



DEPT. OF WATER, ENERGY, AND ENVIRONMENT

October 21, 2026



Jim Pillen, Governor

VIA EMAIL & CERTIFIED MAIL

Michael S. Degan, Kutak Rock
Agate, LLC (DWEE Facility ID: 90045)
1650 Farnam St
Omaha, NE 68106

RE: 2026 Data Center Annual Reports Confidentiality Request – Final Determination

Mr. Degan,

This letter serves as the Department of Water, Energy, and Environment's (Department) final determination to deny the request submitted on September 25, 2026, to withhold certain records or information from public disclosure as trade secrets and to afford such records or information confidential treatment.

On October 9, 2026 via email and certified mail, the Department issued a preliminary determination to deny the request for confidential treatment and provided Agate, LLC the opportunity to submit comments before a final decision was made. The Department established October 16, 2026, as the deadline for receipt of written comments. As of that deadline, the Department did not receive a response or written comments.

Pursuant to Title 115 Neb. Admin. Code. Ch. 2, § 004.02, the failure to submit timely comments constitutes a waiver of the confidentiality claim. Accordingly, the Department's preliminary determination is now final, and the request for confidential treatment is denied.

As explained in the preliminary determination, the information provided in support of the request did not satisfactorily demonstrate that disclosure of the records or information is likely to cause substantial harm to the business's competitive position, as required by Title 115 Neb. Admin. Code Ch. 2, § 003.01E. Additionally, the Department determined that disclosure of the information required to be reported under Neb. Rev. Stat. § 70-1506(6) serves a public purpose and, therefore, the records do not qualify for withholding under Neb. Rev. Stat. § 84-712.05(3).

Pursuant to Title 115 Neb. Admin. Code Ch. 2, § 005, the Department will make the records or information available to the public on the tenth day after your receipt of this written notice of denial.

Sincerely,

Isabella Peterson, Attorney