

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY)	
INDIANA, LLC FOR A DETERMINATION)	
THAT CERTAIN INFORMATION)	
CONTAINED IN THE 2021 DUKE ENERGY)	CAUSE NO. 45654
INDIANA, LLC INTEGRATED RESOURCE)	
PLAN IS CONFIDENTIAL PURSUANT TO)	
INDIANA CODE § 8-1-2-29, INDIANA)	
CODE 5-14-3, AND 170 IAC 4-7-2.1)	

**PETITION OF DUKE ENERGY INDIANA, LLC FOR A DETERMINATION THAT
CERTAIN INFORMATION CONTAINED IN THE
2021 DUKE ENERGY INDIANA, LLC INTEGRATED RESOURCE PLAN
IS CONFIDENTIAL PURSUANT TO
INDIANA CODE § 8-1-2-29 AND INDIANA CODE 5-14-3**

Duke Energy Indiana, LLC (“Duke Energy Indiana” or “Petitioner”), by counsel and pursuant to the provisions of 170 IAC 4-7-2.1, respectfully petitions the Indiana Utility Regulatory Commission (“Commission”) to find that certain information contained in Duke Energy Indiana’s 2021 Integrated Resource Plan (“IRP”) submitted on December 15, 2021, is confidential, proprietary, competitively sensitive, and/or trade secret, and therefore exempt from public disclosure under Indiana Code § 8-1-2-29 and Indiana Code 5-14-3. In support of this Petition, Petitioner represents and shows that:

1. **Petitioner’s Corporate and Regulated Status.** Duke Energy Indiana is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office at Plainfield, Indiana, and is a wholly-owned subsidiary of Duke Energy Indiana Holdco, LLC. Duke Energy Indiana’s mailing and business address is 1000 East Main Street, Plainfield, Indiana 46168. Duke Energy Indiana has the corporate power and authority, among others, to engage, and it is engaged, in the business of supplying electric utility service to the public in the State of Indiana. Accordingly, Duke Energy Indiana is a “public utility” within the meaning of

that term as used in the Indiana Public Service Commission Act, as amended, Indiana Code 8-1-2, and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana, including Indiana Code § 8-1-2-1 *et seq.*

2. **The 2021 Duke Energy Indiana Integrated Resource Plan.** The Commission's rules for Integrated Resource Plans ("IRP"), 170 IAC 4-7-1 *et seq.*, provide for the filing of information contained in a utility's IRP that the utility considers to be proprietary or otherwise confidential in a redacted and non-redacted form under seal. These rules also establish a procedure for determining that such information is confidential, and therefore should be protected. *See* 170 IAC 4-7-2.1 and 170 IAC 1-1.1-4.

3. **The Confidential Information.** Duke Energy Indiana considers some of the information required by the Commission's IRP Rules to be proprietary, confidential, and trade secrets, as that term is used in Indiana Code 5-14-3 (the "Confidential Information"). Whether confidential information is a "trade secret" is determined by the Uniform Trade Secrets Act. "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Ind. Code § 24-2-3-2. That is to say, a trade secret has four (4) characteristics: "(1) information, (2) which derives independent economic value, (3) is not generally known, or readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, and (4) the subject of efforts reasonable under the circumstances to maintain its secrecy." *Hydraulic Exchange and Repair, Inc. v. KM Specialty Pumps, Inc.*, 690 N.E.2d 782, 785-786 (Ind. Ct. App. 1998).

The redacted version of the 2021 Duke Energy Indiana IRP does not include the Confidential Information. Confidential Information is contained in Section IV, in Appendix A, and in Appendix C of Duke Energy Indiana's 2021 IRP, and in supporting data provided to the Commission.

The affidavit of Mr. Scott Park attached hereto as Exhibit A, describes the Confidential Information for which Duke Energy Indiana requests confidential treatment, including but not limited to certain cost estimates and price forecasts, spreadsheet programs, performance data, capital and operating costs, and the reasons therefore.

