

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY )  
KENTUCKY, INC. FOR A DECLARATORY ORDER ) CASE NO.  
REGARDING RECOVERY OF COSTS TO ) 2025-00142  
CONVERT CUSTOMERS TO ALTERNATE )  
SOURCE OF FUEL )

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**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY  
KENTUCKY, INC. FOR CERTAIN RESPONSES TO COMMISSION STAFF'S  
DECEMBER 16, 2025 FIRST REQUEST FOR INFORMATION**

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Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to 807 KAR 5:001, Section 13(2), KRS 61.878(1)(c), and other applicable law, moves the Public Service Commission of Kentucky (Commission) for an Order granting confidential treatment to the following attachments to Commission Staff's (STAFF) First Request for Information issued on December 16, 2025:

- (1) Highlighted information contained in STAFF-DR-01-003(a) Confidential Attachment;
- (2) STAFF-DR-01-007 Confidential Attachment; and,
- (3) STAFF-DR-01-008 Confidential Attachments 1 through 6.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the "Confidential Information," which is comprised of customer account information and sensitive negotiated service contracts.

## **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)(a) allows the Commission to grant confidential protection for documents that contain information that if disclosed would result in an unwarranted invasion of person privacy. 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 Confidential Information 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. Information for Which Confidential Treatment is Sought**

**i. Highlighted information contained in STAFF-DR-01-003(a) Confidential Attachment**

Staff Request No. 01-003 states as follows:

Provide a history of the retail gas service provided to the 27 customers who receive gas service by direct tap on the section of the TC Energy transmission line that is proposed to be abandoned, including:

- a. The date of service that each direct tap was established.
- b. State whether the gas service via direct tap on the TC Energy transmission line was available or offered to the public, or was it limited to owners of property from whom rights of way were required for construction of the pipeline.
- c. State whether new direct "farm taps" have been added since construction of the transmission line. If so, provide the number of additional "farm taps" and the date the taps were added.
- d. Explain whether Duke Kentucky has owned and operated the metering equipment, service lines, regulators, and any other facilities used to provide gas service to the 27 "farm tap" customers since the direct taps were established on the TC Energy line. If not, provide the previous operator(s), the date when Duke Kentucky began to own or operate these facilities, and any agreements between Duke Kentucky.
- e. Any prior operator of these facilities, including any affiliate, concerning the responsibility to serve these 27 customers.
- f. Identify all rates that the 27 customers are currently charged for service, and if applicable, the tariff page(s) on which each such rate is located. Explain any differences between the tariff rates and the rates the 27 customers are charged.

In response to Staff Request No. 01-003, part (a) Duke Energy Kentucky provides STAFF-DR-01-003(a) Confidential Attachment, which contains specific customer account

information, including the names and addresses of Duke Energy Kentucky customers. The Company requests that the highlighted information contained in this Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(a).

The information highlighted in the Confidential Attachment to Staff Request No. 01-003 shows the names and addresses of the affected 27 customers and is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. Disclosure of the names and addresses of the customers would create an unwarranted invasion of personal privacy for these individuals that are not a party to this proceeding.

#### **ii. STAFF-DR-01-007 Confidential Attachment**

Staff Request No. 01-007 states as follows:

Provide a copy of all contracts between Duke Kentucky and TC Energy or KO Transmission regarding gas service to customers served by direct tap on a transmission pipeline.

In response to Staff Request No. 01-007, Duke Energy Kentucky provides STAFF-DR-01-007 Confidential Attachment, which is the Purchase and Sale Agreement between KO Transmission Company and Columbia Gas Transmission, LLC. The Company requests this Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1) and additionally requests this attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

The contract provided in STAFF-DR-01-007 Confidential Attachment is not publicly available, and Duke Energy Kentucky is not required to make these contracts public, 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 contracting parties. The third element is satisfied as public disclosure of this contract would place the Company at a disadvantage. 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.

**iii. STAFF-DR-01-008 Confidential Attachments 1 through 6**

Staff Request No. 01-008 states as follows:

Provide a copy of all contracts concerning gas service between any of the 27 customers served by a direct tap on the transmission line at issue and TC Energy, KO Transmission, and/or Duke Kentucky.

In response to Staff Request No. 01-008, Duke Energy Kentucky is providing STAFF-DR-01-008 Confidential Attachments 1 through 6, which are contracts concerning gas service with specific customers. The Company requests these Confidential Attachments be afforded confidential treatment pursuant to KRS 61.878(1)(a) and KRS 61.878(1)(c)(1). Duke Energy Kentucky is requesting confidential protection of the entirety of these documents pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b) and therefore a redacted copies are not being filed in the public record.

The contracts provided are not publicly available, and Duke Energy Kentucky is not required to make them public, 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 negotiated contract terms and conditions that are maintained as confidential between the contracting parties. The third element is satisfied as public disclosure of these contracts would place the Company at a

disadvantage. Moreover, customers would be less willing to negotiate with the Company out of fear of their sensitive information and contractual terms being made public. Additionally, disclosure of contracts between Duke Energy Kentucky and these customers would be an invasion of the privacy rights of these individuals.

**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 ten years. This will assure that the

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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).

Confidential Information—if disclosed after that time—will no longer be commercially sensitive so as to impair the interests of the Company if publicly disclosed.

To the extent the Confidential Information becomes 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 with the confidential information highlighted unless confidential treatment is sought for the entirety of the document, and a redacted copy is being filed into the public record of this proceeding. Duke Energy Kentucky is noting in the public version of the responses the filing of confidential material.

WHEREFORE, Duke Energy Kentucky, Inc., respectfully requests that the Commission classify and protect as confidential the specific information described herein.

Respectfully submitted,

*/s/Meredith L. Cave*

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L. Allyson Honaker  
Heather S. Temple  
Meredith L. Cave  
Honaker Law Office, PLLC  
1795 Alysheba Way, Suite 1203  
Lexington, KY 40509  
Phone: (859) 368-8803  
[allyson@hloky.com](mailto:allyson@hloky.com)  
[heather@hloky.com](mailto:heather@hloky.com)  
[meredith@hloky.com](mailto:meredith@hloky.com)

And

Rocco O. D'Ascenzo (92796)  
Deputy General Counsel  
Larisa M. Vaysman (98944)  
Associate General Counsel  
Sheena McGee Leach (1000598)  
Staff Attorney  
Duke Energy Business Services LLC  
139 East Fourth Street, 1303-Main  
Cincinnati, Ohio 45202  
Phone: (513) 287-4320  
Fax: (513) 370-5720  
[Rocco.D'Ascenzo@duke-energy.com](mailto:Rocco.D'Ascenzo@duke-energy.com)  
[Larisa.Vaysman@duke-energy.com](mailto:Larisa.Vaysman@duke-energy.com)  
[Sheena.McGee@duke-energy.com](mailto:Sheena.McGee@duke-energy.com)

*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 9, 2026; 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>

*/s/Meredith L. Cave*  
Counsel for Duke Energy Kentucky, Inc.

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<sup>3</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).