



DUKE ENERGY CORPORATION

139 East Fourth Street
1212 Main
Cincinnati, OH 45201-0960
Telephone: (513) 287-4315
Facsimile: (513) 287-4385

Kristen Cocanougher
Sr. Paralegal
E-mail: Kristen.cocanougher@duke-energy.com

VIA OVERNIGHT DELIVERY

February 14, 2013

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd
Frankfort, KY 40601

RECEIVED

FEB 15 2013

PUBLIC SERVICE
COMMISSION

Re: **Case No. 2012-00495**
**The Application of Duke Energy Kentucky, Inc. For The Annual Cost
Recovery Filing for Demand Side Management**

Dear Mr. Derouen:

Enclosed please find an original and twelve copies of *Duke Energy Kentucky, Inc.'s Responses to Commission Staff's Second Set of Data Requests* in the above captioned case. Also enclosed in the white envelope is one set of the confidential response to Staff-DR-02-001-(b) being filed under seal.

Please date-stamp the two copies of the letter, the Data Request and the Petition and return to me in the enclosed envelope.

Sincerely,

Kristen Cocanougher

cc: Dennis Howard II (w/ enclosures)
Richard Raff (w/ enclosures)
Florence W. Tandy (w/ enclosures)
Carl Melcher (w/ enclosures)

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

In The Matter Of:)
)
THE ANNUAL COST RECOVERY FILING)
FOR DEMAND SIDE MANAGEMENT BY)
DUKE ENERGY KENTUCKY, INC.)

Case No. 2012-495 **RECEIVED**

FEB 15 2013

PUBLIC SERVICE
COMMISSION

**PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION CONTAINED IN ITS
RESPONSE TO COMMISSION STAFF'S SECOND SET OF DATA REQUESTS**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 7, respectfully requests the Commission to classify and protect certain information provided by Duke Energy Kentucky in its response to Staff-DR-02-001(b), as requested by Commission Staff (Staff) in this case on January 31, 2013. The information that Staff seeks in Staff-DR-02-001(b) and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information) shows a contract that includes sensitive information regarding a vendor that currently provides services to Duke Energy Kentucky's regulated utility affiliates in the Carolinas and Ohio.¹ Duke Energy Kentucky is contractually bound to maintain such information confidential.

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). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of that party. Public disclosure of

¹ Data Request No. 1.

the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The public disclosure of the information described in Staff-DR-02-001(b) Attachment contains sensitive information, the disclosure of which would injure Duke Energy Kentucky and its competitive position and business interest. The disclosure of the information described above would place Duke Energy Kentucky at a commercial disadvantage as it 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, this information involves the pricing for the services provided by this vendor. The public disclosure of this information would put this vendor at a competitive disadvantage in that it would allow its direct competitors to have access to pricing and terms and conditions that were negotiated with Duke Energy Business Services LLC. Because this blanket contract involves services being provided in several jurisdictions, the release of this information could potentially harm Duke Energy Kentucky's sister utilities and respective customers as well. Competitors could use this information to manipulate their own prices and put Duke Energy Kentucky or its affiliates at a commercial disadvantage in negotiations for similar services going forward.

3. Duke Energy Kentucky 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.

4. 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.

5. In accordance with the provisions of 807 KAR 5:001 Section 7, the Company is filing with the Commission one copy of the Confidential Material highlighted and ten (10) copies without the confidential information.

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.



Rocco O. D'Ascenzo (92796)

Associate General Counsel

Amy B. Spiller (85309)

Deputy General Counsel

Duke Energy Business Services, LLC

139 East Fourth Street, 1303 Main

Cincinnati, Ohio 45201-0960

Phone: (513) 287-4320

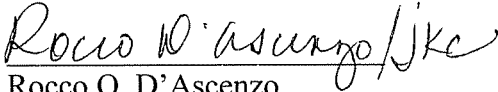
Fax: (513) 287-4385

e-mail: rocco.d'ascenzo@duke-energy.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served on the following via overnight mail, postage prepaid, this 14th day of February 2013:

