

**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 NATURAL GAS RATES;	)	CASE NO.
2) APPROVAL OF NEW TARIFFS; AND 3) ALL	)	2025-00125
OTHER REQUIRED APPROVALS, WAIVERS,	)	
AND RELIEF.	)	

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**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY  
KENTUCKY, INC. FOR CERTAIN RESPONSES TO THE STAFF OF THE  
PUBLIC SERVICE COMMISSION’S JULY 1, 2025  
SECOND REQUEST FOR INFORMATION**

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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 July 1, 2025:

- (1) STAFF-DR-02-007 Confidential Attachment;
- (2) STAFF-DR-02-009 Confidential Attachment;
- (3) STAFF-DR-02-010 Confidential Attachment;
- (4) STAFF-DR-02-013 Confidential Attachments 3, 7, 8, and 9; and,
- (5) STAFF-DR-02-025 Confidential Attachment.

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 contracts with outside vendors, analysis and reports prepared by third-party vendors that are subject to confidentiality provisions that restrict the Company from providing this information publicly, and confidential and proprietary information and analysis related to the Company's natural gas system.

## **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. Attachments for Which Confidential Treatment is Sought**

**i. STAFF-DR-02-007 Confidential Attachment;**

Staff Request No. 02-007 states as follows:

Refer to Sailers Direct Testimony, Confidential Attachment BLS-3.  
Provide support for the contracted reconnection rate.

In response to Staff Request No. 02-007, Duke Energy Kentucky is providing as an attachment, STAFF-DR-02-007, a copy of its current contract with its third-party vendor that provides reconnection services to the Company. This contract is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is met as such contracts are generally considered confidential as they contain proprietary pricing information and negotiated contract terms and conditions that are maintained as confidential between the two contracting parties. The third element is satisfied as public disclosure of this contract would place the Company at a disadvantage in future negotiations as potential vendors would have access to what the Company currently pays or expects to pay for such services. Moreover, vendors would be

less willing to negotiate with the Company out of fear of their sensitive and competitive pricing and contractual terms would be made public.

The Company requests that STAFF-DR-02-007 Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

**ii. STAFF-DR-02-009 Confidential Attachment;**

Staff Request No. 02-009 requests the following information:

Provide a copy of Duke Kentucky's Transmission Integrity Management Program (TIMP).

In response to Staff Request No. 02-009, Duke Energy Kentucky is providing, as STAFF-DR-02-009 Confidential Attachment, a copy of its current TIMP. The Company's TIMP 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 TIMP also satisfies the second element of the standard because the TIMP contains detailed information about the Company's natural gas system including pipe materials and locations, known system vulnerabilities, and the Company's risk analysis and mitigation measures. This type of information is generally recognized as confidential and proprietary. The attachment also satisfies the third element because public disclosure would harm Duke Energy Kentucky as competitors would have insight into the Company's proprietary risk analysis of its natural gas system. In addition, public disclosure of this information could pose security risks as bad actors could use it to target weaknesses in the Company's natural gas system.

The Company requests that STAFF-DR-02-009 Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

**iii. STAFF-DR-02-010 Confidential Attachment;**

Staff Request No. 02-010 states as follows:

Provide a copy of Duke Kentucky's Distribution Integrity Management Program (DIMP).

In response to Staff Request No. 02-010, Duke Energy Kentucky is providing, as STAFF-DR-02-010 Confidential Attachment, a copy of its current DIMP. The Company's DIMP 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 DIMP also satisfies the second element of the standard because the DIMP contains detailed information about the Company's natural gas distribution system including pipe materials and locations, known system vulnerabilities, and the Company's risk analysis and mitigation measures. This type of information is generally recognized as confidential and proprietary. The attachment also satisfies the third element because public disclosure would harm Duke Energy Kentucky as competitors would have insight into the Company's proprietary risk analysis of its natural gas distribution system. In addition, public disclosure of this information could pose security risks as bad actors could use it to target weaknesses in the Company's natural gas system.

The Company requests that STAFF-DR-02-010 Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that this attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001,

Section 13(2)(a)(3)(b).

**iv. STAFF-DR-02-013 Confidential Attachments 3, 7, 8, and 9;**

Staff Request No. 02-013 states as follows:

Refer to the Direct Testimony of Joshua Nowak (Nowak Direct Testimony), generally.

- a. Provide an electronic copy of the return on equity (ROE) workpapers in Excel spreadsheet format with all formulas, columns, and rows intact and fully accessible.
- b. Provide each of the Value Line Investment Survey company profile sheets supporting the ROE analyses.
- c. Confirm that Duke Kentucky did not exclude any outliers in the ROE evaluation. If Duke Kentucky did exclude outliers, identify all excluded outliers, and explain why they were excluded.

In response to Staff Request No. 02-013, Duke Energy Kentucky is providing STAFF-DR-02-013 Confidential Attachment 3, 7, 8, and 9. Each of these attachments are proprietary reports, articles, analysis, or other information provided by third-party vendors such as S&P Capital IQ, Value Line, and Bloomberg Professional. These attachments are not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. These attachments satisfy the second element, as they are reports, articles, and analysis generated by a third-party vendor for a fee that derives value from not being publicly available and constitutes a “trade secret” under KRS 365.880(4). The third element is satisfied, as disclosure of these documents could violate the Company’s agreement with these third-party vendors to maintain the confidentiality of these reports, articles, and analysis and result in a commercial disadvantage as Duke Energy Kentucky may be barred from obtaining future information from these vendors. Access to this type of information is integral to Duke Energy Kentucky’s business.

The Company requests that these attachments be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that these attachments be treated as confidential in their entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

**v. STAFF-DR-02-025 Confidential Attachment;**

Staff Request No. 02-025 states as follows:

Provide a map of the service territory with the Aldyl-A type pipe designated.

In response to Staff Request No. 02-025, Duke Energy Kentucky is providing STAFF-DR-02-025 Confidential Attachment 1 which is a map showing where Aldyl-A type pipe is located on the Company's system.

The location of Aldyl-A type pipe 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. This map also satisfies the second element of the standard because it provides detailed information about the exact location of potentially vulnerable pipelines could create safety and security risks. This type of information is generally recognized as confidential and proprietary. The attachment also satisfies the third element because public disclosure could pose security risks as bad actors could use it to target weaknesses in the Company's natural gas system.

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 their entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

**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>1</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>2</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 ensure 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 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

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

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



intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

## II. CONCLUSION

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.

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

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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 in paper medium; that the electronic filing was transmitted to the Commission on July 17, 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>3</sup>

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/s/Rocco D'Ascenzo  
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<sup>3</sup> *In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Case No. 2020-00085, Order (Ky. P.S.C. July 22, 2021).