

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF DUKE ENERGY)
KENTUCKY, INC. TO AMEND ITS) Case No. 2022-00251
DEMAND SIDE MANAGEMENT)
PROGRAMS)

**PETITION OF DUKE ENERGY KENTUCKY, INC. FOR
CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED IN ITS
RESPONSE TO COMMISSION STAFF’S THIRD SET OF INFORMATION
REQUESTS**

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 Commission Staff’s (Staff) Third Request for Information, issued on October 21, 2022. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), generally includes third-party price forecasts and Company proprietary information.

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain critical infrastructure information per KRS 61.878(1)(m). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the record would expose a vulnerability in providing the location of public utility critical systems. Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The Confidential Information for which the Company is seeking confidential protection includes or incorporates third-party price forecasts and Company proprietary information, the disclosure of which would injure Duke Energy Kentucky and its competitive position and business interests. Releasing this information would give others access to this pricing information, which would act to the detriment of Duke Energy Kentucky and its customers in the future.

3. Furthermore, the information for which Duke Energy Kentucky is seeking confidential treatment was either developed internally, or acquired on a proprietary basis, 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 aforementioned information is distributed within Duke Energy Kentucky only to those employees who must have access for business reasons and is generally recognized as confidential and proprietary in the utility industry.

4. 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.

5. 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).

6. 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.

7. 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.

8. 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/ Larisa M. Vaysman

Larisa M. Vaysman (98944)

Senior Counsel

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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 in paper medium; that the electronic filing was transmitted to the Commission on November 10, 2022; 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.¹

/s/ Larisa M. Vaysman

Larisa M. Vaysman

¹*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).