

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

|  |            |
|--|------------|
| THE ELECTRONIC APPLICATION OF DUKE )   |            |
| ENERGY KENTUCKY, INC., FOR: 1) AN )    |            |
| ADJUSTMENT OF THE ELECTRIC RATES; 2) ) | CASE NO.   |
| APPROVAL OF NEW TARIFFS; 3) APPROVAL ) | 2024-00354 |
| OF ACCOUNTING PRACTICES TO ESTABLISH ) |            |
| REGULATORY ASSETS AND LIABILITIES; )   |            |
| AND 4) ALL OTHER REQUIRED APPROVALS )  |            |
| AND RELIEF.                            |            |

---

**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY  
KENTUCKY, INC. FOR CERTAIN RESPONSES TO THE STAFF OF THE  
PUBLIC SERVICE COMMISSION’S JANUARY 8, 2025  
SECOND REQUEST FOR INFORMATION**

---

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), by counsel, pursuant to 807 KAR 5:001, Section 13(2), KRS 61.878(1)(c), and other applicable law, respectfully moves the Public Service Commission of Kentucky (Commission) for an Order granting confidential treatment to the identified portions of the following responses and attachments filed in its responses to Commission Staff’s (Staff) Second Request for Information issued on January 8, 2025:

- (1) STAFF-DR-02-005(d) Confidential Attachment;
- (2) STAFF-DR-02-006 Confidential Attachment;
- (3) STAFF-DR-02-014 Confidential Attachment; and
- (4) Confidential highlighted response to STAFF-DR-02-016.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes

detailed information pertaining to the calculation of forecasted long term debt rates for debut issuances, peak load forecasting detail, capacity purchase details, confidential customer and load information, and other information.

## **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. 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 documents 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. Responses and Attachments for Which Confidential Treatment is Sought**

**i. STAFF-DR-02-005(d) Confidential Attachment;**

Staff Request No. 02-005 states as follows:

Refer to the Direct Testimony of Thomas J. Heath, Jr. (Heath Direct Testimony), page 20, lines 2-4, and Schedules J-2 and J-3.

- a. Explain the Bloomberg implied forward curve.
- b. If alternative forecasted rates could have been used, explain why they were not utilized.
- c. Explain the addition of a 25-basis point credit spread to the interest rate for the forecast period of long term commercial paper. Include in the response why this addition is appropriate.
- d. For the expected \$150 million and \$175 million debt issuances, explain the appropriateness of using a weighted average of the 5-year, 10-year, and 15-year U.S. Treasury yield and the respective added basis point credit spreads. Include in the response how each respective adder was derived.

In response to Staff Request No. 02-005 Duke Energy Kentucky provides detail of how the Company calculated the forecasted long term debt rate for the expected \$150 million and \$175 million debt issuances, comparing the actual credit spreads on each of Duke Energy Kentucky's last three debt issuances to indicative credit spreads for Piedmont Natural Gas near the date of the Company's debt issuances. The detail provided in STAFF-DR-02-005(d) Confidential Attachment is not publicly reported, and Duke Energy

Kentucky is not required to do so, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The information also satisfies the second element of the standard as it contains detailed information regarding the Company's calculation of forecasted debt costs. STAFF-DR-02-005(d) Confidential Attachment satisfies the third element because if this information were to become publicly available, competitors and potential lenders would have access to information that would place the Company at a significant disadvantage. Finally, the Commission has previously granted confidential treatment of this information in prior proceedings.<sup>1</sup>

**ii. STAFF-DR-02-006 Confidential Attachment**

Staff Request No. 02-006 requests the following information:

Provide a table showing Duke Kentucky's internal peak load forecast for system planning purposes, the Duke Kentucky PJM Interconnection, L.L.C. (PJM) load obligations separating out the peak coincidence factors and system reserve requirements for the current and previous three years and any forecasts for which a comparison is possible.

