

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE	)	
PROPOSED POLE ATTACHMENT TARIFFS	)	CASE NO.
OF INCUMBENT LOCAL EXCHANGE	)	2022-00108
CARRIERS	)	

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION  
TO KENTUCKY BROADBAND AND CABLE ASSOCIATION

Kentucky Broadband and Cable Association (KBCA), pursuant to 807 KAR 5:001, is to file with the Commission an electronic version of the following information. The information requested is due on July 7, 2022. The Commission directs KBCA to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>1</sup> regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the

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<sup>1</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

KBCA shall make timely amendment to any prior response if KBCA obtains information that indicates the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any request to which KBCA fails or refuses to furnish all or part of the requested information, KBCA shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, KBCA shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Refer to the Direct Testimony of Jerry Avery (Avery Testimony), page 6, in which he states "Charter has faced situations where a pole owner publicly threatened to remove its attachments during a billing dispute." Explain whether Charter has ever faced such a situation in Kentucky, and if so, explain the circumstances under which it has occurred in Kentucky.

2. Refer to the Avery Testimony, pages 5–8, regarding the removal of attachments.

a. State whether language that required a nexus between the alleged tariff violation and the attachment being removed would address KBCA's concerns.

b. If language that required a nexus between the alleged tariff violation and the attachment being removed would not address KBCA's concerns, then explain in detail why it would not address their concerns.

c. If language that required a nexus between the alleged tariff violation and the attachment being removed would address KBCA's concerns, even in part, explain what such language KBCA contends should be added to address its concerns.

3. Refer to the Avery Testimony, pages 9–10, regarding insurance requirements.

a. Explain whether, and if so why, KBCA would object to the insurance requirements if they were limited to agents, contractors and subcontractors that perform work related to pole attachments.

b. Confirm that the tariff provisions requiring agents, contractors and subcontractors to maintain certain insurance coverages would not require renegotiation of contracts but rather could be satisfied by an attacher simply listing a contractor as an additional insured on its policy to the extent an agreement between an attacher and its contractor did not require the coverage required by the tariff. If you are not able to confirm, explain each reason why you are not able to confirm.

c. Confirm that an attacher would generally not be liable for the negligence of its independent contractor such that a policy providing liability coverage to the attacher only would not provide coverage for a loss arising from the negligence of an

independent contractor. If you are not able to confirm, explain each reason why you are not able to confirm.

d. Explain how the insurance requirements in the tariff differ from the typical types of insurance requirements in agreements between attachers and their contractors.

4. Refer to the Direct Testimony of Richard Bast (Bast Testimony), pages 4–7, regarding pole loading analyses for overlashing.

a. Describe the analysis Charter and other attachers typically perform when determining whether to proceed with a project to overlash existing attachments, including a description of any review or analysis of pole loading performed to determine whether to proceed with a project to overlash existing attachments and a description of who performs the analysis.

b. Explain how Charter and other attachers determine that an overlashing project will not overload poles or the attachments being overlashed without performing a pole loading analysis before proceeding with such a project.

c. Identify and describe any National Electric Code, National Electric Safety Code, or Occupational Safety and Health Administration regulations relating to when and under what circumstances a pole loading analysis must be performed.

d. Identify the circumstances under which it would be reasonable to conduct or require a pole loading analysis for an overlashing project, and explain the basis for your response.

5. Refer to the Bast Testimony, page 10, in which he states that Charter estimates the preconstruction survey cost per pole in Kentucky to be roughly \$35 per

pole. Explain the information Charter relied upon to come up with a \$35 per pole estimate for preconstruction survey cost per pole in Kentucky.

6. Refer to the Bast Testimony, page 13, in which he states that Cincinnati Bell's proposal requiring an attachers to pay the full cost, plus 10 percent, of any work Cincinnati Bell performs is unreasonable. Also refer to the Commission's June 1, 1983 Order in Administrative Case No. 251-4, in which the Commission characterized Kentucky Cable Television Association, Inc.'s objection to Cincinnati Bell's addition of a 10 percent surcharge to CATV make-ready and rearrangement activity as unreasonable. Explain why the Commission should find otherwise in this proceeding.

