

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE	)	
APPLICATION OF THE FUEL ADJUSTMENT	)	CASE NO.
CLAUSE OF DUKE ENERGY KENTUCKY,	)	2025-00342
INC. FROM NOVEMBER 1, 2022 THROUGH	)	
OCTOBER 31, 2024	)	

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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 DECEMBER 19, 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 identified portions of the following attachments filed in its responses to Commission Staff's (Staff) First Request for Information issued on December 19, 2025:

- (1) STAFF-DR-01-011 Confidential Attachments 1 and 2;
- (2) STAFF-DR-01-017 Confidential Attachment;
- (3) STAFF-DR-01-032 Confidential Attachment;
- (4) STAFF-DR-01-033 Confidential Attachment;
- (5) STAFF-DR-01-034 Confidential Attachment;
- (6) STAFF-DR-01-037 Confidential Attachment; and,
- (7) STAFF-DR-01-046(a) – (c) Confidential Attachments.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes: internal fuel procurement policies and procedures; generating unit outages, availability and dispatch; the projected fuel costs and total kilowatt hours (kWh) used to calculate base fuel costs; sales forecasts in both kWh and dollars; planned future outages and maintenance schedules by plant; and the Company’s bidding strategy and generating unit performance and economics in the wholesale energy markets as well as, pricing data in MWH. The Confidential Information is not known outside of Duke Energy Corporation and was developed internally by Duke Energy Corporation and Duke Energy Kentucky personnel that is not on file with any public agency, and is not available from any commercial or other source outside of the Company. All Confidential Information is only distributed within Duke Energy Kentucky to those who must have access for business reasons and is generally recognized as confidential and proprietary in the energy industry.

## **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-01-011 Confidential Attachments 1 and 2**

Staff Request No. 01-011 states as follows:

- a. For the last six months of the period under review, state whether there have been any changes to Duke Kentucky’s written policies and procedures regarding its fuel procurement.
- b. If yes:

- (1) Describe the changes;
- (2) Provide the written policies and procedures as changed;
- (3) State the date(s) the changes were made; and
- (4) Explain why the changes were made.

c. If no, provide the date Duke Kentucky's current fuel procurement policies and procedures were last changed, when they were last provided to the Commission, and identify the proceeding in which they were provided.

In response to Staff Request No. 01-011, Duke Energy Kentucky provides STAFF-DR-01-011 Confidential Attachments 1 and 2, which includes, but is not limited to, confidential risk management control policies and procedures for Duke Energy Kentucky, and its regulated utility affiliates in other jurisdictions. The Company requests that these Attachments be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1), and additionally requests that the Attachments be treated as confidential in their entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

The public disclosure of the information described above would place Duke Energy Kentucky (and its regulated utility affiliates in other states) at a commercial disadvantage as it negotiates contracts with various suppliers and vendors and potentially harm Duke Energy Kentucky's competitive position in the marketplace, to the detriment of Duke Energy Kentucky and its customers. It 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.'" STAFF-DR-01-011 Confidential Attachments 1 and 2 satisfy this standard. Duke Energy Corporation's Regulated Utilities Group, particularly the Fuels & Systems Optimization and Distributed

Energy Resources groups, are responsible for the procurement of coal for the regulated utilities in the Duke Energy Corporate footprint and thus its policies and procedures are all-encompassing. Releasing this information would give potential competitors and fuel vendors for Duke Energy Kentucky in the energy markets inside information about Duke Energy Kentucky's fuel procurement strategy, risk mitigation actions, and tolerances; therefore, meeting the second element of the statutory standard. It also satisfies the third element, as releasing this information would harm the Company and its customers in the future as competitors and counterparties would know how Duke Energy Kentucky evaluates and manages risks related to procurement of fuel supply. If publicly available, competitors could use this information to manipulate the market and financially harm Duke Energy Kentucky's customers by adjusting their bidding strategies and potentially manipulating the price the Company pays for coal/or and other commodities.

## **ii. STAFF-DR-01-017 Confidential Attachment**

Staff Request No. 01-017 states as follows:

For the last six months of the period under review provide the hour by hour availability of each generating unit availability, how the unit had been bid into the day ahead market, whether the unit was operating, and if operating the minimum (economic or operational) and maximum capacity of the unit.

