

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2024 INTEGRATED RESOURCE)	CASE NO.
PLAN OF DUKE ENERGY KENTUCKY, INC.)	2024-00197

PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY KENTUCKY, INC. FOR CERTAIN RESPONSES TO KENTUCKY SOLAR ENERGY SOCIETY, KENTUCKIANS FOR THE COMMONWEALTH, AND KENTUCKY RESOURCES COUNCIL’S AUGUST 14, 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 responses and attachments to Kentucky Solar Energy Society, Kentuckians for the Commonwealth, and Kentucky Resources Council’s (KSES) First Request for Information issued on August 14, 2024:

- (1) KSES-DR-01-002 Confidential Attachment 2;
- (2) Response to KSES-DR-01-013;
- (3) KSES-DR-01-021(a) Confidential Attachment;
- (4) KSES-DR-01-039 Confidential Attachments 1 and 2; and,
- (5) KSES-DR-01-045 Confidential Attachment.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, generally includes: (1) information related to operations and management (O&M) costs, projected fuel and environmental compliance forecasted costs, forecasted power market prices, and

projected capacity and resource alternative capital costs; (2) supply side screening curves and resource evaluations, (3) unit performance; (4) market revenues (5) Present value revenue requirement (PVRR) calculations that include assumed discount and inflation rates and (6) third party owned and licensed modeling tools. The public disclosure of the information described would place Duke Energy Kentucky at a commercial disadvantage as it manages its business in the wholesale power markets, 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. Moreover, to the extent the requested information is subject to licensing agreements, disclosure of the information would be in violation of such agreements and could put the Company in an adverse legal position to the detriment of its customers.

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

b. Responses and Attachments for Which Confidential Treatment is Sought

i. KSES-DR-01-002 Confidential Attachment 2

KSES Request No. 01-002 states as follows:

For each East Bend and Woodsdale generating unit, provide the following historical annual data by unit, or, if Duke does not maintain unit-level data, by plant, from 2018 to present:

- a. Fixed O&M cost
- b. Non-fuel variable O&M cost
- c. Fuel costs
- d. Capital costs
- e. Heat rate
- f. Generation
- g. Capacity rating
- h. Capacity factor
- i. Forced outage rate
- j. Planned outage rate
- k. Energy revenues

- l. Capacity revenues
- m. Ancillary services revenues.
- n. Unforced capacity (“UCAP”)

In response to KSES Request No. 01-002, Duke Energy Kentucky provides KSES-DR-01-002 Confidential Attachment 2, which contains the sensitive operational data related to the Company’s generating units that if released would adversely affect their position in the competitive energy markets. 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).

KSES-DR-01-002 Confidential Attachment 2 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. KSES-DR-01-002 Confidential Attachment 2 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 and the work and ideas developed by Duke Energy Kentucky.

ii. KSES-DR-01-013

KSES Request No. 01-013 states as follows:

Please refer to the 2024 IRP at p. 12, including the statement that “for rapidly developing technologies (e.g., solar photovoltaic (PV) and battery storage), the Company blended the AEO forecast factors with additional third-party capital cost projections.”

- a. In addition to PV and battery storage, please list each other resource technology that Duke applied a blended capital cost projection for in the modeling.
- b. Please provide the referenced third-party capital cost projections.
- c. Please describe the Company's methodology for "blending" AEO forecast factors and third-party capital cost projections.
- d. Has the Company analyzed or caused to be analyzed the historical accuracy of AEO forecast factors for PV or battery storage? If so, please provide each such analysis.
- e. Is the Company aware of any analysis evaluating the historical accuracy of AEO forecast factors for PV, battery storage, or resources generally? If so, please identify each such analysis.

In response to KSES Request No. 01-013, Duke Energy Kentucky provides confidential data within the written response, which contains detailed information and Company analyses relating to AEO forecast factors and third-party capital cost projections for potential renewable resources several years into the future. The Company requests that this confidential information be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).

The confidential data 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.'" The confidential data 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. The confidential data 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 valuation of resources and outlook.

iii. KSES-DR-01-021(a) Confidential Attachment

KSES Request No. 01-021 states as follows:

Please refer to Table 3.3 at p. 31 and answer the following requests:

- a. Provide the source for the PVRR, Discount Rate, and Inflation Rate, along with any underlying calculations or workpapers.
- b. With regard to the note, please state what the requirements do include.

In response to KSES Request No. 01-021, Duke Energy Kentucky provides KSES-DR-01-021(a) Confidential Attachment, which contains the sensitive and proprietary data and coefficients for the Company's discount and inflation rates and forecast models. 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).

KSES-DR-01-021(a) 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 coefficients and data in the Company's 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. KSES-DR-01-021(a) 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 work and ideas developed by Duke Energy Kentucky and insight into how the Company

finances its operations.

iv. KSES-DR-01-039 Confidential Attachments 1 and 2

KSES Request No. 01-039 states as follows:

Please refer to the 2024 IRP at p. 102, particularly the statement that “[t]he Company may vary the incentive by type of equipment and differences in efficiency to induce customers to purchase greater levels of efficiency at the minimum necessary incentive amount.”

- a. As part of this IRP, did the Company evaluate the potential impact of higher incentives in its Residential Smart Saver program on participation, estimated savings, or cost-effectiveness?
 - i. If so, please provide that evaluation, including supporting documentation and workpapers in native file format with formulas intact.
 - ii. If not, please explain why not.

In response to KSES Request No. 01-039, Duke Energy Kentucky provides KSES-DR-01-039 Confidential Attachments 1 and 2, which contains detailed information relating to the costs, cost-effectiveness, and estimated savings and its impact on demand side management programs. The Company requests that these Attachments be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that the Attachments be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

KSES-DR-01-039 Confidential Attachments 1 and 2 are 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 evaluates its demand side programs 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.

KSES-DR-01-039 Confidential Attachments 1 and 2 contain 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.

v. KSES-DR-01-045 Confidential Attachment

KSES Request No. 01-045 states as follows:

Please refer to Duke’s June 21, 2024 Motion for Confidential Treatment, para. 3, including the statement that the “Capital cost data contained in Figure 4.1 was derived from data obtained from Guidehouse and Burns & McDonnell, as well as, confidential pricing for resources that were bid into a recent RFP that was issued in another Duke Energy Corporation (Duke Energy Corp) utility subsidiary’s jurisdiction.”

- a. Please provide the referenced “recent RFP.”
- b. Please provide the pricing for resources that were bid into the referenced RFP.
- c. Please explain in full Duke Energy Kentucky’s reasons for assuming the pricing for resources that were bid into the referenced RFP would be representative of pricing for resources in Duke Energy Kentucky’s service territory.
- d. Please provide the referenced data obtained from Guidehouse.
- e. Please provide the referenced data obtained from Burns & McDonnell.

In response to KSES Request No. 01-045, Duke Energy Kentucky provides KSES-DR-01-045 Confidential Attachment, which includes pricing for resources. 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).

KSES-DR-01-045 Confidential Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. KSES-DR-01-045 Confidential Attachment satisfies the second element, as it is a

contains information 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 the information.

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 likely impair the interests of the Company if publicly disclosed.

The Company 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 for the purpose of participating in this case.

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,

/s/ Rocco 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 4, 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/Rocco O. D'Ascenzo

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).*