

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 FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY
KENTUCKY, INC. FOR CERTAIN RESPONSES TO THE OFFICE OF THE
ATTORNEY GENERAL’S JANUARY 11, 2023 FIRST REQUEST FOR INFORMATION**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), by counsel, pursuant to 807 KAR 5:001, Section 13(2), KRS 61.878(1)(c)(1) and (m)(1)(f)–(g), and other applicable law, moves the Public Service Commission of Kentucky (Commission) for an Order granting confidential treatment to the identified portions of the following attachments filed in its responses to Office of the Attorney General’s (OAG) First Request for Information issued on January 11, 2023:

- (1) AG-DR-01-002(a) CONF Attachment;
- (2) AG-DR-01-003(a) CONF Attachment;
- (3) AG-DR-01-109(e) CONF Attachment;
- (4) AG-DR-01-113 CONF Attachment 2;
- (5) AG-DR-01-125 CONF Attachment 1;
- (6) AG-DR-01-125 CONF Attachment 2;
- (7) AG-DR-01-125 CONF Attachment 3;

- (8) AG-DR-01-126 CONF Attachment;
- (9) AG-DR-01-129 Confidential Attachments 1 through 14;
- (10) AG-DR-01-154(a) CONF Attachment;
- (11) AG-DR-01-163 CONF Attachment;
- (12) AG-DR-01-164 CONF Attachment;
- (13) AG-DR-01-167 Confidential Attachment 8;
- (14) AG-DR-01-167 Confidential Attachment 9;
- (15) AG-DR-01-167 Confidential Attachment 10;
- (16) AG-DR-01-167 Confidential Attachment 11;
- (17) AG-DR-01-167 Confidential Attachment 12;
- (18) AG-DR-01-168 Confidential Attachments 1 through 16;
- (19) AG-DR-01-169 Confidential Attachments 26 and 27;
- (20) AG-DR-01-169 Confidential Attachment 28;
- (21) AG-DR-01-169 Confidential Attachment 29; and
- (22) AG-DR-01-171 CONF Attachment 2.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, may include, but is not limited to, compensation information, forecasted capital expenditures, vendor pricing and contracts, financial and sales forecasts, third-party financial reports and analysis, and Company work product.

Pursuant to the Commission’s April 5, 2023 Order denying the Petition for Confidential Treatment of Duke Energy Kentucky, Inc. for Certain Responses to Sierra Club, The Kroger Co., Attorney General, Commission Staff, and Kentucky Broadband and Cable Association’s Requests

for Information, filed January 25, 2023, this is a renewed Petition for Confidential Treatment. As such, this renewed Petition for Confidential Treatment complies with the requirements outlined in the Commission's April 5, 2023 Order.

I. MOTION FOR CONFIDENTIAL TREATMENT

a. Statutory Standard

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).

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.

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.

This exception applies to the following documents and information for which Duke Energy Kentucky is seeking confidential treatment, each of which is described in further detail below.

b. Requests and Attachments for Which Confidential Treatment is Sought

i. AG-DR-01-002(a) CONF Attachment

OAG Request No. 01-002(a) states as follows:

Provide the position title and salary for each salaried employee for the years 2018-2023.

In response to OAG Request No. 01-002(a), Duke Energy Kentucky is providing AG-DR-01-002(a) CONF Attachment, which provides the position title, and annual salary for each salaried employee on the Duke Energy Kentucky payroll from 2018-2023. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-002(a) CONF Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is also satisfied, as compensation and benefit information is considered confidential and personal in nature and if disclosed could violate Duke Energy Kentucky's employees' expectations related to the confidential nature of their compensation.¹ The third element is satisfied, as disclosure of this compensation information would result in a commercial disadvantage. Duke Energy Kentucky and Duke Energy Corp. compete for employees among a robust pool of employers, including other regional utilities. The level of benefits provided by the companies is instrumental in recruiting and retaining highly qualified employees. If competitors had ready access to this information, they

¹ See *Cape Pub'ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008) (compensation information is private in nature); *Zink v. Department of Workers' Claims, Labor Cabinet*, 902 S.W.2d 825, 828 (Ky. Ct. App. 1994) ("information such as . . . wage rate . . . [is] generally accepted by society as [a] detail in which an individual has at least some expectation of privacy."); see also KRS 68.878(1)(a).

could use it to place Duke Energy Corp. and Duke Energy Kentucky at a disadvantage in recruiting and retaining employees.

ii. AG-DR-01-003(a) CONF Attachment

OAG Request No. 01-003(a) states as follows:

Provide the position title and salary for each non-salaried employee for the years 2018-2023.

