

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

In the Matter of:

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

---

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

---

**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 filed emergency amendments to 807 KAR 5:015, provided via notice in this proceeding on June 3, 2024 (Emergency Amendments).<sup>1</sup>

**II. BACKGROUND**

On December 14, 2023, the Commission initiated this proceeding to “identify issues regarding pole attachments, particularly regarding the extension of broadband services that might be addressed through changes in the regulations, rules, or tariffs governing pole attachments.”<sup>2</sup> The Commission then held a series of informal conferences, at which stakeholders discussed related issues.

On April 11, 2024, the Commission offered stakeholders and parties an opportunity to submit “proposed amendments to 807 KAR 5:015 that will accomplish the dictates of

---

<sup>1</sup> *In the Matter of the Electronic Investigation of Pole Attachments*, Case No. 2023-00416, Staff Notice (June 3, 2024).

<sup>2</sup> *Id.*, Order, p. 2 (December 14, 2023).

SJR 175.”<sup>3</sup> A number of submissions were made, and on May 15, 2024, the Commission Staff shared a draft of proposed amendments to 807 KAR 5:015 (Proposed Amendments).<sup>4</sup> At the subsequent informal conference, on May 17, 2024, the Commission invited stakeholders to comment on the Proposed Amendments. Duke Energy Kentucky, along with other stakeholders, submitted written comments on May 21, 2024.<sup>5</sup>

On June 3, 2024, the Commission issued a Staff Notice, stating that the Commission had filed emergency amendments to 807 KAR 5:015 with the Legislative Research Commission, and that written comments on the filed Emergency Amendments would be accepted through July 31, 2024.<sup>6</sup> Duke Energy Kentucky appreciates this opportunity to offer its comments, which are provided below.

### **III. DISCUSSION**

Duke Energy Kentucky offers the following comments on the Emergency Amendments:

Application Prioritization – Page 12, Lines 5 to 9.<sup>7</sup>

A proposed provision 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>8</sup>

---

<sup>3</sup> *Id.*, Order, p. 3 (April 11, 2024).

<sup>4</sup> *Id.*, Notice of Filing Agenda, Appendix (May 15, 2024).

<sup>5</sup> *See id.*, Comments of Duke Energy Kentucky, Inc. (May 21, 2024); *id.*, Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, and Kentucky Power Company on Staff’s Proposed Emergency Amendments to 807 KAR 5:015 (May 21, 2024).

<sup>6</sup> *Id.*, Staff Notice (June 3, 2024).

<sup>7</sup> Page and Line numbers in headings refer to Staff Notice, Appendix (June 3, 2024).

<sup>8</sup> *Id.*, Appendix, p. 11.

Duke Energy Kentucky appreciates that this provision has been revised for additional clarity since May 21, 2024, but nonetheless 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. Regarding this provision, Duke Energy Kentucky supports the Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, and Kentucky Power Company,<sup>9</sup> and respectfully concurs that this provision should be stricken.

Time Limitations for Different Application Sizes – p. 12, Lines 1-4, p. 19, Lines 1-7.

In certain places, time limitations are set for applications of “500 poles or less” and then extended based on each additional “500-pole increment” or “full 500-pole increment.”<sup>10</sup> These provisions are referenced when other provisions provide longer time frames for “larger orders.”<sup>11</sup> Duke Energy Kentucky respectfully believes that this creates confusion as to how applications of 501 to 999 poles should be treated and potentially creates contradictions among the various provisions.

Regarding the use of 500-pole increments to determine time limitations, Duke Energy Kentucky supports the Joint Comments of Louisville Gas & Electric Company,

---

<sup>9</sup> *Id.*, Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, and Kentucky Power Company, Section V (July 31, 2024).

<sup>10</sup> *See id.*, Staff Notice, Appendix, pp. 12, 19 (July 31, 2024).

<sup>11</sup> *See, e.g., id.*, p. 15, lines 14-17.

Kentucky Utilities Company, and Kentucky Power Company,<sup>12</sup> and the revisions suggested therein.

Separating Multiple Requests by Calendar Month – Page 20, Lines 8-10.

The Emergency Amendments now permit a utility to treat multiple requests from a single new attacher as one request *only* if the requests are submitted in the *same calendar month*, rather than “within thirty (30) days of one another” as previously permitted.<sup>13</sup> Duke Energy Kentucky believes that the previous version should be restored, such that multiple requests within 30 days of each other continue to be permitted to be treated as a single request. The Company believes that a rolling 30-day period provides for better consistency and pacing than using a calendar month cutoff.

With regard to this provision, Duke Energy Kentucky supports the Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, and Kentucky Power Company,<sup>14</sup> and respectfully requests the restoration of the prior text.

#### **IV. CONCLUSION**

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

---

<sup>12</sup> *Id.*, Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, and Kentucky Power Company, Section I.B (July 31, 2024).

<sup>13</sup> *Id.* Staff Notice, Appendix, p. 20 (June 3, 2024).

<sup>14</sup> *Id.*, Joint Comments of Louisville Gas & Electric Company, Kentucky Utilities Company, and Kentucky Power Company, Section III (July 31, 2024).

Respectfully submitted,

/s/Larisa M. Vaysman

Rocco O. D'Ascenzo (92796)

Deputy General Counsel

Larisa M. Vaysman (98944)

Associate General Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

Cincinnati, Ohio 45202

Phone: (513) 287-4010

Fax: (513) 370-5720

rocco.d'ascenzo@duke-energy.com

larisa.vaysman@duke-energy.com

*Counsel for Duke Energy Kentucky, Inc.*

**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 July 31, 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>15</sup>

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

---

<sup>15</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).*