Some of the Confidential Information contained in the IRP has been supplied by third parties, which they consider confidential and proprietary. The affidavits of third parties supporting the request for confidential treatment are attached as follows: Exhibit B is the affidavit of Norman K. Richardson, Jr. of Anchor Power for confidential treatment of Encompass modeling data; Exhibit C is the affidavit of Greg Turk of Horizons Energy for confidential treatment of a proprietary database for the Encompass modeling software; Exhibit D is the affidavit of Barry W. (Chip) Wood, Jr. of Guidehouse, Inc. for confidential treatment of certain cost projections; Exhibit E is the affidavit of Philippe Frangules of IHS Markit for confidential treatment of certain forecasts of fuel prices, wholesale market prices, emission allowance prices, capacity additions, and related energy market data; and Exhibit F is the affidavit of Kieran McInerney of Burns & McDonnell Engineering Company, Inc. for confidential treatment of certain installed capital cost projections.

The Confidential Information provides actual or potential independent economic value for Duke Energy Indiana, its third party vendors, and its customers and should be treated as confidential. Public disclosure of the Confidential Information could harm Duke Energy Indiana, its third party vendors, and its customers.

Duke Energy Indiana has taken all reasonable steps to limit access to the Confidential Information contained in the IRP to those employees who need to know the information. Petitioner's files containing the proprietary and confidential information are maintained separately from its general records and access to those files is restricted.

Duke Energy Indiana reserves the right to file additional evidence, including affidavits of specific vendors, later in this proceeding.

4. **Requested Relief.** Duke Energy Indiana requests the Commission to conduct a proceeding pursuant to Indiana Code § 8-1-2-29, Indiana Code 5-14-3 and 170 IAC 4-7-2.1 and make a determination that the Confidential Information is proprietary and confidential and should be protected.

5. **Applicable Law.** Duke Energy Indiana considers that Indiana Code § 8-1-2-29 and Indiana Code 5-14-3, among others, are or may be applicable to the subject matter of these proceedings.

6. **Attorneys for Duke Energy Indiana.** The names and addresses of the attorneys for Duke Energy Indiana are Elizabeth A. Heneghan and Melanie D. Price of 1000 East Main Street, Plainfield, Indiana 46168. Ms. Heneghan and Ms. Price are duly authorized to accept service of papers in this Cause on behalf of Duke Energy Indiana.

WHEREFORE, Duke Energy Indiana respectfully requests that the Indiana Utility Regulatory Commission:

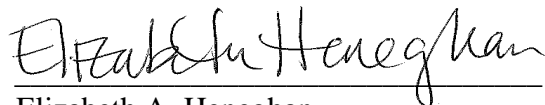
1. Set this matter for pre-hearing conference and hearing, as necessary, in accordance with the rules of the Commission;
2. Make such investigation and hold such hearing as it shall deem necessary and advisable in this proceeding;

3. Enter an Order determining that the Confidential Information is proprietary, confidential, and contains trade secrets that should be treated as proprietary and confidential by the Commission and staff in accordance with Indiana Code § 8-1-2-29 and Indiana Code 5-14-3.

4. Enter such other orders and grant such other relief which may be appropriate in the premises.

DATED this 15th day of December, 2021.

DUKE ENERGY INDIANA, LLC

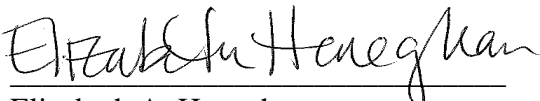
By: 
Elizabeth A. Heneghan

Elizabeth A. Heneghan, Atty. No. 24942-49
Melanie D. Price, Attorney No. 21786-49
Duke Energy Business Services LLC
1000 East Main Street
Plainfield, Indiana 46168
Telephone: (317) 838-1254
Fax: (317) 838-1842
beth.heneghan@duke-energy.com
melanie.price@duke-energy.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition has been served upon the following via electronic mail this 15th day of December, 2021.

