

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 New Tariffs; 3)) Case No. 2019-00271
Approval of Accounting Practices to Establish)
Regulatory Assets and Liabilities; and 4) All)
Other Required Approvals and Relief.)

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

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and respectfully requests the Commission to classify as confidential and protect certain information provided by the Company in its Responses to Commission Staff's Second Request for Information and Responses to the Attorney General's ("AG") First Request for Information issued on October 11 and October 14, 2019, respectfully stating as follows:

1. On August 1, 2019 Duke Energy Kentucky filed a Notice of Intent to File an Application seeking an adjustment of its electric rates and other approvals.
2. On September 3, 2019 Duke Energy Kentucky filed an Application seeking an adjustment of its electric rates and other approvals.
3. On October 11, 2019 Commission Staff filed its Second Request for Information and on October 14, 2019 each of the intervenors filed their First Request for Information.
4. 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.

5. The information for which Duke Energy Kentucky seeks confidential treatment is contained in its Responses to Commission Staff's Requests 30, 36, 52, 53, 79, 82, 84, 105, 121, 130, 144, 155 and 168; and Responses to the AG's Requests 9, 38, 39, 40, 46, 47, 48, 59, 70, 74, 109, 115 and 119; which is referred to herein as the "Confidential Information" and, broadly speaking, includes detailed information pertaining to the internal policies and procedures of Duke Energy Kentucky, customer information, federal tax returns, contracts with outside vendors, and other sensitive and proprietary information.

6. Request No. 30 of Commission Staff's Second Request for Information states as follows:

Refer to the Christie Testimony, page 10.

- a. Describe in detail how Duke Kentucky contracts its vegetation management services.
- b. Provide copies of its vegetation management contracts from 2014 through 2018.
- c. On what basis does Duke Kentucky award its vegetation management contracts (i.e., per hour, per mile, etc.).

7. In its response to Request No. 30, Duke Energy Kentucky is filing copies of its vendor contracts. Duke Energy Kentucky seeks confidential protection for the pricing and cost of each individual contract, which is consistent with Commission precedent.¹ Disclosing such information at the detailed level of individual contracts will harm the Company by setting a "floor" in future negotiations with vendors that will make it very difficult for the Company to negotiate the lowest possible cost. The Company does not seek to protect from disclosure the total sum

¹ *In the Matter of the Application of Big Rivers Electric Corporation for Approval to Issue Evidences of Indebtedness*, Order, Case No. 2014-00423 (Ky. P.S.C. Jan. 27, 2016) (granting confidential status to pricing terms and performance guarantees).

spent on such vendor contracts, but requests that the detailed information pertaining to each contract remain confidential in light of its extremely valuable commercial nature.

8. Request No. 36 of Commission Staff's Second Request for Information states as follows:

Refer to the Hunsicker Testimony, page 8. Explain how Duke Energy, and in turn Duke Kentucky, chose Customer Connect for its customer service platform.

9. In its response to Request No. 36, Duke Energy Kentucky is providing details on its process to select Customer Connect and other sensitive information regarding software requirements. The Commission has often correctly held that the disclosure of internal corporate policies and procedures would violate the Open Records Act.²

10. Request No. 52 of Commission Staff's Second Request for Information states as follows:

Refer to the Jacobi Testimony, page 7, lines 15-16. Provide documentation supporting Mr. Jacobi's statement that financial markets continue to experience periods of volatility.

11. In its response to Request No. 52, Duke Energy Kentucky is providing a recent slide provided by Scotiabank which is highly confidential and proprietary. Moreover, the slide's author is Scotiabank for purposes of federal copyright law, which further prevents its unauthorized public disclosure under Kentucky law.³

² See *In the Matter of the Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase*, Order, Case No. 2016-00367 (Ky. P.S.C. Mar. 13, 2019); *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*, Order, Case No. 2017-00321 (Ky. P.S.C. May 4, 2018); *In the Matter of an Examination of the Application of the Fuel Adjustment Clause of Duke Energy Kentucky, Inc. from May 1, 2015 through October 31, 2015*, Order, Case No. 2016-00005 (Ky. P.S.C. Oct. 4, 2016).

