

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Electronic Application of Duke Energy)
Kentucky, Inc., for: 1) An Adjustment of the)
Electric Rates; 2) Approval of New Tariffs;) Case No. 2022-00372
3) Approval of Accounting Practices to)
Establish Regulatory Assets and Liabilities;)
and 4) All Other Required Approvals and)
Relief.)

**PETITION FOR CONFIDENTIAL TREATMENT OF DUKE ENERGY
KENTUCKY, INC. FOR CERTAIN RESPONSES TO THE KENTUCKY BROADBAND
AND CABLE ASSOCIATION’S MAY 16, 2023 POST HEARING DATA REQUESTS**

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), by counsel, pursuant to 807 KAR 5:001, Section 13(2), KRS 61.878(1)(m)(1)(f) and (1)(g), and other applicable law, moves the Public Service Commission of Kentucky (Commission) for an Order granting confidential treatment to the identified portions of the following response to the Kentucky Broadband and Cable Association’s (KBCA) Post Hearing Data Requests issued on May 16, 2023:

- (1) The confidential attachment labeled KBCA-PHDR-01-003 Confidential Attachment provided in response to KBCA Request No. 01-003.

Specifically, Duke Energy Kentucky seeks confidential treatment of information referred to herein as the “Confidential Information,” which includes critical utility infrastructure by way of detailed engineering drawings showing pole construction standards.

I. MOTION FOR CONFIDENTIAL TREATMENT

a. Statutory Standard

Administrative Regulation 807 KAR 5:110, Section 5 sets forth the procedure by which certain information filed with the Commission shall be treated as confidential. Specifically, the party seeking confidential treatment must establish “each basis upon which the petitioner believes the material should be classified as confidential” in accordance with the Kentucky Open Records Act, KRS 61.878. See 807 KAR 5:110 Section 5(2)(a)(1).

The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* 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...”

The information for which Duke Energy Kentucky is seeking confidential treatment, as discussed further below, satisfies these statutory criteria.

b. Requests and Responses for Which Confidential Treatment is Sought

i. The attachment labeled KBCA-PHDR-01-003 Confidential

Attachment provided in response to KBCA Request No. 01-003.

KBCA Post Hearing Request No. 01-003 states as follows:

Provide any documents related to Duke's construction guidelines for 50-foot poles, including all diagrams, guidelines, and other documents illustrating Duke's safety space, clearance, usable space, and below ground requirements.

In response to KBCA Post Hearing Request No. 01-003 Duke Energy Kentucky is providing schematic drawings related to pole construction guidelines. The Company requests that the information contained in this Attachment be afforded confidential treatment pursuant to KRS 61.878(1)(m)(1)(f) and (1)(g). The Confidential Information is not publicly available, thus satisfying the statutory standard for confidentiality of a proprietary record. The Confidential Information includes critical utility infrastructure and engineering drawings showing pole construction standards which are generally recognized as confidential and proprietary. Finally, the release of this information would threaten the public safety by providing critical utility infrastructure information. Specifically, detailed drawings, schematics, maps, or specifications of structural elements. This Confidential Information could be used and exploited to the detriment of the safety of the general public.

c. Request for Confidential Treatment

Duke Energy Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for a period of twenty years. This will assure that the Confidential

Information—if disclosed after that time—will no longer be commercially sensitive so as to likely impair the interests of the Company if publicly disclosed.

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,

DUKE ENERGY KENTUCKY, INC.

/s/Rocco 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 26, 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

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¹In 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).