

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, INC.)	2024-00140
FROM NOVEMBER 1, 2022 THROUGH APRIL 30,)	
2023)	

ORDER

On September 23, 2024, Duke Energy Kentucky, Inc. (Duke Kentucky) filed a petition,¹ pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for portions of the table included in response to Commission Staff’s Second Request for Information (Staff’s Second Request), Item 5. The table contains information related to unit performance of Duke Kentucky’s generating units.

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 61.884.”² In support of its petition, Duke Kentucky argued for the application of KRS 61.878(1)(c)(1), which exempts from disclosure “[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

¹ Duke Kentucky’s Petition for Confidential Treatment (Petition) (filed Sept. 23, 2024).

² KRS 61.872(1).

records.” Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.³ The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.⁴

In support of its petition, Duke Kentucky argued that,

Duke Energy Corporation’s Regulated Fuels Group is responsible for managing the Company’s capacity position in the competitive wholesale markets as well as, 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 operational characteristics, risk mitigation actions, and tolerances. 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 capacity position in the market, 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.⁵

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky failed to establish the specific grounds upon which Duke Kentucky believes the material should be made confidential in accordance with 807 KAR 5:001, Section 13(2)(a)(1). Duke Kentucky’s justification pertaining to fuel and coal procurement is not relevant to the performance of specific unit generation provided in the table in response to Staff’s Second Request, Item 5.

³ See KRS 61.871.

⁴ 807 KAR 5:001, Section 12(2)(c).

⁵ Petition at 3.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's September 23, 2024, petition for confidential treatment is denied.
2. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.
3. Duke Kentucky is granted leave to refile its Petition for Confidential Treatment and cite to specific reasons a document should be afforded confidential treatment in accordance with 807 KAR 5:001, Section 13(2)(a)(1).
4. If Duke Kentucky chooses not to refile but objects to the Commission's determination, it may seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to refile or exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials should be granted confidential treatment.
5. Within 30 days of the date of service of this Order, Duke Kentucky shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.
6. The designated material for which Duke Kentucky's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order in order to allow Duke Kentucky to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:



Executive Director



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