In response to OAG Request No. 01-003, Duke Energy Kentucky is providing AG-DR-01-003(a) CONF Attachment, which provides the position title and hourly rate for each non-salaried employee on the Duke Energy Kentucky payroll from 2018-2023. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b). AG-DR-01-002(a) CONF Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is also satisfied, as compensation and benefit information is considered confidential and personal in nature and if disclosed could violate Duke Energy Kentucky's employees' expectations related to the confidential nature of their compensation.² The third element is satisfied, as disclosure of this compensation information would result in a commercial disadvantage. Duke Energy Kentucky and Duke Energy Corp. compete for employees among a robust pool of employers, including other regional utilities. The level of benefits provided by the companies is instrumental in recruiting and retaining highly qualified employees. If competitors had ready access to this information, they could use it to place Duke Energy Corp. and Duke Energy Kentucky at a disadvantage in recruiting and retaining employees.

² *Id.*

iii. AG-DR-01-113 CONF Attachment 2

OAG Request No. 01-113 states, in part, as follows:

Provide Duke Energy Kentucky's capital expenditures by year from 2020 through 2027. Provide actual expenditures for years 2020 through 2022 and projected for years 2023 through 2027.

In response to OAG Request No. 01-113, Duke Energy Kentucky is providing AG-DR-01-113 CONF Attachment 2, which contains detailed information relating to the Company's projected annual capital expenditures for 2023 through 2027. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-113 CONF Attachment 2 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. In *Hoy v. Kentucky Indus. Revitalization Auth.*, 907 S.W.2d 766, 768 (Ky. 1995), the Kentucky Supreme Court held that documents detailing the "inner workings of a corporation (are) 'generally recognized as confidential or proprietary.'" AG-DR-01-113 CONF Attachment 2 satisfies this standard, as Duke Energy Kentucky's projected capital expenditures represent the inner-workings of a corporation and, therefore, meets the second element of the statutory standard. AG-DR-01-113 CONF Attachment 2 also satisfies the third element, as it contains commercially sensitive information related to the Company's financial projections and disclosure of this information would result in a commercial disadvantage for Duke Kentucky as competitors would gain invaluable insight into the Company's financial outlook.

iv. AG-DR-01-125 CONF Attachment 1

OAG Request No. 01-125 states, in part, as follows:

Provide the two most recent pension and OPEB actuarial reports for Duke Energy, Duke Ohio, and the Company.

In response to OAG Request No. 01-125, Duke Energy Kentucky is providing AG-DR-01-125 CONF Attachment 1, which contains a detailed 2020 actuarial report. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-125 CONF Attachment 1 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-125 CONF Attachment 1 satisfies the second element, as this actuarial report was generated by a third-party 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with the third-party to maintain the confidentiality of these actuarial reports.

v. AG-DR-01-125 CONF Attachment 2

OAG Request No. 01-125 states, in part, as follows:

Provide the two most recent pension and OPEB actuarial reports for Duke Energy, Duke Ohio, and the Company.

In response to OAG Request No. 01-125, Duke Energy Kentucky is providing AG-DR-01-125 CONF Attachment 2, which contains a detailed 2021 actuarial report, and 2020 and 2021 actuarial report amounts. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-125 CONF Attachment 2 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-125 CONF Attachment 2 satisfies the second element, as this actuarial report was generated by a third-party 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with the third-party to maintain the confidentiality of these actuarial reports.

vi. AG-DR-01-125 CONF Attachment 3

OAG Request No. 01-125 states, in part, as follows:

Provide the two most recent pension and OPEB actuarial reports for Duke Energy, Duke Ohio, and the Company.

In response to OAG Request No. 01-125, Duke Energy Kentucky is providing AG-DR-01-125 CONF Attachment 3, which contains detailed 2020 and 2021 actuarial report values. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-125 CONF Attachment 3 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-125 CONF Attachment 3 satisfies the second element, as this actuarial report was generated by a third-party 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with the third-party to maintain the confidentiality of these actuarial reports.

vii. AG-DR-01-126 CONF Attachment

OAG Request No. 01-126 states, in part, as follows:

Provide the pension and OPEB actuarial reports for Duke Energy, Duke Ohio, and the Company and/or all other support for the test year pension cost and expense and OPEB cost and expense included in the test year.

