

**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 30, 2025  
THIRD 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)(a) and (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) Third Request for Information issued on July 30, 2025:

- (1) STAFF-DR-03-006 Confidential Attachment; and
- (2) STAFF-DR-03-016(c) Confidential Attachment.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which includes and confidential and proprietary information and analysis and confidential customer 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) excludes from the Open Records Act:

- (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
- (c) 1. 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. Highlighted Portions of STAFF-DR-03-006 Confidential Attachment;**

Staff Request No. 03-006 states as follows:

Refer to Duke Kentucky's response to Staff's Second Request, Item 6(c)(1)–(2), STAFF-DR-02-006 Attachment.

a. The response did not address (1) and (2) of Item 6(c) in that it did not include the fees paid by the supplier under the current tariff and the fees the supplier would have paid if the proposed tariff were in effect. Provide a full response to Item 6(c)(1) and (2).

b. Indicate how many customers the under-/over-deliveries listed in STAFF-DR-02-006 Attachment represent.

In response to Staff Request No. 03-006, Duke Energy Kentucky is providing STAFF-DR-03-006 Confidential Attachment, which includes details of the fees paid by each supplier on each of the OFO days and the amount of the fees that would be paid by each supplier under the tariff proposal. The suppliers are considered customers of the Company and they purchase gas supplies for one or more end use customers. The highlighted portions of STAFF-DR-03-006 Confidential Attachment are not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The second element is met as the information designated as confidential is customer names and usage information which is generally considered confidential. The

third element is satisfied as publicly revealing the highlighted information would constitute an unwarranted invasion of privacy and could permit an unfair commercial advantage to competitors.

The Company requests that STAFF-DR-03-006 Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(a) and KRS 61.878(1)(c)(1).

**ii. STAFF-DR-03-016(c) Confidential Attachment;**

Staff Request No. 03-016 requests the following information:

Refer to the Direct Testimony of Thomas Heath, Jr. (Heath Direct Testimony), pages 19-20.

- a. Provide an explanation and support for utilizing the Bloomberg implied forward curve. If alternative forecasted rates could have been used, explain why they were not utilized.
- b. Explain the use of a 25-basis point credit spread added to the interest rate for the forecast period long-term commercial paper. Provide justification for the interest rate addition in the response.
- c. For the expected debt issuances of \$100 million and \$150 million, explain the appropriateness of utilizing 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. 03-016, Duke Energy Kentucky is providing, as STAFF-DR-03-016(c) Confidential Attachment, which provides details of how the company calculated the forecasted LTD rate for the forecasted debt issuances. The details provided in STAFF-DR-03-016(c) Confidential Attachment are 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-03-016(c) 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>

The Company requests that STAFF-DR-03-016(c) 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).

### **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>2</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>3</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

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<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).

<sup>2</sup> See KRS 61.878(1)(c)1.

<sup>3</sup> *Hoy v. Kentucky Industrial Revitalization Authority*, Ky., 907 S.W.2d 766, 768 (Ky. 1995).

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 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 August 15, 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>4</sup>

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<sup>4</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).