

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

A Review of The Adequacy of)
Kentucky's Generation Capacity and) Administrative
Transmission System) Case No. 387

**DUKE ENERGY KENTUCKY, INC.'S
PETITION FOR THE CONFIDENTIAL TREATMENT OF CERTAIN
INFORMATION FILED FOR CALENDAR YEAR 2011**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company) respectfully submits this petition in accordance with 807 KAR 5:001 Section 7, seeking the confidential treatment of certain information filed for calendar year 2011:

1. On October 7, 2005, the Commission issued an Order in this proceeding requiring Duke Energy Kentucky to file responses to Commission's questions in Administrative Case No. 387 within the annual report filed with the Commission. On June 25, 2009, the Commission requested the Company file its annual load/demand forecast separately from its annual report filed with the Commission.

2. The Commission's regulations, in 807 KAR 5:001, provide that any person requesting confidential treatment of any material file a petition setting forth the grounds, pursuant to KRS 61.870 *et seq.*, upon which the Commission should classify that material as confidential.

3. Kentucky Revised Statute § 61.878(1)(c)(1) provides that records confidentially disclosed to an agency or required to be disclosed to the agency be exempt

from Kentucky's open records statutes, KRS 61.870 *et seq.* where the records are generally recognized as confidential or proprietary, and which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

4. Duke Energy Kentucky submits that the following information, if openly disclosed, could present antitrust issues by giving its competitors access to competitively sensitive, confidential information, which in turn could cause energy prices to consumers to be above competitive rates, and would permit competitors of Duke Energy Kentucky to gain an unfair competitive advantage in the marketplace:

- a. Scheduled outages or retirements of generating capacity during the current year and the following four years.

5. The above information, if openly disclosed, would grant competitors a distinct advantage in that they would be able to anticipate Duke Energy Kentucky generation costs. With this information, a competitor could take actions that in the absence of this information it would not take. Such actions might include adjusting its prices, either to win contracts on which Duke Energy Kentucky may also be bidding — business the competitors otherwise would not be in a position to win, or to set its prices artificially high to take advantage of such knowledge, the latter action obviously forcing consumers to pay higher prices for power.

6. The Commission granted confidential protection to this response to this same data request as part of the Company's annual updates in prior years.

7. Pursuant to 807 KAR 5:001 Section 7, Duke Energy Kentucky has attached to this Petition, under seal, one copy of No. eleven (11) of the Responses to the Commission's Information Requests and two copies of No. eleven (11) of the Responses

to the Commission's Information Requests with the confidential material omitted or otherwise redacted.

WHEREFORE, Duke Energy Kentucky respectfully request that the Commission:

1. Accept this Petition for filing;
2. Grant the information delineated herein confidential treatment in accordance with 807 KAR 5:001 Section 7 and KRS 61.870 *et seq.*

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served on the following via
overnight mail, this 29th day of March, 2012:

Kentucky Public Staff
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky, 40601



Rocco D'Asenzo