



VERIFICATION

STATE OF NORTH CAROLINA     )  
  )  
COUNTY OF                            )     SS:

The undersigned, Amy Presson, GM Gas Major Projects, 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.

  
\_\_\_\_\_  
Amy Presson Affiant

Subscribed and sworn to before me by Amy Presson on this 19<sup>th</sup> day of March 2020.

Tracy R Landrum  
NOTARY PUBLIC  
MECKLENBURG COUNTY, N.C.  
My Commission Expires 05-07-2023

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 05-07-2023

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

Electronic Tariff Filing of Duke )  
Energy Kentucky, Inc. of a Natural Gas ) Case No. 2020-00041  
Service Minimum Usage Agreement and )  
A Petition for Confidential Treatment )

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**PETITION OF DUKE ENERGY KENTUCKY, INC. FOR  
CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED IN ITS  
RESPONSES TO COMMISSION STAFF’S FIRST SET OF INFORMATION  
REQUESTS ISSUED MARCH 12, 2020**

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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 in its responses to Commission Staff’s (Staff) First Request for Information submitted on March 12, 2020. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), generally includes specific customer account information, specific load information, and competitive pricing.

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain critical infrastructure information per KRS 61.878(1)(m). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the record would expose a vulnerability in providing the location of public utility critical systems. Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The information contained in the Confidential Information for which the Company is seeking confidential protection relates to a customer specific account, load and rate information, including amount of and pricing of services. Specifically, the Confidential Information identifies the sensitive load/requirements information and the costs to serve a specific customer of Duke Energy Kentucky. This information details how the customer operates and uses natural gas that would give that customer's competitors a distinct advantage. The Commission has previously recognized that construction costs associated with a natural gas pipeline are confidential.<sup>1</sup> In addition, Duke Energy Kentucky has entered into a non-disclosure agreement with this customer to keep their identity and load information confidential. The customer is concerned that the release of this information could compromise their competitive position in the marketplace.

3. 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.

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

5. 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.

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<sup>1</sup> *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).

6. This information was, and remains, integral to Duke Energy Kentucky's effective execution of business decisions and safety of its systems. 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).

7. 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.

8. 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.

9. 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,



Rocco O. D'Ascenzo (92796)

Deputy General Counsel

Duke Energy Business Services LLC

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Cincinnati, Ohio 45202

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*Counsel for Duke Energy Kentucky, Inc.*

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on March 23, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and the original filing in paper medium will be delivered to the Commission pending further instruction from Case No. 2020-00085.<sup>2</sup>



Rocco O. D'Ascenzo

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<sup>2</sup> *In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19, Order, Case No. 2020-00085 (Ky. P.S.C. March 16, 2020).*

**KyPSC Case No. 2020-00041**  
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**Duke Energy Kentucky  
Case No. 2020-00041  
Staff First Set Data Requests  
Date Received: March 12, 2020**

**PUBLIC STAFF-DR-01-001  
(As to Attachments only)**

**REQUEST:**

Refer to the Natural Gas Service Minimum Usage Agreement (Agreement), page 1. The Agreement states that Duke Kentucky has evaluated the economic feasibility of providing the requested service to the proposed Customer using its standard feasibility evaluation methodologies, and has determined that construction of the Incremental Customer Facilities necessary to serve the customer is not economically feasible without a guaranteed minimum amount of natural gas consumption for a period of ten years.

- a. Explain in full detail how Duke Kentucky determined the period of ten years and why it is reasonable.
- b. Provide the cost-benefit analysis or similar feasibility study performed.
- c. If no included in the cost-benefit analysis provided in the response to Item 1(b) above, explain how Duke Kentucky segregated construction activities and costs between Incremental Customer Facilities and Additional Company Facilities.