In response to Staff Request No. 02-006, Duke Energy Kentucky provides Duke Kentucky's internal peak load forecast for system planning, the Duke Kentucky PJM Interconnection, L.L.C. (PJM) load obligations separating out the peak coincidence factors and system reserve requirements. The Company requests the Confidential Attachment to STAFF-DR-02-006 be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).

The information contained in STAFF-DR-02-006 Confidential Attachment is not publicly reported, and Duke Energy Kentucky is not required to do so, thus satisfying the

---

<sup>1</sup> *In the Matter of the Electronic Application of Duke Energy Kentucky, Inc., for 1) An Adjustment of the Natural Gas Rates; 2) Approval of New Tariffs; and 3) All Other Required Approvals, Waivers, and Relief*, Case No. 2021-00190, Order (Apr. 14, 2022) (granting confidential treatment of forecasted debt calculations).

first element of the statutory standard for confidentiality of a proprietary record. The attachment also satisfies the second element of the standard, as forecasted load and capacity information is generally recognized as confidential and proprietary and the Commission has previously granted confidential treatment such information in prior proceedings.<sup>2</sup> The information also satisfies the third element because public disclosure of the information would allow commercial counterparties to derive information about the specific need and market position of Duke Energy Kentucky, and such counterparties could increase the price of their offers to Duke Energy Kentucky, resulting in higher rates charged to customers. Public disclosure of the Confidential Information would reveal detailed and competitively sensitive information. STAFF-DR-02-006 Confidential Attachment should therefore be treated as confidential and protected accordingly.

The Company requests that STAFF-DR-02-006 Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests the Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

**iii. STAFF-DR-02-014 Confidential Attachment;**

Staff Request No. 02-014 states as follows:

Refer to the Kalemba Direct Testimony, page 8, lines 9-13. Refer also to Case No. 2024-00197, Table H.3, page 153. Table H.3 shows Duke Kentucky having excess capacity in both summer and winter periods. Provide the number of short term capacity purchases seasonally for the years 2020-2024 and explain the reasons for the capacity purchases.

---

<sup>2</sup> *In the Matter of the Electronic Application of Kentucky Power Company for (1) a General Adjustment of its Rates for Electric Service, (2) Approval of Tariffs and Riders, (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities, (4) A Securitization Financing Order, and (5) All Other Required Approvals and Relief, Case No. 2023-00159, Order (Nov. 27, 2023) (granting confidential treatment of projected on- and off-peak load and capacity information).*

In response to Staff Request No. 02-014, Duke Energy Kentucky is providing STAFF-DR-02-014 Confidential Attachment, which is a listing of capacity purchases entered into during the delivery years spanning 2020-2024. The information contained in STAFF-DR-02-014 Confidential Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. STAFF-DR-02-014 Confidential Attachment satisfies the second element of the standard, as this information is highly confidential and proprietary to the Company. This information, if disclosed, would give other suppliers and takers in the capacity market information which would be valuable for assessing the purchase and sales strategy of Duke Energy Kentucky including specific transactions that demonstrate the Company's capacity position. With such information, third parties would have a superior bargaining position in any bilateral capacity purchase or sale negotiations. The Commission afforded similar information confidential treatment in Case No. 2017-00321 by Order dated May 3, 2018.<sup>3</sup>

The Company requests that STAFF-DR-02-014 Confidential 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 5:001E, Section 13(2)(a)(3)(b).

**iv. Confidential highlighted response to STAFF-DR-02-016;**

Staff Request No. 02-016 states as follows:

Refer to the Direct Testimony of Ibrar A. Khera (Khera Direct Testimony), page 7, lines 1-4. Identify this customer and the projected load.

---

<sup>3</sup> *In the Matter of Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities, and 5) All Other Required Approvals and Relief*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018).

In response to Staff Request No. 02-016, Duke Energy Kentucky is providing the identity of the customer and projected load information.