³ See KRS 61.878(1)(k); *In the Matter of the Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates*, Order, Case No. 2015-00382 (Ky. P.S.C. Apr. 5, 2016).

12. Request No. 53 of Commission Staff's Second Request for Information states as follows:

Refer to the Jacobi Testimony, page 12, lines 1-12. Refer also to the application, Volume 11, Schedule J-2.

- a. Provide documentation and all calculations for the short-term interest rate for the base and forecast period.
- b. Explain why Duke Kentucky chose a credit spread of 90-basis points.
- c. Provide the spread added to the short-term debt for Duke Kentucky's last two electric base rate cases.

13. In its response to Request No. 53, Duke Energy Kentucky is providing calculations for its short-term interest rate for the base and the forecast period. This information is considered highly confidential by the Company, which, if made publicly available would place the Company at a competitive disadvantage as it negotiates short-term debt in the future. The Commission has held that information concerning future interest rate expense and associated fees is confidential and shielded from public disclosure.⁴

14. Request No. 79 of Commission Staff's Second Request for Information states as follows:

Refer to the Kuznar Testimony, page 8, lines 9-16, and page 9, lines 7-9.

- a. State whether the proposed battery project will provide increased reliability to any Duke Kentucky customer in addition to the hospital. If so, identify that customer.
- b. State whether a cost-benefit analysis was performed for the proposed battery project. If so, provide the analysis.

15. In its response to Request No. 79, Duke Energy Kentucky is providing a confidential and propriety Cost-Benefit Analysis (CBA) for its Crittenden Storage Project, which

⁴ *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval of the Authority to Issue up to \$300,000,000 of Secured Private Placement Debt and/or Secured Tax Exempt Bonds and for the Use of Interest Rate Management Instruments*, Order, Case No. 2018-00115 (Ky. P.S.C. Dec. 10, 2018); *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval of the Amendment and Extension or Refinancing of an Unsecured Revolving Credit Agreement in an Amount up to \$800,000,000 of Which up to \$100,000,000 May be in the Form of an Unsecured Renewable Term Loan and \$200,000,000 of Which Will be in the Form of a Future Increase Option*, Order, Case No. 2016-00116 (Ky. P.S.C. April 12, 2016); *Id.*, Order, (Ky. P.S.C. Mar. 5, 2016).

is the successor to the original hospital project. The CBA includes detailed projections regarding future usage characteristics and financial information. The Commission has previously recognized that CBAs such as the one submitted by Duke Energy Kentucky are confidential and not subject to public disclosure.⁵

16. Request No. 82 of Commission Staff's Second Request for Information states as follows:

Refer to the Kuznar Testimony, page 10, lines 11-12. Provide an itemized breakdown of the \$8.2 million cost of the battery storage project.

17. In its response to Request No. 82, Duke Energy Kentucky is providing an itemized breakdown of the cost of the battery storage project. The Kentucky Supreme Court has held that projects costs such as this are confidential under the Open Records Act.⁶

18. Request No. 84 of Commission Staff's Second Request for Information states as follows:

Refer to the Kuznar Testimony, Attachment ZK-1.

- a. Explain in detail the competitive procurement process that Duke Kentucky will implement in identifying potential contractors and evaluating the proposals for the battery storage project.
- b. Refer to pages 3-4 of Attachment ZK-1 regarding the system requirements for the Battery Energy Storage System (BESS).
 - 1) Explain how Duke Kentucky selected 5.5 MW as the appropriate size to be attached to Duke Kentucky's distribution system.
 - 2) Explain how Duke Kentucky selected 8 MWh for 12 years as the optimal energy rating for the BESS.

⁵ See *In the Matter of an Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from May 1, 2015 through October 31, 2015*, Order, Case No. 2016-00006 (Ky. P.S.C. Oct. 18, 2016).

