

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY )  
UTILITIES COMPANY FOR AN ADJUSTMENT )  
OF ITS ELECTRIC RATES AND FOR )  
CERTIFICATES OF PUBLIC CONVENIENCE )  
AND NECESSITY )

Case No.  
2016-00370

and

ELECTRONIC APPLICATION OF LOUISVILLE )  
GAS AND ELECTRIC COMPANY FOR AN )  
ADJUSTMENT OF ITS ELECTRIC AND GAS )  
RATES AND FOR CERTIFICATES OF PUBLIC )  
CONVENIENCE AND NECESSITY )

Case No.  
2016-00371

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**KENTUCKY CABLE TELECOMMUNICATIONS ASSOCIATION'S  
RESPONSES TO KENTUCKY UTILITIES COMPANY AND  
LOUISVILLE GAS AND ELECTRIC COMPANY'S DATA REQUESTS**

Kentucky Cable Telecommunications Association ("KCTA"), by counsel, hereby submits the following responses to Kentucky Utilities Company's ("KU") and Louisville Gas and Electric Company's ("LG&E's") Data Requests.

Respectfully submitted,

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**ATTORNEYS FOR THE KENTUCKY CABLE  
TELECOMMUNICATIONS ASSOCIATION**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Kentucky Cable Telecommunications Association's Responses to Kentucky Utilities Company and Louisville Gas and Electric Company's Data Requests has been served on all parties of record via hand delivery, facsimile, or electronically this 31st day of March, 2017.

/s/ Janice Theriot  
Janice Theriot

**KENTUCKY CABLE TELECOMMUNICATIONS ASSOCIATION  
CASE NOS. 2016-00370 and 2016-00371**

**KCTA's Responses to Commission Staff's  
Initial Request for Information  
Dated March 31, 2017**

Responding Witness: Joseph H. Crone III

**KU REQUEST NO. 1:**

Under Mr. Crone's approach regarding the use of pole loading studies, what responsibility, if any, does the Attachment Customer have to indicate any concerns regarding the need for a load bearing study?

**RESPONSE:**

Third party Attachment Customers can and do make visual inspections of poles to which they intend to attach, and they have training and experience to detect poles that appear overloaded. It is reasonable and appropriate for Attachment Customers to share information they gather based on visual pole inspections with their pole owner counterparts as part of the permit application process, including whether they think pole loading analysis is necessary. Attachment Customers share an interest in ensuring the safety of pole workers and the public as well as the availability of a reliable network.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 2:

Under the proposal set forth at page 7 of Mr. Crone's Direct Testimony, what information, if any, must KU provide in its notice to the Attachment Customer when it determines a load bearing study should be performed?

RESPONSE:

KU should provide the attachment customer with all information that it maintains related to the loading of the pole in question, including the size and weight of KU's facilities on the pole.

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KU REQUEST NO. 3:

Does Mr. Crone agree that, if the Public Service Commission permits the PSA Rate Schedule to become effective, all persons who currently have a license agreement to attach a wireline or a wireless facility to a KU utility pole, will upon expiration of that license agreement be required to provide a load bearing study as part of any application to make further attachments to KU's utility poles? If not, explain why not.

RESPONSE:

KCTA objects to this Request because it calls for a legal conclusion. Subject to and without waiving the foregoing objection, based on KU and LG&E's testimony and evidence, KU's intention apparently is to require wireline and wireless facility Attachment Customers to perform a pole loading study as part of any application for attachment. But Mr. Crone does not see any reason for a loading study unless, based on visual analysis, it appears that the new attachment may cause the pole to exceed permissible loading.

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KU REQUEST NO. 4:

Refer to Mr. Crone's Direct Testimony at pages 8-9. Describe the contents of the "documentation" that Mr. Crone testifies should be provided.

RESPONSE:

KU should provide detailed information to back up the charges identified in an invoice submitted to an Attachment Customer. The charges should be based on a standard set of published costs for labor and materials made available to Attachment Customers in advance of attachment, and the invoice itself should contain line items indicating the project cost for materials, labor, and overhead.

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KU REQUEST NO. 5:

Refer to Mr. Crone's Direct Testimony at page 9 at which he states: "Pole owners generally provide detailed documentation supporting the charges imposed to show that they are reasonable and cost-based." State whether this statement includes invoices that KU has previously provided Charter Communications for the charges that KU assessed.

RESPONSE:

It does not. KU does not provide a breakdown of costs per item and Attachment Customers have no ability to dispute charges. This practice is unjust and unreasonable because there is no advance notice or transparency in the charges that KU imposes on Attachment Customers. To conform with the general practice described above and in Mr. Crone's testimony, KU should provide an itemized list of materials, labor, and overhead charges to Attachment Customers so that they may meaningfully review invoices KU sends them. But the PSA Rate Schedule purports to allow KU to impose charges on Attachment Customers without sufficient advance notice or back-up documentation, as well as impose penalties for non-payment of disputed charges.



