

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY	)	
KENTUCKY, INC. FOR AN ADJUSTMENT TO	)	CASE NO.
RIDER NM II RATES AND FOR TARIFF	)	2025-00258
APPROVAL	)	

ORDER

On October 15, 2025, 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 ten years for information provided in response to Commission Staff's Second Request for Information (Staff's Second Request), Item 8(c).<sup>1</sup>

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."<sup>2</sup> KRS 61.878(1)(c)(1), 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 records." Exceptions to the free and open examination of public records contained in KRS 61.872(1) should be strictly construed.<sup>3</sup> The party requesting that

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<sup>1</sup> Petition for Confidential Treatment of Duke Energy Kentucky, Inc. for Certain Responses to Commission Staff's September 29, 2025 Second Request for Information (Petition) (filed Oct. 15, 2025).

<sup>2</sup> KRS 61.872(1).

<sup>3</sup> See KRS 61.871

materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.<sup>4</sup>

In support of its petition, Duke Kentucky explained that its response included PJM Interconnection, LLC (PJM) invoices regarding how much revenue or cost Duke Kentucky has received or paid in past months for energy and capacity from PJM.<sup>5</sup> If disclosed, Duke Kentucky argued that the invoices could enable third parties to determine the range of capacity and energy offer amounts and price that the Company offered into the PJM market, thereby disclosing the Company's strategy for managing its generation portfolio in the competitive wholesale markets.<sup>6</sup> Duke Kentucky argued that the information is not publicly available and is generally recognized as confidential and proprietary, as it is competitive market data.<sup>7</sup> Duke Kentucky stated that disclosure of the payment amounts, combined with certain publicly obtainable information, could potentially enable third parties to determine the offers the Company had made, and will likely make in the future, into the PJM market, and thereby would place the Company at a disadvantage with future PJM market participation.<sup>8</sup>

Having considered the petition and the material at issue, the Commission finds that Duke Kentucky's petition should be granted. Disclosure of the invoices could allow competitors to gain an unfair advantage by permitting access to Duke Kentucky's energy and capacity data. This type of information was previously held confidential by the

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<sup>4</sup> 807 KAR 5:001E, Section 13(2)(c).

<sup>5</sup> Petition at 3.

<sup>6</sup> Petition at 3.

<sup>7</sup> Petition at 4.

<sup>8</sup> Petition at 4.

Commission,<sup>9</sup> was confidentially disclosed to this agency, and is generally recognized as confidential or proprietary; it therefore 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)(c)(1).

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's October 15, 2025 petition for confidential treatment is granted.
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 ten years 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 20 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

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<sup>9</sup> Case No. 2022-00267, *Electronic Examination of the Application of the Fuel Adjustment Clause of Duke Energy Kentucky, Inc, from November 1, 2021 through April 30, 2022* (Ky. PSC Feb. 17, 2023), Order at 2.

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.

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PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Commissioner

  
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Commissioner

ATTEST:

  
\_\_\_\_\_  
Executive Director 

ENTERED  
MAR 11 2026  
AB  
KENTUCKY PUBLIC  
SERVICE COMMISSION

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