

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)	
COMPANY FOR AN ADJUSTMENT OF ITS)	
ELECTRIC RATES AND CERTIFICATES)	CASE NO. 2016-00370
OF PUBLIC CONVENIENCE AND)	
NECESSITY)	

In the Matter of:

APPLICATION OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY FOR AN)	
ADJUSTMENT OF ITS ELECTRIC AND)	CASE NO. 2016-00371
GAS RATES AND CERTIFICATES OF)	
PUBLIC CONVENIENCE AND NECESSITY)	

SECOND STIPULATION TESTIMONY OF
ROBERT M. CONROY
VICE PRESIDENT, STATE REGULATION AND RATES
LOUISVILLE GAS AND ELECTRIC COMPANY
KENTUCKY UTILITIES COMPANY

Filed: May 4, 2017

1 **Q. Please state your name, position and business address.**

2 A. My name is Robert M. Conroy. I am the Vice President of State Regulation and Rates
3 for Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company
4 (“LG&E”) (collectively “Companies”), and an employee of LG&E and KU Services
5 Company, which provides services to LG&E and KU. My business address is 220
6 West Main Street, Louisville, Kentucky 40202.

7 **Q. What is the purpose of your testimony?**

8 A. The purpose of my testimony is to discuss certain tariff-related items addressed in the
9 Second Stipulation and Recommendation (“Second Stipulation”) reached by the
10 Companies, BellSouth Telecommunications, LLC d/b/a AT&T Kentucky (“AT&T”),
11 and Kentucky Cable Telecommunications Association (“KCTA”) (collectively
12 “Stipulating Parties”).

13 **Q. What does the Second Stipulation concern?**

14 A. The Second Stipulation concerns the “Pole and Structure Attachment Charges” Rate
15 PSA. The Companies currently offer the use of their pole space for cable television
16 attachments under “Cable Television Attachment Charges” Rate CTAC. They propose
17 to rename Rate CTAC to Rate PSA and to expand the rate schedule’s coverage to
18 include telecommunication wireline and wireless facilities, which are not covered in
19 Rate CTAC. The proposed PSA rate schedule addresses not only rates for pole space
20 use but also the conditions of service for the placement of an attachment on the
21 Companies’ utility poles.

22 In the Second Stipulation, the Stipulation Parties agreed to revise certain
23 charges and conditions of service set forth in the proposed PSA rate schedule. In my

1 testimony, I will discuss the revisions to these charges and to the conditions of service
2 that relate to certain financial requirements. John K. Wolfe in his testimony will
3 discuss the revisions to certain conditions of service that relate to service reliability and
4 public safety.

5 Attachment Charges

6 **Q. How does the Second Stipulation affect the charges for pole space set forth in the**
7 **PSA Rate Schedule?**

8 A. As originally proposed, the PSA Rate Schedule contained three charges: an annual
9 attachment charge of \$7.25 for each wireline pole attachment; an annual charge of
10 \$0.81 for each linear foot of duct; and an annual charge of \$84.00 for each wireless
11 facility attached to the pole. The Second Stipulation does not affect the annual charges
12 for wireline pole attachments or for ducts. Witnesses for KCTA and AT&T in their
13 written direct testimony had stated no objection to these charges. After settlement
14 discussions, the Stipulating Parties agreed to recommend that the annual charge for a
15 wireless facility located on the top of a Company pole be reduced from \$84.00 to
16 \$36.25 and that the attachment charge for any other wireless facility located on a
17 Company pole be established by special contract.

18 **Q. What is the basis for the recommendation?**

19 A. In their written direct testimony, witnesses for each of the Stipulating Parties have
20 agreed that the annual rate of \$7.25 for the use of one foot of pole space - a rate that
21 the Commission has previously approved - should be used to determine the annual
22 charge for attaching wireless facility to the top of a Company pole. The Companies
23 assert that a pole-top wireless facility should be allocated five feet of usable pole space.

1 This assertion is based upon the premise that, as the Companies typically have electric
2 facilities located at or near the top of their distribution poles, a pole-top wireless
3 facility, such as an antenna, requires a five-foot taller pole to maintain a safe working
4 distance of at least 48 inches between the electric facilities and the pole top antenna.
5 Accordingly, the Wireless Facility owner should be responsible for the top five feet of
6 the pole: one foot for the antenna and four feet of clearance above the power space. As
7 the Commission has previously approved the annual rate of \$7.25 for one foot of pole
8 space, the use of five feet will produce an annual charge of \$36.25.