In response to Staff Request No. 01-017, Duke Energy Kentucky provided STAFF-DR-01-017 Confidential Attachment, which contains generating unit daily availability which could grant vendors a distinct advantage in that they would be able to anticipate how Duke Energy Kentucky utilizes its generating fleet in the competitive markets.

STAFF-DR-01-017 Confidential Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary

record. Further, this information represents confidential and proprietary information in accordance with KRS 61.878(1)(c)(1), which could provide power marketing competitors and fuel vendors with knowledge regarding Duke Energy Kentucky's operating costs and commodity positions. This would allow them to potentially manipulate the marketplace so as to unnecessarily cause consumers to pay more for electricity than they otherwise would.

### **iii. STAFF-DR-01-032 Confidential Attachment**

Staff Request No. 01-032 states as follows:

Provide the most recent projected fuel requirements for the years 2025, 2026, and 2027 in tons for coal, MMBtu for natural gas, and dollars.

In response to Staff Request No. 01-032, Duke Energy Kentucky provided STAFF-DR-01-032 Confidential Attachment, which provides a forecast of projected fuel consumption for 2026 and 2027 and actual data for 2025. Releasing this information would disclose the Company's projected fuel requirements and estimated costs which if made available, could be used by potential vendors to manipulate prices to win contracts they may not otherwise win, and adversely impact what customers would ultimately pay. It is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record.

Further, this information represents confidential and proprietary information in accordance with KRS 61.878(1)(c)(1), of which public disclosure of the Company's projected costs would afford Duke Energy Kentucky's competitors a distinct competitive advantage in bidding for and securing new bulk power loads and would place Duke Energy Kentucky at a commercial disadvantage in competing in the wholesale power markets.

**iv. STAFF-DR-01-033 Confidential Attachment**

Staff Request No. 01-033 states as follows:

Provide the most recent sales projections for the years 2025, 2026, and 2027 in kWh and dollars.

In response to Staff Request No. 01-033, Duke Energy Kentucky provided STAFF-DR-01-033 Confidential Attachment, which provides a list of projected sales by customer class, including anticipated revenue assuming specific total kWh sales projections, for 2026 and 2027, and actual data for 2025. It is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record.

Further, this information represents confidential and proprietary information in accordance with KRS 61.878(1)(c)(1), which contains sales projections that should be afforded confidential protections as they are internally-derived figures that would give competitors, marketers, and vendors a competitive advantage in any existing or prospective commercial relationship involving Duke Energy Kentucky. Maintaining the confidentiality of the projected kWh sales is necessary to protect the interests of both the Company and its customers.

**v. STAFF-DR-01-034 Confidential Attachment**

Staff Request No. 01-034 states as follows:

Provide the planned maintenance schedule for each of the generating units for the years 2025, 2026, and 2027.

In response to Staff Request No. 01-034, Duke Energy Kentucky provided STAFF-DR-01-034 Confidential Attachment, which contains a list of planned maintenance over 2025, 2026, and 2027, and could grant vendors a distinct advantage that would provide critical “downtime” information that would necessarily impair Duke Energy Kentucky’s ability to negotiate with prospective contractors and vendors.

STAFF-DR-01-034 Confidential Attachment is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. Further, this information represents confidential and proprietary information in accordance with KRS 61.878(1)(c)(1), that if released prospective contractors and vendors would have access to the number, duration, and timing of outages, it would give them a distinct advantage in anticipating maintenance schedules and plant condition and operating characteristics. This would very likely impair Duke Energy Kentucky's ability to negotiate with prospective contractors and vendors. Thus, satisfying the remaining two elements of the statutory standard.

**vi. STAFF-DR-01-037 Confidential Attachment**

Staff Request No. 01-037 states as follows:

Explain how purchase power costs are accounted for in the calculation of the FAC when Duke Kentucky experiences a planned generation outage and purchases power to meet load (i.e., whether the entire amount of the purchase power recorded in the calculation, or there is a limit as to the amount recorded). If there is a limit, explain the basis for the limitation and how it is calculated. If there is no limit, explain the basis for including 100 percent of the purchase power costs.

