

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE BACKUP POWER SUPPLY PLAN) Case No. 2021-00086
OF DUKE ENERGY KENTUCKY, INC.)

PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED IN
ITS BACKUP POWER SUPPLY PLAN

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, requests the Commission to protect as confidential certain information contained in the backup power supply plan of Duke Energy Kentucky, Inc. This filing contains projections of Duke Energy Kentucky’s forecasted future energy positions and needs, estimated costs, forecasted forced outage rates, unforced capacity ratings, future planned outages, ongoing risk hedging strategies being evaluated, and the cost of various backup power supply alternatives (calls, options, insurance, *etc.*) submitted in response to a confidential request for proposal (RFP) for 2017-2018.

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. If Duke Energy Kentucky is forced to disclose its future forecasted energy or capacity needs, estimated costs, future forced outage rates, unforced capacity ratings, and planned outages, this would unfairly advantage Duke Energy Kentucky's competitors and counterparties in the energy markets. These counterparties would know the Company's energy or capacity positions and needs and thus could demand higher prices from Duke Energy Kentucky than they otherwise might be able to charge in the absence of this information, because the counterparties would know how much energy or capacity Duke Energy Kentucky needs to purchase and when those purchases would be made as well as what the Company is anticipating as costs thereof. Competing purchasers of energy or capacity would thus have access to the lower cost supplies. Duke Energy Kentucky also seeks confidential treatment for the prices of various backup power supply alternatives because these prices resulted from a confidential RFP. The proposals, summarized and compared in charts in the accompanying filing, show the value of these various products. If the prices are publicly disclosed, this would deter bidders from submitting bids in response to future RFPs. Additionally, these prices could be used as a floor for future bids, resulting in higher prices than would be the case if the information is not publicly disclosed. Once again, this would cause competing purchasers of energy to have access to the lower cost supplies. Additionally, the Company received bids consisting of potential insurance products to determine whether such products provide value to the Company or its customers. The Company has detailed the various products being evaluated including costs thereof in its filing. This information is confidential, and if released, would limit the Company's ability to negotiate with vendors in the future and ultimately receive the best price. Competing insurance vendors would have access to

what the Company is considering in terms of products and how it values such products and could use this information could tailor their own competing proposals at higher prices than what they otherwise would have offered.

3. The information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

4. The Commission has treated the same information described herein as confidential in prior filings provided by Duke Energy Kentucky.¹

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.

6. 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).

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

¹ *In the Matter of Back-Up Power Supply Plan of Duke Energy Kentucky, Inc.*, Order, Case No. 2017-00117 (Ky. P.S.C. May 21, 2019).

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,

DUKE ENERGY KENTUCKY, INC.

/s/Rocco 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 March 1, 2010; 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

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/s/Rocco D'Ascenzo

Rocco 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).