

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

In The Matter of:

The Electronic Application of Duke )  
Energy Kentucky, Inc., for: 1) An )  
Adjustment of the Natural Gas Rates; 2) ) Case No. 2021-00190  
Approval of New Tariffs; and 3) All )  
Other Required Approvals and Relief. )

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**MOTION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY  
KENTUCKY, INC. FOR CERTAIN SUPPLEMENTAL RESPONSES  
TO THE ATTORNEY GENERAL’S SECOND REQUEST FOR INFORMATION**

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Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to 807 KAR 5:001, Section 13 and other law, and respectfully requests the Commission to classify and protect certain information provided by the Company in its Supplemental Responses to the Kentucky Attorney General Office (AG)’s Second Request for Information issued on August 4, 2021, respectfully stating as follows:

1. On April 30, 2021 Duke Energy Kentucky filed a Notice of Intent to File an Application seeking adjustment of its electric rates and other approvals.
2. On June 1, 2021 Duke Energy Kentucky filed an Application seeking an adjustment of its natural gas rates and other approvals.
3. On August 4, 2021 the AG issued its Second Request for Information to Duke Energy Kentucky.
4. On August 18, 2021 the Company filed its responses to the AG’s Second Request for Information.
5. On August 20, 2021 the AG contacted the Company with further clarifying

questions regarding some of the responses the Company had submitted on August 18, 2021.

6. In supplemental response to the AG's Second Request for Information, Duke Energy Kentucky is providing certain information for which it requests confidential treatment.

7. The information for which Duke Energy Kentucky seeks confidential treatment is contained in its Supplemental Responses to Requests 15 and 19 of the AG's Second Request for Information, which is referred to herein as the "Confidential Information" and, broadly speaking, includes detailed information pertaining to sensitive information and Company internal policies, procedures, and guidelines.

8. Request No. 15 of the AG's Second Request for Information states as follows:

Provide the pension expense reflected in the test year separately for DEK, allocated from DEO, and allocated from DEBS. Provide the actuarial report relied on for these amounts and annotate the amount included in the revenue requirement to the actuarial report, including the allocations of DEO and DEBS amounts to DEK, jurisdictional allocations, and allocations of total cost to the expense reflected in the test year.

9. In its supplemental response to Request No. 15, Duke Energy Kentucky is providing a copy of its December 31, 2020 Actuarial Valuation Report prepared by Willis Towers Watson. This report was prepared for the exclusive use of Duke Energy and its auditors under a confidentiality agreement. The information being disclosed herewith is not publicly known, is only given to a limited number of employees who need to know for business purposes and describes the inner workings of the Company as it relates to its pension and post-retirement plans. The information is proprietary, constitutes a trade secret and is highly sensitive information. This information is highly-confidential and should not be disclosed to the public. If said information was made available to the public, it could be used to the detriment of Duke Energy Kentucky. Disclosure of this information could also violate the confidentiality agreement between Duke

Energy and Willis Towers Watson.

10. Request No. 19 of the AG's Second Request for Information states as follows:

Refer to the Company's response to AG 1-66.

a. Provide the requested copy of all documentation that addresses the capitalization or expensing of costs to install or remove assets, including retirements and cost of removal charged to the accumulated depreciation reserve or expensed as maintenance.

b. Provide a detailed description of the Company's accounting when it retires assets and replaces them with new assets, including the methodology it uses to allocate or otherwise determine the payroll and related costs allocated to the additions versus the retirements for cost of removal.

c. Provide a detailed description of the Company's guidelines and practices for the physical removal of assets by type of plant (pipeline, regulator, service, etc.) or whether they are left in place. For example, most utilities do not remove old pipeline when it is retired, at least longer sections, instead cutting and bypassing the old pipeline when a section is replaced.

d. Provide a copy of the most recent Time and Motion study or other study used by DEK in the determination of net salvage percentages or amounts to be written off when an existing asset is replaced with a new asset.

11. In its supplemental response to Request No. 19, the Confidential Information being provided is proprietary information regarding the Company's Abandonment of Facilities policies, procedures, and guidelines of Duke Energy Kentucky and is retained by the Company on a "need-to-know" basis. The Confidential Information is distributed within Duke Energy Kentucky only to those who must have access for business reasons, and it is generally recognized as confidential and proprietary in the energy industry and in business generally.

12. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(a); KRS 61.878(1)(c)(1); *Zink v. Department of Workers Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky. App. 1994); *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). Public disclosure of these sensitive documents would unnecessarily provide interested parties and Duke Energy Kentucky's

competitors with access to exclusive information regarding the inner-business workings and decisions of Duke Energy Kentucky. Moreover, the information being provided contains personal and sensitive information regarding employee benefits. By knowing what Duke Energy Kentucky compensates each of its employees, it would be very easy for other utilities to attempt to poach Duke Energy Kentucky's workforce and management. Such public disclosure could unfairly harm Duke Energy Kentucky's competitive position in the marketplace for utility management and a skilled workforce, to the detriment of Duke Energy Kentucky and its customers. Furthermore, the Confidential Information also constitutes a trade secret under Kentucky law. For these reasons, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

9. Furthermore, the Abandonment of Facilities procedure for which Duke Energy Kentucky is seeking confidential treatment was developed internally by Duke Energy Corporation and Duke Energy Kentucky personnel, is not on file publicly with any public agency, and is not publicly available from any commercial or other source. The Abandonment of Facilities procedure contains sensitive information regarding Duke Energy Kentucky's procedures and guidelines for the abandonment of steel and plastic natural gas and hazardous liquid pipeline facilities.

10. Duke Energy Kentucky does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable protective agreement entered into with any intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

11. In accordance with the provisions of 807 KAR 5:001, Section 13(2)(e), the Company is filing one copy of the Confidential Information separately under seal, and the appropriate number of copies with the Confidential Information redacted.

12. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of twenty 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 if publicly disclosed.

13. 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,

/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 August 24, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that submitting the original filing to the Commission in paper medium is no longer required as it has been granted a permanent deviation.<sup>1</sup>

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo

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<sup>1</sup>*In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Order, Case No. 2020-00085 (Ky. P.S.C. July 22, 2021).