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KU REQUEST NO. 6:

State whether Charter Communications currently tags its attached facilities. If yes, state when it generally tags a facility that is being attached.

RESPONSE:

Charter currently tags its attached fiber plant at the time an attachment is installed. Charter also identifies and tags any untagged fiber during field work on existing attachments and routine plant inspection. Charter does not always tag its coaxial cable plant and other facilities because these facilities are distinctive and unique to Charter and other communications attachers recognize them as Charter's facilities without tags.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 7:

State when Charter Communications first began tagging its facilities.

RESPONSE:

Charter objects to this Request to the extent that it seeks information not relevant to the above-captioned proceeding. Subject to and without waiving the foregoing objection, Charter began tagging its fiber facilities in KU and LG&E's service areas in 1994.

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**KU REQUEST NO. 8:**

State how frequently Charter Communications conducts inspections of its facilities. State whether tagging is currently part of Charter Communications' inspection process.

**RESPONSE:**

Charter routinely inspects its facilities during the course regular of ride outs of its plant and while performing field and construction work. During these inspections, Charter, among other things, notes maintenance issues such as "untagged" fiber attachments. If Charter identifies an "untagged" fiber attachment during its work in the field or during the course of a routine plant inspection, it tags the fiber facility as part of routine maintenance work.

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KU REQUEST NO. 9:

Regarding Mr. Crone's objections to the Attachment Customer bearing the cost of correcting an "out of specification condition," explain how this requirement differs from the requirements currently found in the CTAC Rate Schedule. Term and Condition 3 provides: "In the event any of Customer's construction does not meet any of the foregoing requirements, Customer will correct same in fifteen work days after written notification. Company may make corrections and bill Customer for total costs incurred, if not corrected by Customer." Term and Condition 4 provides: "Customer shall, at its own expense, make and maintain said attachments in safe condition and in thorough repair, and in a manner suitable to Company and so as not to conflict with the use of said poles by Company, or by other parties, firms, corporations, governmental units, etc., using said poles, pursuant to any license or permit by Company, or interfere with the working use of facilities thereon or which may, from time to time, be placed thereon."

RESPONSE:

Under the existing tariff, Attachment Customers are obligated to maintain their facilities in specification and correct issues that they cause. KCTA members accept the obligation to correct problems with their own construction and maintain their facilities in compliance with applicable specifications. But under the PSA Rate Schedule, KU proposes to conduct safety inspections to identify out of specification conditions without any mechanism to identify the cause and appropriate allocation of costs to correct the out

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of specification condition. This is an unjust and unreasonable departure from the existing tariff because it vests KU with authority to require an Attachment Customers to repair and bear the costs of correcting out of specification conditions caused by other attachers, including but not limited to KU. This is inappropriate because KU may only charge Attachment Customers the cost to repair substandard installations “which are not created by the utility but by the CATV operator.” Administrative Case No. 251, 49 P.U.R.4th 128 (1982). KU must ensure that it does not require cable operators to correct, or pay to correct, out of compliance conditions created by other attachers, as required by the Commission.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 10:

Refer to Mr. Crone's Direct Testimony at pages 21-22.

- a. Explain how the provisions in the proposed PSA Rate Schedule differ from those in the existing CTAC Rate Schedule.
- b. Mr. Crone testifies: "In my experience, the reality is that the numbers of unauthorized attachments utilities claim to "discover" during inspections are misleading and overblown. The identification of "unauthorized attachments" typically results from inaccurate and faulty audits, including, among other things, novel methods to count attachments, that are not designed to determine whether any given attachment has actually been installed without a permit – which of course makes it exceedingly difficult for an Attachment Customer to verify or contest the utility's claimed number of unauthorized attachments." State whether Mr. Crone is referring to his experiences with KU or LG&E and provide the specific details of each audit involving these companies where the methods Mr. Crone describes were used.

RESPONSE:

- a. Under the PSA Rate Schedule and the responses that KU submitted to KCTA's requests for information, KU does not intend to provide, or use

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policies and procedures to provide, sufficient information about attachments it deems “unauthorized.” That is because KU does not intend to identify particular attachments that have been installed without a permit. Instead, KU intends to compare the number of attachments counted in the field against the number of attachment permits on file and deem any overage to constitute “unauthorized” attachments. This approach appears to depart from its current practice, but the approach is unjust and unreasonable regardless whether it is a new or existing one. An audit KU undertakes to identify “unauthorized” attachments must be geared to identify attachments that were made without a permit and carried out using policies and procedures to ensure that Attachment Customers are given sufficient information and opportunity to validate and/or contest KU's findings of “unauthorized” attachments.