Randy Helmen
Office of Utility Consumer Counselor
115 West Washington Street
Suite 1500 South
Indianapolis, Indiana 46204
rhelmen@oucc.in.gov
infomgt@oucc.in.gov


Elizabeth A. Heneghan

Elizabeth A. Heneghan, Atty. No. 24942-49
Melanie D. Price, Attorney No. 21786-49
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melanie.price@duke-energy.com

**AFFIDAVIT OF
SCOTT PARK**

COMES NOW Scott Park, being duly sworn, deposes and says:

1. My name is Scott Park. I am employed as Director IRP and Analytics – Midwest for Duke Energy Business Services, LLC, a service company affiliate of Duke Energy Indiana, LLC (“Duke Energy Indiana”). I am responsible for preparing Duke Energy Indiana’s 2021 Integrated Resource Plan (“IRP”).

2. This Affidavit is being filed with the Indiana Utility Regulatory Commission (“Commission”) in support of the *Petition of Duke Energy Indiana for a Determination that Certain Information Contained in the 2021 Duke Energy Indiana Integrated Resource Plan is Confidential Pursuant to Ind. Code § 8-1-2-29 and Ind. Code 5-14-3.*

3. In developing the 2021 IRP, Duke Energy Indiana used certain confidential and proprietary information and data. Some of this data, as described below, is the confidential information of third parties who take reasonable steps to protect their confidential information, such as only releasing such information subject to confidentiality agreements. Some of the data is the confidential information of Duke Energy. Collectively, this information is referred to herein as the “Confidential Information.”

4. A part of the Confidential Information for which Duke Energy Indiana seeks confidential treatment in this proceeding is the modeling dataset, including the inputs and outputs from our modeling. In developing the 2021 IRP, we used the EnCompass modeling system developed by Anchor Power Solutions, LLC (“Anchor

Power”), which is subject to a Licensing Agreement with Anchor Power. This Licensing Agreement contains confidentiality provisions to protect Anchor Power’s proprietary format of the dataset. See Exhibit B, the Affidavit of Norman K. Richardson, Jr. of Anchor Power to support the requested confidential treatment of information.

5. In developing the 2021 IRP, we used Horizon Energy’s proprietary national database for the EnCompass modeling software, which is subject to a Licensing Agreement with Horizons Energy. This Licensing Agreement contains confidentiality provisions to protect Horizons Energy proprietary format of the dataset. See Exhibit C, the Affidavit of Greg Turk of Horizons Energy to support the requested confidential treatment of information.

6. In developing the 2021 IRP, we used data provided by Guidehouse, Inc. including, among other things, ten year installed capital cost projections regarding solar and energy storage technologies both nationally and within Duke Energy service territories. We agreed to keep such information confidential. See Exhibit D, the Affidavit of Barry W. (Chip) Wood, Jr. of Guidehouse, Inc. to support the requested confidential treatment of information.

7. In developing the 2021 IRP, IHS Markit (“IHS”) provided forecasts of fuel prices. We agreed to keep such information confidential. See Exhibit E, the Affidavit of Philippe Frangules of IHS to support the requested confidential treatment of information.

8. In developing the 2021 IRP, we used data provided by Burns & McDonnell such as installed capital cost projections of natural gas, coal, Combined Heat

and Power (CHP), wind, solar, and energy storage within Duke Energy service territories. We agreed to keep such information confidential. See Exhibit F, the Affidavit of Kieran McInerney of Burns & McDonnell to support the requested confidential treatment of information.

9. In developing the 2021 IRP, we use certain cost estimates, spreadsheet programs and performance data developed internally by Duke Energy Indiana engineers. These estimates, programs and data provide actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. The disclosure of such cost information and performance data would adversely affect Duke Energy Indiana because it would permit third parties to better determine how to price their services and products. Further, the disclosure of the Company's resource costs would provide a disincentive to potential suppliers or vendors to negotiate or competitively bid by allowing potential suppliers or vendors to know what the Company's expectations are with respect to its resources and other costs. Thus, these suppliers or vendors would have the advantage of knowing how to price their bids or negotiate to provide resources. As a result, resource and other costs may not be as low as they might have been had the parties not had unfair access to the information, thus increasing costs to customers. For example, in a bidding process where another party knows the cost of the utility, that information can be used to extract more value from the Company, to the detriment of Duke Energy Indiana, and its customers.

