

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of Duke Energy Kentucky,)
Inc.'s Integrated Resource Plan) Case No. 2021-00245
)

PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN ITS INTEGRATED RESOURCE PLAN

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1), and other applicable law, respectfully requests the Commission to classify and protect certain information that is contained in Duke Energy Kentucky's 2021 Integrated Resource Plan (IRP) contemporaneously filed with this Petition. The information that Duke Energy Kentucky seeks confidential treatment on generally includes: (1) projected pricing estimates for natural gas, coal and power; (2) estimated capital costs for various electric generation technologies; (3) energy efficiency program and avoided costs; (4) cost data for the 2021 IRP's screening analysis and (5) a transmission map showing the Company's critical system. The information which the Company is requesting to remain confidential is found in Figures 3.1, 3.2, 3.8, 4.1, B0-c through B0-i, C-7, C-8, and E-1 through E-8; Tables H.2, H.4 and H.5; and the detailed system information included in Appendix A, Part D, the transmission map filed in response to 807 KAR 5:058 section 8(3)(a) of the IRP regulation.

The public disclosure of the information described above would place Duke Energy Kentucky at a commercial disadvantage as it negotiates contracts with various suppliers and vendors and could potentially harm Duke Energy Kentucky's competitive position in the

marketplace, to the detriment of Duke Energy Kentucky and its customers. Moreover, Duke Energy Kentucky's system descriptions and maps show the location of critical utility infrastructure necessary to deliver safe and reliable electric service to its consumers. The public release of this information would create a security risk for both the Company and its customers.

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 information regarding power production costs that Duke Energy Kentucky wishes to protect from public disclosure - including supply side screening curves, projected costs of fuel, capital costs, power market prices, and projected capacity cost - is identified in the filing submitted concurrently herewith. This information was developed internally by Duke Energy Kentucky personnel, is not on file with any public agency, and is not available from any commercial or other source outside Duke Energy Kentucky. The aforementioned information is distributed within Duke Energy Kentucky only to those employees who must have access for business reasons. If publicly disclosed, this information setting forth Duke Energy Kentucky's costs of operation, expected need for fuel and allowances and projected capacity could give competitors an advantage in bidding for and securing new resources. Similarly, disclosure would afford an undue advantage to Duke

Energy Kentucky's vendors and suppliers as they would enjoy an obvious advantage in any contractual negotiations to the extent they could calculate Duke Energy Kentucky's requirements and what Duke Energy Kentucky anticipates those requirements to cost. Finally, public disclosure of this information, particularly as it relates to supply-side alternatives, would reveal the business model Duke Energy Kentucky uses - the procedure it follows and the factors and inputs it considers - in evaluating the economic viability of various generation related projects. Public disclosure would give Duke Energy Kentucky's contractors, vendors and competitor's access to Duke Energy Kentucky's cost and operational parameters, as well as insight into its contracting practices. Such access would impair Duke Energy Kentucky's ability to negotiate with prospective contractors and vendors, and could harm Duke Energy Kentucky's competitive position in the power market, ultimately affecting the costs to serve customers.

3. Duke Energy Kentucky requests confidential protections for certain third-party data contained in the IRP. In developing the 2021 IRP, Duke Energy Kentucky used certain confidential and proprietary data consisting of confidential information belonging to third parties who take reasonable steps to protect their confidential information, such as only releasing such information subject to confidentiality agreements. Duke Energy Kentucky used forecasts of various commodities and inputs such as fuel price forecasts (coal prices and gas prices) developed by an independent third party, IHS Markit, subject to confidentiality restrictions. Burns and McDonnell provided operating specifications and costs for potential future generating units, and Moody's Analytics provided economic forecasts, both subject to confidentiality agreements. Specifically, the fuel forecasts contained in Figures 3.1 and 3.2 were constructed using proprietary data from IHS. The Capital cost data contained in Table

4.1 was derived from data obtained from Burns & McDonnell. Duke Energy Kentucky is contractually bound to maintain such information confidential. Moreover, this information is deserving of protection to protect Duke Energy Kentucky's customers. If brokers or equipment vendors knew Duke Energy Kentucky's forecasted fuel prices, such brokers or vendors would have an unfair advantage in negotiating future sales, to the detriment of Duke Energy Kentucky and its customers. Furthermore, if competitors of Duke Energy Kentucky knew such forecasts, they could have an advantage in competing for new business against Duke Energy Kentucky. For further consideration, please see Affidavit of Peter Augustini, IHS Markit's Commercial Head of Power, Gas, Coal, Renewables attached hereto as Exhibit 1. The Commission has previously recognized that future fuel cost projections are confidential in nature,¹ as well as information provided by a third-party and subject to a confidentiality obligation.²

4. Duke Energy Kentucky also requests confidential treatment for the model and data used to develop its load forecast, which is found in Appendix B, Figures B0-c through B0-i. These items are maintained by the Company on a strictly need-to-know basis, are proprietary, and took a significant amount of time, effort and resources to develop. They are trade secrets, as defined by Kentucky law. *See* KRS 365.880(4). If disclosed, this information would give market competitors a significant advantage in being able to develop their own models to anticipate Duke Energy Kentucky's present and future loads, which

¹ *See, e.g., In the Matter of the Purchased Gas Adjustment Filing of Atmos Energy Corporation*, Order, Case No. 2015-00424 (Ky. P.S.C. Jan. 4, 2019).

² *See, e.g., In the Matter of the Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities and 5) All Other Required Approvals and Relief*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018).

would then give them insight into the Company's strategies for fulfilling its future needs for energy in the market. Others would be able to replicate the Company's analysis at significantly less cost and thereby reap an intellectual windfall without having to dedicate their own significant time and resources to the effort.

