

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2021 INTEGRATED RESOURCE ) CASE NO.  
PLAN OF DUKE ENERGY KENTUCKY, INC. ) 2021-00245

ORDER

On December 17, 2021, Duke Energy Kentucky, Inc. (Duke Kentucky) filed a petition pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for ten years for the following items: redactions made to Responses 10, 13, and 14 to the Attorney General, by and through the Office of Rate Intervention's (Attorney General) Second Request for Information (Attorney General's Second Request) regarding solar decommissioning costs.

In support of its petition, Duke Kentucky argued that the designated redactions in Attorney General's Second Request Response No. 10, Attorney General's Second Request Response No. 13, and Attorney General's Second Request Response No. 14 should be given confidential treatment pursuant to KRS 61.878(1)(c)(1), which exempts public disclosure of "[r]ecords 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." Duke Kentucky stated that the forecasted costs related to solar decommissioning are proprietary. Disclosure of such information could affect negotiations with vendors and suppliers and as a result, harm Duke Kentucky in negotiating within the marketplace. Duke Kentucky argued that forecasted

decommissioning costs and calculations affect other operating and management expenses, capital costs, power market prices and projected capacity costs. Lastly, Duke Kentucky argued that public disclosure of the information would allow competitors to make decisions using the information that would not otherwise have been made.

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's petition should be granted pursuant to KRS 61.878(1)(c)(1).<sup>1</sup> Duke Kentucky has limited the items treated confidentially to specific forecasted costs for decommissioning solar panels and categorization of those costs. Duke Kentucky has limited its request solely to numbers that would allow competitors and vendors to calculate Duke Kentucky's costs and use that information to create an unfair advantage. The Commission finds that Duke Kentucky's forecasted valuation and categorization of certain costs may allow a competitor bidding against the company to manipulate their information to use that information to its advantage.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's December 17, 2021 petition for confidential treatment is granted.
2. The designated redactions contained in Attorney General's Second Request Response No. 10, Attorney General's Second Request Response No. 13, and Attorney General's Second Request Response No. 14 that are granted confidential

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<sup>1</sup> This decision is also consistent with prior Orders of the Commission including Case No. 2020-00417, *Electronic Application of Horus Kentucky 1 LLC for a Certificate of Construction for an Approximately 69.3 Megawatt Merchant Electric Solar Generating Facility in Simpson County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* (Ky. PSC Mar. 14, 2022), Order; and Case No. 2021-00072, *Electronic Application of Sebree Solar, LLC for a Certificate to Construct an Approximately 250 Megawatt Merchant Solar Electric Generating Facility and an Approximately 4.5 Mile Nonregulated Electric Transmission Line in Henderson County, Kentucky and Webster County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* (Ky. PSC Feb. 7, 2022), Order.

treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.

3. Use of the designated redacted material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. Duke Kentucky shall inform the Commission if the designated material granted confidential treatment becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order, and the period during which the material has been granted confidential treatment has not expired, Duke Kentucky shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Duke Kentucky is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material for which confidential treatment was granted available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Duke Kentucky to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION



Chairman

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Vice Chairman

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Commissioner



ATTEST:

  
Executive Director

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