10. In developing the 2021 IRP, we developed cost estimates for renewable based generation based on information received from respondents to our Request for Information. The individual pricing information is confidential business information to

each of the individual respondents, and the composite estimates based upon them as developed by Duke Energy provide actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential. For example, if future bidders, or renewable generation equipment vendors knew the estimated costs and performance expected for renewable generation technology equipment, as developed by Duke Energy Indiana, such bidders or vendors would have an advantage in pricing their future bids and/or such generating equipment, to the detriment of Duke Energy Indiana, and its customers.

11. Duke Energy Indiana also seeks confidential treatment of its internally forecasted fuel prices and emissions data. If fuel suppliers knew Duke Energy Indiana's forecasted fuel prices, by station, such fuel suppliers would have an advantage in negotiating future fuel prices, to the detriment of Duke Energy Indiana, and its customers. If emission allowance brokers or emissions equipment vendors knew Duke Energy Indiana's forecasted emissions, by station, such brokers or vendors would have an advantage in negotiating future emission allowance or emissions control equipment sales, to the detriment of Duke Energy Indiana, and its customers. Furthermore, if competitors of Duke Energy Indiana knew of such forecasts, they would have an advantage in competing for new business against Duke Energy Indiana.

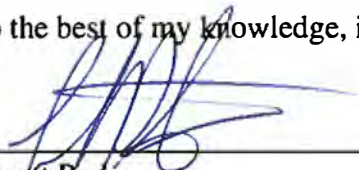
12. All of the information discussed in the previous paragraphs should be considered confidential (referred to as "Confidential Information" in this Motion and related affidavits). This Confidential Information provides actual or potential independent economic value for Duke Energy Indiana and its customers and should be treated as confidential.

13. Duke Energy Indiana takes all reasonable steps in order to protect the Confidential Information, including, but not limited to, only sharing such information internally on a need to know basis, and not releasing such information outside of Duke Energy without appropriate confidentiality protection.

[SIGNATURE PAGE TO FOLLOW]

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations
are true to the best of my knowledge, information and belief.

Signed: 
Scott Park

Dated: 12-15-21

**AFFIDAVIT OF
NORMAN K. RICHARDSON, JR.**

COMES NOW Norman K. Richardson, Jr., being duly sworn, deposes and says:

1. My name is Norman K. Richardson, Jr. I am employed by AnchorPower Solutions, LLC ("Anchor Power") as President.

2. Anchor Power provides a certain state-of-the-art proprietary software, known as EnCompass, to Duke Energy Business Services, LLC pursuant to a Licensing Agreement whereby Duke Energy Business Services, LLC and its subsidiaries would keep such software models and other information confidential.

3. Anchor Power has furnished similar software models and other information to other entities subject to similar agreements requiring such entities to maintain the confidentiality of such software models and information.

4. To the best of my information, knowledge, and belief, such software models and confidential information have not been filed, produced, published or otherwise furnished to third parties without appropriate confidentiality agreements, protective orders, or other appropriate means to protect the confidentiality of such information.

5. Anchor Power derives actual economic value from the licensing and protection of its state-of-the-art software models. In my opinion, such value would be damaged if these software models were made available to the public so that such software models could be used without compensation to Anchor Power, who developed these software models as a strategic part of its business.

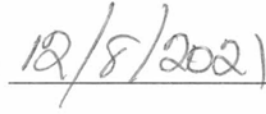
VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed:

A handwritten signature in dark ink, appearing to be "John L. De..." followed by a horizontal line.

Dated:

A handwritten date "12/8/2021" in dark ink, followed by a horizontal line.

AFFIDAVIT OF

COMES NOW Greg Turk, being duly sworn, deposes and says:

1. My name is Greg Turk. I am employed by Horizons Energy as Managing Partner.

2. Horizons Energy provides a proprietary national database for the EnCompass modeling software, incorporating a comprehensive set of assumptions for forecasting energy, ancillary service and capacity markets. Horizons Energy provided such information pursuant to a Licensing Agreement with Duke Energy Business Services, LLC.

3. Horizons Energy provides its national database to other entities subject to similar agreements requiring such entities to maintain the confidentiality of such software models and information.

4. To the best of my information, knowledge and belief such software models and confidential information have not been filed, produced, published or otherwise furnished to third parties without appropriate confidentiality agreements, protective orders, or other appropriate means to protect the confidentiality of such information.