⁶ See *Hoy v. Kentucky Indus. Revitalization Auth.*, 907 S.W.2d 766, 768 (Ky. 1995):

The financial information required to be submitted by GE in its application to KIRA detailed the company's business and revitalization project. Under administrative regulations adopted by KIRA, such information included a financial history of the corporation, projected cost of the project, the specific amount and timing of capital investment, copies of financial statements and a detailed description of the company's productivity, efficiency and financial stability.... It does not take a degree in finance to recognize that such information concerning the inner workings of a corporation is "generally recognized as confidential or proprietary" and falls within the wording of KRS 61.878(1)(c)(2).

- 3) Explain how Duke Kentucky selected Samsung Lithium Ion or comparable technology as the appropriate batter material for the BESS. Include in this explanation a discussion of the safety and quality record of the Samsung Lithium-Ion battery.

19. In its response to Request No. 84, Duke Energy Kentucky is providing its engineering report for the Crittenden Storage Project. Engineering reports are, by definition, confidential assessments of utility facilities and are entitled to confidential treatment.⁷

20. Request No. 105 of Commission Staff's Second Request for Information states as follows:

Refer to the Norton Testimony, page 6, Table 1.

- a. Provide a list of the companies listed in Table 1 currently receiving service and under what tariff they are served.
- b. Provide when each of the companies is expected to take service, and over what time frame they will achieve the projected demand.
- c. Explain how the projected increased demand has been reflected in the base period and the forecasted test period.

21. In its response to Request No. 105, Duke Energy Kentucky is providing sensitive customer information regarding customer accounts. This category of information is self-evidently confidential and not subject to public disclosure.⁸

22. Request No. 121 of Commission Staff's Second Request for Information states as follows:

⁷ See KRS 61.878(1)(m); *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of Backup Fuel Facilities at its Bluegrass Generating Station*, Order, Case No. 2018-00292 (Ky. P.S.C. Feb. 1, 2019).

⁸ See KRS 61.878(1)(c)1.; Ky. OAG 05-ORD-104 (June 1, 2005); *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*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018); *In the Matter of the Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Walton, Kentucky to Big Bone, Kentucky*, Order, Case No. 2016-00168 (Ky. P.S.C. July 27, 2017); *In the Matter of the Proposed Revision of Rules Regarding the Provision of Wholesale Water Service by the City of Versailles to Northeast Woodford Water District*, Order, Case No. 2011-00419 (Ky. P.S.C. Mar. 14, 2012).

Refer to the Reynolds Testimony, page 7, line 16-20. Provide copies of any interim or annual EV program reports operated by Duke Kentucky affiliate companies that have been provided to other state regulatory Commissions.

23. In its response to Request No. 121, Duke Energy Kentucky is providing the Florida ET Pilot Interim Report that was filed under seal with the Florida Public Service Commission and the Project Plug-IN Final Learnings Report from Duke Indiana's Project Plug-IN. These reports are sensitive and confidential and are not publicly available. Accordingly, they should be kept confidential in this case under the authority of KRS 61.878(1)(c).

24. Request No. 130 of Commission Staff's Second Request for Information states as follows:

Refer to the Reynolds Testimony, pages 16-18. State whether Duke Kentucky performed a cost-benefit analysis for the proposed Non-Road Electrification Incentive Program. If so, provide the analysis.

25. In its response to Request No. 130, Duke Energy Kentucky is providing a copy of its CBA for the Non-Road Electrification Incentive Program. Of course, a CBA provides significant insights into a corporation's rationale, judgment, risk assessments and other sensitive and proprietary information. The disclosure of the Non-Road Electrification Incentive Program CBA would give competitors and vendors a significant unfair advantage in knowing how the Company determines value and awards contracts, among other things. The Commission has previously recognized that CBAs such as the one submitted by Duke Energy Kentucky are confidential and not subject to public disclosure.⁹

⁹ See *In the Matter of an Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from May 1, 2015 through October 31, 2015*, Order, Case No. 2016-00006 (Ky. P.S.C. Oct. 18, 2016).

26. Request No. 144 of Commission Staff's Second Request for Information states as follows:

Refer to the Setser Testimony, page 29, lines 9- 13. Provide a copy of the market research referenced in the testimony showing that the costs of common business functions that are allocated to Duke Kentucky and shared among all affiliated companies result in a lower overall cost to Duke Kentucky than if it had to maintain separate functions.

