

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)	CASE NO.
KENTUCKY, INC. FOR AN ADJUSTMENT TO)	2023-00413
RIDER NM RATES AND FOR TARIFF APPROVAL)	

ORDER

On May 14, 2024, 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 treatment for indefinite period for its response to Commission Staff's Fifth Request for Information (Staff's Fifth Request), Items 1 and 2, Attachment.

In support of its petition, Duke Kentucky argued that individual customer information, including the names, addresses, and net metering status (either active or application pending) of individual customers should receive confidential treatment under KRS 61.787(1)(a) as disclosure would constitute unwarranted invasion of personal privacy.

LEGAL STANDARD

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.844."¹ Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The

¹ KRS 61.872(1).

² See KRS 61.871.

party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

In support of its petition, Duke Kentucky argued the attachment provided in response to Staff's Fifth Request, Items 1 and 2 containing a list of individual names, addresses, and net metering status qualifies as an exception to the Kentucky Open Records Act under KRS 61.878(1)(a). Furthermore, Duke Kentucky asserted that disclosing individual names, addresses, and net metering status could result in customers feeling that their privacy was invaded and in customers receiving unwanted solicitation and/or comments.⁴

Having considered the petition and the material at issue, the Commission finds the individual customer information contained in Duke Kentucky's response to Staff's Fifth Request, Items 1 and 2, Attachment is generally recognized as confidential, and that disclosure would constitute unwarranted invasion of personal privacy. The Commission has previously found that residents have an expectation of privacy in regard to information that relates directly to service at specific homes.⁵ Therefore, the designated material meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(a).

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's May 14, 2024 petition for confidential treatment is granted.

³ 807 KAR 5:001, Section 13(2)(c).

⁴ See Petition for Confidential Treatment of Duke Energy Kentucky, Inc. For Certain Responses to the Staff of The Public Service Commission's May 2, 2024 Fifth Request for Information (filed May 14, 2024).

⁵ See Case No. 2021-00192, *Electronic Application of Duke Energy Kentucky, Inc. For Approval of a Special Contract and for Waiver of 807 KAR 5:041, Section 6(2)(C)* (Ky. PSC Aug 9, 2022), Order.

2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for indefinite period or until further order of this Commission.


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

4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Duke Kentucky shall inform the Commission and file with the Commission an unredacted copy of the designated material.


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 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


Vice Chairman


Commissioner

ENTERED
JUN 14 2024
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KENTUCKY PUBLIC
SERVICE COMMISSION

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