

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

The Electronic Application of Duke)
Energy Kentucky, Inc., for: 1) An)
Adjustment of the Natural Gas Rates; 2)) Case No. 2021-00190
Approval of New Tariffs; and 3) All)
Other Required Approvals and Relief.)

**MOTION FOR CONFIDENTIAL TREATMENT OF
DUKE ENERGY KENTUCKY, INC. FOR CERTAIN
RESPONSES TO COMMISSION STAFF’S POST HEARING
REQUEST FOR INFORMATION**

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, pursuant to 807 KAR 5:001, Section 13 and other law, and respectfully requests the Commission to classify and protect certain information provided by the Company in its Responses to Commission Staff’s Post Hearing Request for Information issued on October 20, 2021, respectfully stating as follows:

1. On April 30, 2021 Duke Energy Kentucky filed a Notice of Intent to File an Application seeking adjustment of its natural gas rates and other approvals.
2. On June 1, 2021 Duke Energy Kentucky filed an Application seeking an adjustment of its natural gas rates and other approvals.
3. On October 20, 2021 Commission Staff issued its Post Hearing Request for Information to Duke Energy Kentucky.
4. In response to Commission Staff’s Post Hearing Request for Information, Duke Energy Kentucky is providing certain information for which it requests confidential treatment.
5. The information for which Duke Energy Kentucky seeks confidential treatment is

contained in its Attachments to Request 5 of Commission Staff's Post Hearing Request for Information, which is referred to herein as the "Confidential Information" and, broadly speaking, includes detailed information pertaining to certain operating characteristics of its natural gas pipelines, as well as, leak survey footage and leak results.

6. Request No. 5 of Commission Staff's Post Hearing Request for Information states as follows:

Refer to the hearing testimony of Brian W. Weisker, generally.

- a. Provide the maximum allowable operating pressure (MAOP) for the AM07 line from the installation date to the present.
- b. Provide the actual operating pressure (OP) for the AM07 line from the installation date to the present.
- c. Provide the leak survey and leak repair records for the AM07 line for the past ten years.

7. In its response to Request No. 5, Duke Energy Kentucky is providing attachments which relate to the operation of Duke Energy Kentucky's natural gas pipelines in Northern Kentucky. They identify the pattern for the flow of natural gas throughout the system and also provide specific information regarding the observed, nominal, and targeted pressures for some of these pipelines. Further, they contain leak survey footage and leak results. If made public, this information would disclose "the location, configuration, or security of critical systems, including public utility critical systems," which is unacceptable under KRS 61.878(1)(m)1.f. Pipeline information has previously been recognized by the Commission as being confidential in nature.¹

8. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(a); KRS 61.878(1)(c)(1); *Zink v.*

¹ *See In the Matter of the Purchased Gas Adjustment Filing of Atmos Energy Corporation*, Order, Case No. 2018-00337 (Ky. P.S.C. Jan. 24, 2019); *In the Matter of the Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Walton, Kentucky to Big Bone, Kentucky*, Order, Case No. 2016-00168 (Ky. P.S.C. July 27, 2017).

Department of Workers Claims, Labor Cabinet, 902 S.W.2d 825 (Ky. App. 1994); *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). Public disclosure of these sensitive documents would unnecessarily provide interested parties and Duke Energy Kentucky's competitors with access to exclusive information regarding the inner-business workings and decisions of Duke Energy Kentucky. For this reason, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

9. Furthermore, 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 public agency, and is not publicly available from any commercial or other source. 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 utility industry.

10. Duke Energy Kentucky does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable protective agreement entered into with any intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

11. In accordance with the provisions of 807 KAR 5:001, Section 13(2)(e), the Company is filing one copy of the Confidential Information separately under seal, and the appropriate number of copies with the Confidential Information redacted.

12. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of twenty 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 if publicly disclosed.

13. 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,

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo (92796)
Deputy General Counsel
Duke Energy Business Services, LLC
139 East Fourth Street, 1303-Main
Cincinnati, Ohio 45202
Phone: (513) 287-4320
Fax: (513) 287-4385
E-mail: rocco.d'ascenzo@duke-energy.com

and

David S. Samford
L. Allyson Honaker
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, KY 40504
(859) 368-7740
Email: David@gosssamfordlaw.com
Email: Allyson@gosssamfordlaw.com

Counsel for Duke Energy Kentucky, Inc.

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on November 4, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that submitting the original filing to the Commission in paper medium is no longer required as it has been granted a permanent deviation.²

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo

²*In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Order, Case No. 2020-00085 (Ky. P.S.C. July 22, 2021).