Larry Cook, Assistant Attorney General The Kentucky Office of the Attorney General 1024 Capital Center Drive Frankfort, Kentucky 40602-2000	Richard Raff Public Service Commission 211 Sower Boulevard Frankfort, Kentucky 40602
Florence W. Tandy Northern Kentucky Community Action Commission P.O. Box 193 Covington, Kentucky 41012	Carl Melcher Northern Kentucky Legal Aid, Inc. 302 Greenup Covington, Kentucky 41011


Rocco O. D'Ascenzo

VERIFICATION

State of North Carolina)
)
County of Mecklenburg) SS:

The undersigned, Eric K. Barradale, being duly sworn, deposes and says that he is the Product Development Manager, that he has supervised the preparation of the responses to the foregoing information requests; and that the matters set forth in the foregoing responses to information requests are true and accurate to the best of his knowledge, information and belief, after reasonable inquiry.

Eric K. Barradale
Eric K. Barradale, Affiant

Subscribed and sworn to before me by Eric K. Barradale on this 8th day of February 2013.

Patricia W. Townsend
NOTARY PUBLIC

My Commission Expires: 6/24/2014

TABLE OF CONTENTS

<u>DATA REQUEST</u>	<u>WITNESS</u>	<u>TAB NO.</u>
STAFF-DR-02-001	N/A.....	1
STAFF-DR-02-002	Rick Mifflin.....	2
STAFF -DR-02-003	Rick Mifflin.....	3
STAFF -DR-02-004	Rick Mifflin.....	4
STAFF -DR-02-005	Eric Barradale.....	5

**Duke Energy Kentucky
Case No. 2012-495
Staff Second Set Data Requests
Date Received: January 31, 2013**

**STAFF-DR-02-001
PUBLIC**

REQUEST:

Refer to Duke Kentucky's response to Commission Staff's First Request for Information ("Staffs First Request"), Item 1 .b., which states that "[t]he vendor selection and program contract were finalized in November 2012 and therefore the program did not launch in 2012 and due to ramp up the anticipated start date of this program is March 2013."

- a. State whether there is a signed contract with an outside vendor for the Low Income Neighborhood Program.
- b. If so, provide a copy of the signed agreement.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET

This response will be provided to all parties in this case upon execution of a Confidentiality Agreement.

PERSON RESPONSIBLE: N/A

Duke Energy Kentucky
Case No. 2012-495
Staff Second Set Data Requests
Date Received: January 31, 2013

STAFF-DR-02-002

REQUEST:

Refer to Duke Kentucky's response to Staffs First Request, Item 2.a., which states:

Duke Energy Kentucky, Inc. (Duke Energy Kentucky) continues to analyze the ability to provide refrigerator replacements to renters. While offering the program to customers in rental units may increase the eligible customer base and assist more income qualified customers, the rental units may negatively impact the energy savings over the life of the refrigerator. There are three scenarios being reviewed:

- i. Renters who own their refrigerator;
- ii. Landlords who own the refrigerator in a rental unit; and
- iii. Landlords who own the refrigerator in Assisted Housing developments.

The renter must be responsible for the payment of the electric utility bill to be eligible for the program. In the case of renters who own their refrigerator, renters often do not remain in a specified location for an extended period of time and may move multiple times over the life of the equipment. The potential movement of the refrigerator complicates tracking and evaluation of the program.

When the landlord owns the refrigerator, an agreement may be required to keep the refrigerator in the same location for some period of time. Qualification for the program is based on the tenant income, so if units are moved between properties it would be difficult to track energy savings over the life of the equipment.

Allowing refrigerator replacement to renters in Assisted Housing developments may be the most beneficial for the program. Duke Energy Kentucky can be certain that all renters will be income qualified and agreements can be made with the landlords to keep the refrigerator in the specified location.