**RESPONSE:**

**CONFIDENTIAL PROPRIETARY TRADE SECRET (As to Attachments only)**

- a. Customer and Duke Kentucky mutually negotiated the 10-year term as reflected in the Agreement. Pursuant to these negotiations, the Annual Usage Requirements were increased over the 10-year term proportionate to Customer supplied projected annual usage levels. This was done to more closely align Customer's supplied annual usage estimates with the Annual Usage Requirements in the Agreement and



to more accurately reflect Customer's predicted increases in usage due to the ongoing build-out of Customer's facility. Please see STAFF-DR-01-001(a) Confidential Attachment for details.

Section 3.4 of the Agreement provides contractual assurance that Customer will promptly pay the unpaid balance of the Delivery Component in the event of a facility closing, or other circumstances resulting in the cancellation or termination of gas service after the In-Service date but prior to the fulfillment of the Cumulative Total Annual Usage Requirement. This assurance, along with Customer credit checks performed by Duke Kentucky, further support the reasonableness of a 10-year term.

- b. See STAFF-DR-01-001(b) Confidential Attachment for a feasibility study.
- c. The "Incremental Customer Facilities" consist of the associated construction costs and materials for those facilities directly attributable to Customer (e.g.: Customer meter stations and Customer-specific underground piping) as well as a proportionate cost share of Customer's capacity percentage of the UL60 pipeline and "Burlington Pike" regulator station. The "Additional Customer Facilities" consist of the associated construction costs and materials for the remaining UL60 pipeline and Burlington Pike regulator station capacities and other appurtenances and facilities associated with the UL60 and Burlington Pike regulator station projects. Together, the Incremental Customer Facilities and the Additional Customer Facilities make up the "Total Project Facilities" defined in the Agreement.

**PERSON RESPONSIBLE:** Ronald O. Mays

**CONFIDENTIAL PROPRIETARY TRADE  
SECRET**

**STAFF-DR-01-001(a) CONFIDENTIAL  
ATTACHMENT**

**FILED UNDER SEAL**

**Duke Energy Kentucky  
Case No. 2020-00041  
Staff First Set Data Requests  
Date Received: March 12, 2020**

**PUBLIC STAFF-DR-01-001  
(As to Attachments only)**

**REQUEST:**

Refer to the Natural Gas Service Minimum Usage Agreement (Agreement), page 1. The Agreement states that Duke Kentucky has evaluated the economic feasibility of providing the requested service to the proposed Customer using its standard feasibility evaluation methodologies, and has determined that construction of the Incremental Customer Facilities necessary to serve the customer is not economically feasible without a guaranteed minimum amount of natural gas consumption for a period of ten years.

- d. Explain in full detail how Duke Kentucky determined the period of ten years and why it is reasonable.
- e. Provide the cost-benefit analysis or similar feasibility study performed.
- f. If no included in the cost-benefit analysis provided in the response to Item 1(b) above, explain how Duke Kentucky segregated construction activities and costs between Incremental Customer Facilities and Additional Company Facilities.

**RESPONSE:**

**CONFIDENTIAL PROPRIETARY TRADE SECRET (As to Attachments only)**

- d. Customer and Duke Kentucky mutually negotiated the 10-year term as reflected in the Agreement. Pursuant to these negotiations, the Annual Usage Requirements were increased over the 10-year term proportionate to Customer supplied projected annual usage levels. This was done to more closely align Customer's supplied annual usage estimates with the Annual Usage Requirements in the Agreement and

to more accurately reflect Customer's predicted increases in usage due to the ongoing build-out of Customer's facility. Please see STAFF-DR-01-001(a) Confidential Attachment for details.

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- e. See STAFF-DR-01-001(b) Confidential Attachment for a feasibility study.
- f. The "Incremental Customer Facilities" consist of the associated construction costs and materials for those facilities directly attributable to Customer (e.g.: Customer meter stations and Customer-specific underground piping) as well as a proportionate cost share of Customer's capacity percentage of the UL60 pipeline and "Burlington Pike" regulator station. The "Additional Customer Facilities" consist of the associated construction costs and materials for the remaining UL60 pipeline and Burlington Pike regulator station capacities and other appurtenances and facilities associated with the UL60 and Burlington Pike regulator station projects. Together, the Incremental Customer Facilities and the Additional Customer Facilities make up the "Total Project Facilities" defined in the Agreement.

