

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 Phase One) Case No. 2022-00084
Replacement of the AM07 Pipeline)

APPLICATION

Now comes Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), pursuant to KRS 278.020 and 807 KAR 5:001, Sections 14 and 15, and other applicable law, and hereby respectfully requests from the Kentucky Public Service Commission (Commission) an Order granting a Certificate of Public Convenience and Necessity (CPCN) for approval of the construction of the first phase of its AM07 Pipeline Replacement Project (Phase One).

The AM07 Pipeline (AM07) is approximately sixteen miles in total length and is the primary artery for Duke Energy Kentucky’s natural gas delivery system. AM07 extends to the Ohio River, transporting natural gas from upstream suppliers, and supports natural gas delivery throughout the Duke Energy Kentucky natural gas delivery system via connected pipelines. The AM07 pipeline was constructed in the 1950’s, in accordance with existing regulations at the time. Today, AM07 is of a vintage where the materials are no longer industry standard and the pipeline is unable to meet regulations promulgated by the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA).

Duke Energy Kentucky needs to replace certain sections of its AM07 pipeline, totaling approximately 13.7 miles, and associated regulator stations through its Northern Kentucky territory over the next few years to comply with PHMSA integrity regulations. This replacement will occur over several years, in five phases.

Phase One of the replacement project consists of abandoning the existing AM07 pipeline section and replacing it with an approximate two mile in length steel pipeline section, that is twenty-four-inches in diameter spanning from a crossing point at the Ohio River in Hebron, Kentucky to a newly built regulation facility along Turfway Road in Erlanger, KY (the Project). In support of this Application, Duke Energy Kentucky respectfully states as follows:

Introduction

1. Pursuant to 807 KAR 5:001, Section 14(2), Duke Energy Kentucky is a Kentucky corporation originally incorporated on March 20, 1901, in good standing, and a “public utility” as that term is defined in KRS 278.010(3), and, therefore, is subject to the Commission’s jurisdiction. Duke Energy Kentucky is engaged in the business of furnishing natural gas and electric services to various municipalities and unincorporated areas in Boone, Bracken, Campbell, Gallatin, Grant, Kenton, and Pendleton Counties in the Commonwealth of Kentucky.

2. Pursuant to 807 KAR 5:001, Section 14(1), Duke Energy Kentucky’s business address is 139 East Fourth Street, Cincinnati, Ohio 45202. The Company’s local office address in Kentucky is Duke Energy Erlanger Ops Center, 1262 Cox Road, Erlanger, Kentucky 41018. The facts upon which the Application are based are set forth herein.

3. Copies of all orders, pleadings and other communications related to this proceeding should be sent to:

Rocco O. D'Ascenzo
Deputy General Counsel
Duke Energy Kentucky, Inc.
139 E. 4th St.
Cincinnati, OH 45202
Rocco.D'Ascenzo@duke-energy.com
KYfilings@duke-energy.com

Background

4. Duke Energy Kentucky has identified a need to construct and replace its AM07 Pipeline in order to comply with PHMSA regulations. Phase One consists of constructing a new, 24-inch steel natural gas transmission line within new and limited existing right-of-way from the I-75 crossing west to a new regulator station with an in-line inspection (ILI) receiver located near Turfway Road and Queens Court. The station will feed distribution pressure into the new 24-inch distribution pipeline, extending to the AM07 Ohio River crossing manifold on the south (Kentucky) side of the river crossing therefore reclassifying the AM07 river crossing pipelines to distribution pressure. With this Project, a new feed into the Company's existing UL60 pipeline will need to be provided. Once completed, approximately 1.5 miles of new 24-inch transmission pipe and 2,500 feet of 24-inch distribution pipe will be placed in service.

5. The AM07 replacement will also improve safety and reliability to the main portion of the Company's natural gas delivery system in Northern Kentucky. Although Duke Energy Kentucky has been able to meet customer needs with safe and reliable natural gas service, replacement of AM07 infrastructure is required under recent updates to federal regulations, known as the new pipeline safety regulation, "Pipeline Safety: Safety of Gas

Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments” (New Transmission Rule). The New Transmission Rule went into effect July 2020 mandating Operators to review and reconfirm transmission pipeline Maximum Allowable Operating Pressure (MAOP). The Project is also necessary for complying with other relevant regulations, specifically, Subpart L §192.607, Verification of Pipeline Materials Properties and Attributes, Subpart L §192.624, Maximum allowable operating pressure reconfirmation, Subpart M §192.710, Transmission lines: Assessments outside of high consequence areas, and Subpart O, Gas Transmission Pipeline Integrity Management.

6. To properly assess for the threats on each pipeline, under the New Transmission Rule, natural gas companies that do not have the necessary traceable, verifiable, and complete records must pressure test, perform ILI, or replace the pipe. The 1956 vintage pipe within the AM07 pipeline does not have traceable, verifiable and complete pressure test records and is incapable of ILI. Additionally, because the AM07 is the backbone of the Company’s natural gas delivery system, is it not possible to take it out of service to perform pressure testing. Because the majority of AM07 is comprised of 1956 vintage pipe with active manufacturing and construction threats, the Company must take action to address these threats to comply with these regulations. The new AM07 will provide additional reliability to Duke Energy Kentucky’s natural gas delivery system by replacing aging, non-piggable infrastructure with new pipe constructed from modern materials allowing the Company to continue to provide safe and reliable service. The new pipeline will be designed and constructed for safe passage of ILI tools allowing the Company to continue providing safe natural gas service for current and future customers

7. The purpose of, and need for, the Project is to meet PHMSA regulations and ensure the Company’s natural gas delivery system continues to function in a safe and reliable manner for customers. The Project is necessary to support future load growth in the area and maintain sufficient natural gas system pressures. Additionally, the timing of the project, including the priority of completion of the project in five phases is to spread out the timing of the investments in a reasonable manner but within the compliance timeline per PHMSA regulations. The Company estimates the timeline of construction for the Phase One to be approximately seven months.

8. Duke Energy Kentucky anticipates that the majority of the Project will be located in private easements that will be obtained following approval of this Application. Where private easements are not possible, the Company will locate the Phase One within existing public rights-of-way. Private easements are preferable as they allow the Company to maintain greater control over the pipeline and to mitigate any impact to system integrity and reliability due to municipal street widening or improvement projects.

9. The current estimated project cost for Phase One is approximately \$32.25 million dollars as detailed in the chart below:

Task	Total
Design	\$2.5M
Land	\$1.25 M
Construction	\$25M
Materials	\$3.5M
	<u>\$32.25 M</u>

Request for Certificate of Public Convenience and Necessity

10. In accordance with 807 KAR 5:001 Section 12(2)(a)-(i), Duke Energy Kentucky is filing the following information in Exhibit 1, which is incorporated herein and made a part of this Application filed in this proceeding:

<u>Exhibit 1</u>	<u>Description</u>	<u>807 KAR 5:001</u>
<u>Page</u>		<u>Section Reference</u>
	Financial Exhibit	12 (2)
1	Amount and kinds of stock authorized	12(2)(a)
1	Amount and kinds of stock issued and outstanding	12(2)(b)
1	Terms of preference or preferred stock	12(2)(c)
1	Brief description of each mortgage on property of Duke Energy Kentucky	12(2)(d)
2	Amount of bonds authorized and issued and related information	12(2)(e)
2	Notes outstanding and related information	12(2)(f)
2-3	Other indebtedness and related information	12(2)(g)
3-4	Dividend information	12(2)(h)
4-6	Detailed Income Statement and Balance Sheet	12(2)(i)

11. 807 KAR 5:001, Section 15 sets forth the filing requirements to seek a CPCN. In accordance with Section 15(2)(a), the Application and supporting testimonies describe the facts relied upon to show the Phase One replacement is required by public convenience or necessity in that the project is necessary to comply with Federal regulations, and from an integrity and reliability standpoint as well as, to provide adequate, efficient and reliable service.

12. In accordance with Section 15(2)(b), the Company has previously filed with the Commission the applicable franchises from the proper public authorities. Additionally, the following permits are attached hereto as Exhibits 2(a) through (e):

- a) Kentucky Transportation Cabinet permit to cross state and federal roads and to install the pipeline inside road right-of-way;
- b) Energy and Environmental Protection Cabinet - Division of Water, Application for a Permit to Construct Along or Across a Stream for stream and floodplain crossings (Stream Crossing Permit);
- c) US Army Corp Section 404 General Nationwide Permit #12 (including

Section 7 Threatened and Endangered Species Act of 1973 and Section 106 National Historic Preservation Act of 1966 clearances);

- d) Boone County and City of Erlanger encroachment permit to cross jurisdictional roads; and
- e) Coordination with the Kentucky Heritage Council regarding cultural resources, including cultural resource investigations/digs and potential viewshed impacts to architectural resources along the project route.

In addition, Duke Energy Kentucky will need to obtain construction permits from the Kentucky Division of Water and from Sanitation District 1, as well as, building permits from the City of Erlanger and Boone County prior to initiating construction following approval of this CPCN. Duke Energy Kentucky has submitted and received all necessary permit except those local building/construction permits. There has been no indication that the permit applications will not be approved. The Company anticipates commencing construction in early 2023 for an in-service date in late 2023.

13. In accordance with Section 15(2)(c), which requires the Company to provide a full description of the proposed location, route, or routes of the proposed construction or extension, including a description of the manner in which the facilities will be constructed, Duke Energy Kentucky respectfully states that this information is provided in Confidential Exhibit 3 to this Application and the direct testimonies submitted in support thereof. A copy of Confidential Exhibit 3 is being provided under a petition for confidential treatment.

14. In accordance with Section 15(2)(d)(1)-(2), requiring maps showing the location or route of the proposed construction or extension and plans and specifications

and drawings of the proposed plant, equipment, and facilities, Duke Energy Kentucky respectfully states that Confidential Exhibit 3 contains, among other things, maps and engineering drawings, respectively, showing the route, location and nature of the proposed construction. Because the Project is situated solely within the Company's service territory, it will not compete with any public utilities, corporations, or persons. Confidential Exhibit 3 further contains the preliminary work specifications for the Project.

15. In accordance with Section 15(2)(e), the Company states that it proposes to finance the construction through continuing operations and debt instruments, as necessary.

16. In accordance with Section 15(2)(f), the total estimated cost of construction for Phase One is approximately \$32.25 million. The annual ongoing cost of operation of the Project once completed is expected to be minimal, and less than \$10,000 except for required periodic inspections and/or testing.

17. Duke Energy Kentucky respectfully states that AM07 Replacement is needed to meet PHMSA Regulations, enable the Company to continue to provide safe and reliable natural gas service to our customers, as well as, to provide greater reliability to the overall system. The AM07 Replacement will support future load growth and maintain sufficient natural gas system pressures to respond to an identified integrity risk to its natural gas delivery system. Moreover, the Project will not result in a wasteful duplication of facilities.

Testimony and Exhibits

18. Additional facts supporting this Application are set forth in the following direct testimonies attached to this Application as Exhibits 4 through 6:

a.) Brian R. Weisker, Senior Vice President, Chief Operations Officer

Natural Gas, provides an overview of the Company's gas operations and the Project;¹

b.) Bradley Seiter, Senior Project Manager, discusses the Phase One construction specifications, the permits required, and estimated costs of construction and ongoing operation;² and,

c.) Jay P. Brown, Director of Rates and Regulatory Planning, discusses the estimated impacts to the Company's rates of the Project.³

WHEREFORE, Duke Energy Kentucky respectfully requests that the Commission:

- 1) Issue a CPCN for approval of the construction of Phase One of the AM07 replacement Project; and
- 2) Grant any other relief to which the Company may be entitled.

Respectfully submitted,

/s/Rocco O. D'Ascenzo
Rocco O. D'Ascenzo (92796)
Deputy General Counsel
Duke Energy Business Services LLC
139 East Fourth Street, 1303-Main
Cincinnati, Ohio 45201-0960
Phone: (513) 287-4320
Fax: (513) 287-4385
rocco.d'ascenzo@duke-energy.com
Attorney for Duke Energy Kentucky, Inc.

¹ Exhibit 4.

² Exhibit 5.

³ Exhibit 6.

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 28th day of March 2022.

John G. Horne, II
The Office of the Attorney General
Utility Intervention and Rate Division
700 Capital Avenue, Ste 118
Frankfort, Kentucky 40601-8204

/s/Rocco O. D'Ascenzo
Rocco O. D'Ascenzo

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 Phase One) Case No. 2022-00084
Replacement of the AM07 Pipeline)

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 the first phase of its AM07 Pipeline Replacement Project (Phase One). The information for which Duke Energy Kentucky now seeks confidential treatment is contained in Confidential Exhibit 3 which includes critical utility infrastructure by way of detailed engineering drawings showing the exact route, location, depths, pressures, and nature of the proposed construction; and Confidential Attachment BAS-1 to the Direct Testimony of Bradley Seiter that depicts confidential pricing information (Confidential Information). The public release of this information would create a security risk for both the Company and its customers as well as limit the Company's ability to negotiate pricing with potential vendors, which will ultimately be borne by 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 of Confidential Exhibit 3 and Confidential Attachment BAS-1, attached to Bradley Seiter’s testimony. Confidential Exhibit 3 includes engineering drawings showing 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 natural gas infrastructure that could be used and exploited to the detriment of the safety of the general public.

Confidential Attachment BAS-1 includes the Company's estimated and detailed costs of construction for the Phase One project. The cost estimates are based upon Duke Energy Kentucky's analysis based upon costs for prior projects. Duke Energy Kentucky intends to issue competitive solicit bids for the construction of this project and if potential vendors know what the Company anticipates the costs to be for various in terms, the Company would be placed at a competitive disadvantage as it seeks to negotiate better pricing. If potential vendors have access to the Company's anticipated costs, they would be less likely to negotiate with the Company, ultimately harming customers.

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 Exhibit 3 and Attachment BS-1 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 3 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,

/s/Rocco O. D'Ascenzo
Rocco O. D'Ascenzo (92796)
Deputy General Counsel
Duke Energy Business Services LLC
139 East Fourth Street, 1303-Main
Cincinnati, Ohio 45201-0960
Phone: (513) 287-4320
Fax: (513) 287-4385
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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 28th day of March 2022.

John G. Horne, II
The Office of the Attorney General
Utility Intervention and Rate Division
700 Capital Avenue, Ste 118
Frankfort, Kentucky 40601-8204

/s/Rocco O. D'Ascenzo
Rocco O. D'Ascenzo

FINANCIAL EXHIBIT

(1) Section 12(2)(a) Amount and kinds of stock authorized.

1,000,000 shares of Capital Stock \$15 par value amounting to \$15,000,000 par value.

(2) Section 12(2)(b) Amount and kinds of stock issued and outstanding.

585,333 shares of Capital Stock \$15 par value amounting to \$8,779,995 total par value. Total Capital Stock and Additional Paid-in Capital as of December 31, 2021:

Capital Stock and Additional Paid-in Capital
As of December 31, 2021
(\$ per 1,000)

Capital Stock	\$8,780
Premiums thereon	18,839
Total Capital Contributions from Parent (since 2006)	133,594
Contribution from Parent Company for Purchase of Generation Assets	<u>140,061</u>
Total Capital Stock and Additional Paid-in-Capital	<u>\$301,274</u>

(3) Section 12(2)(c) Terms of preference or preferred stock, cumulative or participating, or on dividends or assets or otherwise.

There is no preferred stock authorized, issued or outstanding.

(4) Section 12(2)(d) Brief description of each mortgage on property of applicant, giving date of execution, name of mortgagor, name or mortgagee, or trustee, amount of indebtedness authorized to be secured, and the amount of indebtedness actually secured, together with any sinking fund provision.

Duke Energy Kentucky does not have any liabilities secured by a mortgage.

(5) Section 12(2)(e) Amount of bonds authorized, and amount issued, giving the name of the public utility which issued the same, describing each class separately, and giving the date of issue, face value, rate of interest, date of maturity and how secured, together with the amount of interest paid thereon during the last fiscal year.

The Company has fourteen outstanding issues of unsecured senior debentures issued under an Indenture dated December 1, 2004, between itself and Deutsche Bank Trust Company Americas, as Trustee, as supplemented by four Supplemental Indentures. The Indenture

allows the Company to issue debt securities in an unlimited amount from time to time. The Debentures issued and outstanding under the Indenture are the following:

<u>Supplemental Indenture</u>	<u>Date of Issue</u>	<u>Principal Amount Authorized and Issued</u>	<u>Principal Amount Outstanding</u>	<u>Rate of Interest</u>	<u>Date of Maturity</u>	<u>Interest Paid Year 2021</u>
1 st Supplemental	3/7/2006	65,000,000	65,000,000	6.200%	3/10/2036	4,030,000
3 rd Supplemental	1/5/2016	45,000,000	45,000,000	3.420%	1/15/2026	1,539,000
3 rd Supplemental	1/5/2016	50,000,000	50,000,000	4.450%	1/15/2046	2,225,000
4 th Supplemental	9/7/2017	30,000,000	30,000,000	3.350%	9/15/2029	1,005,000
4 th Supplemental	9/7/2017	30,000,000	30,000,000	4.110%	9/15/2047	1,233,000
4 th Supplemental	9/7/2017	30,000,000	30,000,000	4.260%	9/15/2057	1,278,000
5 th Supplemental	10/3/2018	25,000,000	25,000,000	4.010%	10/15/2023	1,002,500
5 th Supplemental	10/3/2018	40,000,000	40,000,000	4.180%	10/15/2028	1,672,000
5 th Supplemental	12/12/2018	35,000,000	35,000,000	4.620%	12/15/2048	1,617,000
6 th Supplemental	7/17/2019	40,000,000	40,000,000	4.320%	7/15/2049	1,728,000
7 th Supplemental	9/26/2019	95,000,000	95,000,000	3.230%	10/01/2025	3,068,500
7 th Supplemental	9/26/2019	75,000,000	75,000,000	3.560%	10/01/2029	2,670,000
8 th Supplemental	9/15/2020	35,000,000	35,000,000	2.650%	9/15/2030	927,500
8 th Supplemental	9/15/2020	35,000,000	35,000,000	3.660%	9/15/2050	1,281,000
			630,000,000			25,276,500

(6) **Section 12(2)(f) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.**

The Company has one outstanding \$50,000,000 unsecured, two-year bank term loan note issued on October 12, 2021. Interest accrues at an annual rate equal to 60 basis points plus Daily Simple SOFR (Secured Overnight Financing Rate) and is paid quarterly. The term loan will mature on October 12, 2023.

<u>Note Outstanding</u>	<u>Date of Issue</u>	<u>Principal Amount Authorized and Outstanding</u>	<u>Rate of Interest</u>	<u>Date of Maturity</u>	<u>Interest Paid Year 2021</u>
Term Loan	10/12/2021	50,000,000	SOFR + 60bps	10/12/2023	70,834

(7) **Section 12(2)(g) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.**

The Company has two series of Pollution Control Revenue Refunding Bonds issued under a Trust Indenture dated as of August 1, 2006 and a Trust Indenture dated as of December 1, 2008, between the County of Boone, Kentucky and Deutsche Bank National Trust Company as Trustee. The Company's obligation to make payments equal to debt service on the Bonds is evidenced by a Loan Agreement dated as of August 1, 2006 and December 1, 2008 between the County of Boone, Kentucky and Duke Energy Kentucky. The Bonds issued under the Indentures are below. On Nov 1, 2021, the Company bought in the Series 2008A bond. The bond will remain in treasury and will not be classified as outstanding debt until re-issued or re-marketed. The below schedule reflects an outstanding principal amount of \$0 for the Series 2008A bond.

Indenture	Date of Issue	Principal Amount Authorized and Issued	Principal Amount Outstanding	Rate of Interest	Date of Maturity	Interest Paid Year 2021
Series 2010	11/24/2010	26,720,000	26,720,000	3.86% ⁽¹⁾	8/1/2027	1,031,392
Series 2008A	12/01/2011	50,000,000	<u>0</u>	1.12% ⁽²⁾	8/1/2027	<u>465,901</u>
			<u>26,720,000</u>			<u>1,497,292</u>

⁽¹⁾ The bonds were issued at a variable-rate and were swapped to a fixed rate of 3.86% for the life of the debt. The average floating-rate of interest on the bonds for 2021 was 0.067%.

⁽²⁾ The interest rate represents the average floating-rate of interest on the bonds for 2021.

The Company had no outstanding financing leases as of December 31, 2021.

The Company had \$127,596,000 of money pool borrowings outstanding as of December 31, 2021, \$25,000,000 of which is classified as Long-Term Debt payable to affiliated companies. This obligation, which is short-term by nature, is classified as long-term due to Duke Energy Kentucky's intent and ability to utilize such borrowings as long-term financing.

(8) Section 12(2)(h) Rate and amount of dividends paid during the last five (5) previous fiscal years, and the amount of capital stock on which dividends were paid each year.

DIVIDENDS PER SHARE

Year Ending	Per Share	Total	No. of Shares	Par Value of Stock
December 31, 2017	0	0	585,333	8,779,995
December 31, 2018	0	0	585,333	8,779,995
December 31, 2019	0	0	585,333	8,779,995
December 31, 2020	0	0	585,333	8,779,995
December 31, 2021	0	0	585,333	8,779,995

(9) **Section 12(2)(i) Detailed Income Statement and Balance Sheet**

See the attached pages for the detailed Income Statement for the twelve months ended December 31, 2021 and the detailed Balance Sheet as of December 31, 2021.

DUKE ENERGY KENTUCKY, INC.
CONDENSED STATEMENTS OF OPERATIONS
(Unaudited)
(In thousands)

Twelve Months Ended
December 31
2021

Operating Revenues	
Electric	406,720
Gas	113,472
Total operating revenues	520,192
Operating Expenses	
Fuel used in electric generation and purchased power	140,616
Natural gas purchased	42,452
Operation, maintenance and other	146,568
Depreciation and amortization	83,039
Property and other taxes	20,498
Goodwill and other impairment charges	2,272
Total operating expenses	435,445
Gains on Sales of Other Assets and Other, net	149
Operating Income	84,896
Other Income and Expenses, net	4,854
Interest Expense	26,284
Income Before Income Taxes	63,466
Income Tax Expense	10,070
Income From Continuing Operations	53,396
Income From Discontinued Operations, net of tax	-
Net Income	53,396

DUKE ENERGY KENTUCKY, INC.
Condensed Balance Sheets
(Unaudited)

(in thousands, except share amounts)	December 31, 2021
ASSETS	
Current Assets	
Cash and Cash Equivalents	5,482
Receivables (net of allowance for doubtful accounts)	7,658
Receivables from affiliated companies	31,503
Notes Receivables from affiliated companies	-
Inventory	49,533
Regulatory Assets	35,031
Other	21,851
Total Current Assets	151,058
Property, Plant and Equipment	
Cost	3,081,412
Less Accumulated Depreciation and Amortization	(1,063,560)
Generation Facilities To Be Retired	1,768
Net Property Plant and Equipment	2,019,620
Other Noncurrent Assets	
Regulatory Assets	115,166
Operating Lease Right-of-Use assets	8,407
Other	17,656
Total Other Noncurrent Assets	141,229
Total Assets	2,311,907
LIABILITIES AND COMMON STOCKHOLDERS' EQUITY	
Current Liabilities	
Accounts Payable	45,939
Accounts payable to affiliated companies	14,763
Notes payable to affiliated companies	102,596
Taxes Accrued	20,982
Interest Accrued	7,530
Current Maturities of Long-Term Debt	-
Asset Retirement Obligations	12,867
Regulatory Liabilities	9,241
Other	16,234
Total Current Liabilities	230,152
Long-Term Debt	704,221
Notes payable to affiliated companies	25,000
Other Noncurrent Liabilities	
Deferred Income Taxes	267,959
Asset Retirement Obligations	80,415
Regulatory Liabilities	120,630
Operating Lease Liabilities	8,379
Accrued Pension and Other Post-Retirement Benefit Costs	30,910
Investment Tax Credit	3,560
Other	19,048
Total Other Noncurrent Liabilities	530,901
Commitments and Contingencies	-
Equity	
Common Stock, \$15.00 par value, 1,000,000 shares authorized and 585,333 shares outstanding	8,780
Additional Paid in Capital	292,494
Retained Earnings	520,359
Total Duke Energy Corporation Stockholders' Equity	821,633
Noncontrolling Interests	-
Total Liabilities and Equity	2,311,907

NOTICE OF COMPLETION OF ENCROACHMENT PERMIT WORK

PERMITTEE

Name: Duke Energy
 Contact Person:
 Address: 139 E 4th St
 City: Cincinnati
 State: Ohio
 Zip: 45202
 Telephone:

PROJECT IDENTIFICATION

Permit Number: 06-2022-00242

I wish to notify the Department of Highways that the above mentioned permit work and any necessary right-of-way restoration have been completed and are ready for final inspection.

Permittee

Please return this form to the address below when work is completed and ready for final inspection.

Please Return to: Permit Engineer
 Department of Highways, District 6 Office
 421 Buttermilk Pike
 Covington, Kentucky 41017
 (859) 341-2700
www.transportation.ky.gov/

LOCATION(S)			
Description	County - Route	Latitude	Longitude
Utilize I-275 ROW as workspace for the installation of 24" transmission gas pipeline. The pipeline will not be installed within KYTC ROW. Right of way fencing will need Utilize I-275 ROW as workspace to be taken down and replaced after completion of work.	Kenton - I 275	39.037462	-84.605444

APPROVED
 MARCH 9, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-002-12



Andy Beshear
Governor

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
Department of Highways, District 6 Office
421 Buttermilk Pike
Covington, Kentucky 41017
(859) 341-2700
www.transportation.ky.gov/

Jim Gray
Secretary

March 9, 2022

Duke Energy
139 E 4th St
Cincinnati, Ohio 45202

Subject: Permit #: 06-2022-00242
Permit Type: Utilities - Gas
Approval

Dear Applicant:

Attached is your permit approval and documentation for the subject permit.

Be advised that all work must be done in conformity with permit and application conditions. If you have any questions, please contact the Permits Section at this office.

Sincerely,

A handwritten signature in cursive script that reads "Linzy Brefeld".

Linzy Brefeld
D6 Permits Supervisor

Attachments



An Equal Opportunity Employer M/F/D

APPROVED
MARCH 9, 2022
KENTUCKY TRANSPORTATION CABINET
06-2022-00242



Kentucky Transportation Cabinet
 Department of Highways
 Division of Maintenance
 Permits Branch

TC 99-1 (B)
 07/2018
 Page 1 of 1

ENCROACHMENT PERMIT

KYTC KEPT #: 06-2022-00242
Permittee: Duke Energy
Permit Type / Subtype: Utilities / Gas
Work Completion Date: 3/9/2023

INDEMNITIES		
Type	Amount Required	Tracking Number
Performance Bond	\$0.00	
Cash / Check	\$0.00	
Self-Insured	\$0.00	
Payment Bond	\$0.00	
Liability Insurance	\$0.00	

This permit has been: **APPROVED** **DENIED**

Linzy Brefeld D6 Permits Supervisor 3/9/2022
SIGNATURE TITLE DATE


The TC 99-1(B), including the application TC-99 1(A) and all related and accompanying documents and drawings make up the permit. It is not a permit unless both the TC 99-1(A) and TC 99-1(B) are both present.

