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October 12, 2020

VIA EMAIL: psc.regulations@ky.gov
Administrative Regulations Working Group
Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: Duke Energy Kentucky, Inc.'s Written Reply Comments
Proposed Pole Attachment Regulation

To Whom It May Concern:

Please accept these reply comments submitted on behalf of Duke Energy Kentucky, Inc., (Duke Energy Kentucky or Company) in response to the Kentucky Public Service Commission's (Commission's) request for comments on proposed rule changes.

I. INTRODUCTION

For the sake of brevity, Duke Energy Kentucky refers back to its initial comments and suggested amendments to the Commission's draft rules filed in this proceeding, and wishes to re-emphasize its position that to the extent the Commission should adopt any new rules regarding attachments, that such rules be as consistent as possible to those of the Federal Communications Commission (FCC).

The Company will thus focus its Reply Comments on specific areas of concern raised in comments submitted by various potential attachers, that clearly are their own self-interests, and are contrary to the best interests of Kentucky customers.

II. DISCUSSION

As a general matter, the Commission should reject any notion that a potential attacher should have unrestricted ability to access the jurisdictional utility-owned poles whenever, wherever, and by whomever they wish. Electric utilities have approved lists of qualified contractors for a reason. These utility-approved contractors have the requisite training and knowledge to access utility poles in a manner that complies with applicable safety regulations. Too many times, the Company has had to deal with 3rd parties accessing utility poles with improperly qualified personnel without the knowledge of the utility. These unauthorized attachers have placed devices on poles that do not comply with applicable safety codes, and unfortunately, at times are performed in a manner that directly violates Occupational Safety and Health Administration regulations (OSHA). At best, these inappropriate and unauthorized attachments present a reliability concern. At worst, they risk human life. The Commission should allow utilities to have reasonable control over who is qualified to perform attachment work on its infrastructure, including make-ready work. Of course, 3rd party attachers may request to have their preferred contractor become qualified by the utility, but those preferred contractors should be subject to the exact standards and requirements as all other persons qualified to perform work along the utility power lines. Broad safety and reliability interests should prevail and the Commission should not encourage unfettered attachment to utility poles by unqualified persons.

Similarly, the Commission should not expand the area that is eligible for attachments, including pole tops beyond what the FCC requires. The FCC has stated that utilities may deny access to pole tops “where there is insufficient capacity, and for reasons of safety, reliability and generally applicable engineering purposes.”¹ Such pole tap attachments should be permitted, if at

¹ 47 U.S.C. § 224(f)(2).

all, by the utility and only if after the utility has properly determined that the poles in question are able to support the desired infrastructure. It is important for the safety of the utility linemen that they are able to have safe and timely access to the electric utility infrastructure to rectify distribution system outages. Attachers should not be granted absolute right of access to utility pole-tops. Such access should only occur on a case-by-case basis and only if the utility, in its expertise determines that it can be done safely, reliably, and in accordance with applicable engineering standards.

III. CONCLUSION

Duke Energy Kentucky thanks the Commission for this opportunity to provide responsive comments to its proposed revisions and new administrative rules and respectfully requests the Commission consider and adopt the Company's comments. Duke Energy Kentucky respectfully reserves the right to provide additional feedback if as a result of additional comments received, the Commission revises its rules further.

Respectfully submitted,

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