27. In its response to Request 144, Duke Energy Kentucky is providing a detailed analysis of service company costs. The Commission has previously held that information related to corporate affiliates is confidential and should be protected from public disclosure under KRS 61.878(1)(c).¹⁰

28. Request No. 155 of Commission Staff's Second Request for Information states as follows:

Refer to the Verderame Testimony, page 24, lines 8-12. Provide a copy of Duke Kentucky's FRR plan that was submitted in 2019.

29. In its response to Request 155, Duke Energy Kentucky is providing a copy of its Fixed Resource Requirement (FRR) plan filed in 2019. The FRR plan goes to the very heart of a utility's operations within an organized electric market and includes information regarding its plans for supplying and procuring power. This information is highly valuable to competitors in the marketplace who would use such information to game the system or manipulate market pricing. Indeed, the Commission has previously recognized such market participation information as confidential.¹¹

¹⁰ See *In the Matter of the Application of Kentucky-American Water Company for an Adjustment of Rates*, Order, Case No. 2015-00418 (Ky. P.S.C. Aug. 24, 2016).

¹¹ See *In the Matter of the Filing of Agreement for the Purchase and Sale of Firm Capacity and Energy Between Big Rivers Electric Corporation and the Kentucky Municipal Energy Agency*, Order, Case No. 2016-00306 (Ky. P.S.C. Jan. 2, 2019); KRS 61.878(1)(c)1; *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. Dec. 9, 2011).

30. Request No. 168 of Commission Staff's Second Request for Information states as follows:

- a. Confirm that Duke Kentucky has not included any penalty payments, as recorded in FERC account 426.3, in the operating expenses included in its forecasted test year. If this cannot be confirmed, provide the location and amounts of any penalty payments, as recorded in FERC account 426.3, in the operating expenses included in its forecasted test year.
- b. Refer Duke Kentucky's response to Staff First Data Request, Item 54, Staff-DR-01-054_Attachment_-_JLK3.xlsx.
 - (1) Provide support for the real discount rate of 5.18 percent.
 - (2) Provide support for the After-Tax WACC of 6.52 percent.
 - (3) Provide support for the 2.50 percent inflation rate.
 - (4) Regarding the LFCF (EOY Convention):
 - (a) Explain what LFCF represents.
 - (b) Provide support for the Nominal LFCF calculation of 8.47 percent.
 - (5) Provide support for the LFCF (EOY Convention) calculation of 7.23 percent.
 - (6) Provide support for the 2018 CT Direct and AFUDC costs of \$614.20.
 - (7) Provide support for the Fixed O&M of \$3.59.
 - (8) Provide a revised Excel spreadsheet with supporting calculations and all formulas unprotected and all rows and columns fully accessible.

31. In its response to Request No. 168, Duke Energy Kentucky is providing an Excel spreadsheet with the supporting calculations for Attachment JLK3.xlsx. The supporting calculations, if disclosed, would provide a competitor or vendor with commercially valuable information regarding the methodologies and analytical strategies of the Duke Energy Kentucky. Such information is highly confidential and propriety and should not be subject to public disclosure.¹²

32. Request No. 9 of the AG's First Request for Information states as follows:

¹² *In the Matter of the Application of Big Rivers Electric Corporation for Termination of Contracts and a Declaratory Order and for Authority to Establish a Regulatory Asset*, Order, Case No. 2018-00146 (Ky. P.S.C. Jan. 11, 2019) (granting confidential treatment to a financial model).

Refer to Table 1 in the Direct Testimony of Thomas Christie (“Christie Direct”) at page 9 in regards to routine distribution vegetation management costs.

- a. Provide the amounts of O&M spend by year by subaccount for all periods reflected in the table.
- b. Provide the same information for 2019 to date through the last month with available actual information and provide the O&M costs by subaccount.
- c. Provide the assumptions made for the increased cost per mile projected for 2020 and 2021.
- d. Provide a copy of the contract with the contractor that performs the vegetation management services.

