

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION)	
OF THE FUEL ADJUSTMENT CLAUSE)	
OF DUKE ENERGY KENTUCKY, INC.)	CASE NO.
FROM MAY 1, 2015 THROUGH)	2016-00005
OCTOBER 31, 2015)	

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On February 19, 2016, March 11, 2016, March 29, 2016, and May 4, 2016, Duke Energy Kentucky, Inc. ("Duke Energy") filed separate motions, pursuant to 807 KAR 5:001, Section 13, requesting that certain materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection.

In support of its February 19, 2016 motion, Duke Energy states that the information it is requesting to be held confidential is contained in portions of responses to the Commission Staff's ("PSC") First Request for Information, Item Nos. 15, 19, 20, and 27 ("PSC 1-15," "PSC 1-19," "PSC 1-20," "and "PSC 1-27," respectively).

The information is more particularly described as: (PSC 1-15) – concerning confidential fuel policies and procedures including, but not limited to, risk tolerances, and the recommended contract term coverage level strategies, for Duke Energy and Duke Energy's affiliates; (PSC 1-19 and PSC 1-20) – concerning bid tabulations for several coal vendors that responded to written and verbal coal solicitations, and; (PSC 1-27) – calculations and date for determining the amount of power purchases in excess of its highest-cost unit available for dispatch.

Duke Energy states that the information contained in the responses to PSC 1–15, if made public, would place Duke Energy at a commercial disadvantage as it negotiates contracts with various suppliers and vendors and would potentially harm Duke Energy’s competitive position in the marketplace. Duke Energy states that the information contained in the responses to PSC 1–19, and PSC 1-20, if made public, would give other coal suppliers access to each others’ costs, which would put Duke Energy at a detriment, as vendors would know how competing suppliers price their commodities. Duke Energy also states that the information contained in the response to PSC 1–27, if made public, would give potential counterparties who may sell power to Duke Energy access to Duke Energy’s own pricing valuation of its generating assets for purposes of making procurement decisions.

In support of its March 14, 2016 motion, Duke Energy states that the information it is requesting to be held confidential is contained in portions of responses to the Commission Staff’s Second Request for Information, Item No. 2 (“PSC 2–2”). The information is more particularly described as the fuel policies and procedures including, but not limited to, Duke Energy’s calculation of its thermal performance factor coefficient (“TPF”) used to calculate the heat rate at Duke Energy’s Woodsdale Generating Units and the unit heat rates at specific loads. Duke Energy states that the information contained in the responses to PSC 2–2, if made public, would give potential counterparties who may sell power to Duke Energy access to operational characteristics of Duke Energy’s generating assets for purposes of making procurement decisions.

In support of its March 29, 2016 motion, Duke Energy states that the information it is requesting to be held confidential is contained in portions of responses to the

Commission Staff's Third Request for Information Item Nos. 2, 3, 5, and 7 ("PSC 3-2," "PSC 3-3," "PSC 3-5," "and "PSC 3-7," respectively).

The information is more particularly described as: (PSC 3-2) – concerning a transportation contract that is a joint contract for Duke Energy and Duke Energy's sister utilities; (PSC 3-3, PSC 3-5, and, 3-7) – concerning analysis of Woodsdale's hourly output, heat rates at various loadings, detailed costs of operation, including but not limited to periods where the Woodsdale units operated at minimum load, and an analysis of purchased power costs versus Duke Energy's highest cost generation.

Duke Energy states that the information contained in the responses to PSC 3-2, if made public, would place Duke Energy at a competitive disadvantage as it negotiates future transportation contracts and could dissuade Duke Energy's sister utilities from entering into co-negotiating contracts with Duke Energy in order to obtain better pricing. Duke Energy states that the information contained in the responses to PSC 3-3, PSC 3-5, and PSC 3-7, if made public, would give potential counterparties who may sell power to Duke Energy access to operational characteristics of Duke Energy's generating assets for purposes of making procurement decisions.

In support of its May 4, 2016 motion, Duke Energy states that the information it is requesting to be held confidential is contained in portions of responses to the Commission Staff's Post-Hearing Request for Information, Item Nos. 5, 6, 7, and 8 ("PSC 4-5," "PSC 4-6," "PSC 4-7," and "PSC 4-8," respectively).

The information is more particularly described as: (PSC 4-5), (PSC 4-6), and (PSC 4-7) – concerning analysis of Woodsdale's hourly output, heat rates at various loadings, detailed costs of operation, including but not limited to periods where

Woodsdale units operated at minimum load, and analysis of purchased power costs versus Duke Energy's highest cost generation; and (PSC 4–8) – concerning calculations and data for determining the amount of power purchases in excess of an average cost of Duke Energy's Woodsdale units' cost of dispatch.