LOCATION(S)			
Description	County - Route	Latitude	Longitude
Utilize I-275 ROW as workspace for the installation of 24" transmission gas pipeline. The pipeline will not be installed within KYTC ROW. Right of way fencing will need Utilize I-275 ROW as workspace to be taken down and replaced after completion of work.	Kenton - I 275	39.037462	-84.605444



To Submit a Locate Request
 24 Hours a Day, Seven Days a Week
 Call 811 or 800-752-6007



	KENTUCKY TRANSPORTATION CABINET Department of Highways PERMITS BRANCH	TC 99-1A Rev. 10/2020 Page 1 of 4
APPLICATION FOR ENCROACHMENT PERMIT		

KYTC KEPT #: 06-2022-00242

SECTION 1: APPLICANT CONTACT INFORMATION

APPLICANT Duke Energy	ADDRESS 139 E 4th St		
EMAIL N/A	CITY Cincinnati	STATE OH	ZIP 45202
CONTACT NAME 1 Josh Pedersen (on behalf of Duke Energy)	EMAIL jmpedersen@burnsmcd.com	PHONE # (913) 645-2713	
		CELL #	
CONTACT NAME 2 (if applicable) Matthew Hughes	EMAIL Matthew.Hughes2@duke-energy.com	PHONE # 513-287-3026	
		CELL #	

SECTION 2: PROPOSED WORK LOCATION

ADDRESS I-275 ROW	CITY Erlanger	STATE Kentucky	ZIP 41018
COUNTY Kenton	ROUTE # I-275	MILE POINT 0.4	LONGITUDE (X) various-(see below) LATITUDE (Y) various-(see below)

ADDITIONAL LOCATION INFORMATION:

FOR KYTC USE ONLY

PERMIT TYPE:
 Air Right
 Entrance
 Utilities
 Vegetation Removal
 Other: _____

ACCESS:
 Full
 Partial
 by Permit
 LOCATION:
 Left
 Right
 Crossing

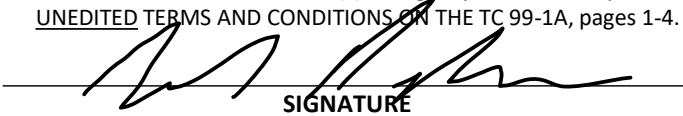
SECTION 3: GENERAL DESCRIPTION OF WORK (Lat , Long)

Utilize I-275 ROW as workspace for the installation of 24" transmission gas pipeline. The pipeline will not be installed within KYTC ROW. Right of way fencing will need to be taken down and replaced after completion of work.

Locations: ROW Workspace Encroachment

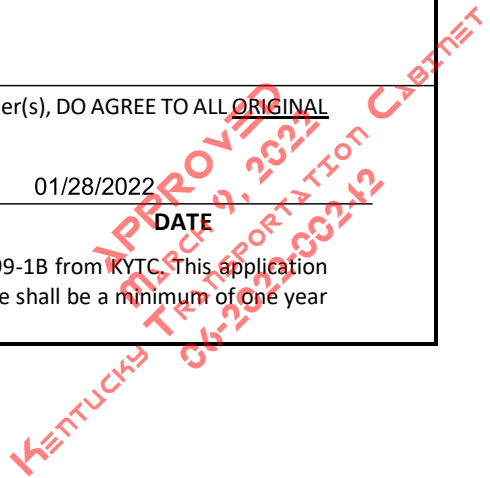
(39.036920° , -84.606288°)
 (39.038414° , -84.608618°)

THE UNDERSIGNED APPLICANT(s), being duly authorized representative(s) or owner(s), DO AGREE TO ALL ORIGINAL UNEDITED TERMS AND CONDITIONS ON THE TC 99-1A, pages 1-4.


01/28/2022

SIGNATURE
DATE

This is not a permit unless and until the applicant(s) receives an approved TC 99-1B from KYTC. This application shall become void if not approved by the cancellation date. The cancellation date shall be a minimum of one year from the date the applicant submits their application.





KENTUCKY TRANSPORTATION CABINET
Department of Highways
PERMITS BRANCH

TC 99-1A
Rev. 10/2020
Page 2 of 4

APPLICATION FOR ENCROACHMENT PERMIT

TERMS AND CONDITIONS

1. The permit, including this application and all related and accompanying documents and drawings making up the permit, remains in effect and is binding upon the Applicant/Permittee, its successors and assigns, as long as the encroachment(s) exists and also until the permittee is finally relieved by the Department of Highways from all its obligations.
2. Applicant shall meet all requirements of the Clean Water Act if the project will disturb one acre or more, the applicant shall obtain a KPDES KYR10 Permit from the Kentucky Division of Water. All disturbed areas shall meet the requirements of the Department of Highway's Standard Specifications, Sections 212 and 213, as amended.
3. **INDEMNITY:**
 - A. **PERFORMANCE BOND:** The permittee shall provide to the Department a performance bond according to the Permits Manual, Section PE-203 as a guarantee of conformance with the Department's Encroachment Permit requirements.
 - B. **PAYMENT BOND:** At the discretion of the department, a payment bond shall be required of the permittee to ensure payment of liquidated damages assessed to the permittee.
 - C. **LIABILITY INSURANCE:** Liability insurance shall be required of the permittee (in an amount approved by the department) to cover all liabilities associated with the encroachment.
 - D. It shall be the responsibility of the permittee, its successors and assigns, to maintain all indemnities in full force and effect until the permittee is authorized to release the indemnity by the Department.
4. A copy of this application and all related documents making up the approved permit shall be given to the applicant and shall be made readily available for review at the work site at all times.
5. Perpetual maintenance of the encroachment is the responsibility of the permittee, its successors and assigns, with the approval of the Department as required, unless otherwise stated.
6. Permittee, its successors and assigns, shall comply with and agree to be bound by the requirements and terms of (a) this application and all related documents making up the approved permit, (b) by the Department's Permits Manual, and (c) by the Manual on Uniform Traffic Control Devices, both manuals as revised to and in effect on the date of issuance of the permit, all of which documents are made a part thereof by this reference. Compliance by the permittee, its successors and assigns, with subsequent revisions to applicable provisions of either manual or other policy of the Department may be made a condition of allowing the encroachment to persist under the permit.
7. Permittee agrees that this and any encroachment may be ordered removed by the Department at any time, and for any reason, upon thirty days written notice to the last known address of the applicant or to the address at the location of the encroachment. The permittee agrees that the cost of removing and of restoring the associated right-of-way is the responsibility of the permittee, its successors and assigns.
8. Permittee, its successors and assigns, agree that if the Department determines that motor vehicular safety deficiencies develop as a result of the installation or use of the encroachment, the permittee, its successors and assigns, shall provide and bear the expenses to adjust, relocate, or reconstruct the facilities, add signs, auxiliary lanes, or other corrective measures reasonably deemed necessary by the Department within a reasonable time after receipt of a written notice of such deficiency. The period within which such adjustments, relocations, additions, modifications, or other corrective measures must be completed will be specified in the notice.
9. Where traffic signals are required as a condition of granting the requested permit or are thereafter required to correct motor vehicular safety deficiencies, as determined by the Department, the costs for signal equipment and installation(s) shall be borne by the permittee, its successors and assigns and the Department in its reasonable discretion and only in accordance with the Department's current policy set forth in the Traffic Operations Manual and Permits Manual. Any modifications to the permittee's entrance necessary to accommodate signalization (including necessary easement(s) on private property) shall be the responsibility of the permittee, its successors and assigns, at no expense to the Department.

NOT RECORDED
 KENTUCKY TRANSPORTATION CABINET
 04-20-2022 10:50 AM




KENTUCKY TRANSPORTATION CABINET
 Department of Highways
PERMITS BRANCH

TC 99-1A
 Rev. 10/2020
 Page 4 of 4

APPLICATION FOR ENCROACHMENT PERMIT

17. Permittee agrees that the authorized permit is personal to the permittee and shall remain in effect until such time as (a) the permittee's rights to the adjoining real property to have benefitted from the requested encroachment have been relinquished, (b) until all permit obligations have been assumed by appropriate successors and assigns, and (c) unless and until a written release from permit obligations has been granted by the Department. The permit and its requirements shall also bind the real property to have benefitted from the requested encroachment to the extent permitted by law. The permit and the related encroachment become the responsibility of the successors and assigns of the permittee and the successors and assigns of each property owner benefitting from the encroachment, or the encroachment may not otherwise permissibly continue to be maintained on the right-of-way. (Does not apply to utility encroachments serving the general public.)
18. If work authorized by the permit is within a highway construction project in the construction phase, it shall be the responsibility of the permittee to make personal contact with the Department's Engineer on the project in order to coordinate all permitted work with the Department's prime contractor on the project.
19. This permit is not intended to, nor shall it, affect, alter or alleviate any requirement imposed upon the permittee, its successors and assigns, by any other agency.
20. Permittee, its successors and assigns, agree to contain and maintain all dirt, mud, and other debris emanating from the encroachment away from the surrounding right-of-way and the travel way of the highway hereafter and at all times that its obligations under the permit remain in effect.
21. Before You Dig: The contractor is instructed to call 1-800-752-6007 to reach KY 811, the One-Call system for information on the location of existing underground utilities. The call is to be placed a minimum of two (2) and no more than ten (10) business days prior to excavation. The contractor should be aware that the owners of underground facilities are not required to be members of the KY 811 One-Call Before U-Dig (BUD) service. The contractor must coordinate excavation with the utility owners, including those whom do not subscribe to KY 811. It may be necessary for the contractor to contact the County Clerk to determine what utility companies have facilities in the area.
22. The undersigned Utility acknowledges ownership and control of the facilities proposed to be installed, modified, or extended by the Applicant/Permittee and agrees to be bound by the requirements and terms of this application and all related documents making up the approved permit, by the Department's Permits Guidance Manual, and by all applicable regulations and statutes in effect on the date of issuance of the permit. This information and application is certified correct to the best knowledge and belief of the undersigned Utility.

<u>Duke Energy</u>	
UTILITY	
<u>Matthew Hughes</u>	<u>Senior Engineer</u>
NAME (Utility Representative)	TITLE (Utility Representative)
	<u>2/8/22</u>
SIGNATURE (Utility Representative)	DATE



To Submit a Locate Request
 24 Hours a Day, Seven Days a Week:
 Call 811 or 800-752-6007

APPROVED
 FEBRUARY 9, 2022
 KENTUCKY TRANSPORTATION CABINET
 04-2022-002-12




KENTUCKY TRANSPORTATION CABINET
Department of Highways
PERMITS BRANCH

TC 99-1A
Rev. 10/2020
Page 4 of 4

APPLICATION FOR ENCROACHMENT PERMIT

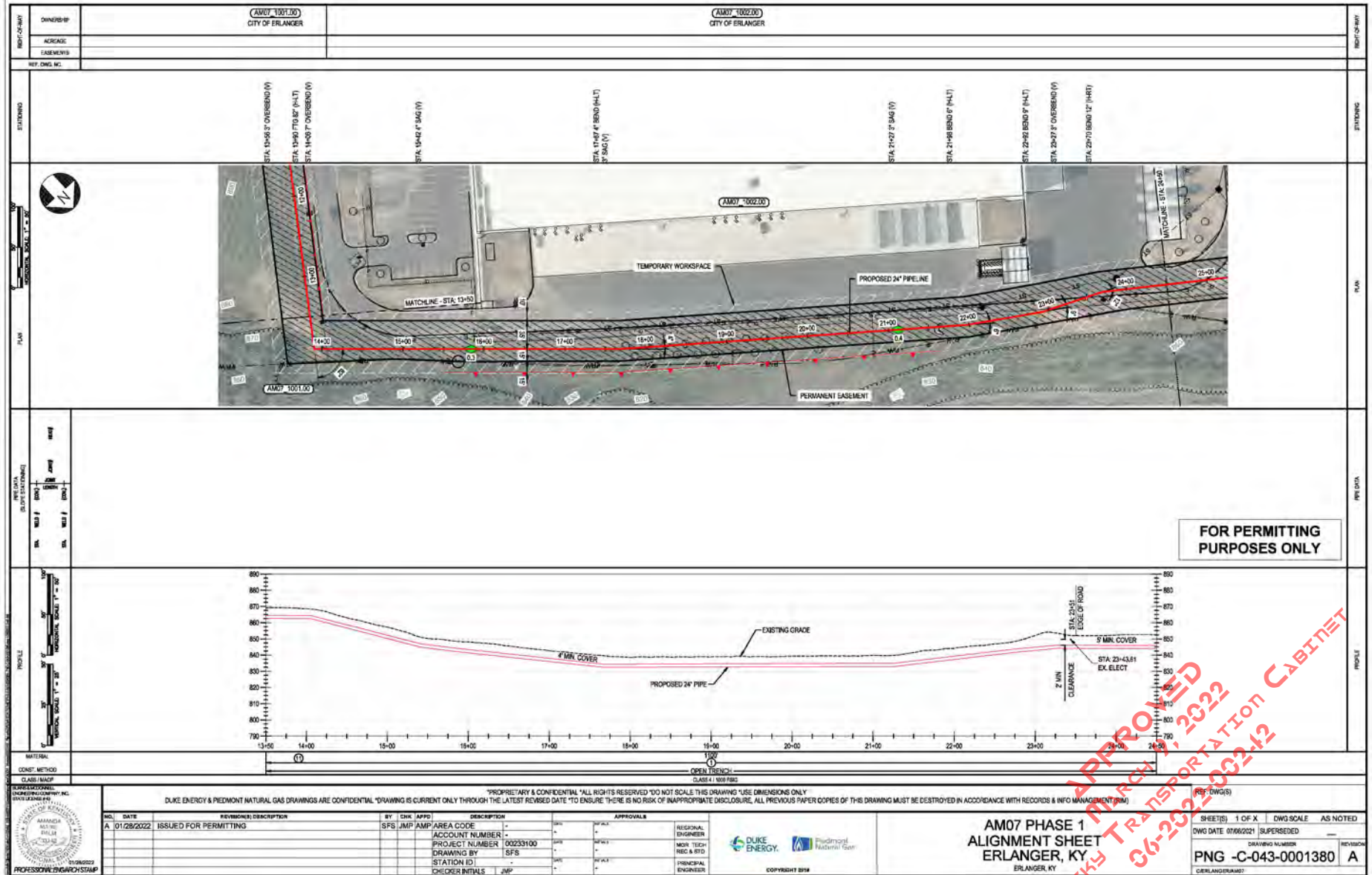
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<u>Duke Energy</u>	
UTILITY	
<u>Matthew Hughes</u>	<u>Senior Engineer</u>
NAME (Utility Representative)	TITLE (Utility Representative)
	<u>2/8/22</u>
SIGNATURE (Utility Representative)	DATE



To Submit a Locate Request
24 Hours a Day, Seven Days a Week:
Call 811 or 800-752-6007

APPROVED
FEBRUARY 9, 2022
KENTUCKY TRANSPORTATION CABINET
04-2022-002-12



PROFESSIONAL ENGINEER'S SEAL
 AMANDA BULLA
 12/06/2022
 PROFESSIONAL ENGINEER'S STAMP

DUKE ENERGY & PIEDMONT NATURAL GAS DRAWINGS ARE CONFIDENTIAL. DRAWING IS CURRENT ONLY THROUGH THE LATEST REVISED DATE TO ENSURE THERE IS NO RISK OF INAPPROPRIATE DISCLOSURE. ALL PREVIOUS PAPER COPIES OF THIS DRAWING MUST BE DESTROYED IN ACCORDANCE WITH RECORDS & INFO MANAGEMENT (RIM).

NO.	DATE	REVISION DESCRIPTION	BY	CHK	APP'D	DESCRIPTION	APPROVALS
A	01/28/2022	ISSUED FOR PERMITTING	SFS	JMP	JMP	AREA CODE	REGIONAL ENGINEER
						ACCOUNT NUMBER	MOB. TECH. INC. & I/O
						PROJECT NUMBER	PRINCIPAL ENGINEER
						DRAWING BY	
						STATION ID	
						CHECKER INITIALS	

AM07 PHASE 1
 ALIGNMENT SHEET
 ERLANGER, KY

REG. DWG(S)
 SHEET(S) 1 OF X | DWG SCALE AS NOTED
 DWG DATE 07/06/2021 | SUPERSEDED
 DRAWING NUMBER PNG -C-043-0001380
 REVISION A
 ERLANGER04007

APPROVED
 March 14, 2022
 Kentucky Transportation Cabinet
 06-20-2022-002-12

KYTC Division of Maintenance
Permits Branch
District 6

TC 99-21E

07/2018

Page 1 of 5

ENCROACHMENT PERMIT GENERAL NOTES & SPECIFICATIONS

Permit No. 06-2022-00242

I. SAFETY

A. General Provisions

- All signs and control of traffic shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, latest edition, Part VI, and safety requirements shall comply with the Permits Manual. Federal law requires that traffic control shall be implemented in accordance with MUTCD standards and KYTC's Standard Specifications for Road and Bridge Construction (KYTC SSRBC) under the supervision of a certified Work Zone Traffic Control Supervisor.
- All work necessary in shoulder or ditch line areas of a state highway shall be scheduled to be promptly completed so that hazards adjacent to the traveled way are kept to an absolute minimum.
- No more than one (1) traveled-lane shall be blocked or obstructed during normal working hours. All signs and flaggers during lane closure shall conform to the MUTCD. The traveled-way and shoulders shall be kept clear of mud and other construction debris at all times during construction of the permitted facility. No non-construction equipment or vehicles or office trailers shall be allowed on the right of way during working hours. The right of way shall be left free and clear of equipment, material, and vehicles during non-working hours.
- When necessary to block one (1) traveled-lane of a state highway, the normal working hours shall be as directed by the Department. No lanes shall be blocked or obstructed during adverse weather conditions (rain, snow, fog, etc.) without specific permission from the Department.
- Working hours shall be between 9:00AM and 3:00PM.
- Date and time restrictions pertaining to this permit are as follows:

Temporary workspace shall not be accessed from KYTC ROW. Temporary fence will be required.

B. Explosives

- No explosive devices or explosive material shall be used within state right of way without proper license and approval of the Kentucky Department of Mines and Minerals, Explosive Division.

C. OSHA

- Kentucky Occupational Safety and Health Standards for the construction industry, which has the effect of law, states in part: (Page 52, 1926.651, Specific Excavation Requirements) "Prior to opening an excavation, effort shall be made to determine whether underground installations, (sewer, telephone, water, fuel, electric lines, etc.) will be encountered, and if so, where such underground installations are located. When the excavation approaches the estimated location of such an installation, the exact location shall be determined, and when it is uncovered, proper supports shall be provided for the existing installation. Utility companies shall be contacted and advised of proposed work prior to the start of actual excavation."

D. Archaeological

- Whenever materials of an archaeological nature are discovered during the course of construction work or maintenance operations, contact shall be made immediately with the Division of Environmental Analysis, which maintains an archaeologist on staff, or with the Office of the State Archaeologist located at the University of Kentucky. Following this consultation, further action shall be decided on a case-by-case basis by the State Highway Engineer or the Transportation Planning Engineer or their designated representative.

E. Environmental

- If the activity to which this permit related disturbs one acre or more of land, you must obtain KPDES KYR10 permit. Information can be found at <http://water.ky.gov/permitting/Pages/GeneralPermits.aspx>

APPROVED
 MARCH 2022
 KENTUCKY TRANSPORTATION CABINET

Permit No. 06-2022-00242

TC 99-21E

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II. UTILITIES

- The permittee shall be responsible for any damage to existing utilities. Any utility modifications or relocations within state right of way necessary, as determined by the Department or by the owner of the utility, shall be at the expense of the permittee and subject to the approval of the Department.
- All existing manholes and valve boxes shall be adjusted to be flush with finished grade.
- Encasement pipe shall conform to current standards for highway crossings in accordance with the Permits Manual. Pipe encasing shall not be required if the pipe crossing is 2" or less.
- Parallel lines shall be constructed between back slope of ditch line and right-of-way line and shall have a minimum of 36-inch cover above top of pipe or conduit.
- All pavement cuts shall be restored per Kentucky Transportation Cabinet standards and specifications.
- Aerial crossing of utility lines shall have a minimum clearance of 24 feet from the high point of the roadway to the low point of the line.
- The clear zone requirement shall be met to the extent possible in accordance with the Roadside Design Guide.
- Minimum depth for underground utilities is 42" under roadways, ramps, and ditch lines
- Any excavation within 3' of edge of pavement will require flowable fill as backfill.

Utility notes specific to fully-controlled access highways ONLY:

- All work necessary within the right-of-way shall be performed behind a temporary fence erected prior to the start of work. The temporary woven wire fence shall be removed immediately upon completion of work on the right-of-way, and the control of access immediately restored to original condition, in accordance with applicable KYTC SSRBC. All vents, valves, manholes, etc., shall be located outside of the right-of-way. Encasement pipe shall extend from right-of-way line to right-of-way line and shall be one continuous run of pipe. The encasement pipe shall be welded at all joints. The boring pit and tail ditch shall extend past the existing toe of slope or bottom of ditch line and shall be a minimum of 42 inches deep. Work in interstate right-of-way requires approval from FHWA (Federal Highway Administration).

III. DRAINAGE

- Any negative impact to existing drainage will be the applicant's responsibility to repair in accordance with KYTC SSRBC.
- All pipe shall be laid in a straight alignment, to proper grades, and with all materials and methods of installation including bedding and joint seating. Pipe shall not be covered until inspected by the Department and express permission obtained to make backfill. It is the applicant's responsibility to request inspection.
- All gutter lines at the base of new curbs shall be on continuous grades, and pockets of water along with curbs or in entrance areas or other paved areas within the right-of-way shall not be acceptable.
- All drainage structures and appurtenances (manholes, catch basins, curbing, inlet basins, etc.) shall conform to the Department specifications and shall be constructed in accordance with the KYTC's Standard Drawings.

APPROVED
 MARCH 9, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-00242-12

Permit No. 06-2022-00242

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07/2018
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IV. PAVING

- No bituminous pavement shall be installed within the right of way between November 15 and April 1, nor when the temperature is below 40 degrees Fahrenheit, without the express consent of the Department. No bituminous pavement shall be installed when the underlying course is wet.
- Paving within the right of way shall be as follows:
 - Base (Type): Match Existing, (Thickness) Varies
 - Surface Base (Type) Match Existing, (Thickness) Varies
 - Finished Surface (Type) Bituminous Surface, (Thickness) 8"

Paving requirements specific to this permit:

- Utility companies performing road cuts must restore the pavement to pre-existing condition. Pictures/videos are recommended to ensure proper placement of signs and lane markers that are temporarily removed for paving operations. In some cases, a pre-work inventory may be requested from the Department.
- Existing pavement and shoulder material shall be removed to accommodate the above paving specifications.
- The finished surface of all new pavement within the right of way shall be true to the required slope and grade, uniform in density and texture, free of irregularities, and equivalent in riding qualities to the adjacent highway pavement or as determined by KYTC.
- All materials and methods of construction, including base and subgrade preparation, shall be in accordance with KYTC's Standard Specifications. At least 24 hours notice to the Department is required prior to beginning paving operations.
Phone: 859-341-2700 Name: Kenny Kool
- To ensure proper surface drainage, the new pavement shall be flush with the edge of existing highway pavement and shall slope away from the existing edge of the pavement as specified in drawings.
- Existing edge of pavement shall be saw-cut to provide a straight and uniform joint for new pavement. An approved joint sealer, in accordance with Kentucky Department of Highways Standard Specifications (latest edi-

V. ENTRANCES

- Encroachment permits issued by KYTC in no way supersede local planning/zoning requirements or subdivision regulations. KYTC has no authority with zoning changes.
- Commercial entrances must be paved to the right-of-way line. Any deviations must be approved by KYTC before installation.
- KYTC can dictate drainage improvement installation during construction or after entrance is at final grade. The permit release does not release the permit applicant from drainage maintenance.
- Signs (ground-mounted and span-mounted), stop bars, crosswalk, and proper lane markings must be in-place before entrance is open for traffic. Lane width modifications must be approved by the Department.
- Guardrail installation must be pre-approved by the Department and installed by a KYTC-pre-qualified contractor. Any guardrail that is removed during construction must be returned to the local KYTC maintenance facility.

APPROVED
 MARCH 9, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-00242

Permit No. 06-2022-00242

TC 99-21E

07/2018

Page 4 of 5

VI. TRAFFIC

- Any contractor performing work within the vicinity of KYTC roadway lighting or traffic signals, must request locates from the KYTC District 6 Traffic section at least one week in advance of starting work in the right-of-way.
- Applicant must maintain all KYTC Roadway signage that is impacted by the permitted work. In the event that any signs have to be moved, it is the applicant's responsibility to mark the sign's location before removal and to install the original or new sign per KYTC standards for sign installation.
- Any thermoplastic or striping damaged during the encroachment must be restored in a timely manner per KYTC standards. Stopbars, arrows, and crosswalks must be thermoplastic material, paint is not acceptable. This work must be performed by a KYTC pre-qualified contractor.
- Excavating near a signal, lighting pole, or anchoring facility must be done so that it does not impact the structural integrity of the pole. Any work that requires a temporary support or anchoring must receive prior approval.
- If the scope of the permit involves a signal build or rebuild, it is the applicant's responsibility to apply for power service (and pay monthly electrical bill) as well as request electrical inspection from the KYTC District 6 Traffic section. If the signal modifications require timing or phasing changes this must be requested at least two weeks in advance of the signal's turn-on date. KYTC will not take ownership of permitted signals until the electrical inspection is formally accepted and approved.
- Work which impacts traffic loops requires 48-hour notice to the KYTC District 6 Traffic section at 859-341-2700. Accidental damage of a traffic loop must be reported immediately to KYTC District 6's emergency line at 859-620-2738. Any disturbed traffic loops must be replaced in a timely manner. Traffic loops out of operation for more than five working days will subject the applicant to the cancellation of the permit. Loop repair must be performed by a KYTC pre-qualified contractor.

