

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Application of Duke Energy Kentucky,)
Inc., for a Certificate of Public)
Convenience and Necessity Authorizing)
the Construction of a Gas Pipeline from)
Erlanger, Kentucky to Hebron, Kentucky)

Case No. 2019-00388

**PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN ITS APPLICATION**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:001, Section 13, respectfully requests the Commission to classify and protect certain information provided by Duke Energy Kentucky in its Application filed in this proceeding requesting a Certificate of Public Convenience and Necessity (CPCN) for approval of the construction of a seven mile in length, twenty-four-inch diameter, natural gas pipeline from Erlanger, Kentucky to Hebron, Kentucky and associated facilities. The information for which Duke Energy Kentucky now seeks confidential treatment is contained in certain pages to Confidential Exhibits 2(a), 2(d), 2(e) and Confidential Exhibit 4, attached to its Application, which includes critical utility infrastructure by way of engineering drawings showing the exact route, location, depths, pressures, and nature of the proposed construction (Confidential Information). The public release of this information would create a security risk for both the Company and its customers.

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain records in KRS 61.878(1)(m)(1)(f) and (1)(g). To qualify for this exemption and, therefore,

maintain the confidentiality of the information, a party must establish that disclosure of the records would “have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:...

f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency...”

2. Duke Energy Kentucky requests confidential treatment for pages 5-10, 12-13, 18-28, 33-37, and 42-43 of Confidential Exhibit 2(a); pages 3, 6-7, 10, 13-14, 17-19, and 22-23 of Confidential Exhibit 2(d); Confidential Exhibit 2(e); and Confidential Exhibit 4 attached to its Application as these engineering drawings show the precise location of gas systems considered to be critical infrastructure information. This information needs to be kept confidential in order to continue to provide delivery of safe and reliable gas service to Duke Energy Kentucky customers. The release of this information would threaten the public safety by providing precise locations of critical utility infrastructure that could be used and exploited to the detriment of the safety of the general public.

3. The information for which Duke Energy Kentucky is seeking confidential treatment was developed internally by Duke Energy Corporation and Duke Energy Kentucky personnel, is not on file publicly with any agency, and is not available from any commercial or other source outside Duke Energy Kentucky. The aforementioned information is distributed within Duke Energy Kentucky only to those employees who must have access for business reasons, and is generally recognized as confidential and proprietary in the gas industry.

4. Duke Energy Kentucky does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, the Attorney General or other intervenors with a legitimate interest in reviewing the same for the purpose of participating in this case.

5. This information was, and remains, integral to Duke Energy Kentucky's effective execution of business decisions. And such information is generally regarded as confidential or proprietary. Indeed, as the Kentucky Supreme Court has found, "information concerning the inner workings of a corporation is 'generally accepted as confidential or proprietary.'" *Hoy v. Kentucky Industrial Revitalization Authority*, Ky., 904 S.W.2d 766, 768 (Ky. 1995).

6. In accordance with the provisions of 807 KAR 5:001, Section 13(3), the Company is filing one copy of the Confidential Information separately under seal, and one copy without the confidential information included.

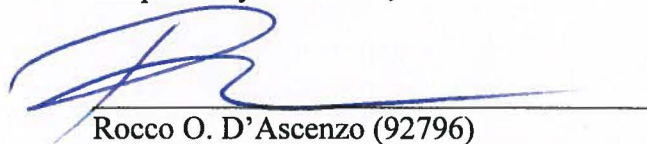
7. Duke Energy Kentucky respectfully requests that the Confidential Information contained in Confidential Exhibits 2(a), 2(d), and 4 be withheld from public disclosure until such time as the facilities depicted therein are no longer in service and that the Confidential Information contained in Confidential Exhibit 2(e) be withheld from

public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests of the Company or its customers if publicly disclosed.

8. To the extent the Confidential information becomes generally available to the public, whether through filings required by other agencies or otherwise, Duke Energy Kentucky will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10)(a).

WHEREFORE, Duke Energy Kentucky, Inc. respectfully requests that the Commission classify and protect as confidential the specific information described herein.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Application of Duke Energy Kentucky, Inc. has been served via electronic mail to the following party on this 6th day of November 2019.

Rebecca Goodman
The Office of the Attorney General
Utility Intervention and Rate Division
700 Capital Avenue, Ste 20
Frankfort, Kentucky 40601-8204



Rocco O. D'Ascenzo