

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2024 INTEGRATED RESOURCE	)	CASE NO.
PLAN OF DUKE ENERGY KENTUCKY, INC.	)	2024-00197

ORDER

This matter comes before the Commission on 13 petitions for confidential treatment filed by Duke Energy Kentucky, Inc. (Duke Kentucky). On June 21, 2024, Duke Kentucky filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for information redacted from its Integrated Resource Plan (IRP) and for an indefinite period for Critical Energy Infrastructure Information redacted from its IRP.

On September 4, 2024, Duke Kentucky filed two petitions, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for its responses to Kentucky Solar Energy Society, Kentuckians for the Commonwealth, and Kentucky Resources Council's (jointly, Joint Intervenor) First Request for Information (Joint Intervenor's First Request), Items 2 (Attachment 2), 13, 21(a) (Attachment), 39 (Attachments 1-2), and 45 (Attachment); and Commission Staff's First Request for Information, Item 5(a).

On September 23, 2024, Duke Kentucky filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for information provided in its response to Sierra Club's First Request for Information (Sierra Club's First Request), Item 3 (Attachments 1-99).

On October 16, 2024, Duke Kentucky filed four petitions, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for its responses to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention's (Attorney General) Second Request for Information (Attorney General's Second Request), Item 5 (Attachment); Joint Intervenor's Second Request for Information (Joint Intervenor's Second Request), Item 3; Commission Staff's Second Request for Information (Staff's Second Request), Items 1 and 8(a-b) (Attachment); and Sierra Club's Second Request for Information (Sierra Club's Second Request), Items 2 (Attachment), 3(b) (Attachment), 4 (Attachment), and 6 (Attachments 1-2).

On November 27, 2024, Duke Kentucky filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for redactions from its reply comments filed the same date.

On December 4, 2024, Duke Kentucky filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for its supplemental response to Sierra Club's Second Request, Item 6 (Attachment 1).

On January 17, 2025, Duke Kentucky filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for its responses to Sierra Club's Post-Hearing Request for Information (Sierra Club's Post-Hearing Request), Item 1 (Attachment 1).

On January 21, 2025, Duke Kentucky filed two petitions, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential

protection for ten years for its responses to Joint Intervenors' Post-Hearing Request for Information (Joint Intervenors' Post-Hearing Request), Item 7 (Attachment); and Commission Staff's Post-Hearing Request for Information (Staff's Post-Hearing Request), Item 8.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."¹ Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

In support of its motion, Duke Kentucky argued for the application of KRS 61.878(1)(c)(1), which provides an exception to the requirement for public disclosure for records that are "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," and KRS 61.878(1)(m), which exempts "[p]ublic records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act"⁴ The exemption is limited to certain types of records, including:

Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public

¹ KRS 61.872(1).

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

⁴ KRS 61.878(1)(m)(1).

utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems.⁵

A terrorist act is defined as including a criminal act intended to “[d]isrupt a system” identified in the above.⁶

JUNE 21, 2024 PETITION

Duke Kentucky redacted from its IRP information in Figures 3.15, 3.16, 4.1 and 4.2 as well as Tables B.2, B.3, B.4, B.5, B.6, B.7, B.8, H.2, H.4, and H.5, arguing that they include various forecasts of power prices, facility operations, and fuel consumption and would place Duke Kentucky at a competitive disadvantage if disclosed because competitors, potential counterparties, and vendors would gain a competitive advantage. Duke Kentucky also redacted a transmission map included in Appendix A to the IRP, asserting that disclosure would have a reasonable likelihood of threatening public safety by exposing system vulnerability that could be exploited through terrorist acts and requested confidential treatment under KRS 61.878(1)(m).

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky’s June 21, 2024 petition should be granted. The Commission finds that the designated material contained in Duke Kentucky’s petition are records that meet the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13, with the

⁵ KRS 61.878(1)(m)(1)(f).

⁶ KRS 61.878(1)(m)(2)(b).

exception of the transmission map contained in IRP Appendix A, which should be exempted indefinitely pursuant to KRS 61.878(1)(m).