VII. SIDEWALK SPECIFICATIONS**A. New Sidewalks**

- Sidewalks shall be constructed of Class A concrete (3,500 p.s.i.), shall be ____ feet in width, 8 inches in thickness across the bituminous entrance, and 4 inches in thickness across the remaining sections. The width of the sidewalk must meet current ADA (Americans with Disabilities Act) guidelines.
- Sidewalks shall have tooled joints not less than 1 inch in depth at ____ foot intervals, and premolded expansion joints extending entirely through the sidewalk at intervals not to exceed 50 feet.
- All materials and methods of construction, including curing, shall be in accordance with KYTC's latest edition of the Standard Specifications.

B. Existing Sidewalks

- (Applicable if existing sidewalks are being relocated)** Use of the sidewalk shall not be blocked or obstructed and a usable walkway shall be maintained across the construction area at all times per MUTCD (Manual on Uniform Traffic Control Devices). Sidewalk closures must be approved by the Department before implementation.
- The location of ADA ramps (truncated domes/tactile warnings/etc.) will need to be field verified by the Department before installation.
- Any retrofitting will require the adherence to current ADA guidelines.
- Any section of sidewalk that becomes damaged shall be entirely replaced to match existing sections.

APPROVED
 MARCH 9, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-00242

Permit No. 06-2022-00242

TC 99-21E

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VIII. RIGHT OF WAY RESTORATION

- All disturbed portions of the right of way shall be restored to grass as per Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition). A satisfactory turf, as determined by the Department, shall be established by the permittee prior to release of indemnity. Sodding or seeding shall be as follows:

Lawn or High Maintenance Situation: 70% Lawn Fescue (e.g., variety - Falcon) and 30% Bluegrass **or**
70% Lawn Rye (e.g., variety - Derby) and 30% Bluegrass

Right of Way Lawn Maintenance Situation: 70% KY 31 Fescue and 30% Perennial Rye Grass **or**
100% KY Fescue

- Two tons of clean straw mulch per acre of seeding.
- Prior to seeding, the ground shall be prepared in accordance with Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition).
- Substitutes for sod such as artificial turf, rocked mulch, or paved areas may be acceptable if they are aesthetically pleasing and receive prior approval from KYTC.
- All ditch-flow lines and all ditch-side slopes shall be sodded.
- Existing concrete right of way markers shall not be disturbed. If damaged in any way, they shall be entirely replaced by the permittee with new concrete markers to match the original markers, in accordance with Kentucky Department of Highways Standard Drawings. Markers that are entirely removed shall be re-established in the proper locations by the permittee and to the satisfaction of the Department.

IX. RIGHT OF WAY FENCE RESTORATION

- The replacement fence shall be a height of at least 48 inches and shall be of sufficient density to contain all animals (if applicable).
- The replacement fence shall be a minimum of 1 foot and a maximum of 2 feet outside the right-of-way line
- The fence materials and design shall meet accepted industry standards and be treated as paintable.
- The permittee shall be required to maintain the fence in a high state of repair.
- The existing fence shall be removed by permittee and stored at the Department's maintenance storage yard for future reuse by the Department.
- The control of access shall not be diminished as a result of replacement of the fence.

NOTICE TO PERMITTEE

THE PERMITTEE AGREES THAT ALL WORK WITHIN THE EXISTING RIGHT OF WAY SHALL BE DONE IN ACORDANCE WITH THE PLANS AS APPROVED AND PERMITTED BY AN ENCROACHMENT PERMIT. ANY CHANGES OR VARIANCES MADE AT THE TIME OF CONSTRUCTION WITHOUT WRITTEN APPROVAL FROM THE DEPARTMENT OF HIGHWAYS SHALL BE REMOVED BY THE PERMITTEE AT NO EXPENSE TO THE DEPARTMENT OF HIGHWAYS AND SHALL BE REDONE BY THE PERMITTEE TO CONFORM WITH THE APPROVED PLANS.

KENTUCKY TRANSPORTATION CABINET
APPROVED
06-2022-00242

NOTICE OF COMPLETION OF ENCROACHMENT PERMIT WORK**PERMITTEE**

Name: Duke Energy
 Contact Person:
 Address: 139 E 4th St
 City: Cincinnati
 State: Ohio
 Zip: 45202
 Telephone:

PROJECT IDENTIFICATION

Permit Number: 06-2022-00241

I wish to notify the Department of Highways that the above mentioned permit work and any necessary right-of-way restoration have been completed and are ready for final inspection.

 Permittee

Please return this form to the address below when work is completed and ready for final inspection.

Please Return to: Permit Engineer
 Department of Highways, District 6 Office
 421 Buttermilk Pike
 Covington, Kentucky 41017
 (859) 341-2700
www.transportation.ky.gov/

LOCATION(S)			
Description	County - Route	Latitude	Longitude
Install 24" steel pipeline across Turfway Road (KY 717) via auger bore.	Kenton - KY 717	39.041446	-84.619493
Install 24" steel pipeline across Turfway Road (KY 717) via auger bore.	Boone - KY 717	39.039026	-84.624418

APPROVED
 MARCH 10, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-00241



Andy Beshear
Governor

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
Department of Highways, District 6 Office
421 Buttermilk Pike
Covington, Kentucky 41017
(859) 341-2700
www.transportation.ky.gov/

Jim Gray
Secretary

March 10, 2022

Duke Energy
139 E 4th St
Cincinnati, Ohio 45202

Subject: Permit #: 06-2022-00241
Permit Type: Utilities - Gas
Approval

Dear Applicant:

Attached is your permit approval and documentation for the subject permit.

Be advised that all work must be done in conformity with permit and application conditions. If you have any questions, please contact the Permits Section at this office.

Sincerely,

A handwritten signature in cursive script that reads "Linzy Brefeld".

Linzy Brefeld
D6 Permits Supervisor

Attachments



An Equal Opportunity Employer M/F/D

APPROVED
MARCH 10, 2022
KENTUCKY TRANSPORTATION CABINET
06-2022-002-41



Kentucky Transportation Cabinet
 Department of Highways
 Division of Maintenance
 Permits Branch

TC 99-1 (B)
 07/2018
 Page 1 of 1

ENCROACHMENT PERMIT

KYTC KEPT #: 06-2022-00241

Permittee: Duke Energy

Permit Type / Subtype: Utilities / Gas

Work Completion Date: 3/8/2023

INDEMNITIES		
Type	Amount Required	Tracking Number
Performance Bond	\$0.00	
Cash / Check	\$0.00	
Self-Insured	\$0.00	
Payment Bond	\$0.00	
Liability Insurance	\$0.00	

This permit has been: **APPROVED** **DENIED**

Linzy Brefeld D6 Permits Supervisor 3/10/2022

SIGNATURE TITLE DATE

The TC 99-1(B), including the application TC-99 1(A) and all related and accompanying documents and drawings make up the permit. It is not a permit unless both the TC 99-1(A) and TC 99-1(B) are both present.

LOCATION(S)			
Description	County - Route	Latitude	Longitude
Install 24" steel pipeline across Turfway Road (KY 717) via auger bore.	Kenton - KY 717	39.041446	-84.619493
Install 24" steel pipeline across Turfway Road (KY 717) via auger bore.	Boone - KY 717	39.039026	-84.624418



To Submit a Locate Request
 24 Hours a Day, Seven Days a Week
 Call 811 or 800-752-6007

APPROVED
 MARCH 10, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-002-11



KENTUCKY TRANSPORTATION CABINET
Department of Highways
PERMITS BRANCH

TC 99-1A
Rev. 10/2020
Page 1 of 4

APPLICATION FOR ENCROACHMENT PERMIT

KYTC KEPT #: 06-2022-00241

SECTION 1: APPLICANT CONTACT INFORMATION

APPLICANT	Duke Energy	ADDRESS	139 E 4th St		
EMAIL	N/A	CITY	Cincinnati	STATE	OH
				ZIP	45202
CONTACT NAME 1	Josh Pedersen (on behalf of Duke Energy)	EMAIL	jmpedersen@burnsmcd.com		
		PHONE #	(913) 645-2713		
		CELL #			
CONTACT NAME 2 (if applicable)	Matthew Hughes	EMAIL	Matthew.Hughes2@duke-energy.com		
		PHONE #	513-287-3026		
		CELL #			

SECTION 2: PROPOSED WORK LOCATION

ADDRESS	Turfway Rd.	CITY	Erlanger	STATE	Kentucky	ZIP	41018
COUNTY	Boone/Kenton	ROUTE #	KY-717	MILE POINT	0.1 (Kenton) - 2.05 (Boone)	LONGITUDE (X)	various-(see below)
						LATITUDE (Y)	various-(see below)

ADDITIONAL LOCATION INFORMATION:

FOR KYTC USE ONLY

PERMIT TYPE: Air Right Entrance Utilities Vegetation Removal Other: _____

ACCESS: Full Partial by Permit LOCATION: Left Right Crossing

SECTION 3: GENERAL DESCRIPTION OF WORK (Lat , Long)

Install 24" steel pipeline across Turfway Rd. via Auger bore. Encroach KYTC ROW for Turfway Road on routing for 24" steel pipeline.

Bore Crossing:

MP: 2.15, (39.039593° , -84.622986°), Bored Crossing

MP: 2.05, (39.039089° , -84.624307°), Bored Crossing

ROW Encroachment:

Kenton - MP: 0.0-0.1 (39.041630° , -84.618640°), Pipeline Installation ROW Encroachment

Boone - MP: 2.1-2.35 (39.040354° , -84.620972°), Pipeline Installation ROW Encroachment

Boone - MP: 2.36, (39.039170° , -84.624281°), ROW Encroachment Tie-In to Existing Pipeline

THE UNDERSIGNED APPLICANT(s), being duly authorized representative(s) or owner(s), DO AGREE TO ALL ORIGINAL UNEDITED TERMS AND CONDITIONS ON THE TC 99-1A, pages 1-4.

SIGNATURE

01/28/2022

DATE

This is not a permit unless and until the applicant(s) receives an approved TC 99-1B from KYTC. This application shall become void if not approved by the cancellation date. The cancellation date shall be a minimum of one year from the date the applicant submits their application.

APPROVED
MARCH 10, 2022
KENTUCKY TRANSPORTATION CABINET
06-2022-00241



KENTUCKY TRANSPORTATION CABINET
Department of Highways
PERMITS BRANCH

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Page 2 of 4

APPLICATION FOR ENCROACHMENT PERMIT

TERMS AND CONDITIONS

1. The permit, including this application and all related and accompanying documents and drawings making up the permit, remains in effect and is binding upon the Applicant/Permittee, its successors and assigns, as long as the encroachment(s) exists and also until the permittee is finally relieved by the Department of Highways from all its obligations.
2. Applicant shall meet all requirements of the Clean Water Act if the project will disturb one acre or more, the applicant shall obtain a KPDES KYR10 Permit from the Kentucky Division of Water. All disturbed areas shall meet the requirements of the Department of Highway's Standard Specifications, Sections 212 and 213, as amended.
3. **INDEMNITY:**
 - A. **PERFORMANCE BOND:** The permittee shall provide to the Department a performance bond according to the Permits Manual, Section PE-203 as a guarantee of conformance with the Department's Encroachment Permit requirements.
 - B. **PAYMENT BOND:** At the discretion of the department, a payment bond shall be required of the permittee to ensure payment of liquidated damages assessed to the permittee.
 - C. **LIABILITY INSURANCE:** Liability insurance shall be required of the permittee (in an amount approved by the department) to cover all liabilities associated with the encroachment.
 - D. It shall be the responsibility of the permittee, its successors and assigns, to maintain all indemnities in full force and effect until the permittee is authorized to release the indemnity by the Department.
4. A copy of this application and all related documents making up the approved permit shall be given to the applicant and shall be made readily available for review at the work site at all times.
5. Perpetual maintenance of the encroachment is the responsibility of the permittee, its successors and assigns, with the approval of the Department as required, unless otherwise stated.
6. Permittee, its successors and assigns, shall comply with and agree to be bound by the requirements and terms of (a) this application and all related documents making up the approved permit, (b) by the Department's Permits Manual, and (c) by the Manual on Uniform Traffic Control Devices, both manuals as revised to and in effect on the date of issuance of the permit, all of which documents are made a part thereof by this reference. Compliance by the permittee, its successors and assigns, with subsequent revisions to applicable provisions of either manual or other policy of the Department may be made a condition of allowing the encroachment to persist under the permit.
7. Permittee agrees that this and any encroachment may be ordered removed by the Department at any time, and for any reason, upon thirty days written notice to the last known address of the applicant or to the address at the location of the encroachment. The permittee agrees that the cost of removing and of restoring the associated right-of-way is the responsibility of the permittee, its successors and assigns.
8. Permittee, its successors and assigns, agree that if the Department determines that motor vehicular safety deficiencies develop as a result of the installation or use of the encroachment, the permittee, its successors and assigns, shall provide and bear the expenses to adjust, relocate, or reconstruct the facilities, add signs, auxiliary lanes, or other corrective measures reasonably deemed necessary by the Department within a reasonable time after receipt of a written notice of such deficiency. The period within which such adjustments, relocations, additions, modifications, or other corrective measures must be completed will be specified in the notice.
9. Where traffic signals are required as a condition of granting the requested permit or are thereafter required to correct motor vehicular safety deficiencies, as determined by the Department, the costs for signal equipment and installation(s) shall be borne by the permittee, its successors and assigns and the Department in its reasonable discretion and only in accordance with the Department's current policy set forth in the Traffic Operations Manual and Permits Manual. Any modifications to the permittee's entrance necessary to accommodate signalization (including necessary easement(s) on private property) shall be the responsibility of the permittee, its successors and assigns, at no expense to the Department.

APPROVED
 KYPSC 2022
 KENTUCKY TRANSPORTATION CABINET



KENTUCKY TRANSPORTATION CABINET
Department of Highways
PERMITS BRANCH

TC 99-1A
Rev. 10/2020
Page 3 of 4

APPLICATION FOR ENCROACHMENT PERMIT

10. The requested encroachment shall not infringe on the frontage rights of an abutting owner without their written consent as hereinafter described. Each abutting owner shall express their consent, which shall be binding on their successors and assigns, by the submission of a notarized statement as follows, "I (we), _____, hereby consent to the granting of the permit requested by the applicant along Route _____, which permit does affect frontage rights along my (our) adjacent real property." By signature(s) _____, subscribed and sworn by _____, on this date _____.
11. The permit, if approved, is subject to the agreement that it shall not interfere with any similar rights or permit(s) previously granted to any other party, except as otherwise provided by law.
12. Permittee shall include documentation which describes the facilities to be constructed. Permittee, its successors and assigns, agree as a condition of the granting of the permit to construct and maintain any and all permitted facilities or other encroachments in strict accordance with the submitted and approved permit documentation and the policies and procedures of the Department. Permittee, its successors and assigns, shall not use facilities authorized herein in any manner contrary to that prescribed by the approved permit. Only normal usage as contemplated by the parties and by this application and routine maintenance are authorized by the permit.
13. Permittee, its successors and assigns, at all times from the date permitted work is commenced until such time as all permitted facilities or other encroachments are removed from the right-of-way and the right-of-way restored, **shall defend, protect, indemnify and save harmless** the Department from any and all liability claims and demands arising out of the work, encroachment, maintenance, or other undertaking by the permittee, its successors and assigns, related or undertaken pursuant to the granted permit, due to any claimed act or omission by the permittee, its servants, agents, employees, or contractors. This provision shall not inure to the benefit of any third party nor operate to enlarge any liability of the Department beyond that existing at common law or otherwise if this right to indemnity did not exist.
14. Upon a violation of any provision of the permit, or otherwise in its reasonable discretion, the Department may require additional action by the permittee, its successors and assigns, up to and including the removal of the encroachment and restoration of the right-of-way. In the event additional actions required by the Department under the permit are not undertaken as ordered and within a reasonable time, the Department may in its discretion cause those or other additional corrective actions to be undertaken and the Department shall recover the reasonable costs of those corrective actions from the permittee, its successors and assigns.
15. Permittee, its successors and assigns, shall use the encroachment premises in compliance with all requirements of federal law and regulation, including those imposed pursuant to Title VI of the Civil Right Act of 1964 (42 U.S.C. § 2000d et seq.) and the related regulations of the U.S. Department of Transportation in Title 49 C.F.R. Part 21, all as amended.
16. Permittee, its successors and assigns, agree that if the Department determines it is necessary for the facilities or other encroachment authorized by the permit to be removed, relocated or reconstructed in connection with the reconstruction, relocation or improvement of a highway, the Department may revoke permission for the encroachment to remain under the permit and may order its removal, relocation or reconstruction by the permittee, its successors and assigns, at the expense of the permittee, except where the Department is required by law to pay any or all of those costs.

APPROVED
MARCH 10, 2022
KENTUCKY TRANSPORTATION CABINET
06-2022-002-11



KENTUCKY TRANSPORTATION CABINET
Department of Highways
PERMITS BRANCH

TC 99-1A
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APPLICATION FOR ENCROACHMENT PERMIT

- 17. Permittee agrees that the authorized permit is personal to the permittee and shall remain in effect until such time as (a) the permittee's rights to the adjoining real property to have benefitted from the requested encroachment have been relinquished, (b) until all permit obligations have been assumed by appropriate successors and assigns, and (c) unless and until a written release from permit obligations has been granted by the Department. The permit and its requirements shall also bind the real property to have benefitted from the requested encroachment to the extent permitted by law. The permit and the related encroachment become the responsibility of the successors and assigns of the permittee and the successors and assigns of each property owner benefitting from the encroachment, or the encroachment may not otherwise permissibly continue to be maintained on the right-of-way. (Does not apply to utility encroachments serving the general public.)
- 18. If work authorized by the permit is within a highway construction project in the construction phase, it shall be the responsibility of the permittee to make personal contact with the Department's Engineer on the project in order to coordinate all permitted work with the Department's prime contractor on the project.
- 19. This permit is not intended to, nor shall it, affect, alter or alleviate any requirement imposed upon the permittee, its successors and assigns, by any other agency.
- 20. Permittee, its successors and assigns, agree to contain and maintain all dirt, mud, and other debris emanating from the encroachment away from the surrounding right-of-way and the travel way of the highway hereafter and at all times that its obligations under the permit remain in effect.
- 21. Before You Dig: The contractor is instructed to call 1-800-752-6007 to reach KY 811, the One-Call system for information on the location of existing underground utilities. The call is to be placed a minimum of two (2) and no more than ten (10) business days prior to excavation. The contractor should be aware that the owners of underground facilities are not required to be members of the KY 811 One-Call Before U-Dig (BUD) service. The contractor must coordinate excavation with the utility owners, including those whom do not subscribe to KY 811. It may be necessary for the contractor to contact the County Clerk to determine what utility companies have facilities in the area.
- 22. The undersigned Utility acknowledges ownership and control of the facilities proposed to be installed, modified, or extended by the Applicant/Permittee and agrees to be bound by the requirements and terms of this application and all related documents making up the approved permit, by the Department's Permits Guidance Manual, and by all applicable regulations and statutes in effect on the date of issuance of the permit. This information and application is certified correct to the best knowledge and belief of the undersigned Utility.

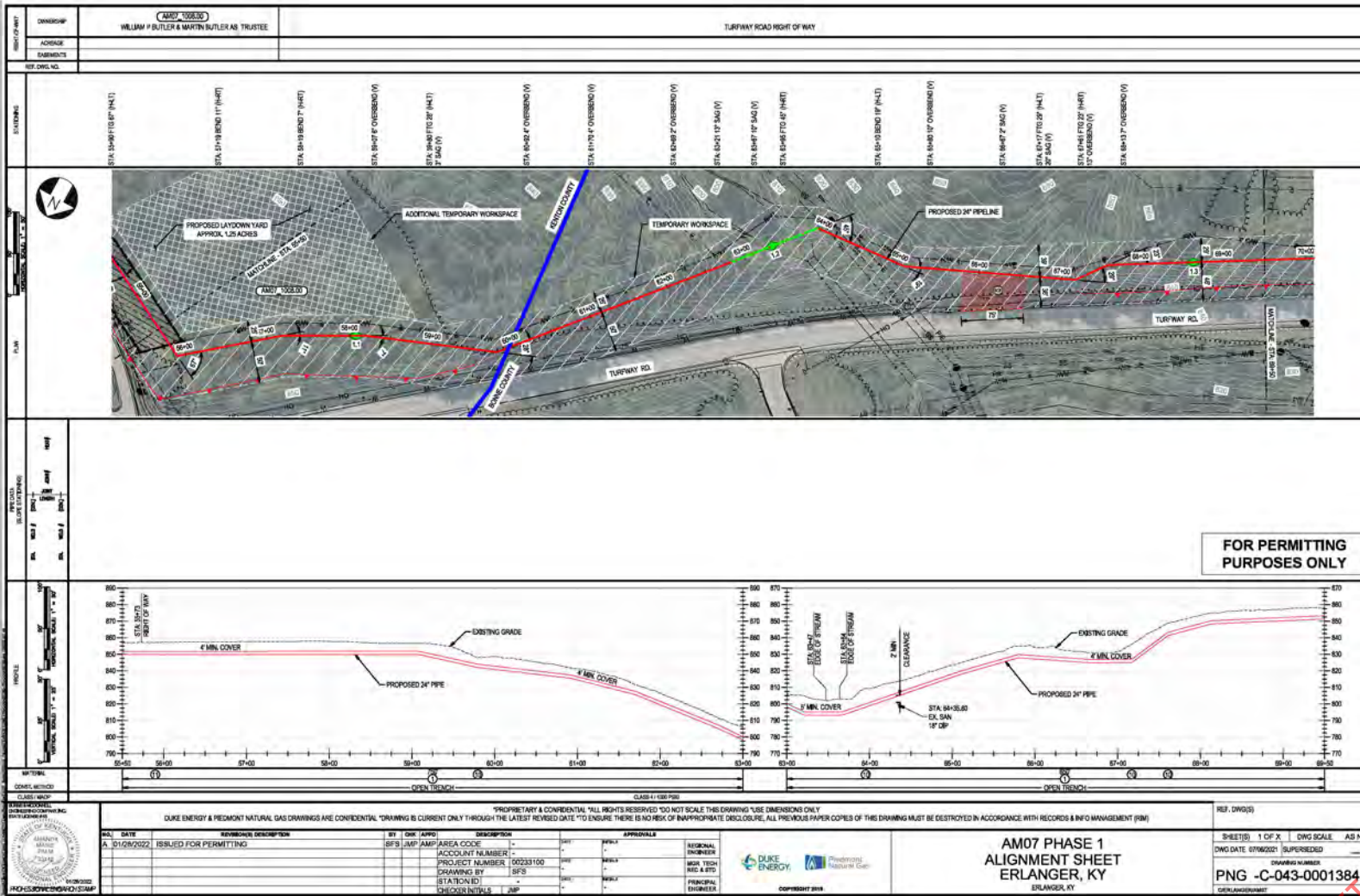
Duke Energy
UTILITY

<u>Matthew Hughes</u> NAME (Utility Representative)	<u>Senior Engineer</u> TITLE (Utility Representative)
<u></u> SIGNATURE (Utility Representative)	<u>2/8/22</u> DATE



To Submit a Locate Request
24 Hours a Day, Seven Days a Week:
Call 811 or 800-752-6007

APPROVED
FEB 10, 2022
KENTUCKY TRANSPORTATION CABINET
06-2022-02-11

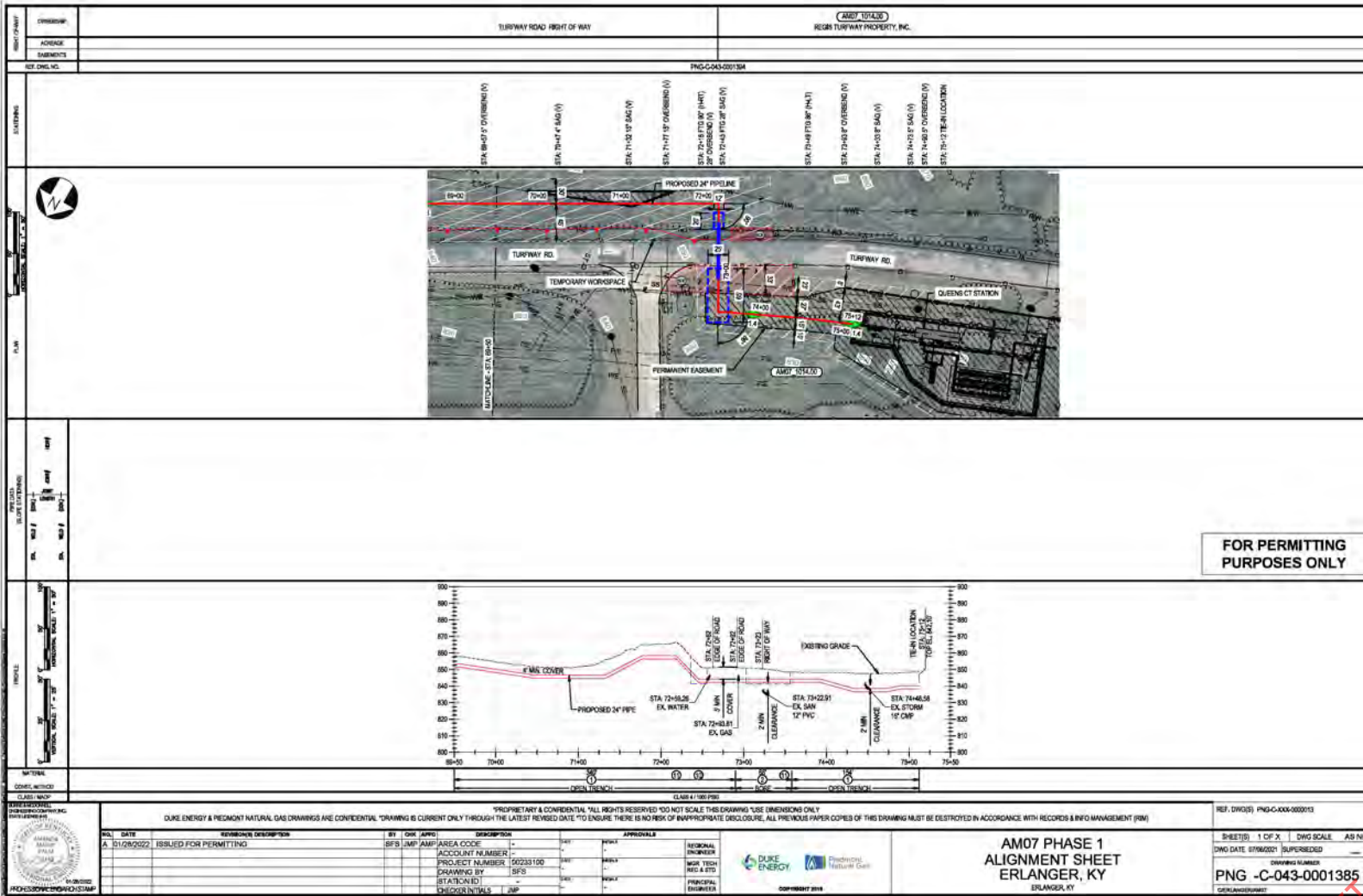


FOR PERMITTING
 PURPOSES ONLY

NO.	DATE	REVISION DESCRIPTION	BY	CHK	APPV	DESCRIPTION	APPROVALS	REGIONAL ENGINEER	REG. NO.
1	01/26/2022	ISSUED FOR PERMITTING	SFS	JMP	JMP	AREA CODE			
						PROJECT NUMBER			
						DRAWING BY			
						STATIONING			
						CHECKER INITIALS			

