

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Electronic Application of Duke Energy)
Kentucky, Inc. for a Certificate of Public)
Convenience and Necessity to Convert its Wet Flue) Case No. 2024-00152
Gas Desulfurization System from a Quicklime)
Reagent Process to a Limestone Reagent Handling)
System at its East Bend Generating Station and for)
Approval to Amend its Environmental Compliance)
Plan for Recovery by Environmental Surcharge)
Mechanism)

PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY KENTUCKY, INC. FOR CERTAIN RESPONSES TO THE ATTORNEY GENERAL’S AUGUST 23, 2024, FIRST REQUEST FOR INFORMATION

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to 807 KAR 5:001, Section 13(2), KRS 61.878(1)(c), and other applicable law, moves the Public Service Commission of Kentucky (Commission) for an Order granting confidential treatment to the following attachment to the Attorney General of the Commonwealth of Kentucky’s (AG) First Request for Information issued on August 23, 2024:

- (1) AG-DR-01-007 Confidential Attachment

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes information related to the Company’s sensitive unit commitment and dispatch costs of its generating portfolio in the competitive wholesale electric markets, market risks, and cost information.

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[.]

This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” Ky. OAG 97-ORD-66 at 10 (Apr. 17, 1997).

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. The Confidential Information

for which Duke Energy Kentucky is seeking confidential treatment, each of which is described in further detail below, satisfies each of these three statutory criteria.

b. Attachment for Which Confidential Treatment is Sought

i. AG-DR-01-007 Confidential Attachment

AG Request No. 01-007 states as follows:

Reference the Application, paragraph 14, referring to East Bend's dispatch costs. Provide East Bend's dispatch costs for the last three years, broken down by month.

In response to AG Request No. 01-007, Duke Energy Kentucky provides AG-DR-01-007 Confidential Attachment, includes and contains the Company's detailed generation unit commitment and dispatch costs in the competitive wholesale energy markets for multiple years. 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-01-007 Confidential 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 third element is satisfied, as disclosure of this information would result in a commercial disadvantage. AG-DR-01-007 Confidential 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 the operations of the Company's generating units, their commitment details and costs, and the work and ideas developed by Duke Energy Kentucky to manage their generating assets in the wholesale energy markets.

c. Request for Confidential Treatment

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 impair the interests of the Company if publicly disclosed.

To the extent the Confidential Information becomes 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 O. 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 being filed in paper medium; that the electronic filing was transmitted to the Commission on September 6th, 2024; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

John G. Horne, II
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/s/Rocco D'Ascenzo

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