- a. State when Duke Kentucky may consider offering this aspect of the Low Income Refrigerator Replacement Program and explain how it plans to implement this portion of the program
- b. If the landlord owns the refrigerator, state whether Duke Kentucky would require a landlord agreement to ensure that a replacement refrigerator remains in place.
- c. Explain the reasonableness of requiring Duke Kentucky's residential ratepayers to subsidize landlord-owned refrigerators provided to renters in Assisted Housing developments with no financial risk to the landlord, even if the renter's income qualifies the renter for the program.
- d. Identify ownership types of Assisted Housing facilities in which renters may qualify for the Low Income Refrigerator Replacement Program.
- e. Describe how Duke Energy Ohio implements the Low Income Refrigerator Replacement Program for renters in Assisted Housing, and how the Landlord Agreement is administered to ensure replacement refrigerators remain in place.

RESPONSE:

- a. Duke Energy Kentucky may offer refrigerator replacements to renters by the end of the second quarter of 2013. Duke Energy Kentucky will use the current refrigerator replacement vendors to implement the new eligibility standards. All other elements of the program are to remain the same, with the exception of a new tenant/landlord agreement.
- b. If the landlord owns the refrigerator, Duke Energy Kentucky would require a landlord agreement to ensure that the new energy efficient refrigerator remains in the location for an extended period of time. A new agreement would be drafted which either:
 - i. Certifies that the refrigerator is owned by the tenant; or
 - ii. Certifies that the refrigerator is owned by the landlord and will remain with the property for at least three years or as long as the current tenant resides in the location.

Additionally, if the landlord consents to the refrigerator replacement, the landlord must agree that the refrigerator will remain with the property if sold. In order to ensure that the rent does not increase due to energy improvements, landlords must agree to not raise the rental fee for at least eighteen months for the current tenant or conform to the standards of a state or federal rent subsidy program which restricts the amount of rent the owner may charge.

- c. Duke Energy Kentucky and its vendors will collaborate with non-profit owned residences if the landlord-owned refrigerators are permitted to participate in the

program. Not allowing refrigerator replacements in landlord-owned situations and/or requiring landlords to finance the refrigerator replacement has been found to reduce the ability of weatherization programs to install efficient refrigerators. Therefore, the inability to remove inefficient refrigerators and replace them with energy-saving units has resulted in unclaimed energy impacts. Past experience shows that landlords typically replace units when broken or exhausted. Often times, these replacement units are chosen based on cost savings for the landlord and not energy savings for the tenant. Allowing tenants and landlords to participate in the program would guarantee that the refrigerator is replaced with an Energy Star model and would ensure the responsible disposal of the previous unit.

An energy efficient refrigerator ultimately results in energy savings for the low-income customer. Any appliance has a limited useful life. While the refrigerator may be a temporary benefit for the landlord, the energy savings will always benefit the low-income customer which resides in the unit.

- d. Duke Energy Kentucky and its program administrators will work with non-profit owned residences identified by HUD and included on the Weatherization Assistance Program approved list published by the Department of Energy.

- e. Duke Energy Ohio does not currently offer appliance replacements to renters for the refrigerator replacement program approved under the energy efficiency recovery mechanism. However, Duke Energy Ohio is currently considering similar changes to the eligibility requirements.

PERSON RESPONSIBLE: Rick Mifflin

Duke Energy Kentucky
Case No. 2012-495
Staff Second Set Data Requests
Date Received: January 31, 2013

STAFF-DR-02-003

REQUEST:

Refer to Duke Kentucky's response to Staffs First Request, Item 2.c., which states:

The Low Income Refrigerator Replacement Program has piggy-backed with whole-home weatherization programs, sponsored by both Duke Energy Kentucky and the State of Kentucky. Because refrigerator replacement is directly tied to the number of homes, resident selection and metering results from the weatherization programs, the budget for the KY Low Income is not always expended.

If the Low Income Refrigerator Replacement Programs piggy-backed with whole-home weatherization programs and Duke Kentucky is considering renters in Assisted Housing developments, explain whether this would be a financial subsidization, by the Duke Kentucky residential ratepayers, of a weatherization program of an investment property, with no financial risk to the landlord, even if the renter's income qualifies the renter for the program.