SEPTEMBER 4, 2024 PETITIONS

Duke Kentucky's response to Joint Intervenors' First Request, Item 3 (Attachment 2), consisted of generation unit operating characteristics data and costs and Duke Kentucky argued that release of this information would adversely affect its position in the competitive energy markets. The response to Item 13 included information and analyses relating to solar power and battery storage forecast factors and third-party capital cost projections for these resources. Duke Kentucky argued that this constitutes details about the inner workings of the company and would result in a commercial disadvantage for Duke Kentucky as competitors would gain invaluable insight into Duke Kentucky's financial valuation of resources and outlook. Duke Kentucky's response to 21(a) (Attachment) included data and coefficients for calculation of discount and inflation rates and forecast model, which it claims should remain confidential because if this information is publicly released, competitors would have access to financial work and ideas developed by Duke Kentucky. The response to Item 39 (Attachments 1-2) included information relating to the costs, cost-effectiveness, estimated savings of demand-side management programs, which Duke Kentucky asserted should not be disclosed because the information and formulas relating to how these programs are evaluated is proprietary and competitors could use Duke Kentucky's work product. Duke Kentucky's response to Item 45 (Attachment) included pricing for resources that were bid into a request for proposals that was issued in an affiliate utility's jurisdiction. Duke Kentucky argued that

disclosure of this information would result in a commercial disadvantage and could violate its agreement with the third-party to maintain the confidentiality of the information.

Duke Kentucky's response to Commission Staff's First Request for Information, Item 5(a), consisted of generation unit operating characteristics data and costs and Duke Kentucky argued that release of this information would adversely affect its position in the competitive energy markets.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's September 4, 2024 petitions should be granted. The Commission finds that the designated material contained in Duke Kentucky's petition are records that meet the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

SEPTEMBER 23, 2024 PETITION

Duke Kentucky's response to Sierra Club's First Request, Item 3 (Attachments 1-99) consisted of modeling workpapers, including inputs and outputs. Duke Kentucky argued that these files depict the competitiveness of individual generating units, and how these plants are projected and forecasted to perform under numerous market conditions and scenarios—that the inputs could be used by competitors to assess how Duke Kentucky might operate its generation in the future, while the outputs depict how it will likely operate those resources.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's September 23, 2024 petition should be granted. The Commission finds that the designated material contained in Duke Kentucky's petition are records that meet

the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

OCTOBER 16, 2024 PETITIONS

Duke Kentucky's response to the Attorney General's Second Request, Item 5 (Attachment) includes forecasted peaks, reserve margins, and equivalent forced outage rates, which Duke Kentucky argued should be exempt from disclosure because it would result in a commercial disadvantage as it negotiates contracts with various suppliers and vendors and potentially harm Duke Kentucky's competitive position in the marketplace.

Duke Kentucky's response to Joint Intervenor's Second Request, Item 3, includes assumed operational characteristics of East Bend under a conversion to dual fuel including estimated fuel, operational cost projections, counterparties for construction of a future project, projected construction costs, assumed projected fuel consumption, and other modeling assumption, which Duke Kentucky argued should be exempt from disclosure because it contains commercially sensitive information related to financial projections and business strategy, which if disclosed would result in a commercial disadvantage as competitors would gain invaluable insight into Duke Kentucky's financial outlook, estimated costs of operation and executing its strategy, making the ability to achieve those cost projections or even improve upon them difficult.

Duke Kentucky's response to Staff's Second Request, Item 1 (Attachment) consists of a slideshow comparing the PJM Fixed Resource Requirement model with the Reliability Pricing Model. Duke Kentucky claimed that this document contained sensitive operational data and risk assessments related to the generating units that if released would adversely affect Duke Kentucky's position in the competitive energy markets.

Item 8(a-b) is a third-party study regarding resource modeling—Duke Kentucky argued that this should remain confidential because disclosure of this information would result in a commercial disadvantage and could violate its agreement with the third-party to maintain the confidentiality of the information.