Duke Energy Kentucky's response to STAFF-DR-02-016 is proprietary in nature and not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The information in the response to STAFF-DR-02-016 satisfies the second element of the standard as it contains sensitive customer information and customer load information. The Commission has previously granted confidential treatment of such information.<sup>4</sup> The response also satisfies the third element. Duke Energy Kentucky uses the projected customer load information to better plan for resource needs and if planned additions were disclosed, customers would be reluctant to share such information in the future, which harm the Company's ability to properly meet customer needs. Further, if this information were to become publicly available, competitors would have access to information that would place the Company and its customers at a significant disadvantage and potentially discouraging companies from locating or expanding in Duke Energy Kentucky's territory.

The Company requests that its highlighted response to STAFF-DR-02-016 be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that the response be treated as confidential in its entirety pursuant to 807 KAR 5:001E, Section 13(2)(a)(3)(b).

---

<sup>4</sup> See *In the Matter of the Electronic Application of Kentucky Power Company for Approval of a Special Contract with Ebon International, LLC*, Case No. 2022-00387, Order (Jul. 21, 2023) (granting confidential treatment for customer's projected load); *In the Matter of the Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order (Oct. 20, 2015) (granting confidential treatment of customer load information).

### **c. Request for Confidential Treatment**

The Kentucky Open Records Act exempts from disclosure information that, due to its confidential and proprietary nature, would permit “an unfair commercial advantage to competitors of the entity that disclosed the records” if openly disclosed.<sup>5</sup> The Confidential Information was, and remains, integral to Duke Energy Kentucky’s effective execution of business decisions. Indeed, as the Kentucky Supreme Court has found, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary.’”<sup>6</sup> The information for which Duke Energy Kentucky is seeking confidential treatment was either developed internally, or acquired on a proprietary basis, by Duke Energy Corporation and Duke Energy Kentucky personnel, is not on file publicly with any public agency, and is not publicly available from any commercial or other source. The aforementioned information is distributed within Duke Energy Kentucky only to those employees who must have access for business reasons, and is generally recognized as confidential and proprietary in the utility industry.

Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of twenty 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 if publicly disclosed.

To the extent the Confidential Information becomes generally available to the public, whether through filings required by other agencies or otherwise, Duke Energy

---

<sup>5</sup> See KRS 61.878(1)(c)1.

<sup>6</sup> *Hoy v. Kentucky Industrial Revitalization Authority*, Ky., 907 S.W.2d 766, 768 (Ky. 1995).



Kentucky will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10)(a).

Duke Energy Kentucky does not object to limited disclosure of the Confidential Information pursuant to an acceptable protective agreement entered into with any intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

In accordance with the provisions of 807 KAR 5:001, Section 13(2)(e), the Company is filing one copy of the Confidential Information separately under seal, and the appropriate number of copies with the Confidential Information redacted.

## **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

Cincinnati, OH 45202

Phone: (513) 287-4320

Fax: (513) 370-5720

Rocco.D'Ascenzo@duke-energy.com

Larisa.Vaysman@duke-energy.com

And

Elizabeth M. Brama, *Pro Hac Vice*

Valerie T. Herring (99361)

TAFT STETTINIUS & HOLLISTER LLP

2200 IDS Center

80 South Eighth Street

Minneapolis, MN 55402

Phone: (612) 977-8400

Fax: (612) 977-8650

*Counsel for Duke Energy Kentucky, Inc.*

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing electronic filing is a true and accurate copy of the document in paper medium; that the electronic filing was transmitted to the Commission on January 22, 2025; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that submitting the original filing to the Commission in paper medium is no longer required as it has been granted a permanent deviation.<sup>7</sup>

/s/Rocco D'Ascenzo  
*Counsel for Duke Energy Kentucky, Inc.*

---

<sup>7</sup> *In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Order, Case No. 2020-00085 (Ky. P.S.C. July 22, 2021).