9 The Stipulating Parties also recommend that the rate for wireless facilities that
10 are attached at other locations on the Companies' poles be established on a case-by-
11 case basis through the use of special contracts. Given the lack of information regarding
12 the size and characteristics of wireless antennas and other devices that may be attached
13 to an electric utility pole in the communications space, a strong basis for a uniform rate
14 for such attachments does not exist. When a sufficient number of such attachments
15 have been made to the Companies' structures, the Companies will be better positioned
16 to develop a uniform rate. Prior to filing their next application for rate adjustment, the
17 Companies will determine if sufficient evidence regarding such attachments exists to
18 determine if a uniform rate is feasible and appropriate and, if so, will revise the PSA
19 Rate Schedule accordingly.

20 Transfer of Rights

21 **Q. Please describe the proposed change to the term and condition addressing the**
22 **transfer of an Attachment Customer's rights.**

1 A. As originally proposed, Term and Condition (“Term”) 4 of the PSA rate schedule
2 provided that any delegation, transfer or assign of any interest created by the
3 Attachment Customer Agreement or the PSA rate schedule with the consent of the
4 Companies was voidable. KCTA expressed concerns that this provision could
5 potentially place the Companies in the position of reviewing the merits of a corporate
6 reorganization. To allay these concerns, the Stipulating Parties have recommended that
7 Term 4 be revised to require the Companies’ consent to any transfer of rights under an
8 Attachment Customer Agreement upon a transferee providing adequate evidence of its
9 compliance with the insurance coverage and performance assurance provisions of the
10 PSA rate schedule. The revision makes clear that the Companies have no role in the
11 corporate reorganization or acquisition of an Attachment Customer, but do have a right
12 to ensure a transferee has the financial ability to meet its obligations under the PSA rate
13 schedule.

14 Indemnification

15 **Q. Are the Stipulating Parties recommending revisions to the PSA rate schedule**
16 **provisions that address indemnification?**

17 A. Yes. The Stipulating Parties recommend revisions to Term 18 (previously Term 17)
18 that, while still requiring an Attachment Customer to indemnify the Companies for any
19 acts of joint negligence, allow for a reduction in the amount of indemnity to reflect an
20 assignment of liability to the Companies resulting from the Companies’ negligence or
21 willful misconduct. The recommended revision will also permit the Attachment
22 Customer to select the defense counsel and to direct the defense or settlement of any
23 such claim or suit for which it is required to indemnify the Companies. While Term

1 18 will continue to provide significant financial and legal protection to the Companies
2 from an Attachment Customer's negligence or willful misconduct, it will promote
3 greater fairness by not subjecting an Attachment Customer to liability resulting from
4 the Companies' conduct and by permitting the Attachment Customer greater control
5 over the defense of any claim for which it is financially and legally responsible.

6 Termination of Service

7 **Q. Did the Stipulating Parties come to agreement regarding the termination of pole
8 space use?**

9 A. Yes. The Stipulating Parties agree Term 21 (previously Term 20) should be revised to
10 permit only Attachment Customers to terminate an Attachment Customer Agreement
11 upon providing at least 60 days' notice prior to the end of the term of service. This
12 revision is consistent with the Commission's Order of September 17, 1982 in
13 Administrative Case No. 251 in which the Commission held that an Attachment
14 Customer must be allowed to remain a customer by observing the usual customer
15 obligations.

16 Insurance and Performance Assurance

17 **Q. Are the Stipulating Parties recommending revisions to the PSA rate schedule
18 provisions that address required insurance coverage and surety bonds?**

19 A. Yes. The Stipulating Parties recommend revisions to Terms 23 and 24 (previously
20 Terms 22 and 23) to permit an Attachment Customer to forego the insurance and surety
21 bond requirements if the Attachment customer meets certain financial criteria or its
22 corporate parent, who meets such criteria, provides a written guarantee on behalf of the
23 Attachment Customer. The proposed revision will permit greater flexibility for larger

1 capitalized Attachment Customers without significantly increasing the Companies’
2 financial risk.