7. Refer to the Direct Testimony of Patricia Kravtin (Kravtin Testimony), page 9, stating that her proposed approach "mitigates a utility's ability to exercise its hold-up power to raise attachers' costs by strategically under-identifying, misreporting, or withholding strategic private information pertaining to its classification of red-tagged and non-red tagged poles." Identify any evidence that Kentucky utilities have strategically under-identified, misreported, or withheld strategic private information pertaining to their classification of red-tagged.

8. Refer to the Kravtin Testimony, page 8, stating that "pole attachers, through both the recurring pole attachment rental rates paid to the utility (in addition to the non-recurring) and more generally as a utility customer, already share efficiently and equitably in the costs of replacing all utility poles (including those precipitated in connection with the new attachment) through the depreciation allowances the pole owner charges customers as a non-cash expense."

a. Explain the basis for the contention that pole attachers “share efficiently and equitably in the costs of replacing” poles necessary to accommodate a new attachment by the payment of pole attachment rates and utility rates.

b. If the pole attachment rate did allow for the efficient and equitable recovery of the costs of replacing poles over the life of the pole, explain whether costs would still be shifted to other utility customers if the attacher removed attachments before the end of the useful life of the pole.

c. Explain whether any jurisdictions have instituted a procedure that requires a new attacher to bear the initial cost of replacing non-red tagged poles but allows all or a portion of those costs to be reimbursed when the benefits are determined to have actually accrued to other customers, e.g. when another new attacher uses capacity created by a new pole or the new pole continues to be used beyond the useful life of the replaced pole, and explain whether and if so how such an approach could be reasonable.

9. Refer to the Kravtin Testimony, page 11, arguing that allocating all costs to replace non-red tagged poles to new attachers could undermine the deployment of broadband.

a. Explain whether the utilities can be required to replace a non-red tagged pole pursuant to 807 KAR 5:015 in order to generate additional capacity for attachments.

b. If not, explain whether requiring utilities to cover the cost of replacing non-red tagged poles could create a disincentive for such replacements.

10. Refer to the Kravtin Testimony, pages 11–13, discussing the benefits of broadband deployment, particularly in unserved and underserved areas.

a. Explain whether lack of capacity for pole attachments in unserved or underserved areas requiring make-ready pole replacements is typically an issue, and if so, explain why that would be the case considering that there should be fewer attachments on such poles.

b. Explain whether lack of capacity for pole attachments in unserved or underserved areas requiring make-ready pole replacements is or is expected to be an issue in Kentucky, and explain the basis for your response.

11. Refer to the Kravtin Testimony, page 17.

a. Explain in more detail the contention that utilities could be over recovering the cost of pole replacements.

b. Explain whether this over recovery would be eliminated if utilities removed the costs of make-ready pole replacements paid by new attachers from the rate base used to calculate pole attachment and other rates.

12. Refer to the Kravtin Testimony, pages 20–22.

a. Explain in more detail how accumulated deferred income taxes (ADIT) would affect the calculation on page 20, and provide an example calculation with ADIT.

b. Explain why under the proposed calculation you would remove undepreciated cost of appurtenances.

13. Refer to the Kravtin Testimony, page 40.

a. Explain the basis for the contention that the make-ready replacement of non-red tagged poles will result in “[s]trategic benefits.”

b. Explain the basis for the contention that the make-ready replacement of non-red tagged poles will result in “[r]evenue-enhancing benefits, including enhanced rental opportunities from the increased capacity on the new replacement pole.”

c. Explain the basis for the contention that the make-ready replacement of non-red tagged poles will result in “[c]apital cost savings associated with future planned plant upgrades and cyclical replacement programs.”

d. Explain the basis for the contention that the make-ready replacement of non-red tagged poles generates “[o]perational cost savings in the form of lower maintenance and operating expenses.”

e. Explain the basis for the contention that the make-ready replacement of non-red tagged poles generates a benefit to a utility due to the “[e]njoyment of additional tax savings or cash flow opportunities from the accelerated depreciation of a new capital asset which reverses as the asset ages.”



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DATED JUN 23 2022

cc: Parties of Record

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