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Larisa M. Vaysman
Senior Counsel

VIA ELECTRONIC MAIL: PSCED@ky.gov

November 17, 2022

Ms. Linda Bridwell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

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PUBLIC SERVICE
COMMISSION

Re: Case No. 2022-00289

In the Matter of: Elizabeth L. Eichelberger v. Duke Energy Kentucky, Inc.

Dear Ms. Bridwell:

Duke Energy Kentucky, Inc. hereby submits for electronic filing with the Commission its Answer to the Complaint and Motion to Dismiss in the above-styled case.

In addition, please find Duke Energy Kentucky, Inc.'s Petition for Confidential Treatment. The confidential information will be submitted under seal.

I certify that the electronically filed documents are true and accurate copies of the original documents. The Company will retain the original filing in paper medium as the requirement to file it with the Commission was permanently granted a deviation in Case No. 2020-00085.

Respectfully submitted,

/s/Larisa Vaysman

Larisa M. Vaysman (98944)

Senior Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

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Counsel for Duke Energy Kentucky, Inc.

Enclosures: As stated

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELIZABETH L. EICHELBERGER)	
)	
)	
COMPLAINANT)	Case No. 2022-00289
)	
v.)	
)	
DUKE ENERGY KENTUCKY, INC.)	
)	
DEFENDANT)	

**PETITION OF DUKE ENERGY KENTUCKY, INC. FOR CONFIDENTIAL
TREATMENT OF INFORMATION CONTAINED IN ITS ANSWER**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, respectfully requests the Commission to classify and protect certain information provided by Duke Energy Kentucky in its Answer to Complainant’s Complaint. Specifically, the Company requests confidential treatment for Confidential Exhibit A. The information that Duke Energy Kentucky seeks confidential treatment on generally includes customer account information.

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

2. The information in Confidential Exhibit A contains specific customer account information, including specific energy usage and certain other customer billing information. This information is generally recognized as confidential in the energy industry. To protect the customer identified in these attachments, the Company recommends this information be considered confidential.

3. The Confidential Information is distributed within Duke Energy Kentucky, only to those who must have access for business reasons and is generally recognized as confidential and proprietary in the energy industry.

4. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

5. 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.

6. In accordance with the provisions of 807 KAR 5:001, Section 13(3), the Company is filing one copy of the Confidential Information separately under seal.

7. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure indefinitely to preserve the confidential personal information for customers. Information such as names, and addresses, and specific billing and usage information for the period in question may remain unchanged as long as the individual is a customer of the Company. Therefore, an indefinite preservation of confidential information for this personal identification information is reasonable.

8. 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/ Larisa M. Vaysman

Larisa M. Vaysman (98944)

Senior Counsel

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E-mail: larisa.vaysman@duke-energy.com

Counsel for Duke Energy Kentucky, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing has been emailed to the Kentucky Public Service Commission at PSCED@ky.gov. In addition, a true and accurate copy of the foregoing was placed in the U.S. mail, postage prepaid, on November 17, 2022 addressed to the following:

Elizabeth Eichelberger
6258 Taylor Mill Road
Latonia, KY 41015

/s/Larisa M. Vaysman

Counsel, Duke Energy Kentucky, Inc.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELIZABETH L. EICHELBERGER)	
)	
COMPLAINANT)	Case No. 2022-00289
)	
v.)	
)	
DUKE ENERGY KENTUCKY, INC.)	
)	
DEFENDANT)	

**DUKE ENERGY KENTUCKY, INC.’S ANSWER
AND MOTION TO DISMISS**

Now comes Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by and through counsel, and pursuant to the Kentucky Public Service Commission (Commission)’s November 7, 2022, Order in this matter, does hereby respectfully tender its Answer to the Complaint and respectfully requests that the Complaint be dismissed.

I. INTRODUCTION

1. Elizabeth L. Eichelberger (Complainant) is a customer of Duke Energy Kentucky, for both natural gas and electric service.

2. Complainant participates in the Company’s Annual Plan for Budget Billing, which is described as follows in the Company’s electric tariff:¹

- The Annual Plan provides 11 months of equal payments by using 12 months of customer’s usage, dividing the usage by 11, and using the result to calculate the bill.

¹ KY.P.S.C. Electric No. 2, Sixth Revised Sheet No. 25, pg. 3 (italics added).

- Month 12 is a settle-up month between the billed amounts and customer bills based on actual usage.

- A bill message is sent after 6 months with a suggested new bill amount if the budget bill amounts compared to the actual bill amounts exceeds a Company set threshold; however, Customer must contact Company to change the amount.

- The budget bill amount is changed as needed after the 12 month review.

3. As of January 2022, when Complainant's Budget Bill payment amount was set at \$333.00, Duke Energy Kentucky conducted the Budget Billing 12-month reviews via a coded algorithm, whose application to Complainant is detailed below.

II. ANSWER

In response to the allegations contained in the Complaint, Duke Energy Kentucky states as follows:

4. Duke Energy Kentucky denies the claims that the Company incorrectly billed Elizabeth L. Eichelberger (Complainant) between January 2022 and May 2022.