3 Additional Provisions

4 **Q. Are there any other provisions that are contained in the Second Stipulation?**

5 A. Aside from the revisions in the PSA rate schedule that relate to service reliability and
6 public safety which Mr. Wolfe discusses in his testimony, there are two provisions of
7 note. First, AT&T and KCTA, who were not parties to the Stipulation and
8 Recommendation that was filed with the Commission on April 19, 2017 (“First
9 Stipulation”), acknowledge the First Stipulation and state that they have no objections
10 to its provisions. Second, the Companies have agreed to notify AT&T and KCTA when
11 they engage in any Advanced Metering Systems Collaborative pursuant to the First
12 Stipulation, and that AT&T and KCTA may participate in any or all phases of the
13 collaborative.

14 Conclusion

15 **Q. What is your recommendation to the Commission?**

16 A. The terms of the Second Stipulation are fair, just and reasonable, will ensure the orderly
17 regulation and governance of the Companies’ provision of pole space to CATV and
18 telecommunication attachment customers, and promote reliable electric service and the
19 public safety. I recommend that the Commission accept the Second Stipulation.

20 **Q. Does this conclude your testimony?**

21 A. Yes.

22

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SECOND STIPULATION TESTIMONY OF
JOHN K. WOLFE
VICE PRESIDENT, ELECTRIC DISTRIBUTION OPERATIONS
LOUISVILLE GAS AND ELECTRIC COMPANY
KENTUCKY UTILITIES COMPANY

Filed: May 4, 2017

1 **Q. Please state your name, position and business address.**

2 A. My name is John K. Wolfe. I am the Vice President of Electric Distribution
3 Operations for Kentucky Utilities Company (“KU”) and Louisville Gas and Electric
4 Company (“LG&E”) (collectively “Companies”), and an employee of LG&E and KU
5 Services Company, which provides services to LG&E and KU. My business address
6 is 220 West Main Street, Louisville, Kentucky 40202.

7 **Q. What is the purpose of your testimony?**

8 A. The purpose of my testimony is to discuss certain tariff-related items pertaining to
9 system reliability and public safety that are addressed in the Second Stipulation and
10 Recommendation (“Second Stipulation”) reached by the Companies, BellSouth
11 Telecommunications, LLC d/b/a AT&T Kentucky (“AT&T”), and Kentucky Cable
12 Telecommunications Association (“KCTA”) (collectively “Stipulating Parties”).
13 Robert M. Conroy is providing testimony that discusses all other aspects of the
14 Second Stipulation.

15 **Q. What does the Second Stipulation concern?**

16 A. The Second Stipulation concerns the “Pole and Structure Attachment Charges” Rate
17 PSA. The Companies currently offer the use of their pole space for cable television
18 attachments under “Cable Television Attachment Charges” Rate CTAC. They
19 propose to rename Rate CTAC to Rate PSA and to expand the rate schedule’s
20 coverage to include telecommunication wireline and wireless facilities, which are not
21 covered in Rate CTAC. The proposed PSA rate schedule addresses not only rates for
22 pole space use but also the conditions of service for the placement of an attachment
23 on the Companies’ utility poles. In the Second Stipulation, the Stipulating Parties

1 agreed to revise certain conditions of service set forth in the proposed PSA rate
2 schedule. In my testimony, I will discuss the revisions to the conditions of service
3 that relate to system reliability and public safety.

4 Pole Loading Studies

5 **Q. Does the Second Stipulation affect the requirement for a pole loading study with**
6 **each application for permission to attach to a KU or LG&E structure?**

7 A. Yes. As originally proposed, the Term and Condition (“Term”) 7a of the PSA Rate
8 Schedule required an Attachment Customer to submit, with its application to install
9 an attachment on a KU or LG&E structure, a pole loading study for each attachment.
10 The Companies were authorized to waive this requirement when such study was
11 deemed unnecessary.