33. In its response to Request No. 9, Duke Energy Kentucky is providing sensitive and confidential vendor contracts. As set forth above, Duke Energy Kentucky seeks confidential treatment for the pricing and cost information related to each specific contract which is being provided.¹³

34. Request No. 38 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.

35. In its response to Request No. 38, Duke Energy Kentucky is providing its Five-Year Forecast. The Commission has historically recognized financial forecast data to be confidential and not subject to disclosure under the Open Records Act.¹⁴

36. Request No. 39 of the AG’s First Request for Information states as follows:

Provide a schedule showing per books actual O&M expenses and by FERC O&M/A&G expense account/subaccount for 2017, 2018, through the most recent month in 2019 and projected for the test year. Further, show the amounts separated into costs incurred directly by DEK, charges from DEO,

¹³ *In the Matter of the Application of Big Rivers Electric Corporation for Approval to Issue Evidences of Indebtedness*, Order, Case No. 2014-00423 (Ky. P.S.C. Jan. 27, 2016) (granting confidential status to pricing terms and performance guarantees).

¹⁴ *See In the Matter of the Filing of Agreement for the Purchase and Sale of Firm Capacity and Energy Between Big Rivers Electric Corporation and the Kentucky Municipal Energy Agency*, Order, Case No. 2016-00306 (Ky. P.S.C. Jan. 2, 2019).

charges from DEBS, charges from any other affiliates, less any charges from DEK to any other affiliate.

37. In its response to Request No. 39, Duke Energy Kentucky is providing specific costs incurred by the Company from its affiliates. Because the response includes information related to affiliates and financial forecasts, confidential treatment is necessary.¹⁵

38. Request No. 40 of the AG's First Request for Information states as follows:

Refer to the response to the immediately preceding question.

- a. Provide a schedule for each year that further details the charges from DEBS by FERC expense account/subaccount into directly assigned and allocated. For those charges that are allocated, provide the total DEBS expense, the allocation factor utilized, and the amount charged to DEK.
- b. Provide a schedule for each year that further details the charges from DEO by FERC expense account/subaccount into directly assigned and allocated. For those charges that are allocated, provide the total DEO expense, the allocation factor utilized, and the amount charged to DEK.

39. In its response to Request No. 40, Duke Energy Kentucky is providing a detailed schedule regarding the charges from DEO by FERC expense account and how they are assigned and allocated. The information for which the Company seeks confidential treatment is data pertaining to its third quarter 2019 financial data. This information is not yet publicly available as Duke Energy Corp. has not yet reported its quarterly earnings. Accordingly, the information is deemed confidential under federal law and, therefore, may not be disclosed at the current time under Kentucky law.¹⁶ Duke Energy Kentucky will supplement its Response with a non-confidential filing once its earnings have been publicly reported.

40. Request No. 46 of the AG's First Request for Information states as follows:

¹⁵ See *id.*; *In the Matter of the Application of Kentucky-American Water Company for an Adjustment of Rates*, Order, Case No. 2015-00418 (Ky. P.S.C. Aug. 24, 2016); KRS 61.878(1)(c).

¹⁶ See KRS 61.878(k).

Refer to the electronic workpapers provided in response to Staff 1-54 and further to tabs BASE PERIOD and FORECAST PERIOD containing monthly revenues and costs by subaccount. Account 500000 for Supervision and Engineering – Steam Operations increases from \$2.657 million in the base year to \$3.753 million in the test year for an increase of 41%.

- a. Provide an explanation of all known increases in the forecast year costs over the base year costs for this account.
- b. Provide the costs recorded in this account for 2017, 2018, and separately for all the months in 2019 with information available.

41. Request No. 47 of the AG’s First Request for Information states as follows:

Refer to the electronic workpapers provided in response to Staff 1-54 and further to tabs BASE PERIOD and FORECAST PERIOD containing monthly revenues and costs by subaccount. Account 502100 for Fossil Steam Expense - Other increases from \$2.721 million in the base year to \$4.511 million in the test year for an increase of 66%.

