

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC EXAMINATION OF THE)	
APPLICATION OF THE FUEL ADJUSTMENT)	
CLAUSE OF DUKE ENERGY KENTUCKY,)	Case No. 2021-00057
INC. FROM NOVEMBER 1, 2018 THROUGH)	
OCTOBER 31, 2020)	

**PETITION OF DUKE ENERGY KENTUCKY, INC. FOR
CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED IN ITS
RESPONSES TO COMMISSION STAFF’S POST-HEARING REQUEST
FOR INFORMATION ISSUED ON MAY 20, 2021**

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 response to Post-Hearing Data Request No. 2, as requested by Commission Staff (Staff) in this case on May 20, 2021. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), shows the projected total kilowatt hours (kWh) used to calculate base fuel costs.

The response in Post Hearing Data Request No. 2 contains sensitive information, the disclosure of which would injure Duke Energy Kentucky and its competitive position and business interests. Duke Energy Kentucky’s response provides a forecast of projected fuel consumption over the next two years. This response could provide power marketing competitors and fuel vendors with knowledge regarding Duke Energy Kentucky’s operating costs and commodity positions, which would allow them to potentially

manipulate the marketplace so as to unnecessarily cause consumers to pay more for electricity than they otherwise would.

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. Public disclosure of projected forecast demand and sales revenue would afford Duke Energy Kentucky's competitors a distinct competitive advantage in bidding for and securing new bulk power loads and would give an obvious advantage to Duke Energy Kentucky's wholesale power purchasers and sellers in any contractual negotiations.

3. Further, Duke Energy Kentucky's response discloses sensitive and proprietary kWh sales projections for the calendar years 2021 and 2022. The sales projections should be afforded confidential protections as they are internally-derived figures that would give competitors, marketers, and vendors a competitive advantage in any existing or prospective commercial relationship involving Duke Energy Kentucky. Maintaining the confidentiality of the projected kWh sales is necessary to protect the interests of both the Company and its customers.

4. The Confidential Information was developed internally by Duke Energy Corporation and Duke Energy Kentucky personnel, is not on file with any public agency, and is not available from any commercial or other source outside of Duke Energy Kentucky. The aforementioned 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,

DUKE ENERGY KENTUCKY, INC.

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo

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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 May 27, 2021; 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. 2020-00085.¹

John G. Horne, II
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/s/Rocco D'Ascenzo

Rocco D'Ascenzo

¹ *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).