12 The Stipulating Parties have agreed to eliminate the requirement that a pole
13 loading study must be submitted with each application. Instead, the Companies may
14 perform a visual inspection of the pole or structure to which an Attachment Customer
15 proposes to attach facilities and determine whether a pole loading study is necessary.
16 If a study is necessary, the Companies will advise the Attachment Customer
17 accordingly. Under such circumstances, the Attachment Customer’s application will
18 not be considered as complete and filed until submission of the study. The
19 Attachment Customer has the option of conducting the pole loading study or
20 requesting the Companies perform the study. The Attachment Customer will be
21 responsible for the cost of any visual inspection or pole loading study that the
22 Companies perform. The proposed revisions do not preclude an Attachment
23 Customer from providing a pole loading study with its application without the

1 Companies performing a visual inspection or otherwise requesting such study to
2 expedite the Companies' review of its application.

3 The proposed revisions provide greater flexibility to an Attachment Customer
4 without sacrificing safety or system reliability. In its application for attachment, an
5 Attachment Customer may assert that a pole's condition does not warrant the need for
6 a pole loading study. The Companies have the right to confirm this assertion by
7 visual inspection. If, after inspection, the Companies reach a different conclusion, the
8 study will be conducted to assure that a pole can safely handle the additional
9 attachment. If the Companies agree with the Attachment Customer's position,
10 however, the Attachment Customer has avoided the expense and time necessary for
11 such study. An Attachment Customer retains the option to submit a pole loading
12 study with its application to avoid any delay that may result while a visual inspection
13 is scheduled and performed.

14 The proposed revision shifts the burden from Attachment Customer providing
15 a pole loading study in each case to the Companies requesting such study when a
16 visual inspection supports the need for such study. This shifting of the burden,
17 however, does not unreasonably restrict or hinder the Companies' ability to protect
18 the structural integrity of their poles and other structures. Any additional costs
19 resulting from the revision are borne by Attachment Customers, not electric service
20 customers.

21 Overlashing

22 **Q. Does the Second Stipulation revise the PSA rate schedule's provisions regarding**
23 **overlashing?**

1 A. Yes. As originally proposed, Term 10 of the PSA rate schedule required Attachment
2 Customers to apply for a permit to conduct any overlashing of an existing attachment
3 if the overlashing occurred more than 120 days after the permitting of the attachment.
4 KCTA argued that such a requirement would limit the economic benefits of
5 overlashing and slow the deployment of new services.

6 The Stipulating Parties recommend revisions to Term 10 that would permit an
7 initial overlash of an existing attachment without advance notice or any application to
8 the Companies if the overlash is not greater than one-half inch in diameter. The
9 replacement of an existing cable with a cable that is no greater than one-half inch in
10 diameter would also not require an application or advance notice.

11 As to all other overlashing, the Stipulating Parties recommend that Term 10
12 be revised to replace the requirement for an application with a requirement that an
13 Attachment Customer provide advance notice to the Companies of the proposed
14 overlashing to permit the Companies to visually inspect their Structures and
15 determine the need for a pole loading study. The amount of notice would vary with
16 the number of spans involved in the project. The Stipulating Parties also agreed no
17 bundle of an Attachment Customer's cable may exceed two inches in diameter unless
18 the Companies provide their express approval in writing.

19 The recommended revisions will allow the Companies to monitor overlashing
20 of existing cables and identify likely problems with such overlashing in advance of
21 the proposed overlashing. At the same time, they will permit overlashing to remain
22 an effective means for Attachment Customers to develop and expand their
23 communication services.

1 Strand-Mounted Wireless Communication Devices

2 **Q. Please describe the proposed changes to the PSA rate schedule regarding strand-**
3 **mounted wireless communication devices.**

4 A. As originally proposed, the PSA rate schedule did not expressly address strand-
5 mounted communication devices. In response to the requests for information from
6 KCTA, the Companies indicated that, under the proposed PSA rate schedule, a
7 strand-mounted Wi-Fi access point (which is the only type of strand-mounted
8 communication device currently on the Companies' structures) would be considered
9 part of a wireline attachment and would not be subject to permitting or an additional
10 customer charge if located within the one foot vertical space occupied by the
11 Attachment Customer's cable and otherwise met all applicable loading and clearance
12 standards.

