

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

ELECTRONIC INVESTIGATION OF POLE	)	CASE NO.
ATTACHMENTS	)	2023-00416

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**COMMENTS OF DUKE ENERGY KENTUCKY, INC.**

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**I. INTRODUCTION**

Please accept these comments submitted on behalf of Duke Energy Kentucky, Inc., (Duke Energy Kentucky or Company) in response to the Kentucky Public Service Commission’s (Commission) invitation to comment on the amended emergency amendments to 807 KAR 5:015, provided via order in this proceeding on November 18, 2024 (Amended Emergency Amendments).<sup>1</sup>

In its November 18, 2024, Order, the Commission stated:

[I]n anticipation of the informal conference scheduled for December 13, 2024, parties and participants to this proceeding should file, no later than December 9, 2024, proposed edits to 807 KAR 5:015E. The proposed edits should be made to the copy of 807 KAR 5:015E that counsel for the Commission has already provided to counsel for the parties and participants. Additionally, as discussed at the November 1, 2024 informal conference, edits should be made to the documents provided to the parties, but comments explaining the proposed edits should be in a separate document that reference the line and page numbers where the proposed edits are made.<sup>2</sup>

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<sup>1</sup> *In the Matter of the Electronic Investigation of Pole Attachments*, Case No. 2023-00416, Order (November 18, 2024).

<sup>2</sup> *Id.*, p. 1.

In accordance with this direction, the Company respectfully submits the attached Exhibit A, containing proposed edits to the copy of 807 KAR 5:015E provided by Commission counsel, and the below explanatory comments for the proposed edits.

## II. COMMENTS

### Application Prioritization – Page 10, Lines 9 to 13.<sup>3</sup>

807 KAR 5:015E, Section 4(2)(a)9, provides:

A new attacher, if it submits an application while a previous application is still under review, may prioritize the order in which a utility shall review the applications. Prioritizing a new application resets the respective review time period of the new attacher's deprioritized applications currently under review over which the new application is being prioritized.<sup>4</sup>

Duke Energy Kentucky believes that the need to track priorities and reset timelines of individual applications will create confusion, inefficiencies, and an unreasonable administrative burden for the utility. Attaching entities that have multiple organizations or groups across geographical areas may create priority requests from multiple parties within the same contractual area. And the same application's timeline may be reset repeatedly. Duke Energy Kentucky would prefer to avoid such scenarios.

Instead of prioritizing after submission, attachers should prioritize internally, and then submit applications in order of their priority. Accordingly, Duke Energy Kentucky recommends that 807 KAR 5:015E, Section 4(2)(a)9 be deleted entirely and the immediately following subsection be renumbered appropriately, as depicted in Exhibit A.

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<sup>3</sup> Exhibit A, p. 10.

<sup>4</sup> *Id.*

Application Prioritization – Page 17, Lines 2 to 7.<sup>5</sup>

807 KAR 5:015E, Section 4(8)(d)3, provides, in a list of items which must be contained in a special contract:

3. The new attacher's prioritization of projects if the new attacher has submitted multiple requests for attachment;<sup>6</sup>

For the reasons already given above, Duke Energy Kentucky believes that prioritization should be considered by the attacher prior to application submission, and that utilities should not be required to reprioritize after submission. Accordingly, Duke Energy Kentucky recommends that 807 KAR 5:015E, Section 4(8)(d)3, be deleted in its entirety, and the subsequent items be renumbered appropriately, as depicted in Exhibit A.<sup>7</sup>

Negotiation of Special Contracts – Page 17, Line 9.

807 KAR 5:015E, Section 4(8)(e), provides:

If a special contract identified in paragraph (d) of this subsection cannot be agreed to within fifteen (15) business days from submission of a formal written request to engage from the attacher, the new attacher may file a complaint with the commission, with a copy served contemporaneously to the utility, on which the commission shall rule within twenty (20) business days of filing of the complaint.<sup>8</sup>

Duke Energy Kentucky agrees with the general concept of this provision, but believes that fifteen business days is insufficient for completing negotiation of a special contract and that thirty business days would provide a more practical and workable time frame for reaching agreement. Accordingly, Duke Energy Kentucky recommends that 807 KAR 5:015E, Section 4(8)(e), be revised as depicted in Exhibit A, to permit an attacher to file a

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<sup>5</sup> *Id.*, p. 17.

<sup>6</sup> *Id.*, Lines 2 to 3.

<sup>7</sup> *Id.*, Lines 2 to 7 (including renumbering).

<sup>8</sup> *Id.*, Line 9.

complaint *thirty (30)* business days from submission of a formal written request to engage, rather than fifteen.

### **III. CONCLUSION**

Duke Energy Kentucky appreciates the opportunity to offer its comments regarding the Amended Emergency Amendments and hopes that its comments will aid the Commission.

Respectfully submitted,

/s/Larisa M. Vaysman

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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 December 9, 2024; 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.<sup>9</sup>

*/s/Larisa M. Vaysman*  
\_\_\_\_\_ *Counsel for Duke Energy Kentucky, Inc.*

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<sup>9</sup>*In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19, Order, Case No. 2020-00085 (Ky.PSC July 22, 2021).*