

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 SEPTEMBER 25, 2024 SECOND 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 response to Kentucky Solar Energy Society, Kentuckians for the Commonwealth, and Kentucky Resources Council’s (KSES) Second Request for Information issued on September 25, 2024:

- (1) Confidential response to KSES-DR-02-003

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, generally includes sensitive and proprietary information related to strategy to serve customer load in the future, likely counterparties to contract negotiations, assumed operational characteristics of East Bend under a conversion to dual fuel including estimated fuel consumption, as well as internal cost projections for future construction projects modeled in the company’s resource plan. 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.

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. Confidential response to KSES-DR-02-003

KSES Request No. 02-003 states as follows:

Please refer to the Company's response to JI 1-4.b. & c., and answer the following questions:

- a. What interstate pipeline would the needed lateral be connected to?
- b. Approximately how long (miles) would the lateral need to be in order to connect with an interstate pipeline? To the extent there are different interconnection point and/or interstate pipeline options how long would each need to be?
- c. Please identify the "costs included in the IRP modeling" for the addition of a lateral connecting East Bend to an interstate pipeline, and produce the underlying "high-level budgetary estimate." If multiple cost estimates were used, please identify and explain how each cost estimate was used in the modeling.
- d. Please identify the "costs included in the IRP modeling" for firm transportation, and produce the underlying "high-level budgetary estimate." If multiple cost estimates were used, please identify and explain how each cost estimate was used in the modeling.
- e. What permitting, contracts, and other pre-construction agreements or approvals will be required?
- f. What is the estimated size and capacity of a lateral needed in the case of DFO?
- g. What is the estimated size and capacity of a lateral needed in the case of full conversion to gas firing?
- h. What is the estimated size and capacity of a lateral needed in the case of a NGCC addition?

In response to KSES Request No. 02-003, Duke Energy Kentucky provides detailed operational cost projections, counterparties for construction of a future project, projected

construction costs, assumed projected fuel consumption, and other modeling assumptions. The Company requests that the highlighted information contained in the response be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1). The highlighted 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 highlighted information satisfies this standard, as Duke Energy Kentucky’s projected expenditures, strategies for how to accomplish its dual fuel strategy for serving future load represent the inner workings of a corporation and, therefore, meets the second element of the statutory standard. The highlighted information also satisfies the third element, as it contains commercially sensitive information related to the Company’s financial projections and business strategy and disclosure of this information would result in a commercial disadvantage for Duke Energy Kentucky as competitors would gain invaluable insight into the Company’s financial outlook, estimated costs of operation and executing its strategy, making the ability to achieve those cost projections or even improve upon them difficult.

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 October 16, 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 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).*