VERIFICATION

STATE OF OHIO	)	
	)	**SS:**
COUNTY OF HAMILTON	)	

The undersigned, Bruce Sailers, Director Jurisdictional Rate Administration, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.

Bruce L. Sailers

Bruce Sailers Affiant

Subscribed and sworn to before me by Bruce Sailers on this 20th day of December, 2022.

NOTARY PUBLIC

My Commission Expires: July 8, 2027

NOTARY PUBLIC STATE OF OHIO

EMILIE SUNDERMAN
Notary Public
State of Ohio
My Comm. Expires
July 8, 2027

VERIFICATION

STATE OF Ohio	)	
	)	**SS:**
COUNTY OF Hamilton	)	

The undersigned, Chris Lange, VP Zone Operations being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.

Chris Lange, Affiant

Subscribed and sworn to before me by Chris Lange on this 21st day of December 2022.

NOTARY PUBLIC

My Commission Expires: Never

[illegible]okrywka, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

VERIFICATION

STATE OF NORTH CAROLINA)
) **SS:**
COUNTY OF MECKLENBURG)

The undersigned, Scott Park, Manager Director IRP & Analytics being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.

Scott Park, Affiant

Subscribed and sworn to before me by Scott Park on this 15th day of December, 2022.

JENNY PATTANA
NOTARY PUBLIC
MECKLENBURG COUNTY, NC

NOTARY PUBLIC

My Commission Expires: June 8, 2025

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF DUKE ENERGY KENTUCKY, INC. FOR APPROVAL OF AN ECONOMIC DEVELOPMENT INCENTIVE SERVICE AGREEMENT WITH DIVERSEY, INC.	))))	CASE NO. 2022-00394

**PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN ITS AGREEMENT WITH DIVERSEY, INC.**

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 responses to requests for information, as requested by Commission Staff (Staff) in this case on December 7, 2022. Specifically, the Company requests confidential treatment for Confidential Attachments 1 and 2 in response to Data Request No. 2. The information for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), includes Company's forecasts of hourly energy pricing over the next several years and customer account information, specific load information, and estimated monthly bills over the next two years.

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 submitted and for which the Company is seeking confidential protection in STAFF-DR-01-001 Confidential Attachment 1 includes proprietary modeling forecasts and the Company's assumptions of future market prices in PJM. It consists of forecasted hourly locational marginal pricing for the next five years. The information contained in STAFF-DR-01-001 Continental Attachment 2 includes projected bills which contains customer specific account, load information, and operating characteristics for the next two years. If made public, this information would provide the specific customer account and load information as well as insight into Duke Energy Kentucky's operations and assumptions for dispatching generation and meeting load obligations. This information would give competitors and potential vendors a distinct advantage in competing for business or negotiating contracts.

3. The Confidential Information is distributed within Duke Energy Kentucky, only to those who must have access for business reasons and is generally recognized as confidential and proprietary in the energy industry.

4. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

5. 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.

6. 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).

7. 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.

8. 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.

9. 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

Rocco O. D'Ascenzo (92796)
Deputy General Counsel
Duke Energy Business Services LLC
139 East Fourth Street, 1303 Main
Cincinnati, Ohio 45202
Phone: (513) 287-4320
Fax: (513) 370-5720
rocco.d'ascenzo@duke-energy.com
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 in paper medium; that the electronic filing was transmitted to the Commission on December 21, 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/Rocco D'Ascenzo
Rocco O. D'Ascenzo

[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).

KyPSC Case No. 2022-00394
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STAFF-DR-01-001

REQUEST:

Refer to Administrative Case No. 327,[1] finding paragraph 5, which states, "EDRs should only be offered during periods of excess capacity. Utilities should demonstrate, upon submission of each EDR contract, that the load expected to be served during each year of the contract period will not cause them to fall below a reserve margin that is considered essential for system reliability. Such a reserve margin should be identified and justified with each EDR contract filing." Explain whether the proposed contract complies with this requirement. If so, provide support showing that it does comply. If not, explain why not.