5. Horizons Energy derives actual economic value from the licensing and protection of its national database. In my opinion, such value would be damaged if these software models were made available to the public so that such software models could be used without compensation to Horizons Energy, who developed these software models as a strategic part of its business.

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed: Greg Tunk

Dated: 12/8/2021

**AFFIDAVIT OF
BARRY W. (CHIP) WOOD, JR.**

COMES NOW Barry W. (Chip) Wood, Jr., being duly sworn, deposes and says:

1. My name is Barry W. (Chip) Wood, Jr.. I am employed by Guidehouse Inc. (“Guidehouse”) as a partner in the Energy, Sustainability and Infrastructure practice.

2. Guidehouse has developed certain proprietary information, including among other things ten year installed capital cost projections regarding solar and energy storage technologies both nationally and within Duke Energy service territories (“Proprietary Information”), and provided such information to Duke Energy pursuant to an agreement whereby Duke Energy and its subsidiaries would keep such information confidential.

3. Guidehouse provides similar forecasting information to other entities subject to agreements requiring such entities to maintain the confidentiality of such information.

4. To the best of my information, knowledge and belief, Guidehouse’s standard practice when providing similar data has been to require appropriate confidentiality agreements, protective orders, or other appropriate means to protect the confidentiality of such information.

5. Guidehouse derives economic value from the development and delivery of such Proprietary Information. In my opinion, such value would be damaged if such information were made available to the public so that such information could be used without compensation to Guidehouse who developed such information and receives compensation from clients for such information as a part of its business.

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed: Bary W. Wood Jr

Dated: 12/08/2021

**AFFIDAVIT OF
PHILIPPE FRANGULES**

COMES NOW Philippe Frangules, being duly sworn, deposes and says:

1. My name is Philippe Frangules. I am employed by IHS Markit as commercial head of Power, Gas, Coal, Renewables.
2. IHS Markit provided certain information such as forecasts of fuel prices, wholesale market prices, emission allowance prices, capacity additions, and related energy market data to Duke Energy, pursuant to an agreement whereby Duke Energy and its subsidiaries would keep such information confidential.
3. IHS Markit has furnished similar information to other entities subject to similar agreements requiring such entities to maintain the confidentiality of such information.
4. To the best of my information, knowledge and belief such data has not been filed, produced, published or otherwise furnished to third parties without appropriate confidentiality agreements, protective orders, or other appropriate means to protect the confidentiality of such information.
5. IHS Markit derives actual economic value from the sale and protection of such information. In my opinion, such value would be damaged if such information were made available to the public so that such information could be used without compensation to IHS Markit who developed such information and sells such information as a strategic part of its business.

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed: Philippe Frangules

Dated: December 14, 2021

AFFIDAVIT OF
Kieran McInerney

COMES NOW Kieran McInerney, being duly sworn, deposes and says:

1. My name is Kieran McInerney. I am employed by Burns & McDonnell Engineering Company, Inc. (“Burns & McDonnell”) as Senior Mechanical Engineer.

2. Burns & McDonnell has developed certain proprietary information, such as installed capital cost projections regarding natural gas, coal, Combined Heat and Power, solar, wind and energy storage technologies both nationally and within Duke Energy service territories, and provided such information to Duke Energy pursuant to an agreement whereby Duke Energy and its subsidiaries would keep such information confidential.

3. Burns & McDonnell has furnished similar information to other entities subject to similar agreements requiring such entities to maintain the confidentiality of such information.

4. To the best of my information, knowledge and belief such data has not been filed, produced, published or otherwise furnished to third parties without appropriate confidentiality agreements, protective orders, or other appropriate means to protect the confidentiality of such information.

5. Burns & McDonnell derives economic value from the sale and protection of such information. In my opinion, such value would be damaged if such information were made available to the public so that such information could be used without compensation to Burns & McDonnell who developed such information and sells such information as a part of its business.

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed:

A handwritten signature in black ink, appearing to read "K. H. Khan", with a long horizontal flourish extending to the right.

Dated: 12/14/2021