**PERSON RESPONSIBLE:** Ronald O. Mays

**CONFIDENTIAL PROPRIETARY TRADE  
SECRET**

**STAFF-DR-01-001(a) CONFIDENTIAL  
ATTACHMENT**

**FILED UNDER SEAL**

**CONFIDENTIAL PROPRIETARY TRADE  
SECRET**

**STAFF-DR-01-001(b) CONFIDENTIAL  
ATTACHMENT**

**FILED UNDER SEAL**

**Duke Energy Kentucky**  
**Case No. 2020-00041**  
**Staff First Set Data Requests**  
**Date Received: March 12, 2020**

**STAFF-DR-01-002**

**REQUEST:**

Refer to the Agreement, pages 1-2, Section 1.2.

- a. Provide the length of the service line.
- b. Explain why the last sentence of this Section is appropriate.

**RESPONSE:**

- a. There are two separate service lines for the customer. The first is a 6” plastic service that runs approximately 2,450’ to the Southwest deliver meter station. The second is an 8” steel line that runs 2,640’ to the meter and regulator station along Wendell Ford.
- b. This language is necessary because the Commission has not yet approved the electronic application of Duke Energy Kentucky’s Certificate of Public Convenience and Necessity (CPCN) for the UL60 project, Case No. 2019-00388. In the event the CPCN is not approved, Duke Energy Kentucky will have to develop other solutions to support this customer and other customers in the area which would result in a much more expensive project.

**PERSON RESPONSIBLE:**

Amy Presson – a.  
Ronald O. Mays – b.

**Duke Energy Kentucky**  
**Case No. 2020-00041**  
**Staff First Set Data Requests**  
**Date Received: March 12, 2020**

**PUBLIC STAFF-DR-01-003**  
**(As to Attachment only)**

**REQUEST:**

Refer to the Agreement, page 2, Section 2.2, and Case No. 2019-00388,<sup>1</sup> Duke Kentucky's response to Commission Staff's First Request for Information, Item 5(a).

- a. Identify and describe the difference between the estimated construction costs of the Total Project Facilities.
- b. State whether the estimated construction costs for the Total Project Facilities includes project contingencies.
- c. Provide detailed cost support for the estimated construction costs of the Incremental Customer Facilities.
- d. Explain why the minimum usage requirement set for in Attachment A will be adjusted based on the total actual costs to construct the Total Project Facilities instead of the total actual costs to construct the Incremental Customer Facilities.

**RESPONSE:**

**CONFIDENTIAL PROPRIETARY TRADE SECRET (As to Attachment only)**

- a. As it relates to the Agreement, negotiations between Duke Energy Kentucky and Customer began with initial Total Project Facilities estimates that were compiled in October 2018. In preparation of the response to Item 5(a) in Case No. 2019-

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<sup>1</sup> Case No. 2019-00388, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Erlanger, Kentucky to Hebron, Kentucky* (Ky. PSC, filed Oct. 21, 2019).



00388, the estimate was updated to include expenditures incurred between October 2018 and the date of the CPCN filing. As per the terms of the Agreement in Section 2.2, the annual usage requirements will be adjusted up or down to account for the difference between estimated and actual Total Project Facilities costs.

- b. Yes, contingency is included.
- c. See STAFF-DR-01-003(c) Confidential Attachment entitled “Incremental Facilities Costs Details” for detailed cost support for the estimated construction costs of the Incremental Facilities.
- d. Given that the Customer is allocated a proportionate share of the Total Project Facilities, the actual cost to construct the Total Project Facilities is needed to determine the adjusted Minimum Usage Requirement. The Customer’s allocated percentage amount will remain the same as that which was used to produce the estimated allocation.

