

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)
Electric Rates; 2) Approval of New Tariffs;) Case No. 2022-00372
3) Approval of Accounting Practices to)
Establish Regulatory Assets and Liabilities;)
and 4) All Other Required Approvals and)
Relief.)

**PETITION OF DUKE ENERGY KENTUCKY, INC. FOR CONFIDENTIAL
TREATMENT OF INFORMATION CONTAINED IN THE REBUTTAL
TESTIMONY OF CHRISTOPHER R. BAUER**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), by counsel, pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(c)(1), and other applicable law respectfully requests the Public Service Commission of Kentucky (Commission) issue an Order granting confidential treatment to two attachments to the Rebuttal Testimony of Christopher R. Bauer, respectfully stating as follows:

1. The information for which Duke Energy Kentucky seeks confidential treatment is contained in Confidential Attachments to the Rebuttal Testimony of Christopher R. Bauer (CRB-Rebuttal-2 and CRB-Rebuttal-3). Collectively, these documents are referred to herein as the “Confidential Information” and are reports and articles created by third-party vendors that are provided the Company through a paid subscription that prohibits public disclosure.

2. Confidential Attachment CRB-Rebuttal-2, Duke Energy Kentucky is Moody’s Investors Service January 23, 2023 Credit Opinion of the Company. This document provides a summary of Duke Energy Kentucky’s credit profile.

3. Confidential Attachment CRB-Rebuttal-3, Duke Energy Kentucky is Moody's Investors Service November 3, 2022, Sector In-Depth article.

4. The foregoing Confidential Attachments CRB-Rebuttal-2 and CRB-Rebuttal-3 are reports and articles that are provided to Duke Energy from a third-party vendor, Moody's Investors Service (Moody's) who provide services to the Company under a paid subscription service. Moody's takes reasonable steps to protect their confidential information by only releasing such information to paid subscribers subject to confidentiality agreements. Duke Energy Kentucky is contractually bound to maintain Moody's reports and articles as confidential.

5. Administrative Regulation 807 KAR 5:110, Section 5 sets forth the procedure by which certain information filed with the Commission shall be treated as confidential. Specifically, the party seeking confidential treatment must establish "each basis upon which the petitioner believes the material should be classified as confidential" in accordance with the Kentucky Open Records Act, KRS 61.878. *See* 807 KAR 5:110 Section 5(2)(a)(1).

6. The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(c)(1) excludes from the Open Records Act:

Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

7. KRS 61.878(1)(c)(1) requires the Commission to consider three criteria in determining confidentiality: (1) whether the record is confidentially disclosed to an agency or required by an agency to be disclosed to it; (2) whether the record is generally recognized as confidential or proprietary; and (3) whether the record, if openly disclosed, would present an unfair commercial advantage to competitors of the entity that disclosed the records.

8. The two attachments, Confidential Attachment CRB-Rebuttal-2 and Confidential Attachment CRB-Rebuttal-3, are not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. These two attachments satisfy the second element, as they are articles and reports generated by a third-party vendor for a fee that derives value from not being publicly available and constitutes a “trade secret” under KRS 365.880(4). The third element is satisfied, as disclosure of these documents could violate the Company’s agreement with this third-party vendor to maintain the confidentiality of these articles and reports and result in a commercial disadvantage as Duke Energy Kentucky may be barred from obtaining future reports and articles from this vendor. Access to this type of information is integral to Duke Energy Kentucky’s effective execution of business decisions.

9. The Company requests that these attachments be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that these attachments be treated as confidential in their entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

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 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 employees 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,

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 in paper medium; that the electronic filing was transmitted to the Commission on April 14, 2023; 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

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¹In 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).