the Company has an obligation to use reasonable efforts to protect these copyright interests. Failure to follow the terms of these requirements could both subject the Company and other involved parties to potential legal actions for breach as well as an inability to use these resources in the future.

19. Request No. 111 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 2018.

20. In its response to Request No. 111, 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.\footnote{In the Matter of the Application of Louisville Gas & Electric Company for Certificates of Public Convenience and...} If said information was made available to the public, it could be used to the detriment of Duke Energy Kentucky.
21. Request No. 112 of the AG’s First Request for Information states as follows:

Provide copies of all articles and publications cited by Dr. Morin in his Direct Testimony.

22. In its response to Request No. 112, Duke Energy Kentucky is providing AG-DR-01-112 Confidential Attachment 1 which includes, between pages 670 through 721, an issue of The Value Line Investment Survey. This material is subject to the copyrights of persons other than Duke Energy Kentucky. Accordingly, the Company has an obligation to use reasonable efforts to protect these copyright interests. Failure to follow the terms of these requirements could both subject the Company and other involved parties to potential legal actions for breach as well as an inability to use these resources in the future.

23. Request No. 115 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 and 2018 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.

24. In its response to Request No. 115, 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 Pool. This information is highly-confidential and should not be disclosed. Information pertaining to similar agreements has previously been recognized to be confidential.3


25. Contemporaneous with the filing of this Motion, Duke Energy Kentucky is tendering documentation responsive to Commission Staff’s Request Nos. 35, 72, and 86 and to AG’s Request Nos. 89, 96, 109, 111, 112, and 115. 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.

26. 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 benefit amounts for Duke Energy Kentucky employees. 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. Additionally, public disclosure of these sensitive documents would unnecessarily provide interested parties and Duke Energy Kentucky’s competitors with

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access to exclusive information regarding employee compensation. By knowing what Duke Energy Kentucky compensates each of its employees, it would be very easy for other utilities to attempt to poach Duke Energy Kentucky’s workforce and management. 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.5

27. 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.

28. 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.

5 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).
29. 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.

30. 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.

31. 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,

[Signature]

Rocco O. D'Ascenzo (92796)
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Email: Allyson@gosssamfordlaw.com

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 October 24, 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 will be delivered to the Commission within two business days and a copy of the filing is also being emailed to the following:

Hon. Rebecca W. Goodman
Hon. Larry Cook
Hon. Kent Chandler

Counsel for Duke Energy Kentucky, Inc.
VERIFICATION

STATE OF NORTH CAROLINA  )  SS:
COUNTY OF MECKLENBURG  )

The undersigned, Robert H. “Beau” Pratt, Director, Regional Financial Forecasting, 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.

Robert H. “Beau” Pratt Affiant

Subscribed and sworn to before me by Robert H. “Beau” Pratt on this 12th day of October, 2018.

VIRGINIA M. ADAMS
NOTARY PUBLIC

My Commission Expires: 10/2/21
VERIFICATION

STATE OF NORTH CAROLINA       SS:
COUNTY OF MECKLENBURG

The undersigned, Renee Metzler, Managing Director – Retirement and Health and Welfare, being duly sworn, deposes and says that she 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 her knowledge, information and belief.

[Signature]
Renee Metzler Affiant

Subscribed and sworn to before me by Renee Metzler on this 18th day of October 2018.

[Signature]
Amy L. Ling
NOTARY PUBLIC

My Commission Expires: 11/14/22
VERIFICATION

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

The undersigned, Jeffrey R. Setser, Director of Allocations and Reporting, 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.

Jeffrey R. Setser Affiant

Subscribed and sworn to before me by Jeffrey R. Setser on this 12 day of Oc2., 2018.

NOTARY PUBLIC

My Commission Expires: 10/2/21
STATE OF OHIO
COUNTY OF HAMILTON

The undersigned, Sarah E. Lawler, Director Rates & Regulatory Planning, being duly sworn, deposes and says that she 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 her knowledge, information and belief.

Sarah E. Lawler Affiant

Subscribed and sworn to before me by Sarah E. Lawler on this 23rd day of October, 2018.

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

Adele M. Frisch
NOTARY PUBLIC

My Commission Expires: 1/5/2019
VERIFICATION

STATE OF NORTH CAROLINA } \ SS:
COUNTY OF MECKLENBURG } }

The undersigned, Michael Covington, Director, Gas Utilities & Infrastructure Accounting, 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 true and correct to the best of his knowledge, information and belief.

\[Signature\]
Michael Covington, Affiant

Subscribed and sworn to before me by Michael Covington on this 16 day of Oct., 2018.

[Signature]
Kim V. Beal
NOTARY PUBLIC

My Commission Expires: October 24, 2019
STATE OF OHIO  

COUNTY OF HAMILTON  

The undersigned, William Don Wathen Jr., Director of Rates & Regulatory Strategy, 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.

William Don Wathen Jr., Affiant

Subscribed and sworn to before me by William Don Wathen Jr., on this 23rd day of October, 2018.

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

My Commission Expires: 1/5/2019
STATE OF OHIO
COUNTY OF HAMILTON

The undersigned, Chuck Session, VP Government Affairs, 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.

Chuck Session, Affiant

Subscribed and sworn to before me by Chuck Session, on this 23rd day of October, 2018.