- a. Provide an explanation of all known increases in the forecast year costs over the base year costs for this account.
- b. Provide the costs recorded in this account for 2017, 2018, and separately for all the months in 2019 with information available.

42. In its response to Request No. 46 and Request No. 47, Duke Energy Kentucky is providing its costs recorded in Account 500000 and 502100. The information for which the Company seeks confidential treatment is data pertaining to its third quarter 2019 financial data. This information is not yet publicly available as Duke Energy Corp. has not yet reported its quarterly earnings. Accordingly, the information is deemed confidential under federal law and, therefore, may not be disclosed at the current time under Kentucky law.¹⁷ Duke Energy Kentucky will supplement its Response with a non-confidential filing once its earnings have been publicly reported.

43. Request No. 48 of the AG’s First Request for Information states as follows:

Refer to Schedule C-2. Distribution expenses increase from \$15.959 million in the base year to \$17.848 million in the test year for an increase of 12%.

¹⁷ See KRS 61.878(k).

- a. Provide an explanation of all known increases in the forecast year costs over the base year costs for distribution O&M expenses.
- b. Provide the total distribution O&M costs recorded for 2017, 2018, and separately for all the months in 2019 with information available.

44. In its response to Request No. 48, Duke Energy Kentucky is providing its total distribution O&M costs. The information for which the Company seeks confidential treatment is data pertaining to its third quarter 2019 financial data. This information is not yet publicly available as Duke Energy Corp. has not yet reported its quarterly earnings. Accordingly, the information is deemed confidential under federal law and, therefore, may not be disclosed at the current time under Kentucky law.¹⁸ Duke Energy Kentucky will supplement its Response with a non-confidential filing once its earnings have been publicly reported.

45. Request No. 59 of the AG's First Request for Information states as follows: Provide a copy of DEK's 2018 federal income tax returns.

46. In its response to Request No. 48, Duke Energy Kentucky is providing a copy of its 2018 federal income tax returns. This is highly sensitive information is universally regarded as confidential by the Commission, both due to its sensitive and proprietary nature and by virtue of its sacrosanct confidentiality under federal law.¹⁹

47. Request No. 70 of the AG's First Request for Information states as follows: Refer to Attachment RAM-9. Provide the Authorized Electric Returns by utility for 2019.

¹⁸ See KRS 61.878(k).

¹⁹ See KRS 61.878(1)(c), (k); *In the Matter of the Electronic Investigation of the Impact of the Tax Cuts and Job Act on the Rates of Columbia Gas of Kentucky, Inc.*, Order, Case No. 2018-00041 (Ky. P.S.C. June 6, 2018); *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*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018).

48. In its response to Request No. 70, Duke Energy Kentucky is providing the Authorized Electric Returns by utility. Again, this is highly sensitive information that is universally regarded as confidential by the Commission, both due to its sensitive and proprietary nature and by virtue of its sacrosanct confidentiality under federal law.²⁰

49. Request No. 74 of the AG's First Request for Information states as follows:

Provide DEK's historical capital structure for the last 10 years. Show the components of common stock, long-term debt, and short-term debt separately. Show both the amounts and percentages for each component.

50. In its response to Request No. 74, Duke Energy Kentucky is providing its historical capital structure for the last ten years which shows common stock, long-term debt and short-term debt components. The information for which the Company seeks confidential treatment is data pertaining to its year to date financial data. This information is not yet publicly available as Duke Energy Corp. has not yet reported its quarterly earnings. Accordingly, the information is deemed confidential under federal law and, therefore, may not be disclosed at the current time under Kentucky law.²¹ Duke Energy Kentucky will supplement its Response with a non-confidential filing once its earnings have been publicly reported.

51. Request No. 109 to the AG's First Request for Information states as follows:

Refer to Kuznar Direct, generally.

- a. Describe the need the deployment of the battery is intended to address.
- b. Provide the projected ongoing O&M costs for the battery project, and revenue requirement.
- c. Provide all cost-benefit analyses developed with regard to the battery project.

