

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

In the Matter of:

THE APPLICATION OF DUKE ENERGY KENTUCKY,	)	
INC. FOR AN ORDER APPROVING THE	)	CASE NO.
ESTABLISHMENT OF A REGULATORY ASSET FOR	)	2025-00281
THE ENGINEERING COSTS INCURRED ASSOCIATED	)	
WITH ITS WITHDRAWN LIMESTONE CONVERSION	)	
AND MATS COMPLIANCE STRATEGIES	)	

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**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY  
KENTUCKY, INC. FOR CERTAIN RESPONSES TO COMMISSION STAFF’S  
SEPTEMBER 22, 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 September 22, 2025:

- (1) STAFF-DR-01-004(a) and (b) Confidential Attachments.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes information related to vendor pricing, market risks, and cost information, as well as internal modeling, forecasts and cost projections.

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

**i. STAFF-DR-01-004(a) and (b) Confidential Attachments**

Staff Request No. 01-004 states as follows:

Refer to Application, page 5–6, paragraph 10.

a. Provide the analysis that “showed that accepting a revised new MEL long-term supply contract was the least cost, most reasonable solution for customers for the foreseeable contract term.”

b. Provide the revised new MEL long-term supply contract.

In response to Staff Request No. 01-004, Duke Energy Kentucky provides STAFF-DR-01-004(a) Confidential Attachment, which contains proprietary modeling and analysis that includes and contains pricing forecasts, unit dispatch projections, load assumptions, used to inform the Company’s strategies and evaluations in procuring a reliable source of cost-effective reagent supply for East Bend’s wet-flue gas desulfurization process, and STAFF-DR-01-004(b) Confidential Attachment, which includes confidential and proprietary vendor pricing and negotiated terms and conditions, including a confidentiality provision, that was the subject of lengthy negotiations that occurred as part of the underlying limestone conversion proceedings. The Company requests that these Attachments be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests they be treated as confidential in their entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

The confidential data is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. In *Hoy v. Kentucky Indus. Revitalization Auth.*, 907 S.W.2d 766, 768 (Ky. 1995), the Kentucky Supreme Court held that documents detailing the “inner workings of a corporation (are) ‘generally recognized as confidential or proprietary.’” The confidential data in STAFF-DR-01-004(a)

Confidential Attachment depicts the Company's internal forecasts of generating unit performance, projected sales, dispatch costs and load projections for several years in the future. The confidential data in STAFF-DR-01-004(b) Confidential Attachment includes confidential long-term vendor pricing and terms and conditions for lime supply that was the subject of significant negotiation by the parties and was only achieved due to the Company's pursuit and eventually withdrawal of its Limestone conversion project. The resulting market- and risk-related terms and conditions were not typical for this vendor, and the contract includes provisions requiring each party to take steps to maintain the confidentiality of information in the agreement. If disclosed, the pricing terms in this contract could harm the supplier's ability to negotiate other contracts and would inhibit the Company's ability to negotiate future contracts with this supplier and potentially other suppliers. The confidential data in the aforementioned attachments thus satisfy the confidential standard as it represents the inner workings of a corporation and, therefore, meet the second element of the statutory standard. The confidential data also satisfies the third element, as it contains commercially sensitive information which if released, would provide competitors with sensitive economic information that would adversely affect the Company's ability to compete in the wholesale electric markets, thereby harming Kentucky customers as well as, adversely impacting the vendor's ability to negotiate future agreements impacting its business.

**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 being filed in paper medium; that the electronic filing was transmitted to the Commission on October 3, 2025; and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

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