RESPONSE:

The proposed DIR contract follows the terms and conditions of the Company's Commission-approved tariffed rate, Development Incentive Rider (Rider DIR), KY. P.S.C. Electric No. 2, Sheet No. 86. Rider DIR was approved by the Commission on February 2, 2005, in Case No 2004-00253, approximately fifteen years after the Commission's decision on September 24, 1990, in Administrative Case No. 327. Further the Kentucky Supreme Court affirmed the Commission's approval of the Company's Rider DIR incentive on August 26, 2010. *See PSC of Ky v. Commonwealth* 320 S.W.3d 669.

As a member of PJM Interconnection LLC, since 2011, Duke Energy Kentucky has access to wholesale capacity markets that did not exist at the time of the Commission's

[1] Administrative Case No. 327, *An Investigation into the Implementation of Economic Development Rates by Electric and Gas Utilitie*s (Ky. PSC Sept. 24, 1990).

decision in Administrative Case 327 in 1990. Accordingly, the Company believes this comparative reference to Admin 327 is inapplicable.

Nonetheless, Duke Energy Kentucky currently has sufficient capacity to serve its load along with the necessary reserve margin for the duration of the proposed contract. In addition to the Tri-annual Integrated Resource Planning process, Duke Energy Kentucky reports on projected reserve margins annually as part of Administrative Case 387. The Company's most recent reporting was submitted on March 31, 2022, and showed the following projected reserves:

Projected reserve margins are calculated as follows and assume PJM's UCAP methodology:

Reserve Margin (MW) = Generating Capacity – Peak Demand – Demand Response

Reserve Margin (%) = (Generating Capacity / (Peak Demand – Demand Response)) - 1

Year	Projected Reserves (UCAP MW)	Projected Reserve Margin (%)
2022	188	29%
2023	188	27%
2024	198	28%
2025	199	27%
2026	216	27%

This data reflects the Fall 2021 Load Forecast. The current fleet consists of, based on summer rating, the 600 MW East Bend 2 and 462 MW Woodsdale generating stations plus 7 MW solar.

PERSON RESPONSIBLE: Scott Park

Duke Energy Kentucky
Case No. 2022-00394
STAFF First Set Data Requests
Date Received: December 7, 2022

PUBLIC STAFF-DR-01-002

REQUEST:

Refer to Administrative Case No. 327, finding paragraph 6, which states, "Upon submission of each EDR contract, a utility should demonstrate that the discounted rate exceeds the marginal cost associated with serving the customer. Marginal cost includes both the marginal cost of capacity as well as the marginal cost of energy. In order to demonstrate marginal cost recovery, a utility should submit, with each EDR contract, a current marginal cost of service study. A current study is one conducted no more than one year prior to the date of the contract." Provide a current marginal cost of service study conducted no more than one year prior to the date of the contract showing that the discounted rate exceeds the marginal cost associated with serving Diversey, Inc.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET (As to Attachments only)

Based on the projected billed demand and energy consumption of the customer, the Company reviewed both the marginal cost to serve the customer and the projected bills, both on a $/kWh basis. The marginal cost to serve the customer is broken into three (3) items but simplifies to one in this case. The first item, marginal capacity, was reviewed with the Company's capacity planners. The Company confirms that capacity is currently available above our minimum required capacity and reserve requirements. Therefore, the Company concludes that there is no marginal cost of capacity for this DIR contract. The second item is new infrastructure requirements under the Company's line extension policy.

Upon review, the Company confirms that another associated customer paid for the line extension costs so they could market the location to potential customers. Given that all line extension costs are paid, there are no marginal costs associated with the new infrastructure. Finally, the Company reviewed the marginal cost of energy to service the customer based on the customer's projected consumption. Upon review, the Company estimates the average PJM LMP consistent with the customer's projected consumption patterns is 7.2 cents per kWh for 2023. See STAFF-DR-01-002 Confidential Attachment 1 for the projected hourly PJM LMP. The projected bills using current rates and applying the DIR discount comes to 8.7 cents per kWh for 2023. See STAFF-DR-01-002 Confidential Attachment 2 for the projected bill amounts. The projected billed charge is greater than the Company's projected marginal cost to serve. Therefore, the Company concludes the DIR arrangement recovers the marginal cost to service the customer.

