

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)	

**PETITION OF DUKE ENERGY KENTUCKY, INC. FOR
CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED IN ITS
RESPONSES TO COMMISSION STAFF'S SECOND SET OF INFORMATION
REQUESTS ISSUED APRIL 2, 2020**

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) Second Request for Information, items 1, 2, 3, 10, and 13 submitted on April 2, 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 cost information, including amount of and pricing of services. Specifically, the Confidential Information identifies sensitive load projection information and costs to serve a specific customer of Duke Energy Kentucky. The Confidential Information provided in response to Item Staff DR-02-01 includes sensitive pricing information to determine the customer's costs under the Agreement. The Confidential Information contained in Item Staff DR-02-02, the accompanying attachment that is also referred to in the response to Item Staff DR-02-03, and the response to Item Staff DR-02-10 includes estimations of the customer's facilities and allocation percentage derived through the Company's proprietary modeling tool for the specific customer. This modeling includes confidential costs, taxes, and other proprietary calculations. Finally, the response to Item Staff DR-02-13 includes customer future load forecasts that detail how the customer operates and uses natural gas that would give that customer's competitors a distinct advantage.

3. The Commission has previously recognized that construction costs associated with a natural gas pipeline are confidential.¹ 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. Releasing this information to the public would place the Company and the customer both at a competitive disadvantage. Potential vendors of the Company would know what the

¹ *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).

Company forecasts as its costs for projects and potentially adjust its bids on future projects based upon that information. Competitors of the customer would have access to the customer's forecasted load.

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 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).

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.

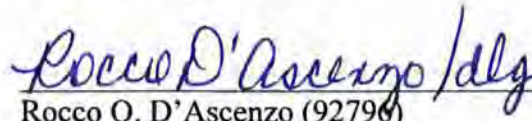
9. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure

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,

A handwritten signature in blue ink that reads "Rocco O. D'Ascenzo /dlg". The signature is written in a cursive style and is positioned above a horizontal line.

Rocco O. D'Ascenzo (92796)

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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 April 13, 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. 2020-00085.²


Rocco O. D'Ascenzo

² *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 Second Set Data Requests
Date Received: April 2, 2020

STAFF-DR-02-001
PUBLIC

REQUEST:

Refer to Duke Kentucky's response to Commission Staff's First Request for Information (Staff's First Request), Item 1(b), Confidential Attachment, and Case No. 2019-00388,¹ Duke Kentucky's response to Commission Staff's First Request for Information; Item 3(c).

- a. Confirm that the amount provided in both responses is not the estimated cost of the customer's service line, but the estimated cost of the entire customer's facilities, including allocated costs of the UL60 pipeline and Burlington Pike regulator station.
- b. State whether the Incremental Customer Facilities are included in the total project estimate as provided in Case No. 2019-00388.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET

- a. Confirmed. The amount referenced in these responses is the defined "Incremental Customer Facilities" of [REDACTED] set forth in Section 2.2 of the Natural Gas Service Minimum Usage Agreement ("Agreement").
- b. The Incremental Customer Facilities are included in the total project estimate as provided in Case No. 2019-00388.

PERSON RESPONSIBLE: Ronald O. Mays

¹ 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 Mar. 27, 2020).

Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020

STAFF-DR-02-002
PUBLIC

REQUEST:

Refer to Duke Kentucky's response to Commission Staff's First Request, Item 1(b), Confidential Attachment, and Case No. 2019-00388, Duke Kentucky's response to Commission Staff's First Request for Information; Item 5. Confirm that the "Overheads" included in the Incremental Customer Facilities include "AFUDC Debt," Overhead and Allocations", or "Project Contingency". If this cannot be confirmed, explain.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET

See attached CONFIDENTIAL Excel file STAFF-DR-02-002 CONF Attachment "██████████ KY Feasibility Model-102318 Version-AMR Ramp Up-UNLOCKED." The overheads included in the Incremental Customer Facilities are calculated in cell B11 which references the summation of cells B8, B9 and B10 multiplied by cell B137 (Corporate Overhead and Administrative & General ("A&G") Expenses). This amount, ██████████ does not include AFUDC Debt but is calculated based on cost estimates in cells B8, B9 and B10 which do include estimated contingencies thereby adjusting the overheads calculation proportionately.

PERSON RESPONSIBLE: Ronald O. Mays

**CONFIDENTIAL PROPRIETARY TRADE
SECRET**

**STAFF-DR-02-002 CONFIDENTIAL
EXCEL ATTACHMENT**

FILED UNDER SEAL

AND PROVIDED ON CD

**Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020**

**STAFF-DR-02-003
PUBLIC**

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 1(b), and Confidential Attachment. Provide this attachment in Excel spreadsheet format, with the formulas intact and unprotected, and with all rows and columns fully accessible.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET (As to Attachment only)

See Confidential STAFF-DR-02-002 CONF Attachment, Excel file "██████████KY Feasibility Model-102318 Version-AMR Ramp Up-UNLOCKED" filed under seal.

PERSON RESPONSIBLE: Ronald O. Mays

Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020

STAFF-DR-02-004

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 1(b), Confidential Attachment and 1(c). Explain why the description of the Incremental Customer Facilities include meter stations, but the feasibility study is titled "Customer Facilities w/Meters Removed".

RESPONSE:

The estimated costs for one 10 inch "Q Sonic" and one 6 inch "Ultrasonic" meter were excluded from the Incremental Customer Facilities. Duke Energy Kentucky does not charge any customer the cost of natural gas meters. Large meter stations, however, also include many appurtenances in addition to the meter and these appurtenances were included in the Incremental Customer Facilities.