5. Duke Energy Kentucky admits that Complainant's Budget Bill payment amount was \$217 for the billing period of January 20 to February 18, 2021.

6. Duke Energy Kentucky admits that Complainant's Budget Bill payment amount remained \$217 until and including the billing period of October 18 to November 16, 2021.

7. Duke Energy Kentucky admits that, for the billing period of November 16 to December 17, 2021, Complainant's Budget Bill payment amount was \$246.34.

8. Duke Energy Kentucky admits that, beginning with the billing period of December 17, 2021, to January 20, 2022, and continuing until and including the billing period of August 19, 2022 to September 19, 2022, Complainant's Budget Bill payment amount was \$333.00.

9. Duke Energy Kentucky admits that the total number of kWh used by Complainant between December 17, 2020, and May 19, 2021, was 11,412, and the total number of CCF of gas used by Complainant during the same period was 118.

10. Duke Energy Kentucky admits that the total number of kWh used by Complainant between December 17, 2021, and May 17, 2022, was 10,685, and the total number of CCF of gas used by Complainant during the same period was 140.

11. In accordance with the Commission directive to explain how the Complainant's budget bill was calculated, Duke Energy Kentucky admits that its coded algorithm calculated the \$333.00 Budget Bill payment amount in January 2022 in the following manner:

- a. The algorithm totaled Complainant's gas usage over the 12-month period from December 17, 2020 to December 16, 2021, which totaled to 127 CCF.
- b. The algorithm totaled Complainant's electric usage over the 12-month period from December 17, 2020 to December 16, 2021, which totaled to 22,193 kWh.
- c. The algorithm used January 2022 rates to calculate the amount that Complainant would have been billed for 12 months of usage for 127 CCF and 22,193 kWh.
- d. The algorithm divided the sum of the amounts calculated in (c) by 11, and rounded to the nearest dollar, to generate the \$333.00 Budget Bill payment amount.

12. In accordance with the Commission's directive to provide "supporting documentation for the values used to calculate" the Budget Bill payment amount, the Company attaches Confidential Exhibit A, which depicts an approximation of the real-time calculation that was performed in January 2022. The Company believes that the \$3.00 difference remaining between the Budget Bill amount of \$330.00 depicted in the spreadsheet and Complainant's \$333.00 amount is most likely attributable to variability in the Weather Normalization Adjustment

Rider, which is different for each day based on temperature.² Further, the Company states that Budget Billing customers are tried up periodically for actual consumption, such that even if the Budget Billing payment amount was incorrect, Complainant would ultimately be charged the correct amount for actual consumption. Further, the Company states that, Complainant's Budget Bill payment amount was most recently adjusted in September of 2022 to \$212.00, and is no longer \$333.

13. All averments in the Complaint not expressly and affirmatively admitted herein are hereby expressly denied.

FIRST AFFIRMATIVE DEFENSE

14. The Complaint fails to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

15. At all relevant times, Duke Energy Kentucky has billed Complainant for actual consumption in accordance with rules and regulations of the Kentucky Public Service Commission, Duke Energy Kentucky's filed tariffs, and Kentucky law, including but not limited to 807 KAR 5:006 Section 11, and 807 KAR 5:041.

THIRD AFFIRMATIVE DEFENSE

16. Duke Energy Kentucky respectfully reserves the right to plead any and all additional defenses that discovery may reveal.

III. MOTION TO DISMISS

17. Complainant has failed to state a claim for which relief may be granted and the Complaint should be dismissed with prejudice.

² See generally KY.P.S.C. Gas No. 2, First Revised Sheet No. 65.

WHEREFORE, Duke Energy Kentucky prays that the Complaint be dismissed with prejudice, this case be stricken from the Commission's docket, and Duke Energy Kentucky be granted any and all other relief to which it may be entitled.

Respectfully submitted,

/s/Larisa M. Vaysman

Larisa M. Vaysman (98944)

Senior Counsel

Duke Energy Business Services LLC

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Elizabeth Eichelberger
6258 Taylor Mill Road
Latonia, KY 41015

/s/Larisa M. Vaysman

Counsel, Duke Energy Kentucky, Inc.

VERIFICATION

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned, Michelle Basch, Manager, Consumer Affairs, being duly sworn, deposes and says that she has personal knowledge of the matters set forth in the foregoing answer, and that they are true and correct to the best of her knowledge, information, and belief.

Michelle Basch
Michelle Basch Affiant

Subscribed and sworn to before me by Michelle Basch on this 17 day of November, 2022.

Emilie Sunderman
NOTARY PUBLIC

My Commission Expires: July 8, 2027



EMILIE SUNDERMAN
Notary Public
State of Ohio
My Comm. Expires
July 8, 2027

**CONFIDENTIAL PROPRIETARY TRADE
SECRET**

CONFIDENTIAL EXHIBIT A

FILED UNDER SEAL