

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY KENTUCKY,) CASE NO.
INC. FOR AN ADJUSTMENT TO RIDER NM II) 2025-00258
RATES AND FOR TARIFF APPROVAL)

**DUKE ENERGY KENTUCKY, INC.’S PETITION FOR CONFIDENTIAL
TREATMENT OF INFORMATION CONTAINED IN ITS APPLICATION**

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 certain information provided by Duke Energy Kentucky in its Application: the highlighted information contained in Confidential Attachment BLS-1 (which consists of the “Energy Inputs” and “Avoided Energy” tabs).

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes information related to projected power market prices (which are data licensed and produced from third party owned and licensed modeling tools), and additional data which—though not competitively sensitive itself—would permit a reader to derive the Confidential Information arithmetically.

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 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

The Confidential Information highlighted in Confidential Attachment BLS-1 attached to Bruce L. Sailors' Direct Testimony (the "Energy Inputs" and "Avoided Energy" tabs) includes information related to projected power market prices, which constitutes data licensed and produced from third party owned and licensed modeling tools. The Company requests that this highlighted Confidential Information included within Confidential Attachment BLS-1 be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).

Confidential Attachment BLS-1 was developed internally by Duke Energy Kentucky personnel, is not on file with any public agency, and is not available from any commercial or other source outside Duke Energy Kentucky, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The highlighted information satisfies the second element of the standard, as projected pricing information is generally recognized as confidential and proprietary. The highlighted information also satisfies the third element because disclosure of this Confidential Information would place the Company at a disadvantage with future such negotiations, as counter-parties could give competitors an advantage in bidding for and securing new resources. Similarly, disclosure would afford an undue advantage to Duke Energy Kentucky's vendors and suppliers as they would enjoy an obvious advantage in any contractual negotiations to the extent they could calculate Duke Energy Kentucky's requirements and what Duke Energy Kentucky anticipates those requirements to cost.

c. Request for Confidential Treatment

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

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).

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.

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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 4, 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.¹

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¹ *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).