**PERSON RESPONSIBLE:**

Ronald O. Mays – a., c. & d.  
Amy Presson – b.

**CONFIDENTIAL PROPRIETARY TRADE  
SECRET**

**STAFF-DR-01-003(c)  
CONFIDENTIAL ATTACHMENT**

**FILED UNDER SEAL**

**Duke Energy Kentucky**  
**Case No. 2020-00041**  
**Staff First Set Data Requests**  
**Date Received: March 12, 2020**

**STAFF-DR-01-004**

**REQUEST:**

Refer to the Agreement, page 2, Section 2.3.

- a. Explain whether, and if so how, this rate will be charged to the customer.
- b. Explain whether, and if so how, this rate will be included in the Delivery Component.

**RESPONSE:**

- a. KY.P.S.C Gas No. 2, Fourth Revised Sheet No. 58, Rate IMBS, provides for balancing services to be charged to all customers receiving service under tariff Rate FT-L. Per Section 2.1 of the Agreement, Customer has elected to receive natural gas service under the FT-L rate schedule.
- b. As with all Duke Energy Kentucky customers who elect natural gas service under the FT-L tariff rate, IMBS balancing will be charged to the Customer and appear as a separate line item on the monthly natural gas bill. This charge is not incorporated into the Delivery Component.

**PERSON RESPONSIBLE:** Ronald O. Mays

**Duke Energy Kentucky**  
**Case No. 2020-00041**  
**Staff First Set Data Requests**  
**Date Received: March 12, 2020**

**STAFF-DR-01-005**

**REQUEST:**

Refer to the Agreement, page 3, Section 3.3.

- a. Confirm that, as used in this section, “project” refers to the customer’s new or expanded natural gas consuming facilities, which are the subject of this Agreement. If this cannot be confirmed, provide the definition of “project” as used in this Section.
- b. Explain whether the maximum reimbursement relates only to the Incremental Customer Facilities or the Total Project Facilities.
- c. Explain whether Duke Kentucky would abandon the entire Total Project Facilities or just the Incremental Customer Facilities in the event that the customer abandons any phase of the project for any reason prior to the In-Service Date.

**RESPONSE:**

- a. Confirmed.
- b. Maximum reimbursement relates to the Incremental Customer Facilities.
- c. The Incremental Facilities specific to the project for Customer would cease but the UL60 pipeline project would move forward as approved.

**PERSON RESPONSIBLE:**            Ronald O. Mays

**Duke Energy Kentucky  
Case No. 2020-00041  
Staff First Set Data Requests  
Date Received: March 12, 2020**

**STAFF-DR-01-006**

**REQUEST:**

Refer to the Agreement, page 3, Sections 4.1 and 4.2. Explain whether Duke Kentucky is assisting the customer with the construction of the natural gas pipeline.

**RESPONSE:**

Duke Energy Kentucky is not assisting Customer with construction of facilities or pipelines beyond the point of delivery, which is the outlet side of the gas meter/regulator.

**PERSON RESPONSIBLE:** Ronald O. Mays

**Duke Energy Kentucky  
Case No. 2020-00041  
Staff First Set Data Requests  
Date Received: March 12 2020**

**STAFF-DR-01-007**

**REQUEST:**

Refer to the Agreement, page 4, Sections 5.2 and 5.3. Confirm that the referenced “Delivery Component” consists of all non-commodity tariffed rates and charges applicable to this rate schedule. If this cannot be confirmed, provide the definition of “Delivery Component” as used in these Sections.

**RESPONSE:**

For purposes of the Agreement, the Delivery Component is comprised of the sum of the annualized monthly administrative charge plus the per CCF transportation charge as applied to usage. The per CCF transportation charge is multiplied by the minimum annual usage requirement and the annualized monthly administrative charge is added to the resulting product to arrive at the appropriate Delivery Components.