Duke Energy states that the information contained in the responses to PSC 4–5, PSC 4–6, and PSC 4–7, if made public, would give potential counterparties who may sell power to Duke Energy access to operational characteristics of Duke Energy's generating assets for purposes of making procurement decisions. Duke Energy states that the information contained in the response to PSC 4–8, if made public, would give potential counterparties who may sell power to Duke Energy access to Duke Energy's own pricing valuation of its generating assets for purposes of making procurement decisions. Duke Energy states that public disclosure of PSC 4–5, PSC 4–6, PSC 4–7, and PSC 4–8, would damage Duke Energy's competitive position and business interests as well as those of its sister utilities with respect to the ability to negotiate future transportation contracts. Duke Energy further states that public disclosure of the information contained in PSC 4–5, PSC 4–6, PSC 4–7, and PSC 4–8 would allow counterparties to potentially manipulate the market and undermine Duke Energy's ability to manage its costs.

Having carefully considered the motion and the materials at issue, the Commission finds that:

1. The responses to PSC 1–15, PSC 1–19, PSC 1–20, and the thermal performance calculations on pages 3–4 of the response to PSC 2–2 for which Duke Energy seeks confidential treatment meet the criteria for confidential treatment and are

exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

2. The response to PSC 1–27 does not meet the criteria for confidential treatment pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13, as Duke Energy, since November 2015, has been filing the same information with the Commission in Duke Energy’s monthly fuel adjustment clause (“FAC”) back-up filings, which are open and available to the public pursuant to 807 KAR 5:056, Section 10.

3. The attachments 002(d), 002(g)-A, 002(g)-B, and 002(h) to the response to PSC 2–2 do not meet the criteria for confidential treatment pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13, as Duke Energy, since November 2015, has been filing the same or similar information with the Commission in Duke Energy’s monthly FAC back-up filings, which are open and available to the public pursuant to 807 KAR 5:056, Section 10.

4. The responses to PSC 3–3, PSC 3–5, and PSC 3–7 do not meet the criteria for confidential treatment pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13, as Duke Energy, since November 2015, has been filing the same or similar information with the Commission in Duke Energy’s monthly FAC back-up filings, which are open and available to the public pursuant to 807 KAR 5:056, Section 10.

5. The responses to PSC 4–5, PSC 4–6, PSC 4–7, and PSC 4–8 do not meet the criteria for confidential treatment pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13, as Duke Energy, since November 2015, has been filing the same or similar information with the Commission in Duke Energy’s monthly FAC back-

up filings, which are open and available to the public pursuant to 807 KAR 5:056, Section 10.

IT IS THEREFORE ORDERED that:

1. Duke Energy's motion for confidential protection is hereby granted in part and denied in part.

2. Duke Energy's request for confidential treatment of information relating to the response to PSC 1-27 is denied.

3. Duke Energy's request for confidential treatment of information relating to the attachments 002(d), 002(g)-A, 002(g)-B, and 002(h) to the response to PSC 2-2 is denied.

4. Duke Energy's request for confidential treatment of information relating to the responses to PSC 3-3, PSC 3-5, and PSC 3-7 is denied.

5. Duke Energy's request for confidential treatment of information relating to the responses to PSC 4-5, PSC 4-6, PSC 4-7, and PSC 4-8 is denied.

6. Duke Energy's request for confidential treatment of information relating to the responses to PSC 1-15, PSC 1-19, and PSC 1-20 is granted

7. Duke Energy's request for confidential treatment of information relating to the thermal performance calculations on pages 3-4 of the response to PSC 2-2 is granted.

8. The responses to PSC 1-15, PSC 1-19, PSC 1-20, and the thermal performance calculations on pages 3-4 of the response to PSC 2-2 should not be placed in the public record or made available for public inspection for a period of ten years from the date of this Order, or until further Order from the Commission.

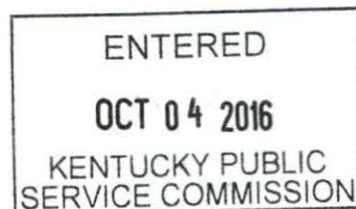
9. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

10. Duke Energy shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.

11. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order, Duke Energy shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Duke Energy is unable to make such demonstration, the requested materials shall be made available for inspection.

12. The Commission shall not make the materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Duke Energy to seek a remedy afforded by law.

By the Commission



ATTEST:



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