NOTARY PUBLIC

My Commission Expires: July 8, 2022
VERIFICATION

STATE OF OHIO

COUNTY OF HAMILTON

The undersigned, Amy B. Spiller, State President of Duke Energy Ohio, Inc. and its subsidiary, Duke Energy Kentucky, Inc., being duly sworn, deposes and says that she has personal knowledge of the matters set forth in the foregoing data requests and that the answers are true and correct to the best of her knowledge, information and belief.

Amy B. Spiller, Affiant

Subscribed and sworn to before me by Amy B. Spiller, on this 23rd day of October, 2018.

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

My Commission Expires: 1/5/2019
VERIFICATION

STATE OF NORTH CAROLINA  )
COUNTY OF MECKLENBURG  )

The undersigned, Retha Hunsicker, VP Customer Connect-Solutions, being duly sworn, deposes and says that she 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 her knowledge, information and belief.

Retha Hunsicker Affiant

Subscribed and sworn to before me by Retha Hunsicker on this 23rd day of October, 2018.

NOTARY PUBLIC

My Commission Expires: 10/6/19
VERIFICATION

STATE OF NORTH CAROLINA  )  SS:
COUNTY OF Mecklenburg  )

The undersigned, Tyler A. Barbare, Director of Gas Technical Field 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.

Tyler A. Barbare
Affiant

Subscribed and sworn to before me by Tyler A. Barbare on this 16 day of October, 2018.

NOTARY PUBLIC

My Commission Expires: 08/14/2023
VERIFICATION

STATE OF OHIO
COUNTY OF HAMILTON

The undersigned, Gary J. Hebbeler, Vice President Gas 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.

Gary J. Hebbeler, Affiant

Subscribed and sworn to before me by Gary J. Hebbeler on this 23rd day of October, 2018.

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

My Commission Expires: 11/5/2019

NOTARY PUBLIC
VERIFICATION

STATE OF FLORIDA  
COUNTY OF NASSAU

The undersigned, Dr. Roger A. Morin, Professor of Finance and a Principal in Utility Research International, 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.

Dr. Roger A. Morin

Subscribed and sworn to before me by Dr. Roger A. Morin on this 23rd day of Oct., 2018.

KAREN M. PERDUE
Notary Public - State of Florida
Commission # FF 234447
My Comm. Expires Sep 19, 2019
Bonded through National Notary Assn.

My Commission Expires:
VERIFICATION

STATE OF NORTH CAROLINA  )  
COUNTY OF MECKLENBURG  )  SS:

The undersigned, John R. Panizza, Director, 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.

[Signature]
John R. Panizza Affiant

Subscribed and sworn to before me by John R. Panizza on this 12 day of October, 2018.

[Signature]
Angela Hunter
NOTARY PUBLIC

My Commission Expires:

My Commission Expires
05-30-2023
VERIFICATION

STATE OF OHIO )
COUNTY OF HAMILTON )

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, Affiant

Subscribed and sworn to before me by Bruce L. Sailers, on this 18th day of October, 2018.

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

ADELE M. FRISCH
NOTARY PUBLIC
My Commission Expires: 1/5/2019
VERIFICATION

STATE OF NORTH CAROLINA

COUNTY OF MECKLEMBURG

The undersigned, Benjamin Walter Bohdan Passty, Lead Load Forecasting Analyst, 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.

[Signature]
Benjamin Walter Bohdan Passty Affiant

Subscribed and sworn to before me by Benjamin Walter Bohdan Passty on this 12th day of October, 2018.

[Signature]
NOTARY PUBLIC

My Commission Expires: 10-17-2019
VERIFICATION

STATE OF OHIO )
COUNTY OF HAMILTON ) SS:

The undersigned, James E. Ziolkowski, Director, Rates & Regulatory Planning, 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.

James E. Ziolkowski Affiant

Subscribed and sworn to before me by James E. Ziolkowski on this 15th day of October, 2018.

NOTARY PUBLIC

My Commission Expires: July 8, 2022
VERIFICATION

COMMONWEALTH OF PENNSYLVANIA ) SS:
COUNTY OF CUMBERLAND )

The undersigned, John J. Spanos, Senior Vice President, 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.

John J. Spanos Affiant

Subscribed and sworn to before me by John J. Spanos on this 15th day of October, 2018.

Cheryl Ann Rutter, Notary Public

My Commission Expires: February 10, 2019
VERIFICATION

STATE OF NORTH CAROLINA  )
COUNTY OF MECKLENBURG  )  SS:

The undersigned, Cynthia S. Lee, Director, Asset Accounting, being duly sworn, deposes and says that she 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 her knowledge, information and belief.

Cynthia S. Lee Affiant

Subscribed and sworn to before me by Cynthia S. Lee on this 10th day of October, 2018.

NOTARY PUBLIC

My Commission Expires: 10/2/21
VERIFICATION

STATE OF OHIO   )
COUNTY OF HAMILTON ) SS:

The undersigned, Jeff L. Kern, Lead, Gas Resources, 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.

Jeff L. Kern, Affiant

Subscribed and sworn to before me by Jeff L. Kern, on this 22 day of

October, 2018.

My Commission Expires: No Expiration