In response to OAG Request No. 01-126, Duke Energy Kentucky is providing AG-DR-01-126 CONF Attachment, which contains detailed information relating to the test year pension cost and expense and OPEB cost and expense included in the test year. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-126 CONF Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-126 CONF Attachment satisfies the second element, as this actuarial report was generated by a third-party 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with the third-party to maintain the confidentiality of these actuarial reports.

viii. AG-DR-01-129 Confidential Attachments 1 through 14

OAG Request No. 01-129(c) states as follows:

Provide a copy(ies) of the contract(s) with the contractor(s) that performs the vegetation management services for Duke Kentucky.

In response to OAG Request No. 01-129(c), Duke Energy Kentucky is providing AG-DR-

01-129 Confidential Attachments 1 through 14,³ which contains vegetation management vendor contracts, which include sensitive vegetation management vendor pricing information. 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).

AG-DR-01-129 Confidential Attachments 1 through 14 are not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-129 Confidential Attachments 1 through 14 satisfy the second element of the standard, as vendor contracts are generally recognized as confidential and proprietary because they include confidential pricing and other contract terms. AG-DR-01-129 Confidential Attachments 1 through 14 also satisfies the third element because disclosure of these vendor contracts would place the Company at a disadvantage with future such negotiations, as potential vendors would have access to what the Company currently pays or expects to pay for vegetation management and similar services, potentially resulting in increased costs for these services for customers.

ix. AG-DR-01-154(a) CONF Attachment

OAG Request No. 01-154(a) states as follows:

Indicate if the forecast number of customers and the forecast MWh sales for each class are estimated on an independent basis or in some interdependent manner. Describe how each forecast is developed and provide all data, calculations, and electronic workpapers in Excel live format with all formulas intact.

In response to OAG Request No. 01-154(a), Duke Energy Kentucky is providing AG-DR-01-154(a) CONF Attachment, which contains the data and coefficients for the Company's customer count and sales forecast models. The Company requests that this Attachment be afforded

³ For the sake of administrative efficiency, the Company is providing a single justification narrative for all 14 Attachments, as each Attachment is of the same type and this narrative applies the same to each Attachment.

confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-154(a) CONF Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is also satisfied, as this information is commercially sensitive and proprietary information that constitutes a “trade secret” under KRS 365.880(4). The coefficients and data in the Company’s sales forecast models are proprietary to the Company and are Company work product. The third element is satisfied, as disclosure of this information would result in a commercial disadvantage. AG-DR-01-154(a) CONF Attachment contains Company work product and if this information is publicly released, it will place the Company at a competitive disadvantage, as competitors would have access to work and ideas developed by Duke Energy Kentucky.

x. AG-DR-01-163 CONF Attachment

OAG Request No. 01-163 states, in part, as follows:

Schedule J-3 for the Forecast Period shows a projected new long-term debt issuance forecast for September 2023 with a projected coupon rate of 5.990%. Provide the basis and all supporting documentation for the 5.990% cost, including all calculations, *e.g.*, 30-year Treasury yield plus 100 basis point risk premium.

In response to OAG Request No. 01-163, Duke Energy Kentucky is providing AG-DR-01-163 CONF Attachment, which contains detailed information relating to the Company’s long-term debt issuance forecast. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-163 CONF Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is

also satisfied, as this information is commercially sensitive and proprietary information that constitutes a “trade secret” under KRS 365.880(4). The Company’s long-term debt issuance forecast is proprietary to the Company and is Company work product. The third element is satisfied, as disclosure of this information would result in a commercial disadvantage. AG-DR-01-163 CONF Attachment contains Company work product and if this information is publicly released, it will place the Company at a competitive disadvantage, as competitors would have access to work and ideas developed by Duke Energy Kentucky and would gain tremendous insight into the Company’s financial condition.

xi. AG-DR-01-164 CONF Attachment

OAG Request No. 01-164 states, in part, as follows:

The electronic workpapers and further to Schedule j-3 for the Forecast Period. The annual interest costs in column I includes only input values. Provide the schedule with all formulas completely intact and provide a breakdown of how the interest costs were computed for each issuance.

