

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of: )  
 )  
THE APPLICATION OF DUKE ENERGY ) Case No. 2019-00277  
KENTUCKY, INC. TO AMEND ITS )  
DEMAND SIDE MANAGEMENT PROGRAMS )

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**PETITION OF DUKE ENERGY KENTUCKY, INC.  
FOR CONFIDENTIAL TREATMENT OF INFORMATION  
CONTAINED IN ITS RESPONSES TO THE ATTORNEY GENERAL'S  
SECOND SET OF DATA REQUESTS**

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Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, respectfully requests the Commission to classify and protect certain information provided by Duke Energy Kentucky filed in its response to AG-DR-02-013. The information for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), specifically the chart contained in response to subpart (c) of AG-DR-02-013 includes sensitive information regarding vendor services provided to Duke Energy Kentucky pursuant to a request for proposal (RFP) process. The disclosure of this Confidential Information would injure Duke Energy Kentucky and its competitive position and business interests placing the Company at a commercial disadvantage as it negotiates contracts with various vendors and suppliers and discourage future participation by potential vendors. Additionally, the Company notes that the questions posed in data requests AG-DR-02-012, AG-DR-02-014, and AG-DR-02-015 contain confidential information which the Commission has previously granted

confidential protection in this case by Order dated November 15, 2019.<sup>1</sup> While the Company's responses to those aforementioned data requests themselves do not contain confidential information, Duke Energy Kentucky requests the confidential information contained in the questions posed in those data requests remain confidential.

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of that party. Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The public disclosure of the information described above contains sensitive information, the disclosure of which would injure Duke Energy Kentucky and its competitive position and business interest. The public disclosure of the information described above would place Duke Energy Kentucky at a commercial disadvantage as it negotiates contracts with various suppliers and vendors and could potentially harm Duke Energy Kentucky's competitive position in the marketplace, to the detriment of Duke Energy Kentucky and its customers. Moreover, this information involves the prices for services provided by vendors who compete for these contracts.

3. The public disclosure of this information would put these vendors at a competitive disadvantage in that it would allow their direct competitors to have access to

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<sup>1</sup> See Order, para. 1.

pricing and terms and conditions that were negotiated with Duke Energy Business Services.

Competitors could use this information to manipulate their own prices and put Duke Energy Kentucky or its utility affiliates at a commercial disadvantage in negotiations for similar services going forward. Moreover, disclosure of this information could stifle future participation by such vendors that would not want to risk their competitive sensitive information being disclosed publicly.

4. The Confidential Information is distributed within Duke Energy Kentucky, only to those who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

5. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

6. Duke Energy Kentucky does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, with the Attorney General or other intervenors with a legitimate interest in reviewing the same for the purpose of participating in this case.

7. This information was, and remains, integral to Duke Energy Kentucky's effective execution of business decisions. And such information is generally regarded as confidential or proprietary. Indeed, as the Kentucky Supreme Court has found, "information concerning the inner workings of a corporation is 'generally accepted as confidential or proprietary.'" *Hoy v. Kentucky Industrial Revitalization Authority*, 904 S.W.2d 766, 768 (Ky. 1995).

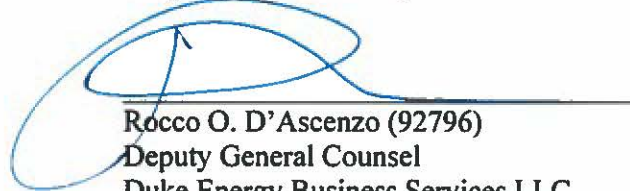
8. In accordance with the provisions of 807 KAR 5:001, Section 13(3), the Company is filing one copy of the Confidential Information separately under seal, and one copy without the Confidential Information included.

9. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten 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 or its customers if publicly disclosed.

10. 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**

I hereby certify that a copy of the foregoing filing was served on the following via  
overnight mail, this 22<sup>nd</sup> day of November 2019.

Rebecca Goodman  
The Office of the Attorney General  
Utility Intervention and Rate Division  
700 Capital Avenue, Suite 20  
Frankfort, Kentucky 40601-8204



Rocco O. D'Ascenzo