13 In the Second Stipulation, the Stipulating Parties have recommended the PSA
14 rate schedule specifically address strand-mounted wireless communication devices
15 and have proposed a new term and condition that appears as Term 11 in the Second
16 Stipulation Exhibits 1 and 2. Term 11 would expressly provide a strand-mounted
17 wireless communication device is part of a wireline attachment and is not subject to
18 permitting or an additional customer charge if located within the one foot vertical
19 space occupied by the Attachment Customer's cable and otherwise met all applicable
20 loading, clearance, and radiofrequency ("RF") emission standards.

21 Recognizing that strand-mounted wireless communication devices are rapidly
22 evolving and that newer types of devices may present unforeseen consequences, the
23 Stipulating Parties agreed that an Attachment Customer should be required to provide

1 the Companies with at least 60 days' advance notice of the planned deployment of
2 any strand-mounted wireless communication device other than a Wi-Fi access point
3 so as to permit the Companies to assess the safety and loadbearing implications of the
4 proposed deployment and determine the conditions under which such devices should
5 be attached to the Companies' structures.

6 Service Drops

7 **Q. Have the Stipulating Parties recommended changes to the PSA rate schedule**
8 **regarding service drops?**

9 A. Yes. The Stipulating Parties have agreed to revisions in Term 7i of the proposed PSA
10 rate schedule. As revised, Term 7i would require an Attachment Customer to notify
11 the Companies of the attachment of a service drop to a KU or LG&E pole within 60
12 days of the attachment. The revisions further clarify when a service drop attachment
13 will be considered a separate attachment for billing purposes.

14 Certification of Notice Requirements

15 **Q. Please describe the revisions to the PSA rate schedule regarding the certification**
16 **of notice requirements.**

17 A. To provide additional assurance that Attachment Customers are complying with the
18 notice provisions of the PSA rate schedule, the Stipulating Parties have recommended
19 an additional term and condition to the PSA rate schedule. This term, which appears
20 as Term 25 in Second Stipulation Exhibits 1 and 2, requires that an Attachment
21 Customer's highest ranking officer located in Kentucky must certify under oath on or
22 before January 31 of each year that the Attachment Customer has complied with all
23 notification requirements of the PSA rate schedule.

1 Unauthorized Attachments

2 **Q. Please describe the revisions to the PSA rate schedule regarding unauthorized**
3 **attachments.**

4 A. The Stipulating Parties have recommended revisions to Term 14 (previously Term
5 13) to provide greater protections for Attachment Customers while permitting the
6 Companies to police their structures and ensure all attachment customers are paying
7 for their use of pole space. Under this revision, if the Companies perform an audit of
8 their Structures and find that the number of attachments shown by the audit exceeds
9 the number of attachments shown in the Companies' existing records, the excess
10 number of attachments will be presumed to be unauthorized attachments. An
11 Attachment Customer, however, will have the right to rebut this presumption and to
12 demonstrate that the attachments at issue were properly authorized. To assist the
13 Attachment Customer in asserting its rights, the Companies must provide the
14 Attachment Customer with a copy of the audit report and this report must indicate the
15 location and pole number of each attachment.

16 Denial of Access to Company Structures

17 **Q. Have the Stipulating Parties recommended changes to the PSA rate schedule**
18 **regarding the Companies' right to deny access to its structures?**

19 A. Yes. KCTA and AT&T expressed concerns that the PSA rate schedule may permit
20 the Companies to arbitrarily deny an Attachment Customer access to the Companies'
21 structures or require it to remove its facilities from those structures. To address these
22 concerns, the Stipulating Parties recommend Term 7c be amended to permit the
23 Companies the right to deny access to their Structures for the following reasons: lack

1 of capacity, safety, reliability or engineering standards. They also recommend Term
2 16c (previously Term 15c) be revised to allow the Companies the right to reserve
3 space on their poles in accordance with a bona fide development plan for electric
4 service. These revisions will ensure Attachment Customers have reasonable access to
5 pole space while allowing the Companies to operate their facilities in a manner that
6 promotes and protects electric service reliability.

7 Conclusion

8 **Q. What is your recommendation to the Commission?**

9 A. The terms of the Second Stipulation are fair, just and reasonable, allow the
10 Companies to adequately protect the structural integrity of their poles and structures,
11 and support continued service reliability and public safety. I recommend that the
12 Commission accept the Second Stipulation.

13 **Q. Does this conclude your testimony?**

14 A. Yes.

15

