

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

DUKE ENERGY KENTUCKY, INC.’S PETITION FOR CONFIDENTIAL TREATMENT OF CERTAIN ATTACHMENT TO KENTUCKY SOLAR ENERGY SOCIETY, KENTUCKIANS FOR THE COMMONWEALTH, AND KENTUCKY RESOURCES COUNCIL’S DECEMBER 21, 2024 POST-HEARING DATA REQUESTS

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 response to Kentucky Solar Energy Society, Kentuckians for the Commonwealth, and Kentucky Resources Council’s (KSES) Post-Hearing Requests for Information issued on December 21, 2024:

- (1) KSES-PHDR-01-007 Confidential Attachment.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, generally includes third-party price forecasts and Company proprietary information, the disclosure of which would injure Duke Energy Kentucky and its competitive position and business interests. The public disclosure of the information described would give others access to this pricing information, which would act to the detriment of Duke Energy Kentucky and its customers in the future.

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. Response for Which Confidential Treatment is Sought

i. KSES-PHDR-01-007 Confidential Attachment

KSES Post-Hearing Request No. 01-007 states as follows:

Please refer to the testimony of Mr. Timothy Duff in the Hearing Video Transcript (“HVT”) for this matter at 12/10/2024, 4:40:40, and provide the most recent:

- a. The projected avoided costs used in the Company’s most recent Application to Amend its DSM Programs, by cost component, and
- b. Actual avoided costs used in calculating the Company’s most recent Adjustment of the DSM Cost Recovery Mechanisms.

In response to KSES Post-Hearing Request No. 01-007, Duke Energy Kentucky provided both projected and actual avoided cost data in KSES-PHDR-01-007 Confidential Attachment. The Company requests that this Confidential Information be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1). The Confidential Information 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 information satisfies this standard, as Duke Energy Kentucky’s projected and actual avoided costs associated with its DSM programs represent the inner workings of a corporation and, therefore, meets the second element of the statutory standard. The Confidential Information also satisfies the third element, as it contains projected and actual avoided costs of its DSM programs and disclosure of this information

would result in a commercial disadvantage for Duke Energy Kentucky as prospective vendors would gain invaluable insight into the Company's avoided costs and therefore could gain an advantage in future contract negotiations.

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).

II. CONCLUSION

WHEREFORE, Duke Energy Kentucky, Inc., respectfully requests that the Commission classify and protect as confidential the specific 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 being filed in paper medium; that the electronic filing was transmitted to the Commission on January 21, 2025; 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).*