



139 East Fourth Street
1303-Main
Cincinnati, Ohio 45202
o: 513-287-4320
f: 513-370-5720

Rocco.D'Ascenzo@duke-energy.com
Rocco O. D'Ascenzo
Deputy General Counsel

VIA ELECTRONIC MAIL: PSCED@ky.gov

March 31, 2025

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

RECEIVED

MAR 31 2025

PUBLIC SERVICE
COMMISSION

Re: Case No. 2015-00187

In the Matter of the Application of Duke Energy Kentucky, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Liabilities Associated with Ash Pond Asset Retirement Obligations

Dear Ms. Bridwell:

Pursuant to the December 15, 2015 Order, Paragraph 6 in the above captioned case, Duke Energy Kentucky, Inc. hereby submits its updated ARO calculations reflecting any studies, reports, or changes in other assumptions for the East Bend ARO balance as of December 31, 2024.

In addition, please find a Petition for Confidential Treatment for consideration. The confidential material will be filed under seal.

I certify that the electronically filed documents are true and accurate copies of the original documents and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, no paper copies of this filing will be made.

Respectfully submitted,

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo (92796)

Deputy General Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

Cincinnati, Ohio 45202

Phone: (513) 287-4320

Fax: (513) 370-5720

E-mail: rocco.d'ascenzo@duke-energy.com

Counsel for Duke Energy Kentucky, Inc.

Enclosures: As stated

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY KENTUCKY,)	
INC. FOR AN ORDER APPROVING THE)	CASE NO.
ESTABLISHMENT OF A REGULATORY ASSET)	2015-00187
FOR THE LIABILITIES ASSOCIATED WITH ASH)	
POND ASSET RETIREMENT OBLIGATIONS)	

**PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN THE ATTACHMENT TO ITS ANNUAL REPORT**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to 807 KAR 5:001, Section 13(2), KRS 61.878(1)(c), and other applicable law, moves the Public Service Commission of Kentucky (Commission) to classify and protect certain information provided by Duke Energy Kentucky in the attachment to its Annual Report as requested by Commission Staff (Staff) in this case on December 15, 2015. The information that Staff seeks through the Order and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), shows confidential ARO calculations reflecting assumptions for projected ARO costs on an annual basis related to the East Bend ARO balance.¹

I. MOTION FOR CONFIDENTIAL TREATMENT

a. Statutory Standard

Administrative Regulation 807 KAR 5:110, Section 5 sets forth the procedure by which certain information filed with the Commission shall be treated as confidential.

¹ See Order, Paragraph 6 (December 15, 2015).

Specifically, the party seeking confidential treatment must establish “each basis upon which the petitioner believes the material should be classified as confidential” in accordance with the Kentucky Open Records Act, KRS 61.878. *See* 807 KAR 5:110 Section 5(2)(a)(1).

The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(c)(1) excludes from the Open Records Act:

Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records[.]

This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” Ky. OAG 97-ORD-66 at 10 (Apr. 17, 1997).

KRS 61.878(1)(c)(1) requires the Commission to consider three criteria in determining confidentiality: (1) whether the record is confidentially disclosed to an agency or required by an agency to be disclosed to it; (2) whether the record is generally recognized as confidential or proprietary; and (3) whether the record, if openly disclosed, would present an unfair commercial advantage to competitors of the entity that disclosed the records. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment, each of which is described in further detail below, satisfies each of these three statutory criteria.

b. Attachment for Which Confidential Treatment is Sought

As part of this required annual reporting, Duke Energy Kentucky is providing an attachment which contains projected (future) costs for various closure and compliance costs related to coal combustion residuals act (CCR) compliance. The Company requests that this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1) and additionally requests that the Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

The confidential data is not publicly available, is distributed within Duke Energy Kentucky only to those employees who must have access for business reasons, and is not known outside of Duke Energy Corporation, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. In *Hoy v. Kentucky Indus. Revitalization Auth.*, 907 S.W.2d 766, 768 (Ky. 1995), the Kentucky Supreme Court held that documents detailing the “inner workings of a corporation (are) ‘generally recognized as confidential or proprietary.’” The confidential information includes ARO calculations reflecting assumptions for projected ARO costs on an annual basis and thus, satisfies this standard as it represents the inner workings of a corporation and therefore, meets the second element of the statutory standard.

The confidential information also satisfies the third element, as it contains commercially sensitive information the disclosure of which would provide potential vendors with detailed information regarding what Duke Energy Kentucky anticipates spending in future years to comply with CCR. Releasing this information will put Duke Energy Kentucky at a disadvantage in terms of its ability to negotiate contracts and attempt to manage and reduce costs because counterparties would know what Duke Energy

Kentucky believes it would have to spend.

c. Request for Confidential Treatment

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 impair the interests of the Company if publicly disclosed.

To the extent the Confidential Information becomes 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).

II. CONCLUSION

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.

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo (92796)

Deputy General Counsel

Larisa M. Vaysman (98944)

Associate General Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

Cincinnati, Ohio 45201-0960

(513) 287-4320

(513) 370-5720 (f)

rocco.d'ascenzo@duke-energy.com

larisa.vaysman@duke-energy.com

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on March 31, 2025; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

John G. Horne, II
The Office of the Attorney General
Utility Intervention and Rate Division
700 Capital Avenue, Ste 118
Frankfort, Kentucky 40601
John.Horne@ky.gov

/s/Rocco D'Ascenzo

Counsel for Duke Energy Kentucky, Inc.