

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

A Review of The Adequacy of)
Kentucky's Generation Capacity and)
Transmission System)

Administrative
Case No. 387

DUKE ENERGY KENTUCKY, INC.'S
PETITION FOR THE CONFIDENTIAL TREATMENT OF INFORMATION FILED
FOR CALENDAR YEAR 2013

1. 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 responses to Data Request Nos. 6 and 11, as requested by Commission Staff ("Staff"). The information that Staff seeks, and for which Duke Energy Kentucky now seeks confidential treatment ("Confidential Information"), includes the internal, proprietary policies, procedures and guidelines Duke Energy Kentucky has in place with regard to price elasticity estimates used as part of the Company's forecasting process,¹ and planned outage and retirement schedules by plant.² In support of this Motion, Duke Energy Kentucky further 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. 6.
² Data Request No. 11.

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

2. The public disclosure of the Company's internal price elasticity standards, protocols or policies would reveal the information that is, quite obviously, highly sensitive, commercially valuable and strictly proprietary. This information, if disclosed, will reveal Duke Energy Kentucky's underlying assumptions of the energy markets that are used as part of its internal resource planning and pricing estimation processes. The public disclosure of this information would potentially also harm Duke Energy Kentucky's competitive position in the marketplace, to the detriment of Duke Energy Kentucky and its customers in that potential counter parties would have access to Duke Energy Kentucky's underlying resource model and planning assumptions.

3. The above information, if openly disclosed, would grant competitors and vendors a distinct advantage in that they would be able to anticipate Duke Energy Kentucky generation costs and pricing assumptions. With this information, a competitor could take actions that in the absence of this information it would not take. Such competitor 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 allow potential vendor to set its prices artificially high to take advantage of such knowledge, the latter action obviously forcing consumers to pay higher prices for power.

4. Similarly, the list of projected outages, as contained in response to Data Request No. 11, will grant vendors a distinct advantage in that they would be able to anticipate Duke Energy Kentucky's maintenance schedules. 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 information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

6. Duke Energy Kentucky does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to the Attorney General or other intervenors with a legitimate interest in reviewing the same for the purpose of participating in this case.

7. 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 (Ky. 1995).*

8. 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, and ten (10) copies without the confidential information included.

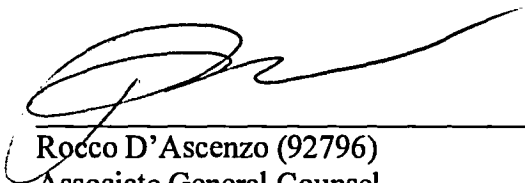
9. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests of the Company or its customers if publicly disclosed.

10. 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,

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 28th day of March 2014:

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



Rocco D'Ascenzo