In response to OAG Request No. 01-164, Duke Energy Kentucky is providing AG-DR-01-164 CONF Attachment, which contains detailed information and formulas relating to how the Company calculated annual interest costs for each debt issuance. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-164 CONF Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is also satisfied, as this information is commercially sensitive and proprietary information that constitutes a “trade secret” under KRS 365.880(4). Information and formulas relating to how the Company’s calculated annual interest costs for each debt issuance is proprietary to the Company

and is Company work product. The third element is satisfied, as disclosure of this information would result in a commercial disadvantage. AG-DR-01-164 CONF Attachment contains Company work product and if this information is publicly released, it will place the Company at a competitive disadvantage, as competitors would have access to work and ideas developed by Duke Energy Kentucky and would gain tremendous insight into the Company's financial condition.

xii. AG-DR-01-167 Confidential Attachment 8

OAG Request No. 01-167 states, in part, as follows:

Provide all workpapers and supporting documentation used and relied upon by Mr. Nowak in the preparation of his Direct Testimony and Exhibits. Provide all spreadsheets in Excel format with cell formulas intact.

In response to OAG Request No. 1-167, Duke Energy Kentucky is providing AG-DR-01-167 Confidential Attachment 8, which are stock reports provided to the Company by Value Line. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-167 Confidential Attachment 8 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-167 Confidential Attachment 8 satisfies the second element, as it contains stock reports generated by a third-party, Value Line, 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 this information would result in a commercial disadvantage and could violate the Company's agreement with the third-party to maintain the confidentiality of these reports.

xiii. AG-DR-01-167 Confidential Attachment 9

OAG Request No. 01-167 states, in part, as follows:

Provide all workpapers and supporting documentation used and relied upon by Mr. Nowak in the preparation of his Direct Testimony and Exhibits. Provide all spreadsheets in Excel format with cell formulas intact.

In response to OAG Request No. 01-167, Duke Energy Kentucky is providing AG-DR-01-167 Confidential Attachment 9, which is a report from S&P Global Market Intelligence (S&P Global) related to adjustment clauses. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-167 Confidential Attachment 9 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-167 Confidential Attachment 9 satisfies the second element, as it is a report generated by a third-party, S&P Global, 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with the third-party to maintain the confidentiality of this report.

xiv. AG-DR-01-167 Confidential Attachment 10

OAG Request No. 01-167 states, in part, as follows:

Provide all workpapers and supporting documentation used and relied upon by Mr. Nowak in the preparation of his Direct Testimony and Exhibits. Provide all spreadsheets in Excel format with cell formulas intact.

In response to OAG Request No. 01-167, Duke Energy Kentucky is providing AG-DR-01-167 Confidential Attachment 10, which is a report from S&P Global related to alternative

ratemaking plans in the United States. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-167 Confidential Attachment 10 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-167 Confidential Attachment 10 satisfies the second element, as it is a report generated by a third-party, S&P Global, 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 this information would result in a commercial and could violate the Company’s agreement with the third-party to maintain the confidentiality of this report.

xv. AG-DR-01-167 Confidential Attachment 11

OAG Request No. 01-167 states, in part, as follows:

Provide all workpapers and supporting documentation used and relied upon by Mr. Nowak in the preparation of his Direct Testimony and Exhibits. Provide all spreadsheets in Excel format with cell formulas intact.

In response to OAG Request No. 01-167, Duke Energy Kentucky is providing AG-DR-01-167 Confidential Attachment 11, which contains detailed information and Company analyses relating to bond-yield-plus-risk-premium. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-167 Confidential Attachment 11 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second

element is also satisfied, as this information is commercially sensitive and proprietary information that constitutes a “trade secret” under KRS 365.880(4). The Company’s analysis of the bond-yield-plus-risk-premium is proprietary to the Company and is Company work product. The third element is satisfied, as disclosure of this information would result in a commercial disadvantage. AG-DR-01-167 Confidential Attachment 11 contains Company work product and if this information is publicly released, it will place the Company at a competitive disadvantage, as competitors would have access to work and ideas developed by Duke Energy Kentucky.

xvi. AG-DR-01-167 Confidential Attachment 12

OAG Request No. 01-167 states, in part, as follows:

Provide all workpapers and supporting documentation used and relied upon by Mr. Nowak in the preparation of his Direct Testimony and Exhibits. Provide all spreadsheets in Excel format with cell formulas intact.

