

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)	

**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY
KENTUCKY, INC. FOR CERTAIN RESPONSES TO THE STAFF OF THE
PUBLIC SERVICE COMMISSION’S FEBRUARY 6, 2026 SECOND
REQUEST FOR INFORMATION**

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) Second Request for Information issued on February 6, 2026:

- (1) The highlighted information contained in the response to STAFF-DR-02-002;
- (2) The highlighted information contained in the response to STAFF-DR-02-005; and,
- (3) STAFF-DR-02-010 Confidential Attachment.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which, broadly speaking, includes: identification of the price index used by the Company traders to build a model for offering

certain units into PJM; certain financial aspects of the offer strategy of the Company's generating units; and projected fuel costs and total kilowatt hours (kWh) used to calculate base fuel costs; and sales forecasts in both kWh and dollars. The Confidential Information and/or its use is not known outside of Duke Energy Corporation, it was selected and/or developed for use internally by Duke Energy Corporation and Duke Energy Kentucky personnel, and the information and/or its use by the Company 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. Information for Which Confidential Treatment is Sought

i. Highlighted information contained in the response to STAFF-DR-02-002

Staff Request No. 02-002 states as follows:

Refer to the McClay Direct Testimony, page 4, lines 18-19. Explain the timing of actively soliciting bids from gas suppliers for intra-day dispatch from when PJM notifies Duke Kentucky that one or more combustion turbines need to ramp up such that additional gas will need to be acquired in the intra-day market.

In response to Staff Request No. 02-002, Duke Energy Kentucky provides highlighted Confidential Information, which includes identification of the price index used by Duke Energy Kentucky traders to build a model for offering certain units into PJM.

While the price index itself may be available elsewhere, the Company's selection and use of this particular price index is confidential and competitively sensitive. The Company requests that the highlighted Confidential Information be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).

The public disclosure of the information described above would place Duke Energy Kentucky 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. Additionally, it would disclose confidential operating characteristics of the Company's generating fleet and place the Company at a commercial disadvantage in the competitive energy markets. The Company's use of this price index 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 highlighted Confidential Information contained within the response to STAFF-DR-02-002 satisfies this standard. Releasing this information would give potential competitors and gas vendors for Duke Energy Kentucky in the energy markets inside information about Duke Energy Kentucky's gas procurement strategy and energy market strategy; 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 gas 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 gas/or and other commodities.

ii. Highlighted information contained in the response to STAFF-DR-02-005

Staff Request No. 02-005 states as follows:

Refer to the Swez Direct Testimony, page 8, lines 9-11, and page 11, lines 14-17. Explain why it makes a difference, and how performance risk is minimized, when East Bend is committed as "must run" as opposed to "economic" for December, January, and February.

In response to Staff Request No. 02-005, Duke Energy Kentucky provides highlighted Confidential Information, which would make public certain aspects of the offer strategy of the Company's generating units. 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.'" The highlighted Confidential Information contained within the response to STAFF-DR-02-005 satisfies this standard. Duke Energy Corporation's 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 competitive

energy market strategy. 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 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.

iii. STAFF-DR-02-010 Confidential Attachment

Staff Request No. 02-010 states as follows:

Refer to Duke Kentucky's response to Staff's First Request, Item 32. Provide an update to the response showing the projected fuel requirements for fuel oil.

In response to Staff Request No. 02-010, Duke Energy Kentucky provides STAFF-DR-02-010 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.

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.

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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 February 20, 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.¹

/s/Larisa M. Vaysman
_____ *Counsel for Duke Energy Kentucky, Inc.*

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