**PERSON RESPONSIBLE:** Ronald O. Mays

**Duke Energy Kentucky**  
**Case No. 2020-00041**  
**Staff First Set Data Requests**  
**Date Received: March 12, 2020**

**STAFF-DR-01-008**

**REQUEST:**

Refer to the Agreement, page 5, Section 5.6. Regarding reductions to the Annual Usage Requirement from Involuntary Curtailment Days, reconcile the statements “such reduction in Annual Usage Requirements shall apply *only to the annual period in which the curtailment occurs* and shall not reduce the Cumulative Total Annual Usage Requirement obligations of Customer reflected on Attachment A” and “Any reduction in Annual Usage Requirements established pursuant to this Section 5.6 *shall be added to the next annual period hereunder or to Customer’s final invoice* under this Agreement in the event such reduction occurs in the final year hereof” (emphasis added).

**RESPONSE:**

Section 5.6 allows Customer to defer the “lost opportunity,” as defined in this Section, into the subsequent year due to Involuntary Curtailment Days; it does not relieve that obligation. Should the curtailment occur in the final year of the contract term, the lost opportunity amount will be applied to the final invoice.

**PERSON RESPONSIBLE:** Ronald O. Mays

**Duke Energy Kentucky  
Case No. 2020-00041  
Staff First Set Data Requests  
Date Received: March 12, 2020**

**STAFF-DR-01-009**

**REQUEST:**

Refer to the Agreement, page 5, Section 5.7, and explain whether Duke Kentucky will be requiring any type of deposit from the customer.

**RESPONSE:**

Duke Energy Kentucky has performed a credit check and will not require a deposit from Customer.

**PERSON RESPONSIBLE:** Ronald O. Mays



**Duke Energy Kentucky  
Case No. 2020-00041  
Staff First Set Data Requests  
Date Received: March 12, 2020**

**STAFF-DR-01-010**

**REQUEST:**

Refer to the Agreement, page 5, Section 6.1. If known, provide the type of pipeline that the customer will be installing.

**RESPONSE:**

This information is unknown beyond point of delivery.

**PERSON RESPONSIBLE:** Ronald O. Mays

**Duke Energy Kentucky  
Case No. 2020-00041  
Staff First Set Data Requests  
Date Received: March 12, 2020**

**STAFF-DR-01-011**

**REQUEST:**

Refer to the Agreement, page 6, Section 6.2. Identify which odorants Duke Kentucky may deem necessary to add to the natural gas provided to the customer.

**RESPONSE:**

The pipeline in question will be connected directly to Duke Energy Kentucky's natural gas delivery system and will operate in accordance with currently established procedures and regulations. Duke Energy Kentucky adds mercaptan to natural gas at 0.7 pounds/MMDth. To ensure consistent odorization of the natural gas it distributes, odorant level tests are completed at several random and strategic points on each system at periodic intervals throughout the calendar year.

**PERSON RESPONSIBLE:** Ronald O. Mays

**Duke Energy Kentucky**  
**Case No. 2020-00041**  
**Staff First Set Data Requests**  
**Date Received: March 12, 2020**

**STAFF-DR-01-012**

**REQUEST:**

Refer to the Agreement, Attachment A.

- a. To the extent not addressed in the response to Item 1 above, provide a schedule that shows that the cost of the Incremental Customer Facilities that will be fully recovered from the customer.
- b. Explain whether the annual usage requirements represent the minimum usage required to fully recover the Incremental Customer Facilities or the expected usage of the customer during the Agreement's ten-year term.

**RESPONSE:**

- a. Addressed in the feasibility study provided in response to STAFF-DR-01-001(b).
- b. The Annual Usage Requirements represent the minimum usage required to generate the Annual Delivery Components necessary to fully recover the costs of the Incremental Customer Facilities. Please see STAFF-DR-01-001(a) Confidential Attachment for these amounts.

**PERSON RESPONSIBLE:** Ronald O. Mays