5. Duke Energy Kentucky requests confidential treatment for the transmission system maps and descriptions included in the IRP. This information shows the location of Critical Energy Infrastructure Information (CEII) and the interconnected nature of the system, which has been granted confidential treatment in the past. Duke Energy Kentucky takes all reasonable steps in order to protect CEII, including, but not limited to, only sharing such information internally on a need-to-know basis. The reliability entities with access to such data, such as PJM Interconnection L.L.C. (PJM), also take appropriate precautions to protect such data. This information needs to be kept confidential in order to continue to provide delivery of safe and reliable electric service to Duke Energy Kentucky customers. Furthermore, the release of this information would provide a security risk for the Company and its customers and it is, therefore, broadly recognized as confidential under Kentucky law. *See* KRS 61.878(1)(m). Again, the Commission has previously agreed that such critical infrastructure maps are confidential.³

6. The information contained in Figures C-7 and C-8 contains detailed financial information concerning the Company's projected program costs and avoided costs for its energy efficiency programs. With many of these programs being carried out in cooperations with third party vendors and contractors, the desire to keep future year program budgets is

³ *See, e.g., In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval of the Acquisition of Existing Combustion Turbine Facilities from Bluegrass Generating Company, LLC at the Bluegrass Generating Station in LaGrange, Oldham County, Kentucky and for Approval of the Assumption of Certain Evidences of Indebtedness*, Order, Case No. 2015-00267 (Ky. P.S.C. Nov. 24, 2015).

self-evident. Duke Energy Kentucky will be better enabled to negotiate for goods and services relating to its energy efficiency programs if the parties with whom it does business are not aware of its projected budgets by program. Likewise, the avoided costs data would be very useful to competitors in the marketplace who might seek to use such data to benchmark their own performance. The disclosure of this information would further benefit third-party vendors who would quickly ascertain the relative value of such programs to Duke Energy Kentucky and the leverage that knowledge into less economic pricing for goods and services.

7. The information contained in Figures 3.8 and E-1 through E-8 include various forecasts depicting the Company's view of power prices, facility operations, and fuel consumption respectfully. This information is considered proprietary to Duke Energy Kentucky and depicts its views of operations in the future. The Company would be placed at a competitive disadvantage if such information is released publicly as it would provide the competitors and potential counterparties and vendors for Duke Energy Kentucky with a competitive advantage that would prevent the Company from having the ability to manage its costs. It would also allow such counterparties and/or competitors to make decisions regarding pricing they otherwise would not have done, thereby making Duke Energy Kentucky and, in turn, its customers pay more than they otherwise would absent such information.

8. The confidential information included in Appendix H is also commercially valuable information and should be protected. Table H.2 includes detailed information concerning the capacity factor, heat rates, fuel costs and fixed and variable O&M costs for each of the Company's current and anticipated power supply resources. Table H.4 describes how Duke Energy Kentucky intends to source its energy supply throughout the IRP review

period. Table H.5 includes an annual itemization of Duke Energy Kentucky's projected fuel requirements for coal and natural gas. Individually or in concert, these charts offer both vendors and competitors a highly detailed view of Duke Energy Kentucky's fuel procurement needs, operating costs and other information that essential to the Company's effective implementation of its business strategies. It would place Duke Energy Kentucky at a severe disadvantage in future contract negotiations if its overall needs, costs and requirements were publicly available to those who might seek to sell fuel, goods, resources or services to the Company.

9. 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.

10. 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*, Ky., 904 S.W.2d 766, 768 (Ky. 1995).

11. 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 the appropriate number of copies without the confidential information included.

12. Duke Energy Kentucky respectfully requests that the Confidential Information, excluding the CEII which the Company requests be withheld indefinitely, 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.

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 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 (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 June 21, 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. 2020-00085.⁴

John G. Horne, II
The Office of the Attorney General
Utility Intervention and Rate Division
700 Capital Avenue, Ste 118
Frankfort, Kentucky 40601

/s/Rocco D'Ascenzo

Rocco D'Ascenzo

⁴ *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).

**AFFIDAVIT OF
PETER AUGUSTINI**

COMES NOW Peter Augustini, being duly sworn, deposes and says:

1. My name is Peter Augustini. I am employed by IHS Markit as commercial head of Climate and Sustainability Group.

2. IHS Markit provided certain information such as forecasts of fuel prices, wholesale market prices, emission allowance prices, capacity additions, and related energy market data fuel to Duke Energy, pursuant to an agreement whereby Duke Energy and its subsidiaries would keep such information confidential.

3. IHS Markit has furnished similar information to other entities subject to similar agreements requiring such entities to maintain the confidentiality of such information.

4. To the best of my information, knowledge, and belief such data has not been filed, produced, published, or otherwise furnished to third parties without appropriate confidentiality agreements, protective orders, or other appropriate means to protect the confidentiality of such information.

5. IHS Markit derives actual economic value from the sale and protection of such information. In my opinion, such value would be damaged if such information were made available to the public so that such information could be used without compensation to IHS Markit who developed such information and sells such information as a strategic part of its business.

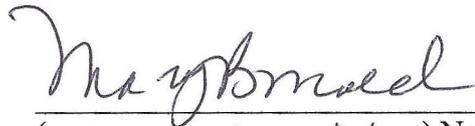
FURTHER AFFIANT SAITH NOT.



Peter Augustini

COMMONWEALTH OF MASSACHUSETTS)
) SS:
COUNTY OF SUFFOLK)

Subscribed and sworn to before me this 15 day of June, 2021.



(MARION BONOLDI) Notary Public

My Commission Expires:

3/14/2025

My County of Residence:

Norfolk