Duke Kentucky's response to Sierra Club's Second Request, Items 2 (Attachment), 3(b) (Attachment), 4 (Attachment), and 6 (Attachments 1-2) included estimated operational costs for East Bend dual fuel conversion, and operational cost modeling data for different resource options. Duke Kentucky argued that this information should remain confidential because disclosure would result in a competitive disadvantage, as competitors would have access to the operations of Duke Kentucky's generating units and the work and ideas developed by Duke Kentucky.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's October 16, 2024 petitions should be granted. The Commission finds that the designated material contained in Duke Kentucky's petition are records that meet the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

NOVEMBER 27, 2024 PETITION

Duke Kentucky redacted portions of its November 27, 2024 reply comments pertaining to factors affecting the commit status of East Bend Unit 2. Duke Kentucky argued that this information should not be disclosed because it would give power market competitors insight into Duke Kentucky's cost and pricing calculations, which would give those competitors an unfair advantage.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's November 27, 2024 petition should be granted. The Commission finds that the designated material contained in Duke Kentucky's petition are records that meet the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

DECEMBER 4, 2024 PETITION

Duke Kentucky's supplemental response to Sierra Club's Second Request, Item 1 (Attachment 1), includes forecasted fuel and reagent cost information, which Duke Kentucky argued should remain confidential because disclosure would give vendors and suppliers advantage in any contractual negotiations, disadvantaging Duke Kentucky compared to competitors.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's December 4, 2024 petition should be granted. The Commission finds that the designated material contained in Duke Kentucky's petition are records that meet the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

JANUARY 17, 2025 PETITION

Duke Kentucky's response to Sierra Club's Post-Hearing Request, Item 1 (Attachment 1) consisted of natural gas price forecasts. Duke Kentucky argued this information should not be disclosed publicly because it would disadvantage Duke Kentucky in negotiating contracts with various suppliers and vendors.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's January 17, 2025 petition should be granted. The Commission finds

that the designated material contained in Duke Kentucky's petition are records that meet the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

JANUARY 21, 2025 PETITIONS

Duke Kentucky's response to Joint Intervenors' Post-Hearing Request, Item 7 (Attachment), consisted of a demand-side management avoided cost projections. Duke Kentucky argued this should be exempt from disclosure because prospective vendors would gain invaluable insight into Duke Kentucky's avoided costs and therefore could gain an advantage in future contract negotiations.

Duke Kentucky's response to Staff's Post-Hearing Request, Item 8, includes redactions of usage information of a customer. Duke Kentucky asserted that this information should be confidential because the information was provided to Duke Kentucky in confidence and disclosure could result in both vendors and competitors of the customer using the information to gain an unfair advantage.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's January 21, 2025 petitions should be granted. The Commission finds that the designated material contained in Duke Kentucky's petition are records that meet the criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's June 21, 2024, September 4, 2024, September 23, 2024, October 16, 2024, November 27, 2024, December 4, 2024, January 17, 2025, and January 21, 2025 petitions for confidential treatment are granted.

2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years, except for the transmission map contained in IRP Appendix A, which should not be placed in the public record or made available for public inspection for an indefinite period or until further order of this Commission.

3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Duke Kentucky shall inform the Commission and file with the Commission an unredacted copy of the designated material.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Duke Kentucky shall have 20 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Duke Kentucky is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

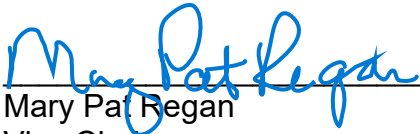
6. The Commission shall not make the requested material for which confidential treatment was granted available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Duke Kentucky to seek a remedy afforded by law.

Entered on this 28th day of July, 2026.

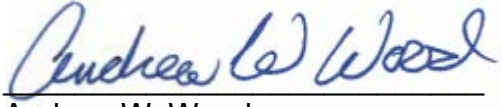
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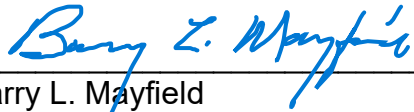
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