

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY KENTUCKY, INC.)	
FOR AN ADJUSTMENT TO RIDER NM RATES AND)	CASE NO.
FOR TARIFF APPROVAL)	2023-00413

**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY
KENTUCKY, INC. FOR CERTAIN RESPONSES TO THE STAFF OF
THE PUBLIC SERVICE COMMISSION'S MAY 24, 2024
POST HEARING REQUEST FOR INFORMATION**

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 and attachments to Data Request Nos. 1, 6, and 11, as requested by Commission Staff (Staff) in this case on May 24, 2024. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment is contained in the responses and/or attachments to Data Request Nos. 1, 6, and 11, includes: (1) supporting forecasted data and calculations for avoided capacity cost calculations; (2) forecasted energy cost data; (3) forecasted distribution and transmission costs; (4) customer account information (collectively referred to as, Confidential Information); and (5) historic and forecasted compliance cost data and modeling. The public disclosure of the Confidential Information described would place Duke Energy Kentucky at a commercial disadvantage as it would provide detailed analysis of the Company's anticipated costs of operation, views of the wholesale energy markets, fuel expense and compliance costs many years, and in some data, decades, into the future. Releasing this information would place the Company at a distinct commercial disadvantage against competitors for commodities, products, and services ultimately

harming customers by disclosing the Company's strategies and limiting its ability to control prices. Moreover, releasing this information could place the Company in a bargaining 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.

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). 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.

Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The Confidential Information contained in the attachments to Data Request Nos. 1 and 11, include detailed supporting data, calculations, and forecasts for wholesale energy, capacity, environmental compliance costs, and distribution and transmission avoided costs. Much of this information was developed through the use of proprietary modeling used by the Company and/or the Company's external vendors that performed work specifically for Duke Energy pursuant to carefully negotiated contracts with confidentiality provisions. This data depicts proprietary assumptions and estimates for costs of various supply-side replacement generation, including operational characteristics, and forecasted market prices for fuel and environmental compliance. This information is used and relied upon by the Company for its business decisions and is only available to persons within the Company that need this information. The Company requests that

this Confidential Information be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that the following attachments be treated as confidential in their entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b):

- STAFF-PHDR-01-001(a) Confidential Attachments 1 through 4, and
- STAFF-PHDR-01-011 Confidential Attachments 1 through 5.

3. The redacted information in response to STAFF-PHDR-01-006 discusses communications between the Company and a certain customer. This information is generally recognized as confidential in the energy industry. To protect the customer identified in this response, the Company recommends this information be considered confidential.

4. All Confidential 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.

5. If publicly disclosed, the Confidential Information could give competitors an advantage in bidding for and securing new resources and place the Company at a disadvantage in attempting to manage its costs. 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 costs.

6. 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 and views of future wholesale electric and commodity markets. Such access would impair Duke Energy Kentucky's ability to compete or 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.

7. 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).

8. 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 forecasted 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.

9. Duke Energy Kentucky does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable protective agreement, to the Attorney General or other intervenors with a legitimate interest in reviewing the same for the purpose of participating in this case.

10. 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 Confidential Information described herein.

Respectfully submitted,

/s/ Larisa M. Vaysman

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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 June 7, 2024; 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
Counsel for Duke Energy Kentucky, Inc.

¹*In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19, Order, Case No. 2020-00085 (Ky. PSC July 22, 2021).*