

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY )  
KENTUCKY, INC. FOR A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY AUTHORIZING )  
THE CONSTRUCTION OF A GAS PIPELINE FROM )  
ERLANGER, KENTUCKY TO HEBRON, KENTUCKY )

CASE NO.  
2019-00388

ORDER

On November 6, 2019, pursuant to 807 KAR 5:001, Section 22, Duke Energy Kentucky, Inc. (Duke Kentucky) filed a motion to deviate from and waive (Motion to Deviate) the requirement in 807 KAR 5:001, Section 15(2)(b), which specifies that permits from the proper public authority for the proposed construction are to be included with an application for a Certificate of Public Convenience and Necessity (CPCN).<sup>1</sup> Duke Kentucky further requests expedited treatment of its Motion to Deviate.<sup>2</sup>

DISCUSSION AND FINDINGS

Pursuant to KRS 278.020(1) and 807 KAR 5:001, Section 15(2), Duke Kentucky has filed an application for approval to construct a seven-mile-long, 24-inch diameter, natural gas pipeline from Erlanger, Kentucky, to Hebron, Kentucky, as well as associated facilities to include 2,100 feet of 8-inch diameter pipe and four pressure regulating stations.<sup>3</sup> Duke Kentucky contends that the proposed project is necessary to satisfy load

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<sup>1</sup> Duke Kentucky's Motion to Deviate (filed Nov.6, 2019) at 1.

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 2.

growth demand and ensure system reliability, and must be completed by January 1, 2021.<sup>4</sup> Duke Kentucky affirms that it has applied for the necessary permits to construct the proposed project and that, although it has not yet received the final permits from the applicable regulatory agencies,<sup>5</sup> it expects to have all necessary permits within the next three to six months.<sup>6</sup> Duke Kentucky finally asserts that there has been no indication that the permit applications will not be approved, and that requiring the permits to be obtained before filing the CPCN application would likely jeopardize its ability to timely construct the proposed project.<sup>7</sup> Therefore, Duke Kentucky requests that the Commission expeditiously grant its Motion to Deviate.<sup>8</sup>

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<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 2 – 3.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 4.

Duke Kentucky argues that the Commission has previously found that a utility substantially complied with 807 KAR 5:001, Section 15(2)(b), by providing copies of submitted permit applications with pending CPCN applications.<sup>9</sup> Duke Kentucky states that based upon past precedent, the Commission has demonstrated that it can use the information provided in permit applications to at least initiate an effective and efficient review of a CPCN application.<sup>10</sup> Duke Kentucky affirms its commitment to file the necessary permits into the case record once they are received.<sup>11</sup>

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that Duke Kentucky has demonstrated good cause to be granted a deviation from the requirement of 807 KAR 5:001, Section 15(2)(b), that construction permits be filed with the initial application for a CPCN. However, Duke Kentucky should supplement the case record with all required permits once they are received.

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<sup>9</sup> See e.g., Case No. 2016-00026, *The Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2016 Compliance Plan for Recovery by Environmental Surcharge*, Letter (Ky. PSC Feb. 16, 2016); Case No. 2015-00213, *Application of Owen Electric Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a Two Megawatt Distributed Generation Facility in Owen County, Kentucky*, Letter (Ky. PSC July 1, 2015); Case No. 2015-00152, *The Application of Kentucky Power Company for: (1) A Certificate of Public Convenience and Necessity Authorizing the Company to Close Big Sandy Plant Coal Ash Impoundment; and (2) For All Other Required Approvals and Relief*, Order, (Ky. PSC June 30, 2015); Case No. 2014-00355, *An Application of South Kentucky Rural Electric Cooperative for a Certificate of Public Convenience and Necessity to Construct a New Headquarters Facility and for Approval to Transfer Ownership of Certain Assets or, in the Alternative, a Determination That Such Approval is Unnecessary*, Letter (Ky. PSC Oct. 21, 2014); Case No. 2014-00252, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for Construction of an Ash Landfill at J.K. Smith Station, the Removal of Impounded Ash from William C. Dale Station for Transport to J.K. Smith, and Approval of a Compliance Plan Amendment for Environmental Surcharge Recovery*, Letter (Ky. PSC Sept. 17, 2014); and, Case No. 2014-00002, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Certificates of Public Convenience and Necessity for the Construction of a Combined Cycle Combustion Turbine at the Green River Generating Station and a Solar Photovoltaic Facility at the E.W. Brown Generating Station*, Letter (Ky. PSC Jan. 28, 2014).

<sup>10</sup> Duke Kentucky's Motion to Deviate at 3 – 4.

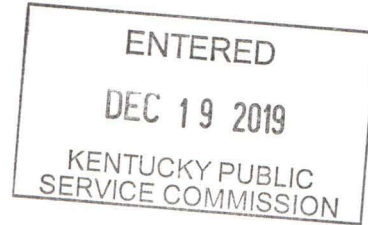
<sup>11</sup> *Id.* at 4.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's Motion to Deviate is granted.
2. Duke Kentucky is granted a deviation from 807 KAR 5:001, Section 15(2)(b), and its application for a CPCN is accepted for filing without all permits from the proper public authority for the proposed construction.
3. Duke Kentucky shall supplement the case record upon receipt of each permit from the proper public authority for the proposed construction.

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By the Commission



ATTEST:

A handwritten signature in blue ink, appearing to read "Devin R. Puriso". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

\*Debbie Gates  
Duke Energy Kentucky, Inc.  
139 East Fourth Street  
Cincinnati, OH 45201

\*Duke Energy Kentucky, Inc.  
139 East Fourth Street  
Cincinnati, OH 45202

\*Minna Sunderman  
Duke Energy Kentucky, Inc.  
139 East Fourth Street  
Cincinnati, OH 45201

\*Rocco O D'Ascenzo  
Duke Energy Kentucky, Inc.  
139 East Fourth Street  
Cincinnati, OH 45201