

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Electronic Application of Duke Energy)
Kentucky, Inc. for a Certificate of Public)
Convenience and Necessity to Construct A) Case No. 2022-00364
138-kV Transmission Line And Associated)
Facilities In Boone County (Hebron to Oakbrook)
Transmission Line Project))

**PETITION OF DUKE ENERGY KENTUCKY, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION
CONTAINED IN ITS RESPONSES TO COMMISSION STAFF’S SECOND
REQUEST FOR INFORMATION ISSUED ON APRIL 19, 2023**

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 responses to Data Request Nos. 11 and 15, as requested by Commission Staff (Staff) in this case on April 19, 2023. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), contained in the Confidential Attachments in response to Data Request Nos. 11(b) and 15(a), depicts confidential critical utility infrastructure.

In support of this Petition, Duke Energy Kentucky states:

1. The Kentucky Open Records Act exempts from disclosure certain critical infrastructure information per KRS 61.878(1)(m). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the record would expose a vulnerability in providing the location of public utility critical systems. Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The information contained in STAFF-DR-02-011(b) Confidential Attachments 1 and 2 and STAFF-DR-02-015(a) Confidential Attachment contain confidential records and analysis that include and contain detailed depictions, locations, schematic drawings of confidential utility infrastructure, which is protected for security and safety reasons as defined under KRS 61.878(1)(m)(1). If publicly released, this information would provide details regarding utility infrastructure that, in the wrong hands, could be exploited and used in ways that could create security and potential public safety risks. Therefore, this information should remain confidential.

3. The Confidential Information is distributed within Duke Energy Kentucky, only to those who must have access for business reasons and is generally recognized as confidential and proprietary in the energy industry.

4. The Confidential Information for which Duke Energy Kentucky is seeking confidential treatment is not known outside of Duke Energy Corporation.

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

6. This information was, and remains, integral to Duke Energy Kentucky's effective execution of business decisions and safety of its systems. 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*, 904 S.W.2d 766, 768 (Ky. 1995).

7. 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.

8. Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure until such time as the facilities depicted therein are no longer in service. 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.

9. 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
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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document in paper medium; that the electronic filing was transmitted to the Commission on May 1, 2023; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that submitting the original filing to the Commission in paper medium is no longer required as it has been granted a permanent deviation.¹

/s/ Rocco O. D'Ascenzo

Counsel for Duke Energy Kentucky, Inc.

¹ *In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Order, Case No. 2020-00085 (Ky. P.S.C. July 22, 2021).