	AM07 PHASE 1 ALIGNMENT SHEET ERLANGER, KY <small>ERLANGER, KY</small>	SHEET(S) 1 OF X DWG SCALE AS SHOWN DWG DATE 07/26/2021 SUPERSEDED DRAWING NUMBER PNG -C-043-0001384 <small>DATE PLOTTED 03/10/2022</small>
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APPROVED
 MARCH 10, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-002-41

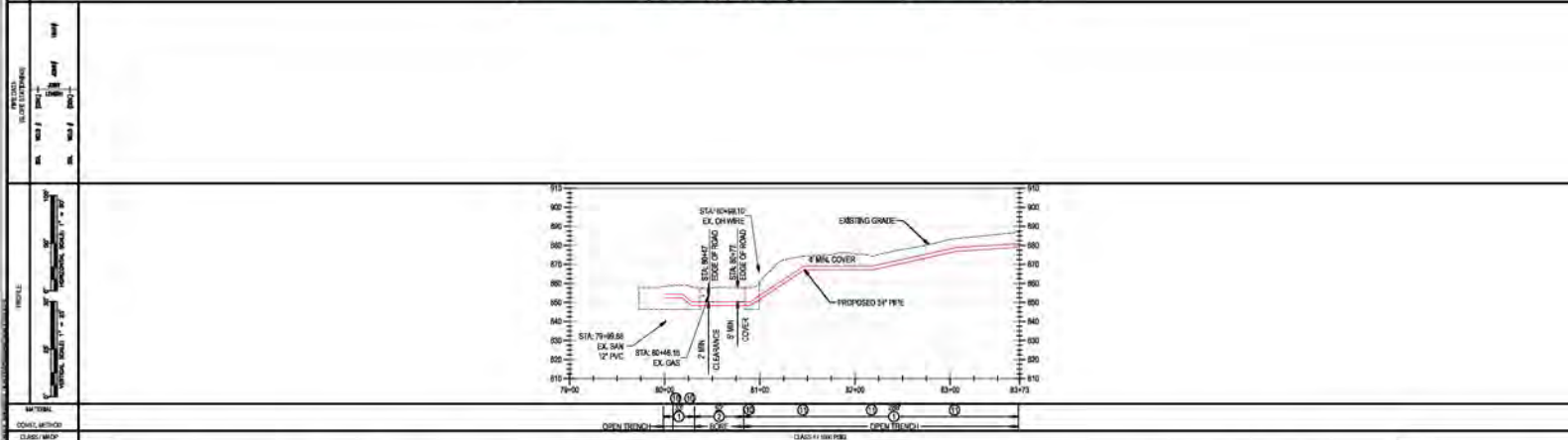


FOR PERMITTING PURPOSES ONLY

<p>DUKE ENERGY & PEDGOM NATURAL GAS DRAWINGS ARE CONFIDENTIAL. DRAWING IS CURRENT ONLY THROUGH THE LATEST REVISED DATE. TO ENSURE THERE IS NO RISK OF INAPPROPRIATE DISCLOSURE, ALL PREVIOUS PAPER COPIES OF THIS DRAWING MUST BE DESTROYED IN ACCORDANCE WITH RECORDS & INFO MANAGEMENT (RIM)</p>		REF: DWG(S) PNG-C-043-0001385
<p>DATE: 01/26/2022</p> <p>ISSUED FOR PERMITTING</p>	<p>BY: SFS</p> <p>CHK: JWP</p> <p>APP: AMP</p>	<p>PROJECT NUMBER: 00223100</p> <p>DRAWING BY: SFS</p> <p>STATION: -</p> <p>CHECKER INITIALS: JWP</p>
<p>APPROVALS</p> <p>REGIONAL ENGINEER</p> <p>WORK TECH REG & STD</p> <p>PRINCIPAL ENGINEER</p>	<p>DUKE ENERGY</p> <p>Pedgom Natural Gas</p>	<p>AM07 PHASE 1 ALIGNMENT SHEET ERLANGER, KY</p> <p>SHEET(S) 1 OF X DWG SCALE AS SH</p> <p>DWG DATE 07/06/2021 SUPERSEDED</p> <p>DRAWING NUMBER PNG -C-043-0001385</p> <p>DATE 06/2022-002-41</p>

APPROVED
MARCH 10, 2022
KENTUCKY TRANSPORTATION CABINET
06-2022-002-41

OWNER	CLIENT	PROJECT	DATE
DUKE ENERGY KENTUCKY INC.	AM07 UL60 FEED	PEACH TREE LAKE	
REVISIONS	CONTRACT	DESIGNER	CHECKER
	REBE LUTHWAY PROPERTY, INC.	FLURRY ROAD RIGHT OF WAY	CITY OF ERLANGER



<p>DUKE ENERGY & PIEDMONT NATURAL GAS DRAWINGS ARE CONFIDENTIAL. DRAWING IS CURRENT ONLY THROUGH THE LATEST REVISION DATE. TO ENSURE THERE IS NO RISK OF INAPPROPRIATE DISCLOSURE, ALL PREVIOUS PAPER COPIES OF THIS DRAWING MUST BE DESTROYED IN ACCORDANCE WITH RECORDS & INFO MANAGEMENT (RIM).</p>		<p>REF: DWG(S)</p>
<p>NO. DATE REVISION DESCRIPTION</p> <p>1. 04/15/2021 ISSUED FOR 50% DESIGN</p> <p>2. 12/13/2021 ISSUED FOR 60% DESIGN</p>	<p>BY: [Signature] DATE: [Date]</p> <p>DESCRIPTION: [Text]</p> <p>PROJECT NUMBER: 00223100</p> <p>DRAWING BY: MCBM</p> <p>STATIONING: [Text]</p> <p>DESIGNER INITIALS: JAP</p>	<p>APPROVALS</p> <p>DUKE ENERGY</p> <p>PIEDMONT NATURAL GAS</p> <p>AM07 UL60 FEED ALIGNMENT SHEET ERLANGER, KY</p>

APPROVED
 MARCH 10, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-002-41

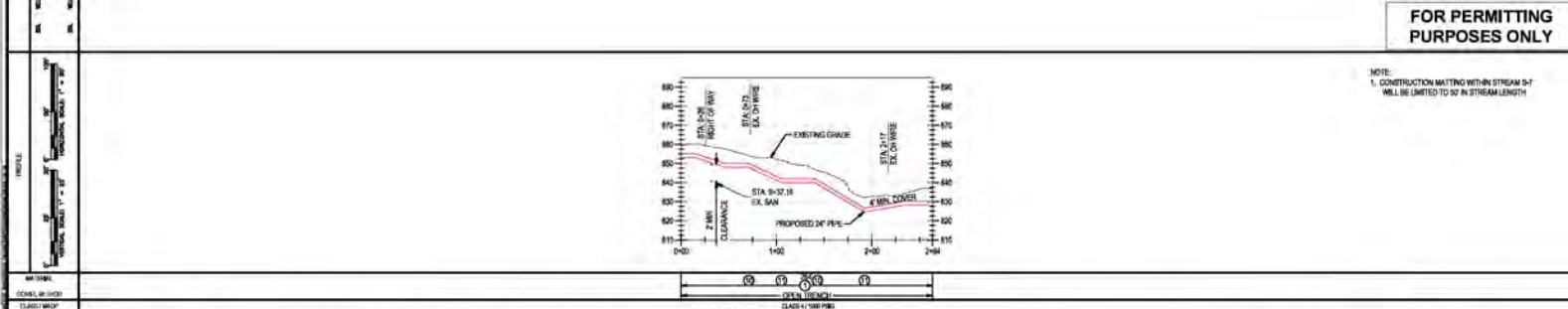
CLIENT	(BAY VIEW) BAYVIEW HOLDINGS, LTD.
CONTRACT	
NO. / DATE	
REV. / DATE	

DATE	DESCRIPTION



DATE	DESCRIPTION

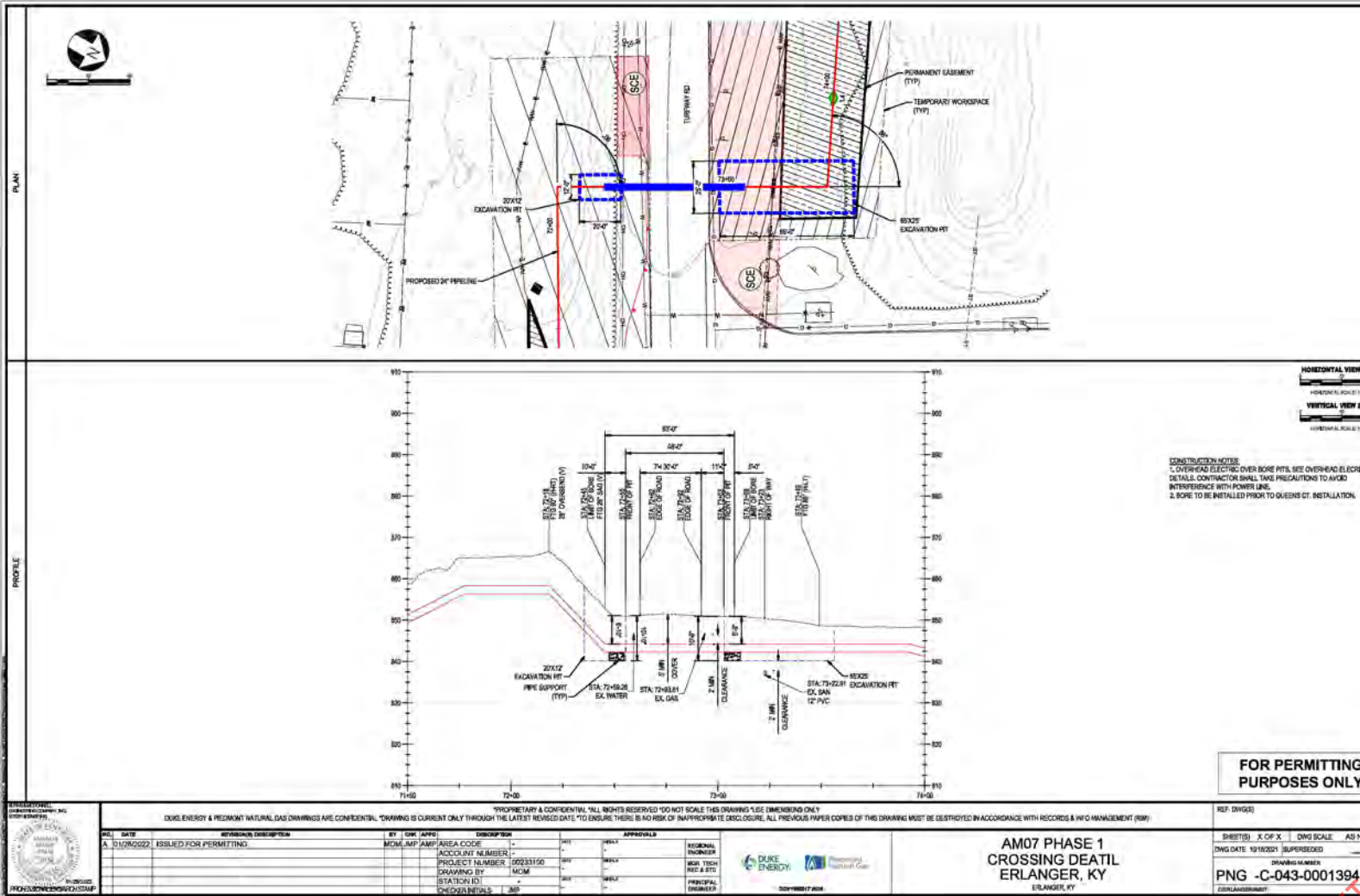
FOR PERMITTING PURPOSES ONLY



NOTE:
1. CONSTRUCTION MATING WITHIN STREAM 5+7 WILL BE LIMITED TO 50' IN STREAM LENGTH

DUKE ENERGY & PEAKMONT NATURAL GAS DRAWINGS ARE CONFIDENTIAL. DRAWING IS CURRENT ONLY THROUGH THE LATEST REVISED DATE. TO ENSURE THERE IS NO RISK OF INAPPROPRIATE DISCLOSURE, ALL PREVIOUS PAPER COPIES OF THIS DRAWING MUST BE DESTROYED IN ACCORDANCE WITH RECORDS & INFO MANAGEMENT (RIM)				REF. DWG(S)							
NO.	DATE	REVISION / DESCRIPTION	BY	CHK. / APPR.	DESCRIPTION	APPROVALS	 QUEENS CT STATION TEMPORARY BYPASS ALIGNMENT SHEET ERLANGER, KY ERLANGER, KY	SHEET(S) X OF X	DWG SCALE	AS NOTED	
A	01/21/2022	ISSUED FOR PERMITTING	MCM	JMP	AREA CODE			DWG DATE	11/16/2021	SUPERSEDED	
					PROJECT NUMBER	00223100		DRAWING NUMBER			PNG -C-043-0001390
					DRAWING BY	MCM	DATE				
					BY (A TOWN)		DATE				
					CHECKED INITIALS	JMP	DATE				

APPROVED
 MARCH 10, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-002-41

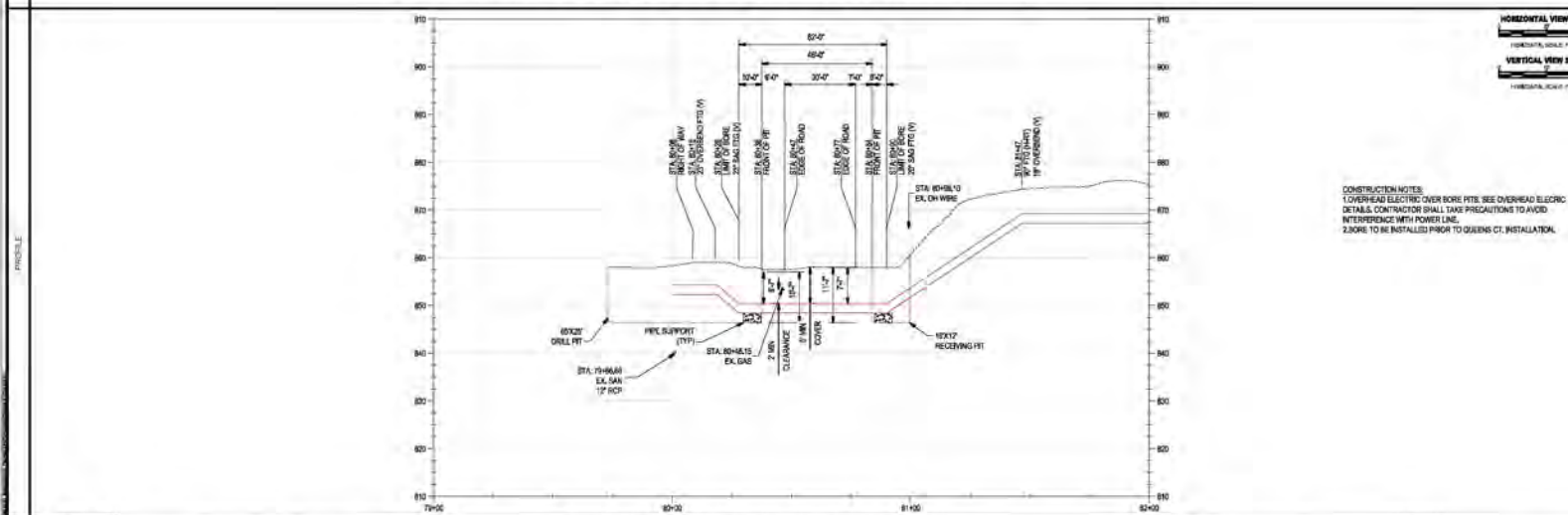
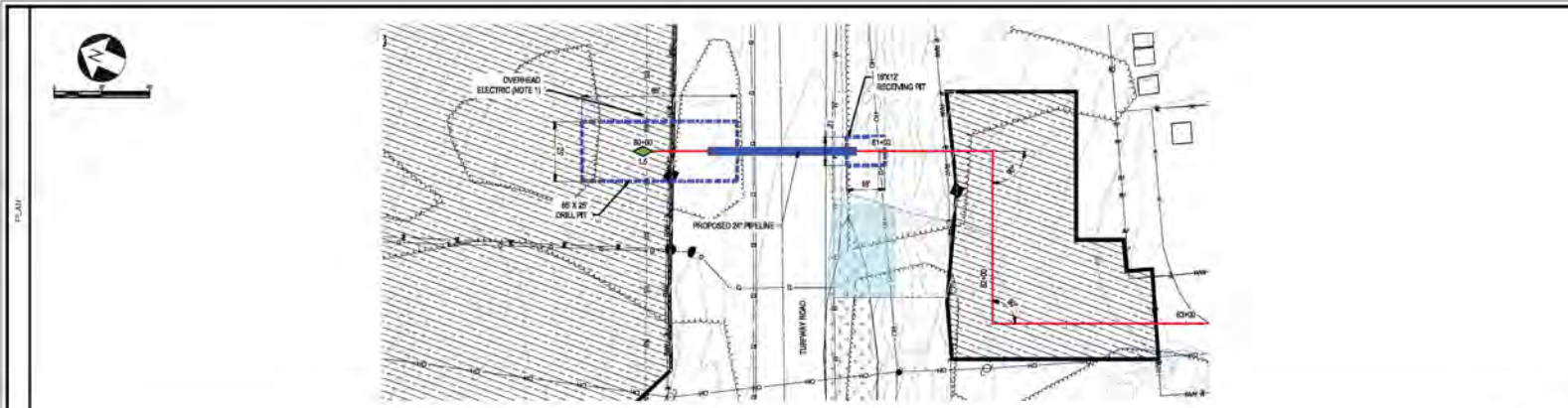


NO.	DATE	REVISION/DESCRIPTION	BY	CHK.	APPV.	DESCRIPTION
A.	01/26/2022	ISSUED FOR PERMITTING	MCM	JMP	JMP	

BY	CHK.	APPV.	DESCRIPTION
MCM	JMP	JMP	PROJECT NUMBER: 00231150
			AREA CODE: -
			ACCOUNT NUMBER: -
			DRAWING BY: MCM
			STATION ID: -
			CHECKED BY: JMP

APPROVALS	REGIONAL ENGINEER																
<table border="1"> <tr><td>DATE</td><td>SIGNATURE</td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>	DATE	SIGNATURE							<table border="1"> <tr><td>DATE</td><td>SIGNATURE</td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>	DATE	SIGNATURE						
DATE	SIGNATURE																
DATE	SIGNATURE																

SHEETS: 1 OF 1 DWG DATE: 10/19/2021 DRAWING NUMBER: PNG -C-043-0001394 DESIGNED BY: MCM	DWG SCALE: AS SHOWN SUPERSEDED: - ERLANGER, KY
--	--



CONSTRUCTION NOTES:
 1. OVERHEAD ELECTRIC OVER BORE PITS. SEE OVERHEAD ELECTRIC DETAILS. CONTRACTOR SHALL TAKE PRECAUTIONS TO AVOID INTERFERENCE WITH POWER LINE.
 2. BORE TO BE INSTALLED PRIOR TO GULCHES CUT INSTALLATION.

<p>DUKE ENERGY & PIEDMONT NATURAL GAS DRAWINGS ARE CONFIDENTIAL. DRAWING IS CURRENT ONLY THROUGH THE LATEST REVISED DATE. TO ENSURE THERE IS NO RISK OF INAPPROPRIATE DISCLOSURE, ALL PREVIOUS PAPER COPIES OF THIS DRAWING MUST BE DESTROYED IN ACCORDANCE WITH RECORDS & INFO MANAGEMENT (RIM).</p>		<p>REF. DWG(S)</p>
<p>NO. DATE REVISION/DESCRIPTION</p> <p>A. 10/10/2021 ISSUED FOR BOM DESIGN</p> <p>B. 02/08/2022 ISSUED FOR PERMITTING</p>	<p>BY: DWK (AWD)</p> <p>CHKD: JWP (AREA CODE)</p> <p>PROJECT NUMBER: 00223100</p> <p>DRAWING BY: JALM</p> <p>STATIONING: *</p> <p>DESIGNER INITIALS: JWP</p>	<p>APPROVALS</p> <p>DUKE ENERGY</p> <p>AM07 PHASE 1 CROSSING DEATH ERLANGER, KY</p> <p>ERLANGER, KY</p>

APPROVED
 MARCH 10, 2022
 KENTUCKY TRANSPORTATION CABINET
 06-2022-002-41

**KYTC Division of Maintenance
Permits Branch
District 6**

TC 99-21E

07/2018

Page 1 of 5

ENCROACHMENT PERMIT GENERAL NOTES & SPECIFICATIONS

Permit No. 06-2022-00241

I. SAFETY

A. General Provisions

- All signs and control of traffic shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways, latest edition, Part VI, and safety requirements shall comply with the Permits Manual. Federal law requires that traffic control shall be implemented in accordance with MUTCD standards and KYTC's Standard Specifications for Road and Bridge Construction (KYTC SSRBC) under the supervision of a certified Work Zone Traffic Control Supervisor.
- All work necessary in shoulder or ditch line areas of a state highway shall be scheduled to be promptly completed so that hazards adjacent to the traveled way are kept to an absolute minimum.
- No more than one (1) traveled-lane shall be blocked or obstructed during normal working hours. All signs and flaggers during lane closure shall conform to the MUTCD. The traveled-way and shoulders shall be kept clear of mud and other construction debris at all times during construction of the permitted facility. No non-construction equipment or vehicles or office trailers shall be allowed on the right of way during working hours. The right of way shall be left free and clear of equipment, material, and vehicles during non-working hours.
- When necessary to block one (1) traveled-lane of a state highway, the normal working hours shall be as directed by the Department. No lanes shall be blocked or obstructed during adverse weather conditions (rain, snow, fog, etc.) without specific permission from the Department.
- Working hours shall be between 9:00AM and 3:00PM.
- Date and time restrictions pertaining to this permit are as follows:

Lines located within the right of way of non-fully controlled access highways shall have a minimum of 60 inches cover when located under roadways, ramps, and ditch lines and a minimum of 42 inches cover in all other areas.

B. Explosives

- No explosive devices or explosive material shall be used within state right of way without proper license and approval of the Kentucky Department of Mines and Minerals, Explosive Division.

C. OSHA

- Kentucky Occupational Safety and Health Standards for the construction industry, which has the effect of law, states in part: (Page 52, 1926.651, Specific Excavation Requirements) "Prior to opening an excavation, effort shall be made to determine whether underground installations, (sewer, telephone, water, fuel, electric lines, etc.) will be encountered, and if so, where such underground installations are located. When the excavation approaches the estimated location of such an installation, the exact location shall be determined, and when it is uncovered, proper supports shall be provided for the existing installation. Utility companies shall be contacted and advised of proposed work prior to the start of actual excavation."

D. Archaeological

- Whenever materials of an archaeological nature are discovered during the course of construction work or maintenance operations, contact shall be made immediately with the Division of Environmental Analysis, which maintains an archaeologist on staff, or with the Office of the State Archaeologist located at the University of Kentucky. Following this consultation, further action shall be decided on a case-by-case basis by the State Highway Engineer or the Transportation Planning Engineer or their designated representative.

E. Environmental

- If the activity to which this permit related disturbs one acre or more of land, you must obtain KPDES KYR10 permit. Information can be found at <http://water.ky.gov/permitting/Pages/GeneralPermits.aspx>

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II. UTILITIES

- The permittee shall be responsible for any damage to existing utilities. Any utility modifications or relocations within state right of way necessary, as determined by the Department or by the owner of the utility, shall be at the expense of the permittee and subject to the approval of the Department.
- All existing manholes and valve boxes shall be adjusted to be flush with finished grade.
- Encasement pipe shall conform to current standards for highway crossings in accordance with the Permits Manual. Pipe encasing shall not be required if the pipe crossing is 2" or less.
- Parallel lines shall be constructed between back slope of ditch line and right-of-way line and shall have a minimum of 36-inch cover above top of pipe or conduit.
- All pavement cuts shall be restored per Kentucky Transportation Cabinet standards and specifications.
- Aerial crossing of utility lines shall have a minimum clearance of 24 feet from the high point of the roadway to the low point of the line.
- The clear zone requirement shall be met to the extent possible in accordance with the Roadside Design Guide.
- Minimum depth for underground utilities is 42" under roadways, ramps, and ditch lines
- Any excavation within 3' of edge of pavement will require flowable fill as backfill.

Utility notes specific to fully-controlled access highways ONLY:

- All work necessary within the right-of-way shall be performed behind a temporary fence erected prior to the start of work. The temporary woven wire fence shall be removed immediately upon completion of work on the right-of-way, and the control of access immediately restored to original condition, in accordance with applicable KYTC SSRBC. All vents, valves, manholes, etc., shall be located outside of the right-of-way. Encasement pipe shall extend from right-of-way line to right-of-way line and shall be one continuous run of pipe. The encasement pipe shall be welded at all joints. The boring pit and tail ditch shall extend past the existing toe of slope or bottom of ditch line and shall be a minimum of 42 inches deep. Work in interstate right-of-way requires approval from FHWA (Federal Highway Administration).

III. DRAINAGE

- Any negative impact to existing drainage will be the applicant's responsibility to repair in accordance with KYTC SSRBC.
- All pipe shall be laid in a straight alignment, to proper grades, and with all materials and methods of installation including bedding and joint seating. Pipe shall not be covered until inspected by the Department and express permission obtained to make backfill. It is the applicant's responsibility to request inspection.
- All gutter lines at the base of new curbs shall be on continuous grades, and pockets of water along with curbs or in entrance areas or other paved areas within the right-of-way shall not be acceptable.
- All drainage structures and appurtenances (manholes, catch basins, curbing, inlet basins, etc.) shall conform to the Department specifications and shall be constructed in accordance with the KYTC's Standard Drawings.

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IV. PAVING

No bituminous pavement shall be installed within the right of way between November 15 and April 1, nor when the temperature is below 40 degrees Fahrenheit, without the express consent of the Department. No bituminous pavement shall be installed when the underlying course is wet.