²⁰ See KRS 61.878(1)(c), (k); *In the Matter of the Electronic Investigation of the Impact of the Tax Cuts and Job Act on the Rates of Columbia Gas of Kentucky, Inc.*, Order, Case No. 2018-00041 (Ky. P.S.C. June 6, 2018); *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*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018).

²¹ See KRS 61.878(k).

52. In its response to Request No. 109, Duke Energy Kentucky is providing its cost benefit analysis for the Crittenden Storage Project. As set forth above, CBAs are generally regarded as proprietary, commercially sensitive and exempt from public disclosure.²²

53. Request No. 115 of the AG's First Request for Information states as follows:

Refer to Norton Direct at p. 13, wherein he states that DEK's current distribution system "is constructed for one-way power flow in a radial design with limited ability to integrate renewable energy. As time progresses, this system will eventually evolve into a self-optimizing system."

- a. Confirm that in order for renewable generation sources to be integrated directly into DEK's distribution system they would have to be located within DEK's service territory.
- b. In light of the enactment of Senate Bill 100 in the 2019 Regular Session of the Kentucky General Assembly, regarding net metering, explain whether DEK foresees an expansion of customer-owned renewable generation within its service territory. Provide copies of any studies the Company may have conducted in this regard.
- c. Discuss whether DEK's goal of evolving its distribution system to include self-optimization includes moving toward a multi-directional flow of power, similar to the multi-directional flow of power over a transmission system.
 - i. If so, confirm that DEK is planning on a very significant future penetration of distributed generation resources into its service territory.

54. In its response to Request No. 115, Duke Energy Kentucky is providing its net metering forecast. As this relates to Duke Energy Kentucky's load, it should be deemed confidential.²³ Moreover, disclosure of the Company's internal forecasting for net metering would likely be prejudicial to the Company and its non-net metering customers in regard to future rate

²² See KRS 61.878(1)(c); *In the Matter of an Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from May 1, 2015 through October 31, 2015*, Order, Case No. 2016-00006 (Ky. P.S.C. Oct. 18, 2016).

²³ See KRS 61.878(1)(c); *In the Matter of the Joint Application of Duke Energy Corporation, Cinergy Corp., Duke Energy Ohio, Inc. Duke Energy Kentucky, Inc. Diamond Acquisition Corporation, and Progress Energy, Inc. for Approval of the Indirect Transfer of Control of Duke Energy Kentucky, Inc.*, Rehearing Order, Case No. 2011-00124 (Ky. P.S.C. Dec. 5, 2011).

setting proceedings as contemplated by Senate Bill 100.

55. Request No. 119 of the AG's First Request for Information states as follows:

Refer to Norton Direct, page 5, wherein he discusses the Donaldson Substation Expansion Project, which he states is driven by growth in several customer projects including the Amazon Air Hub, Erlanger Commerce Center and Marydale Business Park.

a. Provide the residential customer count served by this substation over each of the past five (5) years. Confirm that these three projects are driven primarily by commercial class customers. Identify any industrial class customers included in these projects.

56. In its response to Request 119, Duke Energy Kentucky is providing sensitive customer information regarding customer accounts. This category of information is acknowledged to be confidential and not subject to public disclosure.²⁴

57. Request No. 3 of Kroger's First Request for Information states as follows:

Please refer to the following link at [cvgairport.com \(https://www.cvgairport.com/about/next/amazon-and-cvg/amazonatcvg\)](https://www.cvgairport.com/about/next/amazon-and-cvg/amazonatcvg) which discusses the Amazon Air Hub facility currently under construction at Cincinnati/Northern Kentucky International Airport. Will Duke Energy Kentucky be the electric service provider for the Amazon Air Hub facility? If yes, please provide a response to the following (please break out responses by phase of construction if appropriate):

- a. Provide the rate schedule(s) that the Amazon Air Hub facility is likely to be served under.
- b. Provide the expected level of electric consumption for the Amazon Air Hub facility.
- c. Provide the expected commercial operation start date for the Amazon Air Hub facility.
- d. Does Duke Energy Kentucky plan to offer an incentive electric rate? If yes, please describe the rate.

