

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC ALLEGED FAILURE OF DUKE)	CASE NO.
ENERGY KENTUCKY, INC. TO COMPLY WITH)	2024-00114
KRS 278.160(2))	

PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY KENTUCKY, INC. FOR AN ATTACHMENT TO THE STAFF OF THE PUBLIC SERVICE COMMISSION’S AUGUST 9, 2024 FIRST REQUEST FOR INFORMATION

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 as an attachment to its Response to Commission Staff’s (Staff) First Request for Information issued on August 9, 2024. The information Staff seeks and for which Duke Energy Kentucky now seeks confidential treatment is contained in STAFF-DR-01-003(c) Confidential Attachment (Confidential Information). The information for Duke Energy Kentucky seeks confidential treatment includes the names of active budget billing customers, as well as information pertaining to their participation in budget billing.

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain information pursuant to KRS 61.878(1)(a). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that the records in question “containing information of a personal nature where the public disclosure thereof

would constitute a clearly unwarranted invasion of personal privacy.” The Commission has previously held that, under this provision, residents have an expectation of privacy in regard to information that relates directly to service at specific homes.¹ The information identified herein qualifies for confidential treatment under KRS 61.878(1)(a) for the reasons set forth below.

2. STAFF-DR-01-003(c) Confidential Attachment contains individual customer information, including the names and budget billing participation history of individual customers of Duke Energy Kentucky. The Company requests that this Confidential Information be afforded confidential treatment pursuant to KRS 61.878(1)(a), and additionally requests that STAFF-DR-01-003(c) Confidential Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

3. The Confidential Information is distributed within Duke Energy Kentucky, only to those who must have access for business reasons and is generally recognized as confidential and proprietary in the energy industry.

4. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation. Individual customers have a reasonable expectation that their individual names and budget billing participation history not be publicly shared and would likely not anticipate such sharing. Publicly disclosing this information could result in customers feeling that their privacy was invaded and in customers receiving unwanted solicitations and/or comments. Furthermore,

¹ See *In the Matter of Electronic Application of Duke Energy Kentucky, Inc. for Approval of a Special Contract and for Waiver of 807 KAR 5:041, Section 6(2)(C)*, Case No. 2021-00192, Order, pp. 1-2 (August 9, 2022); see also *In the Matter of Electronic Application of Duke Energy Kentucky, Inc. for an Adjustment to Rider NM Rates and for Tariff Approval*, Case No. 2023-00413, Order (June 14, 2024) (granting confidential treatment to an attachment containing individual names, addresses, and net metering status of customers).

treating this information as confidential is appropriate and consistent with the goal of KRS 61.878(1)(a) and with the customers' likely expectations.

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

6. Furthermore, 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*, 904 S.W.2d 766, 768 (Ky. 1995).

7. 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 one copy without the confidential information included.

8. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure indefinitely to preserve as confidential the personal information of customers. Information such as names and budget billing status may remain unchanged as long as the individual is a customer of the Company. Therefore, an indefinite preservation of confidential information for this personal information is reasonable.

9. 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 Confidential Information described herein.

Respectfully submitted,

/s/Larisa M. Vaysman

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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 August 23rd, 2024; and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/Larisa M. Vaysman

Counsel for Duke Energy Kentucky, Inc.