- Paving within the right of way shall be as follows:
- Base (Type): Match Existing, (Thickness) Varies
 - Surface Base (Type) Match Existing, (Thickness) Varies
 - Finished Surface (Type) Bituminous Surface, (Thickness) 8"

Paving requirements specific to this permit:

Utility companies performing road cuts must restore the pavement to pre-existing condition. Pictures/videos are recommended to ensure proper placement of signs and lane markers that are temporarily removed for paving operations. In some cases, a pre-work inventory may be requested from the Department.

Existing pavement and shoulder material shall be removed to accommodate the above paving specifications.

The finished surface of all new pavement within the right of way shall be true to the required slope and grade, uniform in density and texture, free of irregularities, and equivalent in riding qualities to the adjacent highway pavement or as determined by KYTC.

All materials and methods of construction, including base and subgrade preparation, shall be in accordance with KYTC's Standard Specifications. At least 24 hours notice to the Department is required prior to beginning paving operations.
 Phone: 859-341-2700 Name: Kenny Kool

To ensure proper surface drainage, the new pavement shall be flush with the edge of existing highway pavement and shall slope away from the existing edge of the pavement as specified in drawings.

Existing edge of pavement shall be saw-cut to provide a straight and uniform joint for new pavement. An approved joint sealer, in accordance with Kentucky Department of Highways Standard Specifications (latest edi-

V. ENTRANCES

Encroachment permits issued by KYTC in no way supersede local planning/zoning requirements or subdivision regulations. KYTC has no authority with zoning changes.

Commercial entrances must be paved to the right-of-way line. Any deviations must be approved by KYTC before installation.

KYTC can dictate drainage improvement installation during construction or after entrance is at final grade. The permit release does not release the permit applicant from drainage maintenance.

Signs (ground-mounted and span-mounted), stop bars, crosswalk, and proper lane markings must be in-place before entrance is open for traffic. Lane width modifications must be approved by the Department.

Guardrail installation must be pre-approved by the Department and installed by a KYTC pre-qualified contractor. Any guardrail that is removed during construction must be returned to the local KYTC maintenance facility.

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VI. TRAFFIC

- Any contractor performing work within the vicinity of KYTC roadway lighting or traffic signals, must request locates from the KYTC District 6 Traffic section at least one week in advance of starting work in the right-of-way.
- Applicant must maintain all KYTC Roadway signage that is impacted by the permitted work. In the event that any signs have to be moved, it is the applicant's responsibility to mark the sign's location before removal and to install the original or new sign per KYTC standards for sign installation.
- Any thermoplastic or striping damaged during the encroachment must be restored in a timely manner per KYTC standards. Stopbars, arrows, and crosswalks must be thermoplastic material, paint is not acceptable. This work must be performed by a KYTC pre-qualified contractor.
- Excavating near a signal, lighting pole, or anchoring facility must be done so that it does not impact the structural integrity of the pole. Any work that requires a temporary support or anchoring must receive prior approval.
- If the scope of the permit involves a signal build or rebuild, it is the applicant's responsibility to apply for power service (and pay monthly electrical bill) as well as request electrical inspection from the KYTC District 6 Traffic section. If the signal modifications require timing or phasing changes this must be requested at least two weeks in advance of the signal's turn-on date. KYTC will not take ownership of permitted signals until the electrical inspection is formally accepted and approved.
- Work which impacts traffic loops requires 48-hour notice to the KYTC District 6 Traffic section at 859-341-2700. Accidental damage of a traffic loop must be reported immediately to KYTC District 6's emergency line at 859-620-2738. Any disturbed traffic loops must be replaced in a timely manner. Traffic loops out of operation for more than five working days will subject the applicant to the cancellation of the permit. Loop repair must be performed by a KYTC pre-qualified contractor.

VII. SIDEWALK SPECIFICATIONS**A. New Sidewalks**

- Sidewalks shall be constructed of Class A concrete (3,500 p.s.i.), shall be ____ feet in width, 8 inches in thickness across the bituminous entrance, and 4 inches in thickness across the remaining sections. The width of the sidewalk must meet current ADA (Americans with Disabilities Act) guidelines.
- Sidewalks shall have tooled joints not less than 1 inch in depth at ____ foot intervals, and premolded expansion joints extending entirely through the sidewalk at intervals not to exceed 50 feet.
- All materials and methods of construction, including curing, shall be in accordance with KYTC's latest edition of the Standard Specifications.

B. Existing Sidewalks

- (Applicable if existing sidewalks are being relocated)** Use of the sidewalk shall not be blocked or obstructed and a usable walkway shall be maintained across the construction area at all times per MUTCD (Manual on Uniform Traffic Control Devices). Sidewalk closures must be approved by the Department before implementation.
- The location of ADA ramps (truncated domes/tactile warnings/etc.) will need to be field verified by the Department before installation.
- Any retrofitting will require the adherence to current ADA guidelines.
- Any section of sidewalk that becomes damaged shall be entirely replaced to match existing sections.

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VIII. RIGHT OF WAY RESTORATION

- All disturbed portions of the right of way shall be restored to grass as per Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition). A satisfactory turf, as determined by the Department, shall be established by the permittee prior to release of indemnity. Sodding or seeding shall be as follows:

Lawn or High Maintenance Situation: 70% Lawn Fescue (e.g., variety - Falcon) and 30% Bluegrass or 70% Lawn Rye (e.g., variety - Derby) and 30% Bluegrass

Right of Way Lawn Maintenance Situation: 70% KY 31 Fescue and 30% Perennial Rye Grass or 100% KY Fescue

- Two tons of clean straw mulch per acre of seeding.
- Prior to seeding, the ground shall be prepared in accordance with Kentucky Department of Highways Standard Specifications for Road and Bridge Construction (latest edition).
- Substitutes for sod such as artificial turf, rocked mulch, or paved areas may be acceptable if they are aesthetically pleasing and receive prior approval from KYTC.
- All ditch-flow lines and all ditch-side slopes shall be sodded.
- Existing concrete right of way markers shall not be disturbed. If damaged in any way, they shall be entirely replaced by the permittee with new concrete markers to match the original markers, in accordance with Kentucky Department of Highways Standard Drawings. Markers that are entirely removed shall be re-established in the proper locations by the permittee and to the satisfaction of the Department.

IX. RIGHT OF WAY FENCE RESTORATION

- The replacement fence shall be a height of at least 48 inches and shall be of sufficient density to contain all animals (if applicable).
- The replacement fence shall be a minimum of 1 foot and a maximum of 2 feet outside the right-of-way line
- The fence materials and design shall meet accepted industry standards and be treated as paintable.
- The permittee shall be required to maintain the fence in a high state of repair.
- The existing fence shall be removed by permittee and stored at the Department's maintenance storage yard for future reuse by the Department.
- The control of access shall not be diminished as a result of replacement of the fence.

NOTICE TO PERMITTEE

THE PERMITTEE AGREES THAT ALL WORK WITHIN THE EXISTING RIGHT OF WAY SHALL BE DONE IN ACORDANCE WITH THE PLANS AS APPROVED AND PERMITTED BY AN ENCROACHMENT PERMIT. ANY CHANGES OR VARIANCES MADE AT THE TIME OF CONSTRUCTION WITHOUT WRITTEN APPROVAL FROM THE DEPARTMENT OF HIGHWAYS SHALL BE REMOVED BY THE PERMITTEE AT NO EXPENSE TO THE DEPARTMENT OF HIGHWAYS AND SHALL BE REDONE BY THE PERMITTEE TO CONFORM WITH THE APPROVED PLANS.

APPROVED
MAY 20 2022
KENTUCKY TRANSPORTATION CABINET

ANDY BESHEAR
GOVERNOR



REBECCA W. GOODMAN
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

STREAM CONSTRUCTION PERMIT

For Construction In Or Along A Stream

Issued to: **Duke Energy**
Address: **139 East 4th Street**
Cincinnati, OH 45202

Permit effective date: **January 13, 2022**

Permit expires on: **January 13, 2023**

Permit No.: **31514**

Agency Interest: **102595**

Activity ID: **APE20220001**

In accordance with KRS 151.250 and KRS 151.260, the Energy and Environment Cabinet approves the application dated **January 7, 2022** for **replacement of two sections of approximately 8,550 LF of existing 24" diameter natural gas pipeline with approximately 9,450 LF of 24" diameter pipeline including minor tree and vegetation clearing, construction of a new station, three temporary stream crossings, and installation of subfluvial pipeline crossings in and along the floodplains of unnamed tributaries to Dry Creek and the Ohio River, with general coordinates 39.055218, - 84.630392, in Boone and Kenton Counties.**

There shall be no deviation from the plans and specifications submitted and hereby approved unless the proposed change shall first have been submitted to and approved in writing by the Cabinet. This approval is subject to the attached limitations. **Please read these limitations carefully!** If you are unable to adhere to these limitations for any reason, please contact this office prior to construction.

This permit is valid from the standpoint of stream obstruction only. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal and local agencies. Specifically if the project involves work in a stream, such as bank stabilization, dredging, relocation, or in designated wetlands, a 401 Water Quality Certification from the Division of Water will be required.

This permit is nontransferable and all construction must be completed by the expiration date noted above. Year by year extensions may be requested subject to the requirements of 401KAR 4:060 Section 3 (5) (a) and (b). A request for extension, including the Agency Interest and permit numbers listed above and statement that the scope of the project has not changed can be emailed to DOWFloodplain@ky.gov.

Any violation of the Water Resources Act of 1966 as amended is subject to penalties as set forth in KRS 151.990.

If you have any questions regarding this permit, please call Mr. Solitha Dharman at 502-782-6936.

Sincerely,

Ross Bishop, P.E.
Floodplain Management Section
Water Resources Branch
Division of Water

c: Florence Regional Office
Mark Stewart, City of Erlanger Floodplain Coordinator
Mark Martin, Boone County Floodplain Coordinator
Brooke Harrison, Burns & McDonnell



FINAL CONSTRUCTION REPORT

NAME: Duke Energy

PERMIT NO: 31514

AI NO: 102595 Activity ID: APE20220001

Has all work on this project been completed according to the plans and specifications on file with the Division of Water?

Yes: _____

No: _____ **If no, explain. You may include attachments if necessary.**

eMail Instructions

- Copy and paste the Final construction Report text above and your responses into a blank eMail or
- Enter your name, permit number, AI #, activity # and your project completion date/explanation if not complete into a blank eMail.
- Email to DOWFloodplain@ky.gov with subject line of "FCR"

Mailing Instructions

- Fold the top edge of this page to the top edge of this box.
- Fold the bottom edge of the page up to meet the top fold and tape shut.
- Fill out return address portion
- Affix a stamp and mail.

Place
Stamp
Here

**Floodplain Management Section
Division of Water
300 Sower Boulevard
Frankfort, KY 40601**



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, LOUISVILLE DISTRICT
600 DR. MARTIN LUTHER KING JR PL
LOUISVILLE, KY 40202

March 17, 2022

Regulatory Division
 North Branch
 ID No. LRL-2021-1099-cat

Mr. Bradley Seiter
 Duke Energy
 139 East 4th Street
 Cincinnati, Ohio 45202
 Bradley.seiter@duke-energy.com

Dear Mr. Seiter:

This is in response to a request for authorization submitted on your behalf by Burns & McDonnell (agent) to temporarily impact 150 linear feet of unnamed tributaries to Dry Creek and 0.11 acres of wetland for the installation of a 24-inch diameter natural gas pipeline in Boone and Kenton Counties, Kentucky (see table below for location information). The information supplied by your agent was reviewed to determine whether a Department of the Army (DA) permit will be required under the provisions of Section 404 of the Clean Water Act.

Project Site	Water Name	Lat.	Long.	Type	Impact Length (feet)	Impact Area (acre)	Action Type
I-275 Crossing Site	W-2	39.05602	-84.63586	PEM	-	0.1	Timber Matting
Turfway Road Crossing Site	S-7	39.03952	-84.62458	Intermittent	0	0	Timber Matting would be placed over 50 feet of stream for extension of the workspace. No material will be placed below the OHWMs.
	W-4	39.03892	-84.62433	PEM	-	0.01	Timber Matting
Southern Pipeline Route Along Turfway Road Site	S-6	39.04048	-84.62022	Perennial	50	0.07	Open Cut Trench with Timber Matting and Temporary Culvert Crossing
Southern Pipeline Route East of Erlanger Road Site	S-3	39.04135	-84.61276	Perennial	50	0.03	Open Cut Trench with Timber Matting and Temporary Culvert Crossing
	S-5	39.04144	-84.61324	Intermittent	0	0	Timber Matting would be placed over 6 feet of stream for the extension of the workspace. No material will be placed below the OHWMs.
Southern Pipeline Route West of Erlanger Road Site	S-2	39.00000	-84.00000	Perennial	50	0.07	Open Cut Trench with Timber Matting and Temporary Culvert Crossing

Your project includes a discharge of dredged or fill material into waters of the United States associated with the construction, maintenance, repair, and removal of oil and natural gas pipelines and associated facilities. The project is authorized under the provisions of 33 CFR 330 Nationwide Permit (NWP) No. 12, Oil or Natural Gas Pipeline Activities, as published in the

Federal Register January 13, 2021. Under the provisions of this authorization, you must comply with the enclosed Terms and General Conditions for NWP No. 12, and the following Special Condition:

The Permittee shall comply with the enclosed General Water Quality Certification (WQC) and conditions for NWP No. 12 issued by the Kentucky Division of Water (KDOW) on December 18, 2020, which are incorporated herein by reference.

This verification is valid until the NWP is modified, reissued, or revoked. NWP No. 12 will be modified, reissued, or revoked on March 14, 2026. It is incumbent upon Duke Energy to remain informed of changes to the NWPs. If Duke Energy commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have 12 months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP. The enclosed Compliance Certification must be submitted to the District Engineer within 30 days of completion of the authorized activity. Please note that we also perform periodic inspections to ensure compliance with our permit conditions and applicable Federal laws. A copy of this letter will be forwarded to your agent and to the KDOW.

If you have any questions, please contact us by writing to the District Regulatory Office at the above address, ATTN: CELRL-RDN, or contact me directly at 502-315-6690 or Cody.a.Thayer@usace.army.mil. Any correspondence on this matter should refer to our ID Number LRL-2021-1099-cat.

Sincerely,



Date: 2022.03.17
14:11:46 -04'00'

Cody Thayer
Project Manager, North Branch
Regulatory Division

Enclosures

Compliance Certification:

Permit Number: LRL-2021-1099-cat

Name of Permittee: Duke Energy: Mr. Bradley Seiter

Date of Issuance: March 17, 2022

Upon completion of the activity authorized by this permit and any mitigation required by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
CELRL-RDN
P.O. Box 59
Louisville, Kentucky 40201

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

COORDINATING AGENCY

Ms. Samantha Vogeler
Kentucky Energy & Environment Cabinet
Division of Water
300 Sower Boulevard, 3rd Floor
Frankfort, Kentucky 40601
Samantha.Vogeler@ky.gov

AGENT

Ms. Brooke Harrison
Burns & McDonnell
530 West Spring Street, Suite 200
Columbus, Ohio 43215
bharrison@burnsmcd.com



2021 Nationwide Permit Summary

US Army Corps
of Engineers
Louisville District ®

Issued: March 15, 2021

Expires: March 14, 2026

No. 12. Oil or Natural Gas Pipeline Activities

(NWP Final Rule, 86 FR 2744)

Activities required for the construction, maintenance, repair, and removal of oil and natural gas pipelines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Oil or natural gas pipelines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of oil and natural gas pipelines. There must be no change in pre-construction contours of waters of the United States. An “oil or natural gas pipeline” is defined as any pipe or pipeline for the transportation of any form of oil or natural gas, including products derived from oil or natural gas, such as gasoline, jet fuel, diesel fuel, heating oil, petrochemical feedstocks, waxes, lubricating oils, and asphalt.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon

completion of the utility line crossing of each waterbody.

Oil or natural gas pipeline substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities (e.g., oil or natural gas or gaseous fuel custody transfer stations, boosting stations, compression stations, metering stations, pressure regulating stations) associated with an oil or natural gas pipeline in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for above-ground oil or natural gas pipelines: This NWP authorizes the construction or maintenance of foundations for above-ground oil or natural gas pipelines in all waters of the United States, provided the foundations are the minimum size necessary.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of oil or natural gas pipelines, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United

States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize oil or natural gas pipelines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (see 33 CFR part 322). Oil or natural gas pipelines routed in, over, or under section 10 waters without a discharge of dredged or fill material may require a section 10 permit.

This NWP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing oil or natural gas pipelines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing oil or natural gas pipelines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the oil or natural gas pipeline activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures,

work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) a section 10 permit is required; (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States; or (3) the proposed oil or natural gas pipeline activity is associated with an overall project that is greater than 250 miles in length and the project purpose is to install new pipeline (vs. conduct repair or maintenance activities) along the majority of the distance of the overall project length. If the proposed oil or gas pipeline is greater than 250 miles in length, the pre-construction notification must include the locations and proposed impacts (in acres or other appropriate unit of measure) for all crossings of waters of the United States that require DA authorization, including those crossings authorized by an NWP would not otherwise require pre-construction notification. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the oil or natural gas pipeline is constructed, installed, or maintained in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the oil or natural gas pipeline to protect navigation.

Note 2: For oil or natural gas pipeline activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP

authorization. Oil or natural gas pipeline activities must comply with 33 CFR 330.6(d).

Note 3: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the oil or natural gas pipeline must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 4: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, and may require a permit from the U.S. Coast Guard pursuant to the General Bridge Act of 1946. However, any discharges of dredged or fill material into waters of the United States associated with such oil or natural gas pipelines will require a section 404 permit (see NWP 15).

Note 5: This NWP authorizes oil or natural gas pipeline maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 6: For NWP 12 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as

applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody,

including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to

ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such

designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species

Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the

potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will

notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has

been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters.

Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2)).

and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to

reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed

their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be

addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must

notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the

district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of

wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or

designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The

district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

2021 District Engineer’s Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will

result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to

the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP

activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

2021 Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWP's do not authorize any injury to the property or rights of others.

5. NWP's do not authorize interference with any existing or proposed Federal project (see general condition 31).

2021 Nationwide Permit Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-

linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation

that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete

non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle

due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a “water of the United States.” If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

2021 KENTUCKY REGIONAL GENERAL CONDITIONS

These regional conditions are in addition to, but do not supersede, the requirements in the Federal Register (See volume 86, date January 13, 2021, pp 2867-2874 for the text of Section C, General Conditions).

Notifications for all Nationwide Permits (NWP) shall be in accordance with General Condition No. 32.

1. For activities that would result in a loss of Outstanding State or National Resource Waters (OSNRWs), Exceptional Waters (EWs), Coldwater Aquatic Habitat Waters (CAHs) and waters with Designated Critical Habitat (DCH) under the Endangered Species Act for the NWP listed below, a Pre-Construction Notification (PCN) will be required to the Corps. The Corps will coordinate with the appropriate resource agencies (see attached list) on these NWP for impacts to these waters.

NWP 3 (Maintenance)

NWP 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities)

NWP 5 (Scientific Measurement Devices)

NWP 6 (Survey Activities)

NWP 12 (Oil or Natural Gas Pipeline Activities)

NWP 13 (Bank Stabilization)

NWP 14 (Linear Transportation Projects)

NWP 15 (U.S. Coast Guard Approved Bridges)

NWP 16 (Return Water from Upland Contained Disposal Areas)

NWP 17 (Hydropower Projects)

NWP 18 (Minor Discharges)

NWP 19 (Minor Dredging)

NWP 20 (Response Operations for Oil or Hazardous Substances)

NWP 22 (Removal of Vessels)

NWP 23 (Approved Categorical Exclusions)

NWP 25 (Structural Discharges)

NWP 30 (Moist Soil Management for Wildlife)

NWP 32 (Completed Enforcement Actions)

NWP 33 (Temporary Construction, Access, and Dewatering)

NWP 36 (Boat Ramps)

NWP 41 (Reshaping Existing Drainage Ditches)

NWP 51 (Land-Based Renewable Energy Generation Facilities)

NWP 57 (Electric Utility Line and Telecommunications Activities)

NWP 58 (Utility Line Activities for Water and Other Substances)

2. In addition to the notification and agency coordination requirements in the NWP, for impacts greater than 0.25 acres in all “waters of the U.S.” for the NWP listed below, a PCN will be required to the Corps. The Corps will coordinate with the appropriate resource agencies (see attached list) on these NWP:

NWP 3 (Maintenance)
 NWP 14 (Linear Transportation Projects)

3. Nationwide Permit No. 14 – Linear Transportation Projects.

- (a) New road alignments or realignments are limited to a permanent loss of 500 linear feet of intermittent or perennial stream length or the stream bed acreages listed in the table below at each crossing. Road crossings with permanent losses greater than 500 linear feet of intermittent or perennial stream or the stream bed acreages listed in the table below associated with new alignments or realignments will be evaluated as an individual permit (i.e., a Letter of Permission or Standard Permit).

Table of Acreages at Varying Stream Widths for 500 Linear Feet of Impact	
Stream Width (Feet)	Acres of Stream at Varying Widths for 500 Linear Feet of Stream
1	0.011
2	0.023
3	0.034
4	0.046
5	0.057
6	0.069
7	0.080
8	0.092
9	0.103
10	0.115

- (b) In addition to the notification requirements contained in NWP 14, the permittee must submit a PCN to the district engineer prior to commencing the activity for the permanent loss of greater than 300 linear feet of stream bed or the stream bed acreages listed in the table below. (See General Condition 32 and the definition of "loss of waters of the United States" in the Nationwide Permits for further information.)

Table of Acreages at Varying Stream Widths for 300 Linear Feet of Impact	
Stream Width (Feet)	Acres of Stream at Varying Widths for 300 Linear Feet of Stream
1	0.007
2	0.014
3	0.021
4	0.028
5	0.034
6	0.041
7	0.048
8	0.055
9	0.062
10	0.069

4. Notification in accordance with General Condition 32 is required to the Corps for all activities located in the following Section 10 waterways, to include the portion of their tributaries below the Ordinary High Water Mark or navigation pool, or otherwise subject to inundation, by the Section 10 waterway:
- Mississippi River
 - Ohio River
 - Licking River
 - Kentucky River
 - Salt River
 - Green River
 - Cumberland River
 - Tennessee River
 - Big Sandy River (from mouth to Louisa, KY)
5. All applications and requests should be submitted electronically. To submit applications or other requests electronically, all documents should be saved as a PDF document, and then submitted as an attachment in an email to the following email address:

CELRL.Door.To.The.Corps@usace.army.mil

Your email should include the following:

- a) Subject Line with the name of the applicant, type of request, and location (County and State). Example: RE: Doe, John, DA Permit Application, Jefferson County, KY
- b) Brief description of the request and contact information (phone number, mailing address, and email address) for the applicant and/or their agent.

c) Project Location: Address and Latitude/Longitude in decimal degrees (e.g. 42.927883, -88.362576).

All forms that require signature must be digitally signed or signed manually, scanned and then sent electronically.

Electronic documents must have sufficient resolution to show project details. In order to have the highest quality documents, the original digital documents should be converted to PDF rather than providing scanned copies of original documents.

The electronic application and attached documents must not exceed 10 megabytes (10MB).

6. For all activities, the applicant shall review the U.S. Fish and Wildlife Service's IPaC website: <http://ecos.fws.gov/ipac> to determine if the activity might affect threatened and/or endangered species or designated critical habitat. If federally-listed species or designated critical habitat are identified, a PCN in accordance with General Condition 18 and 32 would be triggered and the official species list generated from the IPaC website must be submitted with the PCN.

Further information:

Outstanding State or National Resource Water (OSNRWs), Exceptional Waters (EWs), and Coldwater Aquatic Habitat Waters (CAHs) are waters designated by the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet. The list can be found at the following link: <http://eppcapp.ky.gov/spwaters/>

Designated Critical Habitat (DCH) under the Endangered Species Act is determined within the Commonwealth of Kentucky by the U.S. Fish and Wildlife Service. The current list of Kentucky's Threatened, Endangered, and Federal Candidate Species can be found at the following link: <http://www.fws.gov/frankfort/EndangeredSpecies.html>

Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 32 in the Federal Register (See volume 86, date January 13, 2021, pp 2867-2874 for the text of Section C, General Conditions).

COORDINATING RESOURCE AGENCIES

Chief, Wetlands Regulatory Section
U.S. Environmental Protection Agency
Region IV
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303

Supervisor
U.S. Fish & Wildlife Service
JC Watts Federal Building, Room 265
330 West Broadway
Frankfort, Kentucky 40601

Supervisor
401 Water Quality Certification
Kentucky Division of Water
300 Sower Boulevard, 3rd Floor
Frankfort, KY 40601

Commissioner
Department of Fish and Wildlife Resources
#1 Sportsman's Lane
Frankfort, KY 40601

Executive Director and State Historic Preservation Officer
Kentucky Heritage Council
410 High Street
Frankfort, KY 40601



ANDY BESHEAR
GOVERNOR

REBECCA W. GOODMAN
SECRETARY

**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

General Certification--Nationwide Permit (NWP) 2021

NWP 12 – Oil or Natural Gas Pipeline Activities

NWP 57 – Electrical Utility Line and Telecommunications Activities

NWP 58 – Utility Line Activities for Water and Other Substances

This General Certification is issued **December 18, 2020** in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

For this General Certification and all General Certifications of Nationwide Permits (NWP), the term 'surface water' is defined pursuant to 401 KAR Chapter 10, Section 1(72): Surface Waters means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters; marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Lagoons used for waste treatment and effluent ditches that are situated on property owned, leased, or under valid easement by a permitted discharger are not considered to be surface waters of the Commonwealth.

As required by 40 CFR Part 121 – State Certification of Activities Requiring a Federal License or Permit, all conditions include a statement explaining why the condition is necessary to assure that any discharge authorized under the general permit will comply with water quality requirements and a citation to federal, state, or tribal law that authorizes the condition. The statements and citations are included with each condition. The statements are written entirely at the end of the certification under the section *Statements of Necessity*.

Agricultural operations, as defined by KRS 224.71-100(1) conducting activities pursuant to KRS 224.71-100 (3), (4), (5), (6), or 10 are deemed to have certification if they are implementing an Agriculture Water Quality Plan pursuant to KRS 224.71-145.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 303, 306 and 307 of the CWA, will not be violated for the activities covered by the above listed Nationwide Permits, provided that the conditions in

General Certification--Nationwide Permit 12, 57, and 58**Page 2**

this General Certification are met. Activities that do not meet the conditions of this General Certification require an Individual Section 401 Water Quality Certification.

