

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN ITS RESPONSE TO COMMISSION STAFF’S
FINAL ORDER ISSUED NOVEMBER 30, 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 the Commission’s Final Order in this case on November 30, 2021. The information which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), includes information regarding the Company’s generation dispatch and hedging strategies, including gains and losses resulting from the Company’s hedging of scheduled outages.

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 Confidential Information contains sensitive and confidential information relating to the timing and volumes of financial power contracts that Duke Energy Kentucky purchased through the use of hedging instruments. Disclosure of this information would damage Duke Energy Kentucky by alerting power market competitors as to timing and how much power hedge Duke Energy Kentucky purchases at any particular point in time, which could allow market competitors to front-run the Company to raise the cost of hedging instruments to Duke Energy Kentucky, thus making it more costly to Duke Energy Kentucky to acquire future hedges.

3. Further, disclosure of the aforementioned Confidential Information would damage Duke Energy Kentucky's competitive position and business interests, as well as, create the risk of increased costs to its customers. If the Commission grants public access to the Confidential Information requested, potential counterparties could manipulate markets, costs, and prices to the detriment of Duke Energy Kentucky and its ratepayers.

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. Additionally, 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

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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 3rd, 2021; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/Rocco D'Ascenzo

Rocco D'Ascenzo