²⁴ See KRS 61.878(1)(c)1.; Ky. OAG 05-ORD-104 (June 1, 2005); *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*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018); *In the Matter of the Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Walton, Kentucky to Big Bone, Kentucky*, Order, Case No. 2016-00168 (Ky. P.S.C. July 27, 2017); *In the Matter of the Proposed Revision of Rules Regarding the Provision of Wholesale Water Service by the City of Versailles to Northeast Woodford Water District*, Order, Case No. 2011-00419 (Ky. P.S.C. Mar. 14, 2012).

- e. Are revenues and expenses associated with the Amazon Air Hub facility included in the future test year in this proceeding?

58. In its response to Request 3, Duke Energy Kentucky is providing sensitive customer information. As with the Company's Response to AG Request 119, this information is generally regarded as confidential.²⁵

59. Contemporaneous with the filing of this Petition, Duke Energy Kentucky is tendering documentation responsive to the Requests listed above. 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, the Board, Senior Management and employees who must have access for business reasons. Moreover, the Confidential Information is generally recognized as confidential and proprietary in the energy industry and in business generally. Specifically, the Confidential Information contains internal accounting policies, contracts with third party vendors, non-public financial data, project estimates and sensitive customer information.

60. The Company's internal accounting procedures are considered proprietary and trade secret information as they contain sensitive business operations procedures, which if made available, would potentially harm Duke Energy Corp. and Duke Energy Kentucky. If released publicly, competitors would have insight into the internal operations of Duke Energy Corp. and its subsidiaries, including Duke Energy Kentucky, which they could then use and incorporate into

²⁵ See KRS 61.878(1)(c)1.; Ky. OAG 05-ORD-104 (June 1, 2005); *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*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018); *In the Matter of the Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Walton, Kentucky to Big Bone, Kentucky*, Order, Case No. 2016-00168 (Ky. P.S.C. July 27, 2017); *In the Matter of the Proposed Revision of Rules Regarding the Provision of Wholesale Water Service by the City of Versailles to Northeast Woodford Water District*, Order, Case No. 2011-00419 (Ky. P.S.C. Mar. 14, 2012).

their own business strategies, to the detriment of Duke Energy Kentucky and its customers. Duke Energy Kentucky's procedures were developed over years of operation and implementation of best practices gleaned from various corporate mergers and acquisitions and decades of experiences. Its internal processes, procedures, and policies should not be made public.

61. Similarly, the information contained in contracts with third party vendors, if publicly released, would place Duke Energy Kentucky at a disadvantage in being able to procure such services in the future. Vendors may be unwilling to provide such services to Duke Energy Kentucky at the same or lower costs if it is known that such costs would be made public at a contract-specific level of detail. As set forth above, the Company does not object to the public disclosure of this information in the aggregate – only at such a level of detail that it will make it more expensive to contract for such services in the future. Releasing such vendor information will hinder Duke Energy Kentucky's ability to provide similar services as the current contract pricing to Duke Energy Kentucky would be used against it in other negotiations. For these reasons, this information should also remain confidential.

62. 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.

63. 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 satisfies both the statutory and common law standards for affording confidential treatment.

64. 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. Duke Energy Kentucky objects to producing the Confidential Information to any intervenor who stands to gain a competitive advantage over another customer via receipt of the Confidential Information.

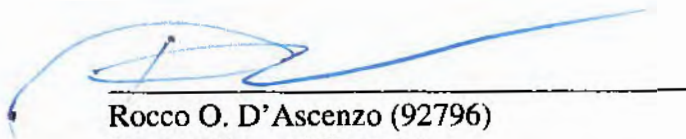
65. In accordance with the provisions of 807 KAR 5:001, Section 13(2)(e), the Company is filing one copy of the Confidential Information separately under seal, and the appropriate number of copies with the Confidential Information redacted.

66. 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.

67. 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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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 28, 2019; 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 Commission on the 28th day of October, 2019 and a copy of the filing is also being mailed to the following:

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Hon. Kent Chandler
Hon. Justin McNeil
Hon. Larry Cook
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