In response to Staff Request No. 01-037, Duke Energy Kentucky provided STAFF-DR-01-037 Confidential Attachment, which would make public confidential operating characteristics of its generating units including costs of operation at minimum and maximum loads. The attachment includes a detailed calculation of the Company's limitation for costs recoverable in its FAC using hourly data. Releasing this information would disclose confidential operating characteristics of the Company's generating fleet and place the Company at a commercial disadvantage in the competitive energy markets. It 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.’” STAFF-DR-01-037 Confidential Attachment satisfies this standard. Duke Energy Corporation’s Regulated Fuels Group is responsible for the procurement of fuel and obtaining competitive pricing. Releasing this information would give potential competitors and fuel vendors for Duke Energy Kentucky in the energy markets inside information about Duke Energy Kentucky’s fleet economics, operating parameters, and fuel procurement strategy, including risk mitigation actions, and tolerances. Therefore, this information meets the second element of the statutory standard. It also satisfies the third element, as releasing this information would harm the Company and its customers in the future as competitors and counterparties would know how Duke Energy Kentucky evaluates its fuel supply and procures fuel for its generating station. If publicly available, competitors could use this information to manipulate the market and financially harm Duke Energy Kentucky’s customers by adjusting their bidding strategies and potentially manipulating the price the Company pays for coal.

#### **vii. STAFF-DR-01-046(a) – (c) Confidential Attachments**

Staff Request No. 01-046 states as follows:

In an Excel spreadsheet format with all formulas, columns, and rows unprotected and fully accessible, for the period under review and when the units are available to run,

- a. Provide the bid status (i.e. economic dispatch, must-run, etc.), by day, of Duke Kentucky’s generating units into PJM’s day ahead market. Explain the reason for each bid status.

b. Provide the price per MWH, by day, of Duke Kentucky's generating units bid into PJM's day ahead market and the corresponding LMP indicating whether or not the unit cleared the market.

c. In a separate spreadsheet Tab, provide a graphical representation of the information in part b. above.

In response to Staff Request No. 01-046, Duke Energy Kentucky is providing STAFF-DR-01-046 Confidential Attachments (a), (b), and (c), which would make public the bid strategy and status of the Company's generating units of every hour, of every day during the review period, including the start-up and operational costs of each unit as well as the price per MWH of those generating units and whether they cleared the market. Releasing this information would disclose confidential operating characteristics of the Company's generating fleet in the wholesale power markets and place the Company at a commercial disadvantage in those competitive energy markets. It 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.'" STAFF-DR-01-046 Confidential Attachments satisfy this standard. Duke Energy Corporation's Regulated Fuels Group is responsible for the procurement of fuel and obtaining competitive pricing and the Trading and Dispatch Group is responsible for managing the Company's generation units in competitive markets. Releasing this information would give potential competitors and fuel vendors for Duke Energy Kentucky in the energy markets inside information about Duke Energy Kentucky's fleet economics, operating parameters, and fuel procurement strategy, and tolerances. Therefore, this information meets the second

element of the statutory standard. It also satisfies the third element, as releasing this information would harm the Company and its customers in the future as competitors and counterparties would know how Duke Energy Kentucky evaluates its fuel supply and manages the economics of its generating units as it attempts to maximize value of these assets in the wholesale energy markets for customers. If publicly available, competitors could use this information to manipulate the market and financially harm Duke Energy Kentucky's customers by adjusting their bidding strategies and potentially manipulating the price the Company pays for coal.

**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 likely impair the interests of the Company if publicly disclosed.

The Company does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, with the Attorney General or other intervenors with a legitimate interest in reviewing the same for the purpose of participating in this case.

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).

## II. CONCLUSION

In accordance with the provisions of 807 KAR 5:001, Section 13(2)(e), the Company is filing one copy of all Confidential Information separately under seal, with confidential treatment sought for the entirety of the documents. Duke Energy Kentucky notes in the public version of the responses the filing of said confidential material.

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/Larisa M. Vaysman*

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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 January 23, 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>1</sup>

*/s/Larisa M. Vaysman*

*Counsel for Duke Energy Kentucky, Inc.*

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<sup>1</sup>*In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19, Order, Case No. 2020-00085 (Ky. PSC July 22, 2021).*