PERSON RESPONSIBLE: Bruce L. Sailers

CONFIDENTIAL PROPRIETARY TRADE SECRET

STAFF-DR-01-002
CONFIDENTIAL ATTACHMENT 1

FILED UNDER SEAL

CONFIDENTIAL PROPRIETARY TRADE SECRET

STAFF-DR-01-002
CONFIDENTIAL ATTACHMENT 2

FILED UNDER SEAL

STAFF-DR-01-003

REQUEST:

Refer to Administrative Case No. 327, finding paragraph 9, which states, "All EDR contracts should include a provision providing for the recovery of EDR customer-specific fixed costs over the life of the contract." Explain whether the proposed contract complies with this requirement. If no, explain why not.

RESPONSE:

All costs to establish service were paid as contribution in aid of construction by either the site developer or the customer.

The proposed DIR contract follows the terms and conditions of the Company's Commission-approved tariffed rate, Development Incentive Rider (Rider DIR), KY. P.S.C. Electric No. 2, Sheet No. 86. Rider DIR was approved by the Commission on February 2, 2005, in Case No. 2004-00253, approximately fifteen years after the Commission's decision on September 24, 1990, in Administrative Case No. 327. Further the Kentucky Supreme Court affirmed the Company's Rider DIR incentive on August 26, 2010. *See PSC of Ky v. Commonwealth* 320 S.W.3d 669. By tariff, the term of the Rider DIR contract provides a discount for twelve months, coupled with a commitment to continue service at a minimum peak demand and load factor for at least two years following the discounted periods. Further, the contract provides, in paragraph 6, page 5, that Duke Energy Kentucky is not obligated to extend, expand, or rearrange its facilities to serve the customer and that any changes in facilities required may result in additional costs to the customer.

PERSON RESPONSIBLE: Chris Lange

Duke Energy Kentucky
Case No. 2022-00394
STAFF First Set Data Requests
Date Received: December 7, 2022

STAFF-DR-01-004

REQUEST:

Refer to Administrative Case No. 327, finding paragraph 12, which states in relevant part, "For new industrial customers, an EDR should apply only to load which exceeds a minimum base level." Explain whether the proposed contract complies with this requirement. If not, explain why not.

RESPONSE:

The incentive applies to the customer's total bill, exclusive of riders (e.g., fuel, environmental, etc.) for a period of twelve months. The proposed DIR contract follows the terms and conditions of the Company's Commission-approved tariffed rate, Development Incentive Rider (Rider DIR), KY. P.S.C. Electric No. 2, Sheet No. 86, which provides in relevant part:

NET MONTHLY BILLING

> The customer shall comply with all terms of the standard tariff rate under which the customer takes service except that the customer's total bill for electric service, less any rate adjustment rider amounts as shown on the standard service tariff, shall be reduced by up to fifty (50) percent for a period of twelve (12) months. The customer will pay the full amount of the riders so indicated. The customer may request an effective date of the Rider which is no later than twelve (12) months after the Special Contract is

> approved and signed by the Company. All subsequent billings shall be at the appropriate full standard service tariff rate.

Rider DIR's billing terms were approved by the Commission on February 2, 2005, in Case No. 2004-00253, approximately fifteen years after the Commission's decision on September 24, 1990, in Administrative Case No. 327. The Commission described this tariff's structure to the Kentucky Supreme Court in its Appellant Brief as follows: "Customers who qualify for either the Economic Development Program or Urban Redevelopment Program are eligible for a reduction of their total bill for electric service (excluding any standard tariff rate adjustment rider amounts) by up to fifty percent for a period of twelve months…"[1] And, in supporting its approval of the tariff, the Commission argued that "the record amply demonstrates that ULH&P's EDR tariff is reasonable in light of the significant procedural and substantive protections attaching to the tariff.[2] The Court affirmed the Commission's approval of the Company's Rider DIR incentive on August 26, 2010. *See PSC of Ky v. Commonwealth* 320 S.W.3d 669.

PERSON RESPONSIBLE: Bruce L. Sailers

[1] *See Kentucky Public Service Commission v. Commonwealth of Kentucky, Case No. 2008-SC-000483,* Brief for Appellant, Kentucky Public Service Commission pg. 4, June 15, 2009; 320 S.W.3d 669.
[2] *Id.* pg. 38.