PERSON RESPONSIBLE: Ronald O. Mays

**Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020**

STAFF-DR-02-005

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Items 1(c) and 1(f). Confirm that references to "Additional Customer Facilities" should be "Additional Company Facilities". If this cannot be confirmed, provide an explanation of the same in full detail.

RESPONSE:

Confirmed. "Additional Company Facilities" is the more appropriate term as defined in the Agreement.

PERSON RESPONSIBLE: Ronald O. Mays

**Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020**

STAFF-DR-02-006

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 1(c). State whether the customer is allocated costs from one or both phases of the UL60 pipeline.

RESPONSE:

The customer is allocated costs from only phase 1 of the UL60 pipeline.

PERSON RESPONSIBLE: Ronald O. Mays

**Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020**

STAFF-DR-02-007

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 1(d). In the event that the Customer canceled or terminated gas service, confirm that the pending Natural Gas Service Minimum Usage Agreement (Agreement) would protect Duke Kentucky's other customers from paying abandoned costs of any kind.

RESPONSE:

Confirmed.

PERSON RESPONSIBLE: Ronald O. Mays

**Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020**

STAFF-DR-02-008

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Items 2(a) and 3(c). Confirm that the Distribution portion of the Incremental Customer Facilities includes the service lines. If this cannot be confirmed, explain.

RESPONSE:

Confirmed.

PERSON RESPONSIBLE: Ronald O. Mays

Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020

STAFF-DR-02-009

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 2(b), in which Duke Kentucky states that if the application for a Certificate of Public Convenience and Necessity for the UL60 project in Case No. 2019-00388, were not approved, then Duke Kentucky would have to develop other solutions to support this customer and other customers in the area, which would result in a much more expensive project. Expound on why the project would be more expensive.

RESPONSE:

Pursuant to a March 27, 2020 KY Public Service Commission order, the Certificate of Public Convenience and Necessity ("CPCN") for the UL60 pipeline project in Case No. 2019-00388 has been approved. Clarification regarding the estimated expenses relating to alternative solutions were addressed in this order in response to Staff's first request for information in Case No. 2019-00388, Item 2(g). As indicated in this response, Duke Energy Kentucky found no other reasonable alternatives to this project. Other alternatives were eliminated very early during high-level preliminary screening due to obvious cost, length, and route considerations.

PERSON RESPONSIBLE: Ronald O. Mays

**Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020**

**STAFF-DR-02-010
PUBLIC**

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 3(d). Provide the allocation percentage.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET

Based on the construction cost estimates set forth in Section 2.2 in the Agreement, the initially estimated allocation percentage referenced is equal to the quotient of Company's estimated costs for the Incremental Customer Facilities [REDACTED] divided by Company's estimated construction cost of the Total Project Facilities [REDACTED] and shown as a percentage value, i.e.: [REDACTED]

Once final costs for the Total Project Facilities have been obtained, the Annual Usage Requirements will be increased or decreased, as the case may be, by the ratio of Company's actual construction costs for the Total Project Facilities to Company's estimated construction costs for the Total Project Facilities.

PERSON RESPONSIBLE: Ronald O. Mays

Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020

STAFF-DR-02-011

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 8. Explain why the customer would be able to defer the "lost opportunity," as defined in the Agreement, Section 5.6, to the subsequent year.

RESPONSE:

The deferral of the lost opportunity into the subsequent year is felt to be reasonable for both parties in the Agreement since the Involuntary Curtailment Days referenced in Section 5.6 of the Agreement are beyond the customer's control. These service interruptions can create large shortfalls in usage and large shortfall payments when the Annual Delivery Components are trued up each year during the Term of the Agreement. This practice helps mitigate these large and unexpected financial responsibilities and allows for more accurate annual energy budgeting by the Customer. However, should the Involuntary 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 Second Set Data Requests
Date Received: April 2, 2020**

STAFF-DR-02-012

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 9, in which Duke Kentucky asserts that it performed a credit check and will not require a deposit from the Customer. Explain whether this is the process that Duke Kentucky utilizes for all similarly situated customers, and if not, provide a detailed explanation as to why not.

RESPONSE:

Duke Kentucky utilizes the same process for all similarly situated customers and the credit check used for the Customer was no exception.

PERSON RESPONSIBLE: Ronald O. Mays

**Duke Energy Kentucky
Case No. 2020-00041
Staff Second Set Data Requests
Date Received: April 2, 2020**

**STAFF-DR-02-013
PUBLIC**

REQUEST:

Refer to Duke Kentucky’s response to Staff’s First Request, Item 12, and Case No. 2019-00388, Duke Kentucky’s response to Commission Staff’s Second Request for Information, Item 4. Provide the estimated annual usage of the customer if different than the minimum usage requirements.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET

The estimated annual usage (Mcf/year), supplied to Duke Kentucky by the Customer, is noted in Column A. The Minimum Usage Requirement memorialized in the Agreement is noted in Column B.

Year	Column A	Column B
2021	[REDACTED]	[REDACTED]
2022	[REDACTED]	[REDACTED]
2023	[REDACTED]	[REDACTED]
2024	[REDACTED]	[REDACTED]
2025	[REDACTED]	[REDACTED]
2026	[REDACTED]	[REDACTED]
2027	[REDACTED]	[REDACTED]
2028	[REDACTED]	[REDACTED]
2029	[REDACTED]	[REDACTED]
2030	[REDACTED]	[REDACTED]

PERSON RESPONSIBLE: Ronald O. Mays