1. Activities occurring within surface waters assessed by the Kentucky Division of Water as designated Outstanding State Resource Waters, National Resource Waters, Cold Water Aquatic Habitat, Exceptional Waters, or identified as candidate Outstanding State Resource Waters or candidate Exceptional Waters are not authorized under this General Certification and require an Individual Certification. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(1), Section 1(2), & Section 1(3); and 401 KAR 10:031, Section 4(2) & Section 8]
2. Activities impacting surface waters assessed by the Kentucky Division of Water as impaired for warm water or cold water aquatic habitat where the parameter or source is related to habitat* are not authorized under this General Certification and require an Individual Certification. [Statement B and citations KRS 224.70-110 and 401 KAR 10:031, Section 2 & Section 4]

*These include waters impaired by the parameter 'habitat assessment', 'combined biota/habitat bioassessment' or any parameter from the parameter group 'habitat alterations, and/or waters where the parameter identified as a cause of impairment has a source from the source group 'habitat impacts'.
3. Activities impacting surface waters assessed by the Kentucky Division of Water as full support for warm water or cold water aquatic habitat are not authorized under this General Certification and require an Individual Certification. [Statements A and B and citations KRS 224.70-110 and 401 KAR 10:031, Section 2 & Section 4]
4. The activity will not occur within surface waters identified as perpetually-protected mitigation sites (e.g., deed restriction or conservation easement). [Statement C and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3); and 40 C.F.R. 230.97]
5. Activities with cumulative temporary and permanent impacts greater than 1/2 acre of wetland or 300 linear feet of surface waters are not authorized under this General Certification and require an Individual Certification. This General Certification shall not apply to projects where multiple Nationwide Permits are issued for individual crossings which are part of a single, larger utility projects. Cumulative impacts include utility line crossings, permanent or temporary access roads, headwalls, associated bank stabilization areas, substations, pole or tower foundations, maintenance corridor, and staging areas. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
6. For a single crossing, impacts from the construction and maintenance corridor in surface waters shall not exceed 50 feet of bank disturbance. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

General Certification--Nationwide Permit 12, 57, and 58**Page 3**

7. Stream impacts under Conditions 5 and 6 of this certification are defined as the length of bank disturbed. For utility line crossings and roads, only one bank length is used in calculation of the totals. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
8. This General Certification is limited to the crossing of surface waters by utility lines. This certification does not authorize the installation of utility lines in a linear manner within the stream channel or below the top of the stream bank. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
9. Stream relocation, realignment, straightening, and/or widening are not authorized under this General Certification and require an Individual Certification. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
10. Any crossings must be constructed in a manner that does not impede natural water flow. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
11. Blasting of stream channels, even under dry conditions, is not allowed under this General Certification and require and Individual Certification. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
12. Utility lines trenched parallel to the stream shall be located at least 50 feet from an intermittent or perennial stream, measured from the top of the stream bank. Construction within the 50 foot buffer may be authorized if avoidance and minimization efforts are shown and adequate methods are utilized to prevent soil from entering the stream. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
13. Utility line stream crossings shall be constructed by methods that maintain flow and allow for dry excavation. Water pumped from the excavation shall be contained and allowed to settle prior to re-entering the stream. Excavation equipment and vehicles shall operate outside of the flowing portion of the stream. Spoil material from the excavation shall not be allowed to enter the flowing portion of the stream. [Statement A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
14. The activities shall not result in any permanent changes in pre-construction elevation contours in surface waters or stream dimension, pattern or profile. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
15. Utility line activities which impact wetlands shall not result in conversion of the area to non-wetland status. [Statement A and citations KRS 224.70-110, 401 KAR

General Certification--Nationwide Permit 12, 57, and 58**Page 4**

- 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
16. Clearing of forested wetlands for the installation or maintenance of utility lines is not authorized under this certification. [Statement A and citations 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
 17. Surface water impacts covered under this General Certification and undertaken by those persons defined as an agricultural operation under the Agricultural Water Quality Act must be completed in compliance with the Kentucky Agricultural Water Quality Plan (KAWQP). [Statements A and F and citations KRS 224.71-145(1), 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
 18. The use of creek rock for bank stabilization; grouted rip-rap; unformed, poured grout; unformed, poured concrete; poured asphalt; or asphalt pieces is not authorized under this General Certification and requires an Individual Certification. Poured concrete or grout will be authorized under this General Certification when contained by tightly sealed forms or cells. Equipment shall not discharge waste washwater into surface waters at any time without adequate wastewater treatments. [Statement A and citations 401 KAR 10:030, Section 1(3)(b) & 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
 19. New stormwater detention/ retention basins constructed in surface waters or modifications to stormwater detention/ retention basins resulting in the reduction in reach or that cause impairment of flow of surface waters are not authorized under this General Certification and require an Individual Certification. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
 20. Erosion and sedimentation pollution control plans and Best Management Practices (BMPs) must be designed, installed, and maintained in effective operating condition at all times during construction activities so that violations of state water quality standards do not occur. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
 21. Sediment and erosion control measures, such as check-dams constructed of any material, silt fencing, hay bales, etc., shall not be placed within surface waters, either temporarily or permanently, without prior approval by the Kentucky Division of Water's Water Quality Certification Section. If placement of sediment and erosion control measures in surface waters is unavoidable, design and placement of temporary erosion control measures shall not be conducted in such a manner that may result in instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control devices shall be removed and the natural grade restored within the completion timeline of the activities. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

General Certification--Nationwide Permit 12, 57, and 58**Page 5**

22. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering surface waters. [Statements A and D and citations. [KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
23. Removal of riparian vegetation shall be limited to that necessary for equipment access. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
24. To the maximum extent practicable, all in-stream work under this certification shall be performed under low-flow conditions [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
25. Heavy equipment (e.g. bulldozers, backhoes, and draglines), if required for this project, should not be used or operated within the stream channel. In those instances in which such in-stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
26. Any fill shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If rip-rap is utilized, it should be of such weight and size that bank stress or slump conditions will not be created because of its placement. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
27. If domestic water supply intakes are located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when such work will be done prior to construction. [Statement E and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
28. Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling (800) 928-2380. [Statement A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]
29. The Kentucky Division of Water requires submission of a formal application for any federal applicant that is not required to submit a Preconstruction Notification that would typically be required of any non-federal applicant. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

General Certification--Nationwide Permit 12, 57, and 58**Page 6**

30. The Kentucky Division of Water may require submission of a formal application for an Individual Certification for any project that has been determined to likely have a significant adverse effect upon water quality or degrade surface waters so that existing uses of the water body or downstream waters are precluded. [Statement A and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

31. If the final issued General Permit for Nationwide Permit # 12, 57, or 58 changes significantly, the Division of Water may opt to deny certification for this permit. [Statements A and D and citations KRS 224.70-110, 401 KAR 10:030, Section 1(3)(b) & Section 1(4)(b); and 401 KAR 10:031, Section 2 & Section 4]

Statements of Necessity:

- A. This condition is necessary to protect waters categorized under the anti-degradation policy to protect the designated and existing uses and to maintain the associated water quality criteria necessary to protect these water resources.
- B. This condition is necessary to protect existing uses and the level of water quality necessary to protect those existing uses shall be assured in impaired water.
- C. This condition is necessary for long-term protection of compensatory mitigation sites.
- D. This condition is necessary to provide for the prevention, abatement, and control of all water pollution and to conserve water resources for legitimate uses, safeguard from pollution the uncontaminated waters, prevent the creation of any new pollution, and abate any existing pollution.
- E. This condition is necessary to protect domestic water supply use.
- F. This condition is necessary to evaluate, develop, and improve best-management practices in conservation plans, compliance plans, and forest stewardship management plans; establish statewide and regional agriculture water quality plans; and otherwise promote soil and water conservation activities that protect surface waters from the adverse impacts of agriculture operations within the Commonwealth.

Violation of Kentucky state water quality standards may result in civil penalties and remediation actions.

For assistance contact the Kentucky Division of Water, Water Quality Certification Section by email (401WQC@ky.gov) or by phone (502)-564-3410.

Boone County, Kentucky Encroachment Permit Application

Date 1/28/2022

Applicant Name: Duke Energy
Address: 139 E 4th Street

Contact Person: Josh Pedersen (on behalf of Duke Energy)
Phone: 913-645-2713

City, State, Zip: Cincinnati, OH 45202
Phone: N/A

Email: jmpedersen@burnsmcd.com

Type of Encroachment

- Industrial Entrance
- Commercial Entrance
- Residential Entrance
- Farm Entrance
- Utility Encroachment Underground Overhead
- Other (Specify) _____

Encroachment Location Airport Exchange Blvd. 150 ft East of Point Pleasant Rd intersection

Description of Work to be Completed Installation of 24" steel natural gas pipeline across Airport Exchange Blvd.

Separate Attached Drawings Required for All Encroachments Other than Residential


Application Fee: Industrial Entrance - \$400.00 ea
Commercial Entrance - \$200.00 ea
All Other Entrances – Free
Utility encroachment - Free

Make checks payable to the Boone County Fiscal Court

Return completed application and fee to: Boone County Public Works
5645 Idlewild Rd.
Burlington, KY 41005

The applicant agrees to the following terms and conditions:

1. The applicant shall comply with and is bound by the requirements of the Boone County Public Works Department's Regulations.
2. Applicant agrees that if the Department determines that vehicular capacity deficiencies or over capacity conditions develop as a result of the installation and use of this facility, the applicant shall adjust, relocate or reconstruct the facilities and/or provide and bear the expense for signs, storage lanes of other corrective measures reasonably deemed necessary by the Department and set forth in the Department's Regulations within a reasonable length of time after receipt of written notice regarding such adjustments, relocation, additions modifications and/or corrective measures, such time to be specified in the notice.
3. The said encroachment will not infringe on the frontage rights of an abutting owner without written consent of the said owner as hereto: "I (we) consent to the granting of attached permit."
 _____ Date _____ (This does not apply to utilities which serve the general public.)
4. Any permit granted hereunder shall be with the full understanding that it shall not interfere with any similar rights or permits heretofore granted to any other party except as otherwise provided by law.
5. A plan prepared by Burns & McDonnell and dated 01/28/2022 is attached hereto and made a part hereof, which describes the facilities to be constructed by the applicant for which facilities this permit is granted. The applicant agrees as a condition to the issuance of the permit to construct and maintain such facilities in accordance with said plan, and the applicant shall not use the facilities authorized herein in any manner contrary to that prescribed by this permit and plan. Normal usage and routine maintenance only are authorized under this permit.
6. Applicant shall comply with the Manual on Uniform Traffic Control Devices as revised to and in effect on the date of the issuance of this permit which is made a part hereof by reference.
7. Applicant shall at all times from date when work is first commenced and until such time as all facilities are removed from the right-of-way premise, defend, protect and save harmless the Department from all liability, claims, and demands arising out of work undertaken by the applicant pursuant to this permit, due to any negligent act or omission by the applicant, its servants, agents employees or contractors. This provision shall not inure to the benefit of any third party or operate to enlarge any liability of the Department beyond that existing at common law if this right to indemnity did not exist.
8. Upon a violation of any of the provisions of this permit, the Department may revoke the permit by giving notice to the applicant in writing to remove from the right-of-way nay facilities placed thereon within a reasonable time as set forth in the notice, and in the event said facilities are not so removed, and the right-of-way restored the Department may cause same to be removed, and the costs thereof shall be charged to the applicant.
9. If the work authorized by this permit is on a project in the construction phase, it shall be the responsibility of the applicant to make contact the Inspection Services Division of the Boone County Public Works Department.
10. This permit does not alleviate any requirements of any other government agency.
11. Applicant agrees to keep the priority route in which this permit was issued clear of dirt, mud and debris during construction and for the life of this permit.
12. This application will become void 1 year from applicant signature date. Applicant must contact Engineering Services when the work is complete. (859) 334-3600.

Applicant Signature 

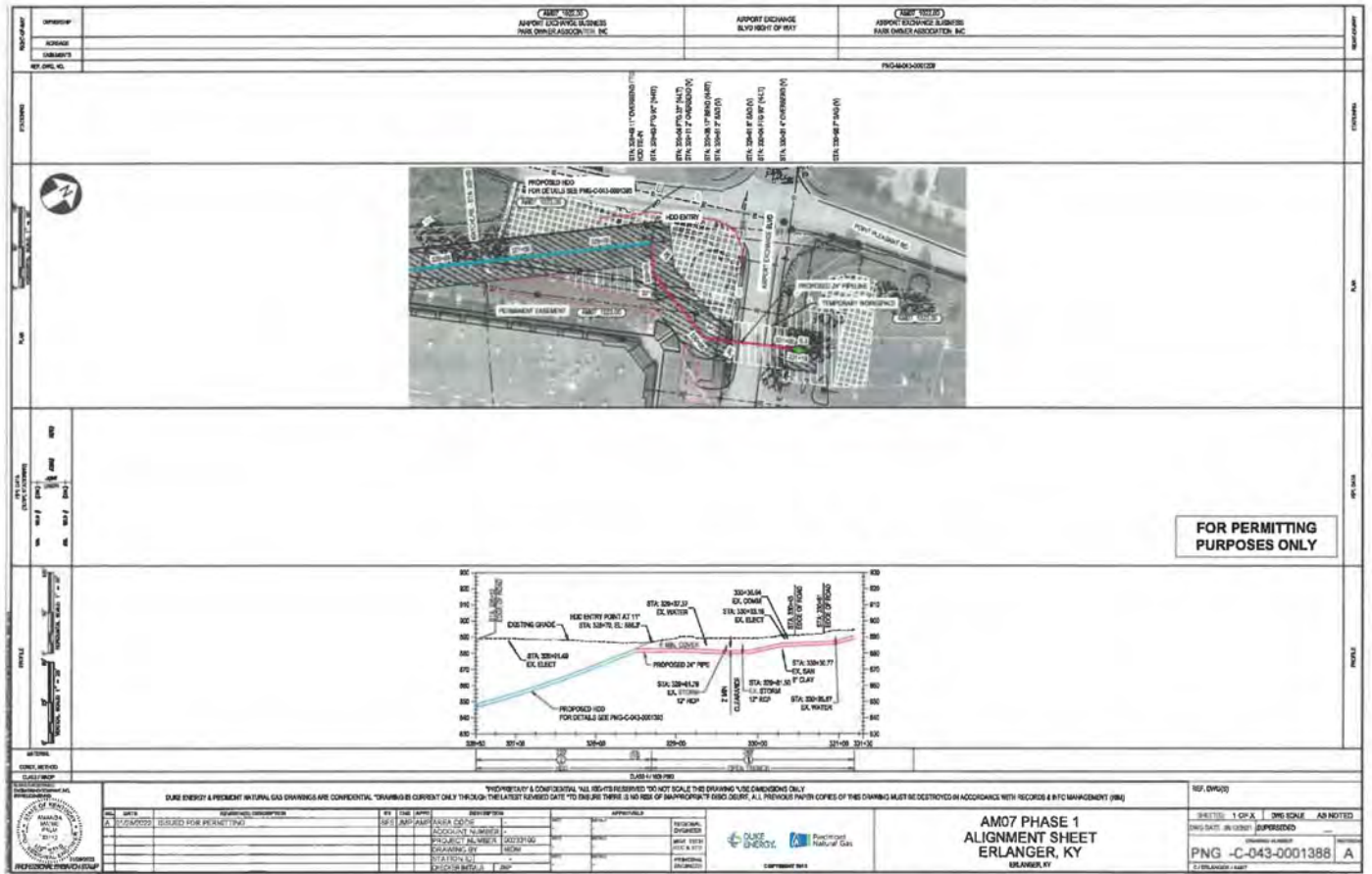
Date 01/28/2022

Approval 

Date 2-9-22

Release Date _____

Permit No. _____



GARY W. MOORE
COUNTY JUDGE/EXECUTIVE

JUDITH S. EARLYWINE
COUNTY ADMINISTRATOR



BOONE COUNTY
PUBLIC WORKS

BOONECOUNTYKY.ORG

ROB FRANKMAN
DIRECTOR

DATE: 2/9/2022

TO:
Attn: Duke Energy

PERMISSION HAS BEEN REQUESTED TO PERFORM THE FOLLOWING WORK
WITHIN THE PUBLIC RIGHT-OF-WAY OF Airport exchange Blvd

DESCRIPTION OF WORK IS AS FOLLOWS:

Traffic control by MUTCD standards

Erosion control if needed

Restoration required in R-O-W

No construction materials are to be stored on the roadway

Bore Pits to be protected

PERMISSION IS HEREBY GRANTED, PER ATTACHMENTS.

PERMIT # 22-0384

DANIEL D. RICE/ KEN POINTS/MICHAEL R. MARTIN/MIKE NORCIA/MIKE ROUSH
INSPECTION SERVICES
ENGINEERING DIVISION

INSPECTION REQUIRED **YES** NO
IF YES, A TWENTY-FOUR (24) HOUR NOTICE REQUIRED

THANK YOU.

OFFICE HOURS 7:30 AM – 4:00 PM M-F

PHONE (859) 334-3600 FAX (859) 334-3598

County W. Moore
County Judge/Executive

Jeremy S. Ballentine
County Administrator



BOONE COUNTY
PUBLIC WORKS

BOONECOUNTYKY.ORG

BOB FRANKMAN
Director

ATTENTION ALL UTILITIES AND THEIR CONTRACTORS:

PERMISSION TO PERFORM WORK WITHIN THE DEDICATED PUBLIC RIGHT-OF-WAY HAS BEEN REQUESTED BY _____.

IN APPROVING THIS APPLICATION, THE UTILITY OF CONTRACTOR SHALL BE HELD RESPONSIBLE FOR THE FOLLOWING:

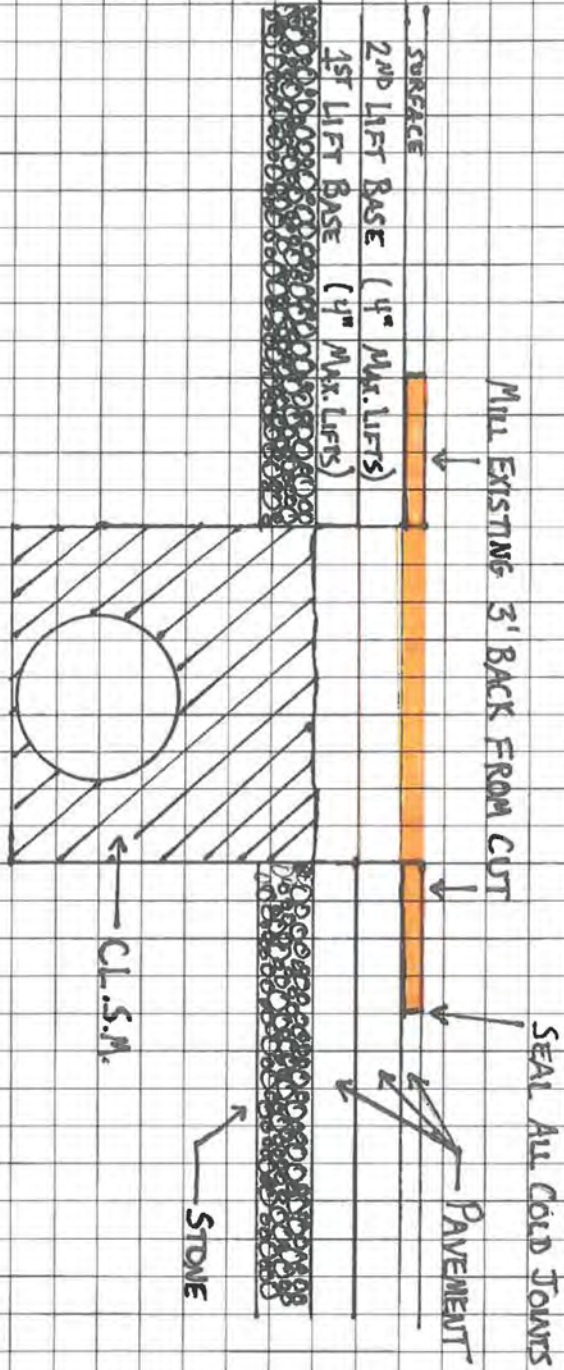
1. COMPACTION WITHIN THE RIGHT-OF-WAY IS REQUIRED. REFER TO THE BOONE COUNTY SUBDIVISION REGULATIONS, APPENDIX "A", ITEM 1.0, PARAGRAPH 1.4 (BACKFILL). WRITTEN RESULTS TO BOONE COUNTY PUBLIC WORKS IMMEDIATELY.
2. ALL EXCAVATIONS, I.E. BORE PITS, ROAD CUTS, SERVICE TAPS, OR REPAIRS SHALL BE BACKFILLED AT THE END OF EACH WORKING DAY, OR OTHER ARRANGEMENTS SHOULD BE MADE WITH THE INSPECTOR.
3. PRE-CONSTRUCT MEETINGS ARE ENCOURAGED.
4. NO FIXED STRUCTURES SHALL BE ALLOWED WITHIN FOUR (4) FEET OF THE EDGE OF ANY PAVEMENT, OR HAMPER MAINTENANCE OF DRAINAGE SYSTEMS.
5. THE COMPANY AGREES TO SAVE BOONE COUNTY HARMLESS FROM ANY ACTION FOR DAMAGES ARISING OUT OF ITS PROSECUTION OF THE WORK DESCRIBED HEREIN.
6. ALL RESTORATION OF THE ROADWAY OR RIGHT-OF-WAY SHALL BE TO THE SATISFACTION OF THE BOONE COUNTY SUBDIVISION REGULATIONS.
7. WORK ZONE TRAFFIC CONTROL, ROADWAY SIGNS AND MARKINGS MUST BE UTILIZED, AND IN CONFORMANCE WITH THE CURRENT M.U.T.C.D.
8. KENTUCKY LABOR CABINENT, OCCUPATIONAL SAFETY AND HEALTH, (O.S.H.A.), STANDARDS 803 KAR 2:415 AND 803 KAR 2:309 (TRENCHING/SHORING, CONFINED SPACES) WILL BE OBSERVED BY THE INSPECTOR. ANY UNSAFE CONDITIONS, IN THE OPINION OF THE INSPECTOR, WILL BE BROUGHT TO THE CONTRACTOR'S ATTENTION. IF THE SITUATION IS NOT IMMEDIATELY RECTIFIED, THE O.S.H.A. DIVISION OF COMPLIANCE AND UTILITY COMPANY/OWNER WILL BE NOTIFIED IN WRITING.
9. A TWENTY-FOUR HOUR (24 HR.) NOTICE OF INSPECTION IS REQUIRED FOR ANY WORK PERFORMED WITHIN COUNTY RIGHT-OF-WAY.

DANIEL D. RICE, SUPERVISOR
OFFICE: (859) 334-3600
MOB: (859) 393-2205

BOONE COUNTY PUBLIC WORKS

PROJECT NAME: _____

DATE _____



NAME _____



505 Commonwealth Ave. Erlanger, KY 41018 (859) 727-2525

PUBLIC WORKS DEPARTMENT

PHONE: 859.727.3893

APPLICATION FOR PERMIT TO OPEN STREET/ROW IN THE CITY OF ERLANGER.

DATE: 01/28/2022 START DATE: 03/01/2023 COMPLETED DATE: 09/01/2023

LOCATION: Olympic Blvd, Turfway Rd, Peach Tree Ln

SCHEDULED WORK WITH WRITTEN PERMISSION & REQUIRED INSPECTIONS

EMERGENCY WORKED WITH VERBAL PERMISSION-8:00AM TO 5:00PM

EMERGENCY WORKED WITHOUT PERMISSION-5:00 PM TO 8:00 AM /WEEKENDS

APPLICANT: Duke Energy Kentucky, INC

ADDRESS: 139 E 4th St, Cincinnati, OH PHONE #: 513-287-3026 (Contact Person)

CONTACT PERSON: Matthew Hughes

OPENING(S) LENGTH: 2300' WIDTH: 5 feet

PROJECT: AM07 Phase I Replacement

PURPOSE: Pipeline Improvement Project

STREET CUTS:

ASPHALT BRICK CONCRETE UNIMPROVED OTHER

NON-STREET CUTS:

UNIMPROVED CONCRETE SDWK. SOD BRICK SDWK. CONC.
DRIVEWAY () OTHER _____

APPLICANT MUST CONTACT PUBLIC WORKS DEPARTMENT FOR REQUIRED INSPECTIONS 24 HOURS IN ADVANCE.

ALL STREET REPLACEMENTS MUST CONFORM TO THE CITY OF ERLANGER STANDARDS.

PERMISSION IS HEREBY GRANTED TO OPEN STREET AS INDICATED ABOVE.

3/14/22

0103142022

(SIGNED)

(DATE)

(PERMIT #)

Boone County, Kentucky Encroachment Permit Application

Date 1/21/2022

Applicant Name: Duke Energy

Contact Person: Josh Pedersen (on behalf of Duke Energy)

Address: 139 E 4th Street

Phone: 913-645-2713

City, State, Zip: Cincinnati, OH 45202

Email: jmpedersen@burnsmcd.com

Phone: N/A

Type of Encroachment

- Industrial Entrance
- Commercial Entrance
- Residential Entrance
- Farm Entrance
- Utility Encroachment Underground Overhead
- Other (Specify) _____

Encroachment Location Near intersection of Peach Tree Ln and Queensway Dr. (see below)

Description of Work to be Completed Installation of 24" steel natural gas pipeline via open cut construction methods in Peach Tree Ln.

