

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF DUKE ENERGY	)	
KENTUCKY, INC., FOR A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY AUTHORIZING	)	2026-00112
THE CONSTRUCTION OF A GAS PIPELINE	)	
EXTENSION IN INDEPENDENCE, KENTUCKY	)	

**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY
KENTUCKY, INC. FOR CERTAIN RESPONSES TO COMMISSION STAFF’S
JUNE 9, 2026 FIRST 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 following attachment to Commission Staff’s (STAFF) First Request for Information issued on June 9, 2026:

- (1) STAFF-DR-01-003(b) Confidential Attachment 1; and,
- (2) STAFF-DR-01-008 Confidential Attachment.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which (i) depicts confidential and detailed pricing information and (ii) includes critical utility infrastructure by way of detailed engineering drawings showing the exact route, location, depths, pressures, and nature of a previously considered route’s construction. Although the depicted route was ultimately not selected to be proposed, the detailed drawings and specifications would shed light on portions of existing and/or proposed infrastructure.

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

i. STAFF-DR-01-003(b) Confidential Attachment 1

Staff Request No. 01-003 states as follows:

Refer to Application, page 4, paragraph 10, page 7, paragraph 16, and Confidential Exhibit 4.

- a. Explain how Duke Kentucky determined where the proposed pipeline should be built.
- b. Describe any other routes that were considered and why those were not chosen.
- c. Provide cost estimates for any other routes that were considered.

In response to Staff Request No. 01-003, Duke Energy Kentucky provides STAFF-DR-01-003(b) Confidential Attachment 1, which includes engineering drawings showing the precise location of gas systems considered to be critical infrastructure information. The Company requests that this Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(m)(1)(f) and (1)(g) and additionally requests that this Confidential Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

The Kentucky Open Records Act exempts from disclosure certain records in KRS 61.878(1)(m)(1)(f) and (1)(g). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the records would “have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:...

- f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
- g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency...”

The information in STAFF-DR-01-003(b) Confidential Attachment 1 needs to be kept confidential in order to continue to provide delivery of safe and reliable gas service to Duke Energy Kentucky customers. Although the depicted route was ultimately not selected to be proposed, the detailed drawings and specifications would shed light on portions of existing and/or proposed infrastructure. The release of this information would threaten the public safety by providing precise locations of critical utility natural gas infrastructure that could be used and exploited to the detriment of the safety of the general public.

ii. STAFF-DR-01-008 Confidential Attachment

Staff Request No. 01-008 states as follows:

Refer to the Application, Exhibit 6, Klein Direct Testimony, page 10. Provide the breakdown of the Confidential Attachment DAK-1 with attention to the applicable Federal Energy Regulatory Commission (FERC) accounts in Excel spreadsheet format with all formulas, rows, and columns fully accessible and unprotected.

In response to Staff Request No. 01-008, Duke Energy Kentucky provides STAFF-DR-01-008 Confidential Attachment, which includes the Company’s estimated and detailed costs of construction for the Project. The Company requests that this Confidential Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1) and

additionally requests that this Confidential Attachment be treated as confidential in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b).

The information in the Confidential Attachment to Staff Request No. 01-008 shows cost estimates based upon Duke Energy Kentucky's analysis based upon costs for prior projects and is not publicly available, thus satisfying the first element of the statutory standard for confidentiality of a proprietary record. The information satisfies the second element of the standard, as competitive market data is generally recognized as confidential and proprietary. The Confidential Information also satisfies the third element because Duke Energy Kentucky intends to issue competitive solicitations for bids for the construction of this Project and if potential vendors know what the Company anticipates the costs to be for various items, the Company would be placed at a competitive disadvantage as it seeks to negotiate better pricing. If potential vendors have access to the Company's anticipated costs, they would be less likely to negotiate with the Company, ultimately harming customers.

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 June 26, 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*, Case No. 2020-00085, Order (Ky. P.S.C. July 22, 2021).