RESPONSE:

The replacement of a qualified inefficient refrigerator is a risk free incentive (provided they adhere to the terms of the "Landlord Agreement" for the program) to the landlord. The incentive is designed to remove and recycle the older appliance to ensure that the inefficient electric load is permanently taken off the electrical grid. Many landlords are reluctant to make to make an energy efficient investment that almost entirely benefits the tenant through reduced energy bills and improved operation. Many landlords may be motivated sell the old appliance on the secondary market to offset their investment which means that the load may need to be served at a new location in the future.

Under the program, if implemented, although the landlord does realize the benefit of not having to purchase new or used refrigerator for the property, there is a corresponding benefit to the qualifying low income tenant by way of the longer term energy savings through an efficient appliance that the customer will not otherwise have opportunity to experience. The program will encourage quicker removal, permanent removal and responsible recycling of the old unit.

PERSON RESPONSIBLE: Rick Mifflin

STAFF-DR-02-004

REQUEST:

Refer to Duke Kentucky's response to Staffs First Request, Item 4, which states:

The main factor hindering fulfillment of kit distribution is that participation is limited to Duke Energy households and a majority of teachers are reluctant to participate if kits cannot be offered to all students. Additionally, kit distribution is determined by the number of signed registration forms received by families and some choose not to participate or may have already received a kit.

State whether Duke Kentucky was aware when this program and the theatrical performance portion of the program were proposed that there were students of other nearby electric-energy providers attending schools where Duke Kentucky is promoting its Energy Efficiency Education Program for Schools and that a majority of teachers were reluctant to participate if kits could not be offered to all students.

RESPONSE:

Duke Energy Kentucky was aware that schools have enrolled students that are serviced by other energy suppliers.

The theatrical performance does account for non-Duke students by providing the same curriculum to all students and provides a less expensive energy kit for non-Duke students that complete the energy survey. This program receives student energy survey responses and determines if they are served by Duke Energy Kentucky or not. The appropriate energy kit is sent directly to the qualified student's home without requiring any additional information from the student family.

In an effort to improve teacher adoption for the NEED program, Duke Energy Kentucky has worked with NEED to target schools that have a higher percentage of Duke Energy Kentucky served students enrolled in the school.

PERSON RESPONSIBLE: Rick Mifflin

Duke Energy Kentucky
Case No. 2012-495
Staff Second Set Data Requests
Date Received: January 31, 2013

STAFF-DR-02-005

REQUEST:

Refer to Duke Kentucky's response to Staffs First Request, Item 5, which states:

It is commonly accepted that, over time, building systems do not operate as optimally as they could and will use more energy than they should in order to satisfy occupant comfort and lighting requirements. Duke Energy's proposed Energy Management and Information Services pilot program is a systematic approach to reducing energy usage at qualified commercial or industrial (C&I) customer facilities and persistently maintaining those savings over time.

- a. If this program is designed to address energy used to satisfy occupant comfort and lighting requirements, explain whether the monitoring of energy usage in this pilot will provide the desired results of increased building efficiency as much as it may be a program to change consumption behavior in satisfying occupant comfort and lighting requirements.
- b. The footnote to the response states "[a]n overview of the Energy Management and Information System Pilot Program was presented to the Residential and Commercial and Industrial Collaborative on October 15, 2012." Describe the reaction of members of the Collaborative to this pilot program.

RESPONSE:

- a. The primary desired result of the Energy Management and Information Services (EMIS) pilot program is an increase in building efficiency principally by using existing control equipment more efficiently. The program will add analytical software-as-a-service and energy analyst expertise to existing energy assets to assist building owners in identifying energy anomalies that were largely difficult to find without the program offer. The program will identify low cost changes to control system software (e.g., occupancy schedules, equipment operating schedules and set points in the existing building automation system) and equipment (e.g., sensors, switches, actuators). The customer is responsible for funding and implementing these low cost changes. The EMIS pilot program is not intended to be a behavior-based program from a building occupant

standpoint, although it could be argued that the behavior of the building operations personnel may change as a result of the combination of implementing the software and interacting with the energy analyst.

- b. Collaborative members were generally supportive, accepting or ambivalent to the proposed EMIS pilot program. No opposition to the proposed program was voiced.

PERSON RESPONSIBLE: Eric Barradale