Furthermore, even if the current and proposed tariff provide KU the same authority, KU has in the past provided Charter notice of specific attachments it believes are unauthorized. KU should continue this practice, and it should be expressly provided for under the proposed tariff.

- b. Mr. Crone does not have any specific information about audits performed by KU. His testimony is based on experience with audits conducted by other pole owners in reliance on terms and conditions similar to those

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proposed by KU. In Mr. Crone's experience, these kinds of terms and conditions are subject to abuse by monopoly pole owners. Among other things, KU's proposed method to identify a mismatch between the number of "attachments" counted in the field and the number of attachments reflected in its books and records for any given Attachment Customer is not a valid way to determine whether any particular attachment has been made without a permit. That method does not avoid the possibility that the audit is counting for the first time a drop attachment made years ago that was not counted in prior audits, that the audit is counting, for the first time, more than one attachment on a pole, that the auditor has mistaken the pole ownership, or that a pole for which the attacher was paying a phone company has been replaced by KU without the attacher's knowledge.

KCTA does not dispute that where an attacher is attached to a KU pole, the attacher may be charged going forward. But KCTA's members are entitled to know what poles have been counted, what attachments have been counted, and whether the ownership of any of those poles has changed over time. KCTA members are also entitled to know which specific poles KU believes were not properly permitted by the attacher. KU's testimony about the methods it will employ to conduct its audits also will not even provide Charter adequate information to validate or



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challenge KU's audit findings. Audits conducted using this approach are unjust and unreasonable and tend to result in inflated and unsubstantiated numbers of "unauthorized attachments." Such findings are aggravated by terms and conditions that provide for stiff penalties and removal of "unauthorized attachments."

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KU REQUEST NO. 11:

Refer to Mr. Crone's Direct Testimony at pages 22-24. State whether Mr. Crone is aware of 807 KAR 5:006, Section 12, which provides that "a customer account shall be considered to be current while the dispute is pending if the customer continues to make undisputed payments and stays current on subsequent bills."

RESPONSE:

Yes. But KU proposes in the PSA Rate Schedule a standard that is inconsistent with 801 KAR 5:006. If KU intends to comply with 801 KAR 5:006, it should be incorporated in the PSA Rate Schedule.

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KU REQUEST NO. 12:

Provide the studies, surveys, and all other documents upon which Mr. Crone relies for his statement that “[o]n average, pole load bearing studies increase attachment application costs upward of \$650 per pole.”

RESPONSE:

Mr. Crone's testimony is based on his decades of experience with pole loading issues, not studies, surveys, or documents.

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KU REQUEST NO. 13:

Provide all studies, surveys, and reports regarding the cost of load bearing studies that Mr. Crone reviewed in the course of preparing his testimony.

RESPONSE:

KCTA objects to this request to the extent it is duplicative of Request No. 12. Subject to and without waiving the forgoing objection, Mr. Crone's testimony is based on his decades of experience with pole loading issues, not studies, surveys, or reports.

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KU REQUEST NO. 14:

List each electric and telephone utility in Charter Communication's Southern Ohio Region to which Charter Communications attaches facilities that requires a load bearing study as a condition for permitting an attachment to its poles or structures.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017. KCTA further objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which KU must direct its Requests. Subject to and without waiving the foregoing objections, in the Southern Ohio Region, only LG&E requires make ready engineering and pole loading for every new attachment and overlash.

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KU REQUEST NO. 15:

State the average cost for the period from January 1, 2016 to December 31, 2016 for Charter Communications to perform a load bearing study as part of the process to make an attachment to a KU, LG&E, or AT&T Kentucky pole. Provide the cost of each load study performed and the cost of field design component of each study.

RESPONSE:

KCTA objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which KU must direct its Requests. Subject to and without waiving the foregoing objection, KU and AT&T Kentucky do not require Charter to conduct pole loading or other engineering analyses in connection with its attachment applications, and Charter does not undertake such analyses.

Charter retains a third-party engineering firm to perform the make-ready engineering analyses and pole loading studies LG&E requires in connection with attachment applications. Since about October 2016, LG&E has required both make ready engineering analyses to assess the necessary work to be performed prior to Charter's proposed attachment installation and pole loading analysis. Prior to October 2016, LG&E required only make ready analysis. To perform all work that LG&E currently requires to make an attachment application, Charter's costs for make ready and pole loading studies range from about \$300 to \$900 per pole. This range depends on the number and complexity of the attachments involved.

