

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 KENTUCKY SOLAR
ENERGY SOCIETY AND KENTUCKIANS FOR THE COMMONWEALTH'S
FEBRUARY 21, 2024 SECOND 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 response to Data Request No. 14, as requested by Kentucky Solar Energy Society and Kentuckians for the Commonwealth (KSES/KC) in this case on February 21, 2024. The information KSES/KC seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment is contained in (1) the Company's response to Data Request No. 14 (KSES-DR-02-014 CONF); (2) the attachment to the Company's response to Data Request No. 15 (KSES-DR-02-015 CONF Attachment); and (3) the attachment to the Company's response to Data Request No. 24 (KSES-DR-02-024 CONF Attachment).

These include the following information (collectively Confidential Information):

- KSES-DR-02-014 CONF: the redacted portion of this response includes competitively sensitive figures for the total available generation, load, and load plus reserve margin for the Company's final (1-year) Fixed Resource Requirements (FRR) plan;

- KSES-DR-02-015 CONF Attachment: this attachment contains avoided cost projections, as well as the supporting data for those projections;
- KSES-DR-01-024 CONF Attachment: this attachment contains avoided cost projections, as well as the supporting data for those projections

As detailed below, the public disclosure of the information described would place Duke Energy Kentucky at a commercial disadvantage, injure the Company's competitive position and business interests, and possibly result in detriment to 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 Confidential Information would, in fact, prompt such a result for the reasons set forth below.

2. The Confidential Information in KSES-DR-02-014 CONF includes competitively sensitive figures for the total available generation, load, and load plus reserve margin for the Company's final (1-year) Fixed Resource Requirements (FRR) plan. If this information was available publicly, it would reveal the Company's position with regard to capacity in PJM, and could negatively impact the Company's ability to procure additional generation capacity at the best possible cost, which would be to the potential detriment of the Company's customers.

3. Additionally, the Confidential Information in KSES-DR-02-014 CONF, for which Duke Energy Kentucky is seeking confidential treatment was developed internally 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. For all of the above reasons, the Confidential Information in KSES-DR-02-014 CONF is exempt from public disclosure under KRS 61.878(1)(c)(1).

4. The Confidential Information in KSES-DR-02-015 CONF Attachment and KSES-DR-02-015 CONF Attachment, the avoided cost projections and their supporting data, include or incorporate third-party price forecasts and Company proprietary information, the disclosure of which would injure the Company 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.

5. Additionally, the Confidential Information in KSES-DR-02-015 CONF Attachment and KSES-DR-02-015 CONF Attachment, the avoided cost projections and their supporting data, 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. For all of the above reasons, the Confidential Information in KSES-DR-02-015 CONF Attachment and KSES-DR-02-015 CONF Attachment is exempt from public disclosure under KRS 61.878(1)(c)(1).

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, Ky.*, 904 S.W.2d 766, 768 (Ky. 1995).

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 if publicly disclosed.

8. 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.

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 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 March 6, 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

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/s/ Larisa M. Vaysman
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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).*