Approximate location of work (39.038472° , -84.623942°)

Separate Attached Drawings Required for All Encroachments Other than Residential


Application Fee: Industrial Entrance - \$400.00 ea
 Commercial Entrance - \$200.00 ea
 All Other Entrances – Free
 Utility encroachment - Free

Make checks payable to the Boone County Fiscal Court


Return completed application and fee to: Boone County Public Works
5645 Idlewild Rd.
Burlington, KY 41005

The applicant agrees to the following terms and conditions:

1. The applicant shall comply with and is bound by the requirements of the Boone County Public Works Department's Regulations.
2. Applicant agrees that if the Department determines that vehicular capacity deficiencies or over capacity conditions develop as a result of the installation and use of this facility, the applicant shall adjust, relocate or reconstruct the facilities and/or provide and bear the expense for signs, storage lanes of other corrective measures reasonably deemed necessary by the Department and set forth in the Department's Regulations within a reasonable length of time after receipt of written notice regarding such adjustments, relocation, additions modifications and/or corrective measures, such time to be specified in the notice.
3. The said encroachment will not infringe on the frontage rights of an abutting owner without written consent of the said owner as hereto: "I (we) consent to the granting of attached permit."
 _____ Date _____ (This does not apply to utilities which serve the general public.)
4. Any permit granted hereunder shall be with the full understanding that it shall not interfere with any similar rights or permits heretofore granted to any other party except as otherwise provided by law.
5. A plan prepared by Burns & McDonnell and dated 01/21/2022 is attached hereto and made a part hereof, which describes the facilities to be constructed by the applicant for which facilities this permit is granted. The applicant agrees as a condition to the issuance of the permit to construct and maintain such facilities in accordance with said plan, and the applicant shall not use the facilities authorized herein in any manner contrary to that prescribed by this permit and plan. Normal usage and routine maintenance only are authorized under this permit.
6. Applicant shall comply with the Manual on Uniform Traffic Control Devices as revised to and in effect on the date of the issuance of this permit which is made a part hereof by reference.
7. Applicant shall at all times from date when work is first commenced and until such time as all facilities are removed from the right-of-way premise, defend, protect and save harmless the Department from all liability, claims, and demands arising out of work undertaken by the applicant pursuant to this permit, due to any negligent act or omission by the applicant, its servants, agents employees or contractors. This provision shall not inure to the benefit of any third party or operate to enlarge any liability of the Department beyond that existing at common law if this right to indemnity did not exist.
8. Upon a violation of any of the provisions of this permit, the Department may revoke the permit by giving notice to the applicant in writing to remove from the right-of-way any facilities placed thereon within a reasonable time as set forth in the notice, and in the event said facilities are not so removed, and the right-of-way restored the Department may cause same to be removed, and the costs thereof shall be charged to the applicant.
9. If the work authorized by this permit is on a project in the construction phase, it shall be the responsibility of the applicant to make contact the Inspection Services Division of the Boone County Public Works Department.
10. This permit does not alleviate any requirements of any other government agency.
11. Applicant agrees to keep the priority route in which this permit was issued clear of dirt, mud and debris during construction and for the life of this permit.
12. This application will become void 1 year from applicant signature date. Applicant must contact Engineering Services when the work is complete. (859) 334-3600.

Applicant Signature 

Date 01/28/2022

Approval 

Date 2-14-22

Release Date _____

Permit No. 22-0414

GARY W. MOORE
COUNTY JUDGE/EXECUTIVE

JEFFREY S. EARLYWINE
COUNTY ADMINISTRATOR



BOONE COUNTY
PUBLIC WORKS

BOONECOUNTYKY.ORG

ROB FRANKMAN
DIRECTOR

DATE: 2/14/2022

TO: Duke Energy
Attn: Josh Pedersen

PERMISSION HAS BEEN REQUESTED TO PERFORM THE FOLLOWING WORK
WITHIN THE PUBLIC RIGHT-OF-WAY OF Peach Tree Lane

DESCRIPTION OF WORK IS AS FOLLOWS:

- Traffic control by MUTCD standards
- Erosion control if needed
- Restoration required in R-O-W
- No construction materials are to be stored on the roadway
- Bore Pits to be protected

PERMISSION IS HEREBY GRANTED, PER ATTACHMENTS.



PERMIT # 22- 0414

DANIEL D. RICE/ KEN POINTS/MICHAEL R. MARTIN/MIKE NORCIA/MIKE ROUSH
INSPECTION SERVICES
ENGINEERING DIVISION

INSPECTION REQUIRED YES **NO**
IF YES, A TWENTY-FOUR (24) HOUR NOTICE REQUIRED

THANK YOU.

OFFICE HOURS 7:30 AM – 4:00 PM M-F

PHONE (859) 334-3600 FAX (859) 334-3598

GARY W. MEDER
COUNTY JUDGE/COMMISSIONER

JERRIE S. BANCY WARD
COUNTY ADMINISTRATOR



BOONE COUNTY
PUBLIC WORKS

DEBORAH MANN
DIRECTOR

BOONECOUNTYKY.ORG

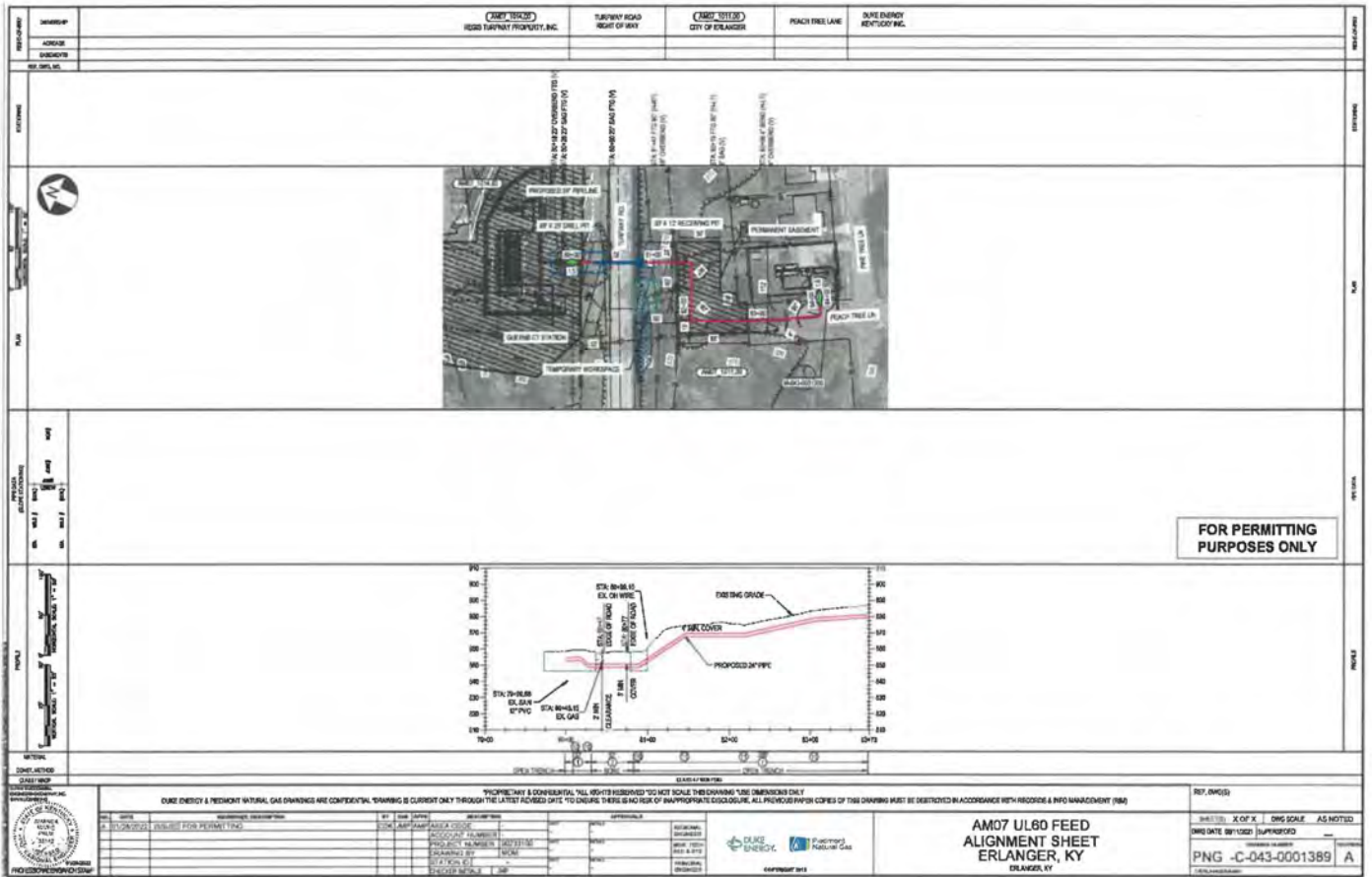
ATTENTION ALL UTILITIES AND THEIR CONTRACTORS:

PERMISSION TO PERFORM WORK WITHIN THE DEDICATED PUBLIC RIGHT-OF-WAY HAS BEEN REQUESTED BY _____.

IN APPROVING THIS APPLICATION, THE UTILITY OF CONTRACTOR SHALL BE HELD RESPONSIBLE FOR THE FOLLOWING:

1. COMPACTION WITHIN THE RIGHT-OF-WAY IS REQUIRED. REFER TO THE BOONE COUNTY SUBDIVISION REGULATIONS, APPENDIX "A", ITEM 1.0, PARAGRAPH 1.4 (BACKFILL). WRITTEN RESULTS TO BOONE COUNTY PUBLIC WORKS IMMEDIATELY.
2. ALL EXCAVATIONS, I.E. BORE PITS, ROAD CUTS, SERVICE TAPS, OR REPAIRS SHALL BE BACKFILLED AT THE END OF EACH WORKING DAY, OR OTHER ARRANGEMENTS SHOULD BE MADE WITH THE INSPECTOR.
3. PRE-CONSTRUCT MEETINGS ARE ENCOURAGED.
4. NO FIXED STRUCTURES SHALL BE ALLOWED WITHIN FOUR (4) FEET OF THE EDGE OF ANY PAVEMENT, OR HAMPER MAINTENANCE OF DRAINAGE SYSTEMS.
5. THE COMPANY AGREES TO SAVE BOONE COUNTY HARMLESS FROM ANY ACTION FOR DAMAGES ARISING OUT OF ITS PROSECUTION OF THE WORK DESCRIBED HEREIN.
6. ALL RESTORATION OF THE ROADWAY OR RIGHT-OF-WAY SHALL BE TO THE SATISFACTION OF THE BOONE COUNTY SUBDIVISION REGULATIONS.
7. WORK ZONE TRAFFIC CONTROL, ROADWAY SIGNS AND MARKINGS MUST BE UTILIZED, AND IN CONFORMANCE WITH THE CURRENT M.U.T.C.D.
8. KENTUCKY LABOR CABINENT, OCCUPATIONAL SAFETY AND HEALTH, (O.S.H.A.), STANDARDS 803 KAR 2:415 AND 803 KAR 2:309 (TRENCHING/SHORING, CONFINED SPACES) WILL BE OBSERVED BY THE INSPECTOR. ANY UNSAFE CONDITIONS, IN THE OPINION OF THE INSPECTOR, WILL BE BROUGHT TO THE CONTRACTOR'S ATTENTION. IF THE SITUATION IS NOT IMMEDIATELY RECTIFIED, THE O.S.H.A. DIVISION OF COMPLIANCE AND UTILITY COMPANY/OWNER WILL BE NOTIFIED IN WRITING.
9. A TWENTY-FOUR HOUR (24 HR.) NOTICE OF INSPECTION IS REQUIRED FOR ANY WORK PERFORMED WITHIN COUNTY RIGHT-OF-WAY.

DANIEL D. RICE, SUPERVISOR
OFFICE: (859) 334-3600
MOB: (859) 393-2205

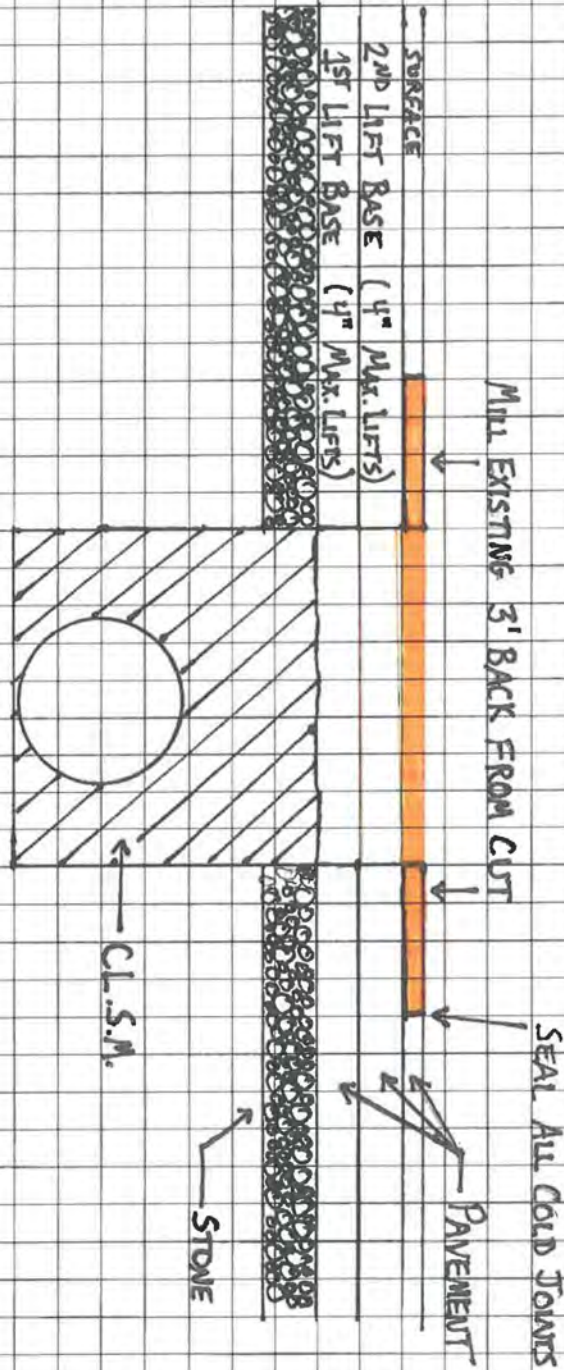




BOONE COUNTY PUBLIC WORKS

PROJECT NAME: _____

DATE _____



NAME _____



ANDY BESHEAR
GOVERNOR

TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL
THE STATE HISTORIC PRESERVATION OFFICE

MICHAEL E. BERRY
SECRETARY

JACQUELINE COLEMAN
LT. GOVERNOR

410 HIGH STREET
FRANKFORT, KENTUCKY 40601
(502) 564-7005
www.heritage.ky.gov

CRAIG A. POTTS
EXECUTIVE DIRECTOR &
STATE HISTORIC
PRESERVATION OFFICER

02/16/2022

Brandy Harris
Senior Cultural Resources Specialist
Burns & McDonnell

RE: (USACE) Revised Phase I Archaeological Survey of the Duke Energy AM07 Pipeline Replacement Project, Boone and Kenton Counties, Kentucky (Douglas Kullen, Burns & McDonnell), and

Aboveground Cultural Historic

Dear Ms. Harris:

Thank you for your submittal of revised above and below ground documentation for the above-referenced undertaking. We understand the purpose of this project is to upgrade and improve the existing natural gas distribution system in the greater Cincinnati metro area, located in northeastern Boone and northwestern Kenton Counties, Kentucky. Four project areas were assessed: the Hetzel Station, Ellis Road, I-275 Crossing, and Turfway Road/Southern Route, where a new meter and regulating station will be constructed. Almost all areas include possible select tree clearing. In total, 8,550 feet of existing 24-inch pipeline will be replaced with 9,450 feet of new piping.

Regarding archaeological resources, we understand that this investigation covered an Area of Potential Effect (APE) measuring approximately 43.3 acres. No archaeological sites were documented, and no additional archaeological work is warranted. We accept this report without further revision.

Several previously recorded above-ground historic resources were noted in the GIS results for this undertaking. However, upon aerial research, nearly all resources were noted to be demolished within the past two decades. Of the limited resources within the buffer zone, the remaining resources were located outside of the direct APE, and due to topography, would not be within the line of sight for the remaining resources. Therefore, our office concurs with the recommended finding of **No Adverse Effect**.

We look forward to receiving three bound paper copies of the archaeological report as well as one bound paper copy of the above-ground documentation. Should you have any questions, please feel free to contact Nicole Konkol of my staff at Nicole.Konkol@ky.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Potts".

Craig A. Potts,
Executive Director and
State Historic Preservation Officer

CONFIDENTIAL EXHIBIT 3

FILED UNDER SEAN

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) Case No. 2022-00084
the Phase One Replacement of the AM07)
Pipeline)

DIRECT TESTIMONY OF

BRIAN R. WEISKER

ON BEHALF OF

DUKE ENERGY KENTUCKY, INC.

March ____, 2022

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I. INTRODUCTION AND PURPOSE

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Brian R. Weisker and my business address is 4720 Piedmont Row
3 Drive, Charlotte, North Carolina 28210.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC (DEBS) as Senior Vice
6 President, Chief Operating Officer Natural Gas. DEBS provides various
7 administrative and other services to Duke Energy Kentucky, Inc. (Duke Energy
8 Kentucky or Company) and other affiliated companies of Duke Energy
9 Corporation (Duke Energy).

10 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND
11 AND PROFESSIONAL EXPERIENCE.**

12 A. I received a Bachelor of Sciences degree from the United States Naval Academy
13 in 1994 and an MBA degree from Tulane University in 2001. From 1996 through
14 2002, I worked in the United States Navy as a Division Officer, an Assistant
15 Professor of Naval Science and as a Navigation/Operations Department Head.
16 From 2002 through 2006, I worked at Cinergy as a Manager. In 2006, I became a
17 power plant Station Manager following Duke Energy's acquisition of Cinergy. In
18 2014, I became General Manager of Carolina West Outages & Maintenance
19 Services. In 2015, I became Vice President of Coal Combustion Products
20 Operations & Maintenance. In 2018, I became Vice President of Natural Gas
21 Operational Excellence within Duke Energy's Natural Gas Business Unit. In
22 January 2020, I assumed my current role as Senior Vice President and Chief

1 Operating Officer of Duke Energy's Natural Gas Business Unit.

2 **Q. PLEASE SUMMARIZE YOUR RESPONSIBILITIES AS SENIOR VICE**
3 **PRESIDENT, CHIEF OPERATING OFFICER NATURAL GAS.**

4 A. I am responsible for safe, reliable and efficient natural gas delivery, safe work
5 execution, investment prioritization, and compliance with all state and federal
6 natural gas regulations for the Natural Gas Business Unit within Duke Energy.

7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE KENTUCKY**
8 **PUBLIC SERVICE COMMISSION?**

9 A. Yes. Most recently I provided testimony in support of the Company's Natural Gas
10 Base Rate Increase, in Case No. 2021-00190.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
12 **PROCEEDING?**

13 A. My testimony provides a brief overview of Duke Energy Kentucky and its natural
14 gas operations. I provide a summary of the Company's request in this proceeding
15 for a Certificate of Public Convenience and Necessity (CPCN) for the
16 construction of the first phase of its AM07 Pipeline Replacement Program (AM07
17 Replacement). In doing so, I discuss the need for, and reasonableness of, our
18 proposal to replace the existing AM07 pipeline by constructing a new twenty-
19 four-inch pipeline and associated facilities. Phase One of the AM07 Replacement
20 includes approximately two miles of pipeline.

II. OVERVIEW OF DUKE ENERGY KENTUCKY

1 Q. PLEASE GENERALLY DESCRIBE DUKE ENERGY KENTUCKY'S
2 OPERATIONS.

3 A. Duke Energy Kentucky is a regulated utility operating company that provides
4 retail electric services in five counties and natural gas service in seven counties in
5 northern Kentucky. Duke Energy Kentucky's local business office is in Erlanger,
6 Kentucky, with the main business office in Cincinnati, Ohio. Duke Energy
7 Kentucky serves a relatively densely populated territory that, though not heavily
8 industrialized, includes a fairly diverse mix of customers.

9 Duke Energy Kentucky currently provides natural gas distribution service
10 to approximately 100,000 customers in Boone, Bracken, Campbell, Gallatin,
11 Grant, Kenton, and Pendleton Counties in northern Kentucky. The Company also
12 owns, operates, and maintains approximately 1,490 miles of mains on our natural
13 gas distribution system. Duke Energy Kentucky's gas and electric service
14 territories encompass approximately 563 and 700 square miles, respectively.

15 Duke Energy's Gas Operations business is organized into the following
16 functional groups: construction and maintenance, gas engineering, gas supply,
17 integrity management, performance and compliance management, and our service
18 delivery organization. These functional groups are designed to ensure the safe,
19 reliable, and economic supply of natural gas services to Duke Energy Kentucky's
20 customers. Gas Operations employs approximately 400 individuals who manage
21 the day-to-day operations of both the Kentucky and Ohio businesses.

1 Additionally, Gas Operations has approximately 400 contract employees to assist
2 in our mission.

III. DUKE ENERGY KENTUCKY'S APPLICATION
TO CONSTRUCT A PIPELINE

3 **Q. PLEASE DESCRIBE THE AM07 PIPELINE AND WHY IT MUST BE**
4 **REPLACED.**

5 A. AM07 is the primary artery that transports natural gas from upstream suppliers to
6 Duke Energy Kentucky's natural gas delivery system. AM07 extends
7 approximately sixteen miles to the Ohio River and supports natural gas delivery
8 throughout the Duke Energy Kentucky natural gas delivery system via connected
9 pipelines.

10 **Q. PLEASE EXPLAIN WHY THE AM07 PIPELINE MUST BE REPLACED.**

11 A. Replacement of many sections of AM07 is required under recent updates to
12 federal regulations issued by the Pipeline and Hazardous Materials Safety
13 Administration (PHMSA). Specifically, the Company must take action to comply
14 with the new pipeline safety regulation, "Pipeline Safety: Safety of Gas
15 Transmission Pipelines: MAOP Reconfirmation, Expansion of Assessment
16 Requirements, and Other Related Amendments" (New Transmission Rule). The
17 New Transmission Rule went into effect July 2020 mandating Operators to
18 review and reconfirm transmission pipeline Maximum Allowable Operating
19 Pressure (MAOP). The Company must properly adhere to Integrity Management
20 requirements within PHMSA's New Transmission Rule as well as other relevant
21 regulations, specifically, Subpart L §192.607, Verification of Pipeline Materials

1 Properties and Attributes, Subpart L §192.624, Maximum allowable operating
2 pressure reconfirmation, Subpart M §192.710, Transmission lines: Assessments
3 outside of high consequence areas, and Subpart O, Gas Transmission Pipeline
4 Integrity Management. These regulations are driving our need to replace sections
5 of the AM07.

6 The AM07 pipeline was constructed in the 1950's, in accordance with
7 industry standards at the time. Today, AM07 is of a vintage where the materials
8 are no longer industry standard. The majority of AM07 was constructed with A.
9 O. Smith (AOS) pipe. AOS pipe has a long history of failures due to hard spots in
10 the pipe body along with failures on the longitudinal seam. The AOS pipe used to
11 construct the AM07 pipeline was installed in 1956.

12 The AM07 pipeline is not "piggable," meaning it cannot accommodate an
13 in-line inspection (ILI) tool and be assessed for active threats on the pipeline such
14 as corrosion, manufacturing, fabrication, and construction defects. Also, many of
15 the records that exist do not meet current PHMSA standards for traceable,
16 verifiable, and complete records. The AM07 replacement must be completed by
17 2029 which is the next regulatory required assessment date. Accordingly, Duke
18 Energy Kentucky has a present need to replace certain sections of its AM07
19 pipeline, totaling approximately 13.7 miles, and associated regulator stations
20 through its Northern Kentucky territory over the next several years, to comply
21 with PHMSA regulations.

1 **Q. PLEASE SUMMARIZE THE FUTURE PHASES OF THE AM07**
 2 **REPLACEMENT AND ESTIMATED TIMING OF THEIR**
 3 **CONSTRUCTION.**

4 A. The Company anticipates the 13.7 mile AM07 Replacement to occur in five
 5 phases with final completion in 2027. The Company anticipates commencing
 6 construction in early 2023 for this first phase, with the final phase commencing in
 7 2026 for full in-service by October 2027 The current estimated scope of the five
 8 phases of the AM07 Replacement are summarized as follows:

PHASE	Est. Miles Replaced	Est. in-service date	Estimated Cost of Construction
1	2.0	10/1/2023	\$32,246,474
2	3.2	10/1/2024	\$39,350,000
3	3.6	10/1/2025	\$47,210,100
4	2.2	10/1/2026	\$32,101,000
5	2.7	10/1/2027	\$30,388,000
TOTAL	13.7		\$181,295,574

9 **Q. PLEASE BRIEFLY SUMMARIZE DUKE ENERGY KENTUCKY'S**
 10 **APPLICATION AND THE RELIEF REQUESTED IN THIS**
 11 **PROCEEDING.**

12 A. Duke Energy Kentucky is requesting the Commission issue a CPCN to begin
 13 construction of the first phase of its AM07 Replacement project (Phase One). In
 14 total, the Phase One project impacts approximately 2.0 miles of natural gas
 15 pipeline. Although Duke Energy Kentucky is seeking approval for just the first
 16 phase in this proceeding, subsequent phases will follow, on an approximate
 17 annual basis, with separate CPCN requests for each phase.

1 **Q. PLEASE FURTHER DESCRIBE THE CONSTRUCTION FOR PHASE**
2 **ONE THAT IS PROPOSED IN THIS APPLICATION.**

3 A. Duke Energy Kentucky is proposing to abandon a portion of the existing AM07
4 pipeline in place and will construct a new 24-inch steel natural gas transmission
5 line within new right-of-way from the I-75 crossing west to a new regulator
6 station with an ILI receiver located near Turfway Road and Queens Court. The
7 station will feed into the existing downstream 24-inch pipeline with distribution
8 pressure, extending to the AM07 Ohio River crossing manifold on the south
9 (Kentucky) side of the river crossing therefore reclassifying the AM07 river
10 crossing pipelines to distribution pressure. In addition, 2,500 feet of new 24-inch
11 steel distribution pipe will be installed under I-275, replacing the existing AM07
12 pipe in this area. With this project, a new feed into the Company's existing UL60
13 pipeline will need to be provided. Once completed, approximately 1.5 miles of
14 new 24-inch transmission pipe and 2,500 feet of new 24-inch distribution pipe
15 will be placed in service.

16 **Q. PLEASE FURTHER EXPLAIN THE NEED FOR THE AM07**
17 **REPLACEMENT PROJECT.**

18 A. In addition to the aforementioned PHMSA compliance issues previously
19 mentioned, the AM07 Replacement will also improve safety and reliability to the
20 main portion of the Company's natural gas delivery system in Northern Kentucky.
21 Although Duke Energy Kentucky has been able to meet customer needs with safe
22 and reliable natural gas service, the Company must properly assess for the threats
23 on each pipeline, in order to continue providing safe and reliable service. Under

1 the New Transmission Rule, natural gas companies that do not have the necessary
2 traceable, verifiable, and complete records for facilities must take action to either
3 pressure test, perform ILI, or replace the pipe.

4 The 1956 vintage pipe within the AM07 pipeline does not have traceable,
5 verifiable and complete pressure test records. Because the majority of AM07 is
6 comprised of 1956 vintage pipe with active manufacturing and construction
7 threats, the Company must take action to address these threats to comply with
8 these regulations.

