

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 THIRD
REQUEST FOR INFORMATION ISSUED ON MAY 5, 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 response to Data Request No. 5, as requested by Commission Staff (Staff) in this case on May 5, 2023. The information that Staff seeks through discovery and for which Duke Energy Kentucky now seeks confidential treatment (Confidential Information), is contained in the Confidential Attachment in response to Data Request No. 5, 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-03-005 Confidential Attachment contains confidential records and analysis that includes and contains detailed customer load information and their expansion strategies as well as sensitive economic development projects that are subject to non-disclosure agreements. This information represents confidential and proprietary information, that if released would place these entities at a commercial disadvantage versus their competitors and would potentially place the Company in violation of negotiated non-disclosure agreements. This information should be considered confidential for reasons as defined under KRS 61.878(1)(d) as prospective locations of business or industry as well as potential utility infrastructure to serve such locations as contemplated under (m)(1). If publicly released, this information would provide details regarding potential business expansion in the Commonwealth and utility infrastructure that, in the wrong hands, could be exploited and used in ways that could create competitive advantages and 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 15, 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).*