In response to OAG Request No. 1.167, Duke Energy Kentucky is providing AG-DR-01-167 Confidential Attachment 12, which contains detailed information and analyses relating to capital structure of the companies in the proxy group. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-167 Confidential Attachment 12 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is also satisfied, as this information is commercially sensitive and proprietary information that constitutes a “trade secret” under KRS 365.880(4). The Company’s analysis of the capital structures of companies in the proxy group is proprietary to the Company and is Company work product. The third element is satisfied, as disclosure of this information would result in a

commercial disadvantage. AG-DR-01-167 Confidential Attachment 12 contains Company work product and if this information is publicly released, it will place the Company at a competitive disadvantage, as competitors would have access to work and ideas developed by Duke Energy Kentucky.

xvii. AG-DR-01-168 Confidential Attachments 1 through 16

OAG Request No. 01-168 states, in part, as follows:

Provide all bond rating agency reports (Standard and Poor's, Moody's, Fitch) on Duke Energy and Duke Kentucky from 2020 through the most recent month in 2023.

In response to OAG Request No. 01-168, Duke Energy Kentucky is providing AG-DR-01-168 Confidential Attachments 1 through 16,⁴ which contains bond rating agency reports for several different bond rating agencies. 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).

AG-DR-01-168 Confidential Attachments 1 through 16 are not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. These Attachments satisfy the second element, as they are reports generated by a third-party 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 this information would result in a commercial disadvantage and could violate the Company's agreement with these third-party bond rating agencies to maintain the confidentiality of these reports.

⁴ For the sake of administrative efficiency, the Company is providing a single justification narrative for all 16 Attachments, as each Attachment is of the same type and this narrative applies the same to each Attachment.

xviii. AG-DR-01-169 Confidential Attachment 26 and 27

OAG Request No. 01-169 states, in part, as follows:

Provide copies of all articles, reports, and publications cited by Mr. Nowak in his Direct Testimony.

In response to OAG Request No. 01-169, Duke Energy Kentucky is providing AG-DR-01-169 Confidential Attachments 26 and 27, which are two Blue Chip Financial Forecasts from 2022. The Company requests that these Attachments be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-169 Confidential Attachments 26 and 27 are not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. AG-DR-01-169 Confidential Attachments 26 and 27 satisfy the second element, as they are reports generated by a third-party, Blue Chip, 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with the third-party to maintain the confidentiality of these reports.

xix. AG-DR-01-169 Confidential Attachment 28

OAG Request No. 01-169 states, in part, as follows:

Provide copies of all articles, reports, and publications cited by Mr. Nowak in his Direct Testimony.

In response to OAG Request No. 01-169, Duke Energy Kentucky is providing AG-DR-01-169 Confidential Attachment 28, which contains an S&P Global Ratings report. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-169 Confidential Attachment 28 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. This Attachment satisfies the second element, as it is a report generated by a third-party, S&P Global, 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with this third-party to maintain the confidentiality of this report.

xx. AG-DR-01-169 Confidential Attachment 29

OAG Request No. 01-169 states, in part, as follows:

Provide copies of all articles, reports, and publications cited by Mr. Nowak in his Direct Testimony.

In response to OAG Request No. 01-169, Duke Energy Kentucky is providing AG-DR-01-169 Confidential Attachment 29, which contains a Moody’s Investors Service (Moody’s) report. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-169 Confidential Attachment 29 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. This Attachment satisfies the second element, as it is a report generated by a third-party, Moody’s, 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 this information would result in a commercial disadvantage and could violate the Company’s agreement with this third-party to maintain the confidentiality of this report.

xxi. AG-DR-01-171 CONF Attachment 2

OAG Request No. 01-171(d) states as follows:

[Provide] [t]he current S&P and Moody's credit ratings for each Duke Energy operating company.

In response to OAG Request No. 01-171(d), Duke Energy Kentucky is providing AG-DR-01-171 CONF Attachment 2, which contains the current S&P and Moody's credit ratings for each Duke Energy operating company. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

AG-DR-01-171 CONF Attachment 2 is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. This Attachment satisfies the second element, as it contains reports generated by third-parties, S&P and Moody's, 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 this information would result in a commercial disadvantage and could violate the Company's agreement with these third-parties to maintain the confidentiality of these reports.

c. Request for Confidential Treatment

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.

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.

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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 May 4, 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.⁵

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⁵*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).