9 **Q. WHY IS THE COMPANY REPLACING THE AM07 INSTEAD OF**
10 **PERFORMING THE ILI OR PRESSURE TESTING?**

11 A. AM07 is incapable of ILI as the 1950's construction standards did not
12 contemplate that technology. Pressure testing of the AM07 is not possible. AM07
13 acts as a backbone to the Company's natural gas delivery system. Pressure testing
14 requires taking the line out of service. Taking the AM07 pipeline out of service
15 would result in widespread delivery blackouts across the Company's entire
16 natural gas delivery system and would take thousands of customers out of service
17 for an extended period of time, and would require significant inspections and
18 relights across the Company's entire natural gas footprint.

19 The Company reviewed the different methodologies that can be used to
20 confirm the MAOP of the pipeline and determined from both an integrity
21 perspective as well as an MAOP reconfirmation perspective it would be most
22 prudent to replace the pipeline with new pipe constructed from modern materials
23 that can be inspected via ILI going forward. Replacing aging infrastructure with

1 new pipe constructed from modern materials allows the Company to continue to
2 provide safe and reliable service while allowing the replacement pipeline to be
3 designed and constructed to allow passage of ILI tools for future inspections.

4 **Q. PLEASE DESCRIBE THE BENEFITS OF THE PROJECT.**

5 A. This new AM07 pipeline will provide additional reliability to Duke Energy
6 Kentucky's natural gas delivery system by replacing aging infrastructure which is
7 incapable of accommodating an ILI tool with new pipe constructed from modern
8 materials allowing the Company to continue to provide safe and reliable service.
9 The new pipeline will be designed and constructed for safe passage of ILI tools
10 allowing the Company to continue providing safe natural gas service for current
11 and future customers. This new infrastructure will support continued growth in
12 the Company's northern Kentucky service area.

13 **Q. DO YOU BELIEVE THE PROJECT IS REASONABLE AND**
14 **NECESSARY?**

15 A. Yes. This project is necessary to comply with CFR Part 192 Subparts L, M, and
16 O, specifically with regards to Subpart L §192.607, Verification of Pipeline
17 Materials Properties and Attributes, Subpart L §192.624, Maximum allowable
18 operating pressure reconfirmation, Subpart M §192.710, Transmission lines:
19 Assessments outside of high consequence areas, and Subpart O, Gas Transmission
20 Pipeline Integrity Management. The project is reasonable insofar as it both meets
21 compliance requirements and increases safety and system reliability by replacing
22 the line with new, modern, inspectable pipe.

1 **Q. WILL THE PROJECT INTERFERE WITH ANY OTHER UTILITY'S**
2 **OPERATIONS.**

3 A. No, the Project will not interfere with any other utility's operations. The location
4 of the AM07 replacement is within areas Duke Energy Kentucky is already
5 supplying natural gas.

6 **Q. WILL THE PROJECT DUPLICATE THE FACILITIES THAT DUKE**
7 **ENERGY KENTUCKY ALREADY HAS IN PLACE?**

8 A. No. This project is designed and necessary to replace the existing AM07 Pipeline
9 that does not meet new PHMSA requirements. The existing non-compliant
10 pipeline will be removed from service and abandoned. Therefore, there is no
11 wasteful duplication.

12 **Q. WHAT IS THE ESTIMATED TOTAL COST OF THE AM07 PROJECT?**

13 A. Duke Energy Kentucky witness Bradley Seiter supports the estimated cost of
14 construction and the ongoing cost of operation in his direct testimony. In
15 summary, Phase One is estimated to cost \$32.25 million, with the total project
16 cost, all phases, at approximately \$181.3 million.

17 **Q. IS THE COMPANY'S INVESTMENT IN THE PROJECT REASONABLE**
18 **IN RELATION TO THE SERVICE THAT NEW FACILITIES WILL**
19 **PROVIDE?**

20 A. Yes.

IV. CONCLUSION

21 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

22 A. Yes.

VERIFICATION

STATE OF NORTH CAROLINA)
) SS:
COUNTY OF MECKLENBURG)

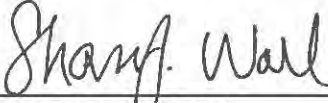
The undersigned, Brian Weisker, Sr. Vice President, Chief Operating Officer Natural Gas, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing testimony, and that it is true and correct to the best of his knowledge, information and belief.



Brian Weisker Affiant

Subscribed and sworn to before me by Brian Weisker on this 29th day of February, 2022.

SHANNON L. WALL
Notary Public, North Carolina
Mecklenburg County
My Commission Expires
June 28, 2022



NOTARY PUBLIC

My Commission Expires: 6/28/2022

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 Phase One) Case No. 2022-00084
Replacement of the AM07 Pipeline)

DIRECT TESTIMONY OF
BRADLEY A. SEITER
ON BEHALF OF
DUKE ENERGY KENTUCKY, INC.

March 28, 2022

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Attachment:

CONFIDENTIAL BAS-1 – Detailed Cost Breakdown of Project

I. INTRODUCTION AND PURPOSE

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Bradley A. Seiter. My business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC (DEBS) as Senior Project
6 Manager for Duke Energy Kentucky, Inc., (Duke Energy Kentucky or the
7 Company) and affiliated natural gas utilities. DEBS provides various administrative
8 and other services to Duke Energy Kentucky and other affiliated companies of
9 Duke Energy Corporation (Duke Energy).

10 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND
11 AND PROFESSIONAL EXPERIENCE.**

12 A. I earned a Bachelor of Science in Civil Engineering from the University of
13 Kentucky in 2011. In 2016, I earned a Master's in Business Administration from
14 Northern Kentucky University. In 2018, I obtained my license as a Professional
15 Engineer in the Commonwealth of Kentucky. I began my career with Duke Energy
16 Kentucky in 2013 as a customer project coordinator. My responsibilities included
17 managing gas and electric projects to bring service to new customers, as well as gas
18 main extension projects and primary electric feeds. In 2015, I moved to Gas
19 Engineering and assumed the position of project engineer, where my
20 responsibilities included the design of gas mains, street improvements, pressure
21 improvements, maximum allowable operating pressure (MAOP) verification
22 projects, and other gas engineering-related projects. In this role, I was responsible

1 for managing all projects through construction, including field support. In 2017, I
2 transitioned into the role of Project Manager in the Natural Gas Major Projects
3 group. My primary responsibilities include management of large infrastructure
4 projects on our high-pressure distribution and transmission pipeline system. I
5 oversee the entire scope of the project, as well as schedule and budget. In 2020, I
6 began my current role as Senior Project Manager.

7 **Q. PLEASE SUMMARIZE YOUR RESPONSIBILITIES AS SENIOR**
8 **PROJECT MANAGER.**

9 A. I am responsible for managing the execution of major projects within the natural
10 gas business unit in Ohio and Kentucky. My role includes leading a project team of
11 subject matter experts within the Company and facilitating coordination of project
12 activities while providing oversight of the scope, schedule, and budget. I ensure the
13 projects comply with the Company's requirements for project management best
14 practices and provide reporting to senior management.

15 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE KENTUCKY**
16 **PUBLIC SERVICE COMMISSION?**

17 A. No.

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
19 **PROCEEDING?**

20 A. The purpose of my testimony is to discuss and support Duke Energy Kentucky's
21 request for approval of a CPCN to construct the first phase of its AM07 natural gas
22 pipeline replacement project (AM07 Replacement). I describe how Duke Energy
23 Kentucky will implement and execute the AM07 Replacement, including, but not

1 limited to, supporting the construction maps, plans, and specifications. I also
2 support the estimated costs of the construction and the ongoing cost of operation
3 for the pipeline project.

II. OVERVIEW OF THE PROJECT

4 **Q. PLEASE BRIEFLY DESCRIBE THE AM07 PIPELINE.**

5 A. AM07 is the primary artery that transports natural gas from upstream suppliers,
6 extending sixteen miles to the Ohio River, and supports natural gas delivery
7 throughout the Duke Energy Kentucky natural gas delivery system via connected
8 pipelines. The AM07 pipeline was constructed in the 1950's, in accordance with
9 existing regulations at the time. Today, AM07 is of a vintage where the materials
10 are no longer industry standard. Duke Energy Kentucky needs to replace certain
11 sections of its AM07 pipeline, totaling approximately 13.7 miles, and associated
12 regulator stations through its Northern Kentucky territory over the next few years
13 to comply with PHMSA regulations.

14 **Q. PLEASE DESCRIBE THE COMPANY'S PROPOSAL FOR THE PHASE 1**
15 **AM07 REPLACEMENT.**

16 A. Duke Energy Kentucky witness Mr. Weisker summarizes the total AM07
17 Replacement project in his direct testimony. For Phase 1 of the AM07 Replacement
18 that is the subject of this Application, Duke Energy Kentucky is proposing to
19 replace approximately two miles of section of AM07 that flows from a crossing
20 point at the Ohio River in Hebron, Kentucky to a newly built regulation facility
21 along Turfway Road in Erlanger, KY. The approximately two miles of this 24-inch
22 section will be replaced with new, industry standard material that will comply with

1 PHMSA regulations as detailed by Mr. Weisker. The project will also require one
2 new pressure regulating station to be installed.

3 **Q. WILL THE NEW PIPELINE BE PHYSICALLY LOCATED IN PUBLIC**
4 **RIGHTS-OF-WAY OR IN PRIVATE EASEMENTS?**

5 A. Duke Energy Kentucky anticipates approximately 90% of the project will be
6 located in private easements that will be obtained with the approval of this
7 Application. Where private easements are not feasible, the Company will locate the
8 Project within existing public rights-of-way.

9 **Q. WILL THE COMPANY NEED TO OBTAIN ANY PERMITS FOR**
10 **CONSTRUCTION OF THE PROJECT?**

11 A. Yes. Duke Energy Kentucky will have to obtain the following permits/approvals to
12 complete the Project:

13 a) Kentucky Transportation Cabinet permit to cross state and federal roads
14 and to install the pipeline inside road right-of-way;

15 b) Energy and Environmental Protection Cabinet - Division of Water,
16 Application for a Permit to Construct Along or Across a Stream for
17 stream and floodplain crossings (Stream Crossing Permit);

18 c) US Army Corp Section 404 General Nationwide Permit #12 (including
19 Section 7 Threatened and Endangered Species Act of 1973 and Section
20 106 National Historic Preservation Act of 1966 clearances);

21 d) Boone County and City of Erlanger encroachment permit to cross
22 jurisdictional roads;

23 e) Coordination with the Kentucky Heritage Council (KHC) regarding

1 cultural resources, including cultural resource investigations/digs and
2 potential viewshed impacts to architectural resources along the project
3 route;

4 f) KDOW Construction Storm Water Permit KYR10; and,

5 g) Sanitation District No. 1 Grading Permit.

6 Duke Energy Kentucky has applied for each of the above listed permits except for
7 items (f) and (g), which will be applied for following approval of this CPCN as
8 those permits are required immediately before actual construction occurs. The
9 Company's permits and coordination documents/reports for cultural resources are
10 attached as Exhibits 2(a) through (e) of the Application.

11 **Q. HAS THE COMPANY DEVELOPED CONSTRUCTION**
12 **SPECIFICATIONS TO BE USED IN THE PROJECT?**

13 A. Yes. Exhibit 3 to the Application contains, among other things, maps depicting the
14 location of the proposed Project along the Company's natural gas delivery system,
15 engineering plans, drawings, and the construction specifications for the Project.
16 Exhibit 3 shows the connection of the new route to the existing delivery system,
17 the design of the Project and proposed route for the new 24-inch steel pipeline. Due
18 to the sensitive nature of gas utility infrastructure, Confidential Exhibit 3 is being
19 provided under petition for confidential treatment.

20 **Q. IS THE DESIGN OF THE PROJECT SUBSTANTIALLY COMPLETE?**

21 A. Yes. Duke Energy Kentucky has submitted stamped engineering drawings for the
22 Project depicting the design and route for the Project in Exhibit 3. The route is based
23 upon best available information at this time, acknowledging that Duke Energy

1 Kentucky must still complete negotiations and acquisitions for private easements
2 where applicable along the route. The Company anticipates that there may be minor
3 deviations in the estimated length and location of the pipe due to not wanting to
4 interfere with trees, fences, power poles, sewers, water mains, municipal right of
5 way issues, and in accordance with any restrictions in acquired easements that are
6 yet to be determined.

7 **Q. PLEASE DESCRIBE HOW THE PROJECT WILL BE CONSTRUCTED.**

8 A. The new pipeline will be constructed in accordance to Duke Energy Kentucky's
9 work specifications, standards, and procedures. Exhibit 3 contains these work
10 specifications. The Company and contractor crews are qualified to perform the
11 work in accordance with design specifications prior to installing any facilities.
12 Duke Energy Kentucky personnel will provide oversight to any contractor crews
13 installing facilities on the Company's behalf.

14 **Q. PLEASE BRIEFLY DESCRIBE HOW THE COMPANY WILL EXECUTE
15 AND COMPLETE CONSTRUCTION UNDER THE PROJECT.**

16 A. Duke Energy Kentucky will use both Company and contractor crews where
17 appropriate to complete this project. If contractor crews are deployed, awarding of
18 contracts will be accomplished through a bidding process similar to that the
19 Company has successfully employed in prior construction projects, such as UL60
20 Pipeline. Duke Energy Kentucky will use industry standard equipment, materials,
21 and designs to construct the pipeline in accordance with the work specifications.

1 Q. **WHAT IS THE ESTIMATED TIMELINE FOR CONSTRUCTION OF THE**
 2 **PROJECT?**

3 A. The estimated timeline is dependent upon the approval of the project. Duke Energy
 4 Kentucky has developed the below timeline with key milestones to ensure the Phase
 5 1 of the AM07 Replacement is completed in time to comply with PHMSA
 6 requirements as explained by Mr. Weisker. This schedule is based upon the
 7 Company receiving CPCN approval by Fall of 2022, to allow sufficient time to
 8 make necessary procurements, easement acquisitions and commence construction
 9 in the spring of 2023. The entire project is projected to be complete by December
 10 31, 2023.

Estimated Project Schedule

January 2021	Design began
April 2021	Field Surveys
August 2021	Began easement discussions Apply for permits
October 2021	Order Long lead item materials
February 2022	Design substantially complete
July 2022	Design complete Bid for construction
3rd quarter 2022	Anticipated CPCN Approval
November 2022	Award construction contract
March 2023	Construction begins
December 2023	Construction complete*

11 * Assumes no delays in outstanding approvals/permitting.

12 Q. **WHAT IS THE ESTIMATED COST OF CONSTRUCTION FOR THE**
 13 **PROJECT?**

14 A. The current estimated project cost is approximately \$32.25 million dollars as
 15 detailed in the chart below. Please refer to Confidential Attachment BAS-1 which

1 shows a detailed cost breakdown of the various areas of cost associated with the
2 project. A summary of the costs is as follows:

Task	Total
Design	\$2.5M
Land	\$1.25 M
Construction	\$25M
Materials	\$3.5M
	<u>\$32.25 M</u>

3 **Q. HOW WAS THAT ESTIMATE DERIVED?**

4 A. This Class 4 (-30%/+50%) estimate is based on the pricing Duke Energy Kentucky
5 has already received for design services and anticipated expenses for easement
6 acquisition and construction (labor and materials). Duke Energy Kentucky
7 compared these figures to other recently completed projects and it is confident in
8 the estimate being provided.

9 **Q. WHAT IS THE ESTIMATED ONGOING COST OF OPERATION OF THE**
10 **NEW PIPELINE ONCE CONSTRUCTED?**

11 A. The Company anticipates that there will be minimal (<\$10,000 per year)
12 incremental operational and maintenance expense (O&M) associated with the
13 ongoing operation of the new pipeline except for required periodic inspections
14 and/or testing.

III. FILING REQUIREMENTS SPONSORED BY WITNESS

15 **Q. PLEASE DESCRIBE THE FILING REQUIREMENTS CONTAINED IN**
16 **THE COMPANY'S APPLICATION FOR A CERTIFICATE OF PUBLIC**
17 **CONVENIENCE AND NECESSITY THAT YOU ARE SPONSORING AND**
18 **SUPPORTING.**

1 A. I sponsor data that is responsive to the filing requirements in accordance with 807

2 KAR 5:001:

3 • Exhibits 2(a) through (e), Section 15(2)(b): permits required for
4 construction; and

5 • Exhibit 3; Section 15(2)(c), Section 15(2)(d)(1)-(2), and Section 15(2)(e):
6 Full description of the proposed location, route, or routes, including a
7 description of the manner in which the facilities will be constructed, and
8 map of the construction area, and work specifications.

IV. CONCLUSION

9 **Q. WERE EXHIBITS 2 AND 3 TO THE COMPANY'S APPLICATION AND**
10 **CONFIDENTIAL ATTACHMENT BAS-1 PREPARED BY YOU OR**
11 **UNDER YOUR DIRECTION AND CONTROL?**

12 A. Yes.

13 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

14 A. Yes.

VERIFICATION

STATE OF OHIO)
)
COUNTY OF HAMILTON)

) SS:


The undersigned, Bradley A. Seiter, Sr. Project Manager, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing testimony, and that it is true and correct to the best of his knowledge, information and belief.



Bradley A. Seiter Affiant

Subscribed and sworn to before me by Bradley A. Seiter on this 3rd day of Mar, 2022.





NOTARY PUBLIC

My Commission Expires: Jan, 1, 2025

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) Case No. 2022-00084
the Phase One Replacement of the AM07)
Pipeline)

DIRECT TESTIMONY OF

JAY P. BROWN

ON BEHALF OF

DUKE ENERGY KENTUCKY, INC.

March 28, 2022

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I. INTRODUCTION AND PURPOSE

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Jay P. Brown and my business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC (DEBS) as Director Rates
6 & Regulatory Planning. DEBS provides various administrative and other services
7 to Duke Energy Kentucky, Inc., (Duke Energy Kentucky or Company) and other
8 affiliated companies of Duke Energy Corporation (Duke Energy).

9 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
10 **PROFESSIONAL EXPERIENCE.**

11 A. I earned a Bachelor of Science degree in Business Administration with a major in
12 Business: Finance, Investment and Banking from the University of Wisconsin -
13 Madison. I began my career with The Alexander Companies, a real estate
14 development company, as an Assistant Project Manager in January 2002
15 managing and developing real estate. Subsequently, in December 2003 I began
16 working for Dell Inc., mainly as a Financial Analyst in Worldwide Procurement
17 Finance, accounting for and reporting on supplier rebates. In January 2008, I
18 began working for Bigfoot Networks, a technology start-up. I was in charge of
19 developing distribution, online and retail channels for a new networking product.
20 Beginning in April 2009, I also served as a Financial Advisor for Edward Jones.
21 In June 2011, I began working as a contractor for Progress Energy and since
22 February 2012, I have been employed by, and worked for, companies under what

1 is now Duke Energy. The roles I've held include Sr. Business Finance Analyst
2 and in December 2012, I took the position of Manager Nuclear Station Finance.
3 In August of 2018, I transitioned to the Rates and Regulatory group as a Lead
4 Rates & Regulatory Strategy Analyst, was promoted to Manager of Rates and
5 Regulatory Strategy in January of 2020, earned a Master of Business
6 Administration from the University of North Carolina Wilmington in July of 2020
7 and assumed my current role as Director of Rates & Regulatory Planning in
8 October of 2020.

9 **Q. PLEASE SUMMARIZE YOUR RESPONSIBILITIES AS DIRECTOR,**
10 **RATES AND REGULATORY PLANNING.**

11 A. I am responsible for the preparation of financial and accounting data used in retail
12 rate filings and various other rate recovery mechanisms for Duke Energy
13 Kentucky and Duke Energy Ohio, Inc.

14 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE KENTUCKY**
15 **PUBLIC SERVICE COMMISSION?**

16 A. Yes.

17 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS**
18 **PROCEEDING?**

19 A. The purpose of my testimony is to discuss the financial aspects of the Company's
20 request for a Certificate of Public Convenience and Necessity (CPCN) to replace
21 the first phase of its AM07 transmission line, spanning from a crossing point at
22 the Ohio River in Hebron, Kentucky to a newly built regulation facility along
23 Turfway Road in Erlanger, KY. I also sponsor Exhibit 1 to the Application.

II. DISCUSSION

1 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF THE PROJECT AND ITS**
2 **PURPOSE.**

3 A. As Duke Energy Kentucky witness, Brian Weisker explains in his direct
4 testimony, Duke Energy Kentucky is proposing to abandon the AM07 pipeline
5 and construct a new twenty-four-inch steel natural gas transmission line within
6 new right-of-way from the I-75 crossing west to a new regulator station with an
7 ILI receiver located near Hertzell Drive and Petersburg Road. The station will feed
8 distribution pressure into a new twenty-four-inch distribution pipeline, extending
9 to the AM07 Ohio River crossing manifold on the south (Kentucky) side of the
10 river crossing therefore reclassifying the AM07 river crossing pipelines to
11 distribution pressure. Once completed, approximately 1.5 miles of new twenty-
12 four-inch transmission pipe and two thousand five hundred feet of twenty-four-
13 inch distribution pipe will be placed in service.

14 **Q. PLEASE EXPLAIN HOW THE COMPANY IS FUNDING THE COST OF**
15 **CONSTRUCTION FOR THE PROJECT.**

16 A. In response to 807 KAR 5:001, Section 15(2)(e), Duke Energy Kentucky is
17 funding the Project through continuing operations and debt instruments as
18 necessary.

1 **Q. WHAT IS THE PROJECTED COST OF THE PROJECT?**

2 A. As explained by Company witness, Mr. Brad Seiter, the first phase of the AM07
3 pipeline replacement project is estimated to cost approximately \$32.25 million.

4 That sum comprises:

Task	Total (in millions)
Design	\$2.5
Land	\$1.25
Construction	\$25
Material	\$3.5

\$32.25

5 The overall project is estimated to cost approximately \$181.3 million spread out
6 over five phases.

7 **Q. WHAT IS THE PROJECTED ONGOING COST OF OPERATION OF**
8 **THE PROJECT ONCE COMPLETED?**

9 A. The Company anticipates that there will be minimal (<\$10,000 per year)
10 incremental operational and maintenance expense (O&M) associated with the
11 ongoing operation of the new pipeline except for required periodic inspections
12 and/or testing.

13 **Q. PLEASE EXPLAIN HOW THE PIPELINE WILL BE TREATED FROM**
14 **AN ACCOUNTING PERSPECTIVE.**

15 A. The Project is nearly all capital in nature because it is adding new facilities to
16 serve our natural gas customers and improve the reliability of the delivery system.
17 There will be an immaterial impact to the Company's O&M in terms of
18 incremental cost of operation. The costs will be accumulated in FERC account
19 107 (Construction Work in Progress) during construction and will accrue

1 Allowance for Funds Used During Construction (AFUDC). Once completed, the
2 Project will be placed in service (initially to FERC account 106-Completed
3 Construction not Classified) where it will begin being depreciated like any other
4 asset that is used and useful.

5 **Q. WHAT IS THE ESTIMATED IN-SERVICE DATE OF EACH PHASE?**

6 A. The project will be placed in service in five phases. Expected in-service dates for
7 each phase is below:

8	Line AM07 - Pipeline Replacement	12/30/2023
9	Line AM07 Pipeline Replace Phase 2	10/30/2024
10	Line AM07 Pipeline Replace Phase 3	11/30/2025
11	Line AM07 Pipeline Replace Phase 4	11/30/2026
12	Line AM07 Pipeline Replace Phase 5	11/30/2027

13 **Q. PLEASE EXPLAIN HOW THE COMPANY WILL RECOVER ITS COSTS**
14 **OF CONSTRUCTION.**

15 A. The Company plans to recover its costs of the AM07 pipeline replacement project
16 through the Pipeline Modernization Mechanism (Rider PMM) that was approved
17 in Case No. 2021-00190. In accordance with the settlement approved by the
18 Commission in that proceeding, the Company will make its first Rider PMM
19 filing no earlier than July 1, 2022 with new rates effective January 1, 2023. The
20 Rider shall be adjusted annually for capital placed into service following the test
21 year in Case No. 2021-00190. The Rider will use forecasted 13-month average
22 plant in-service balances for purposes of calculating the annual revenue
23 requirement. Per the terms of the settlement, the rate base included in the rider

1 filing will not include Construction Work In Process (CWIP) and plant in-service
 2 will include Allowance for Funds Used During Construction (AFUDC) consistent
 3 with rate base calculations included in the Company's base rate case filings. The
 4 Company will make annual Rider PMM adjustment filings on or before July 1st
 5 each year, with rates to be implemented the following January. Rider PMM will
 6 be calculated as a per-bill monthly charge for residential and general service rates.
 7 Rider PMM will be calculated on a per ccf charge for transportation rates. Rider
 8 PMM is subject to an annual revenue requirement cap of no more than a 5 percent
 9 increase in natural gas revenues per year.

10 **Q. WILL THE ESTIMATED \$198 MILLION IN CAPITAL COSTS FOR THE**
 11 **PROJECT HAVE AN IMMEDIATE IMPACT ON CUSTOMER RATES?**

12 A. No, not immediately.

13 **Q. PLEASE EXPLAIN.**

14 A. Because the project will be constructed in phases and placed in service over
 15 several years, the rate impact will be spread out over those years. Based on
 16 current projections the Company expects customer rates to increase each year as
 17 shown below:

18	2023	0.2%
19	2024	3.6%
20	2025	2.5%
21	2026	2.7%
22	2027	2.2%
23	2028	2.8%

1 **III. FILING REQUIREMENTS SPONSORED BY WITNESS**

2 **Q. PLEASE LIST AND DESCRIBE THE FILING REQUIREMENT AND**
3 **EXHIBIT TO THE APPLICATION THAT YOU ARE SPONSORING.**

4 A. I am the sponsor of Exhibit 1.

5 **Q. PLEASE EXPLAIN EXHIBIT 1.**

6 A. Exhibit 1 is the financial statement for month ending December 31, 2021 as
7 required by 807 KAR 5:001, Section 12.

IV. CONCLUSION

8 **Q. WAS EXHIBIT 1 PREPARED UNDER YOUR DIRECTION AND**
9 **CONTROL?**

10 A. Yes.

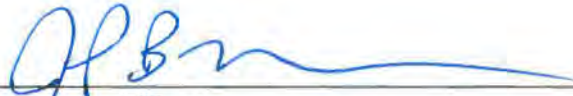
11 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

12 A. Yes.

VERIFICATION

STATE OF OHIO)
)
COUNTY OF HAMILTON) SS:

The undersigned, Jay Brown, Director Rates & Regulatory Planing, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing testimony, and that it is true and correct to the best of his knowledge, information and belief.



Jay Brown Affiant

Subscribed and sworn to before me by Jay Brown on this 2 day of March,
2022.



TIMOTHY B ROTH JR
Notary Public, State of Ohio
My Comm. Expires 12/2/2026



NOTARY PUBLIC

My Commission Expires: 12/2/2026