

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC APPLICATION OF DUKE ENERGY ) |            |
| KENTUCKY, INC. FOR A CERTIFICATE OF )   |            |
| PUBLIC CONVENIENCE AND NECESSITY TO )   | CASE NO.   |
| CONSTRUCT A 138-KV TRANSMISSION LINE )  | 2024-00158 |
| AND ASSOCIATED FACILITIES IN BOONE )    |            |
| COUNTY )                                |            |

ORDER

On June 17, 2024, George Casteel filed a motion requesting to intervene in this proceeding. As a basis for his motion, Mr. Casteel stated that he owns property at 5826 Limaburg Road, Petersburg, Kentucky, and wants to know the location of Duke Kentucky, Inc's (Duke Kentucky) transmission line as proposed in its application for a Certificate of Public Necessity and Convenience (CPCN).

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and within the sole discretion of the Commission.<sup>1</sup>

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding

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<sup>1</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

### BACKGROUND

Duke Kentucky's CPCN application is its third filing to obtain approval for construction of a transmission line adjacent to Mr. Casteel's property.<sup>2</sup> Duke Kentucky listed Mr. Casteel as a property owner within the right-of-way (ROW) of the proposed transmission line rebuild, and the Commission granted intervention to Mr. Casteel in Case No. 2023-00239 based on this information.<sup>3</sup> The Commission's review of information provided in Duke Kentucky's application in Case No. 2023-00239 indicated that Mr. Casteel's property was not within the proposed transmission line ROW, and was instead adjacent to the ROW boundary.<sup>4</sup> The existing transmission line is on the opposite side of the road from Mr. Casteel's property, and the ROW boundary ends where the edge of the road meets Mr. Casteel's property. Duke Kentucky's current application also involves utilizing the existing transmission line across the street from Mr. Casteel's property.<sup>5</sup> The rebuilt transmission line will use a portion of the existing line's infrastructure and will

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<sup>2</sup> See Case No. 2022-00364, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138-KV Transmission Line and Associated Facilities in Boone County* (filed Mar. 30, 2023); Case No. 2023-00239, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138-KV Transmission Line and Associated Facilities in Boone County* (filed Sept. 13, 2023).

<sup>3</sup> Case No. 2023-00239, Oct. 16, 2023 Order.

<sup>4</sup> Case No. 2023-00239, Jan. 11, 2024 Order at 1–2, footnote 1.

<sup>5</sup> Application, Exhibit 2 at 1.

therefore occupy the same space as the existing line.<sup>6</sup> In its final Order, the Commission provided this information in a footnote:<sup>7</sup>

George Casteel, an individual owning real property adjacent to Duke Kentucky's line rebuild right-of-way (ROW), was permitted to intervene by Order dated October 16, 2023. Mr. Casteel did not submit requests for information to Duke Kentucky. However, he did send an email to the Commission (filed into the record on Dec. 4, 2023) requesting information on the location of the transmission line. This information was available in Duke Kentucky's application. As proposed, the transmission line will not cross Mr. Casteel's property. The proposed rebuild section centerline of the existing 69 kV transmission line runs southeast from the Limaburg Substation toward the Oakbrook substation along Route 3168, on the opposite side of the road from Mr. Casteel's property. The proposed rebuild section centerline has a 100-foot ROW. Mr. Casteel's property, labelled as parcel 69 in the Application, Exhibit 12 at 20, borders this ROW. Although Mr. Casteel's property is highlighted as a parcel within 100 feet of the rebuild centerline, the ROW does not encroach Mr. Casteel's property—instead, the ROW line and the parcel line adjoin.

### DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that Mr. Casteel has failed to demonstrate that he has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that he is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below.

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<sup>6</sup> Case No. 2023-00239, Duke Kentucky's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Oct. 27, 2023), Item 1.

<sup>7</sup> Case No. 2023-00239, Jan. 11, 2024 Order at 1–2, footnote 1.

Since the existing and proposed transmission line route is not located on Mr. Casteel's property, the property is not within the ROW, and the direct impact on the property is the only interest asserted, Mr. Casteel has failed to demonstrate a special interest in the proceeding. Furthermore, the Commission has already addressed his question regarding the location of the proposed transmission line. It is a rebuild of the existing line across the street from Mr. Casteel's property and will therefore be in the same place as the existing line. Mr. Casteel has not alleged that he is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings. He did not actively participate in the previous case.

Although Mr. Casteel has failed to carry his burden of proof in regard to intervention, he maintains the opportunity to both monitor and participate in Commission proceeding in a couple of ways. He may review all public documents filed in this case and monitor the proceedings via the [Commission's website](#).<sup>8</sup> In addition, Mr. Casteel may participate in the proceeding by submitting public comments as frequently as he chooses. Those comments will be posted to the Commission's website alongside the record of this case.

IT IS THEREFORE ORDERED that Mr. Casteel's motion to intervene is denied.

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<sup>8</sup> <https://psc.ky.gov/Case/ViewCaseFilings/158>

PUBLIC SERVICE COMMISSION

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Chairman

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Vice Chairman

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ATTEST:

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