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KU REQUEST NO. 16:

State the number of KU poles on which Charter Communications placed new attachments under the CTAC Rate Schedule for the period from January 1, 2016 to December 31, 2016. State the number of load bearing studies Charter Communications performed as part of placing these attachments.

RESPONSE:

KCTA objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which KU must direct its Requests. Subject to and without waiving the foregoing objection, Charter made 286 new attachments to KU structures in 2016, exclusive of overlashing, deployment of strand-mounted Wi-Fi facilities, and service drops. To date, KU has not required pole loading or make ready engineering analysis with each attachment application, and Charter did not conduct pole loading for these attachments.

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KU REQUEST NO. 17:

State the total number of attachments that Charter Communications made in the period from January 1, 2016 to December 31, 2016 in its Southern Ohio Region. State the number of loading studies that Charter Communications made in its Southern Ohio Region during this same period in connection with these attachments.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.



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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 18:

State whether Mr. Crone agrees that under the provisions of the proposed PSA Rate Schedule all wireline and wireless facility attachers subject to the PSA Rate Schedule will be required to submit load study with their attachment applications.

RESPONSE:

KCTA objects to this Request to the extent it is duplicative of Request No. 3. KCTA further objects to this Request because it calls for a legal conclusion. Subject to and without waiving the foregoing objections, based on KU and LG&E's testimony and evidence, KU apparently intends to require a pole loading study as part of any application for a wireline or wireless facility attachment.

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KU REQUEST NO. 19:

State the requirements that Charter Communications must currently meet to place an attachment on an AT&T Kentucky utility pole.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017. Subject to and without waiving the foregoing objections, KCTA members are not required to perform pole loading for attachments to AT&T Kentucky utility poles.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 20:

Assume that the Public Service Commission adopts Mr. Crone's recommendation that an attachment customer should be required to tag untagged existing attachments as it conducts system upgrades or routine maintenance work. Explain how the Company would enforce an attachment customer's compliance with the requirement if a specific time period is lacking.

RESPONSE:

If KU detects an untagged attachment, it can request the Attachment Customer to correct the condition within a reasonable period of time and enforce compliance with its request for correction within a reasonable time.

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KU REQUEST NO. 21:

Identify the tagging requirements that each electric and telephone utility in Charter Communications' Southern Ohio Region imposes on Charter Communications' attachments.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.

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KU REQUEST NO. 22:

State the average cost or fee that Charter Communications pays to utilities in Charter Communications' Southern Ohio Region to attach a wireless facility that is not a strand-mounted wi-fi device to a utility pole or structure.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017. Subject to and without waiving the foregoing objection, Charter does not deploy any wireless facilities that are not strand-mounted wireless devices in its Southern Ohio Region.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 23:

State whether Charter Communications has ever withheld payment from KU or LG&E over a billing dispute. If yes, describe the outcome of the dispute.

RESPONSE:

KCTA objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which KU must direct its Requests. Subject to and without waiving the foregoing objection, Charter withheld payment from KU and LG&E during a tariff dispute over the utilities' attachment charges in 2015. Charter paid the undisputed portion of the invoices during the course of the dispute, and upon resolution of the dispute, Charter made a true-up payment in 2016 to reflect the payment that would have been due under the agreement reached between the parties.

Regardless whether any KCTA member has withheld any disputed payment in a given circumstance, it is important for Attachment Customers to have a remedy to challenge improper charges without having a pole owner threaten to or actually remove their attachments. KU proposes to deny Attachment Customers a remedy to resolve good faith billing disputes.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 24:

Provide a copy of each attachment agreement that Charter Communications has with electric utilities in Charter Communications' Southern Ohio Region.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 25:

Provide a copy of each attachment agreement that Charter Communications has entered that contains an indemnification provision requiring Charter Communications to indemnify the pole owner from claims and that further provides Charter Communications with the right to select counsel to defend the claim and control the defense of the claim.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.



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Responding Witness: Randy Hollis

KU REQUEST NO. 26:

State whether there have been any incidents in which KU denied access to pole space to a KCTA member and did not offer to replace the utility pole in question or permit the rearrangement of facilities to accommodate the proposed attachment. If yes, describe each incident and provide the date of occurrence.

RESPONSE:

KCTA does not have information on instances where KU has denied access to pole space to a KCTA member without offering to replace the structure in question. However, KU proposes to reserve that very authority in the PSA Rate Schedule by providing that it may deny Attachment Customers access to KU's Structures for any "good reason." This authority is particularly troubling given that KU intends to displace existing third party attachments to deploy AMS/DA network facilities. The PSA Rate Schedule's vague and inappropriate "good reason" standard for permitting KU to request Attachment Customers to remove their facilities to accommodate KU's needs is unjust and unreasonable.

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Responding Witness: Joseph H. Crone III

KU REQUEST NO. 27:

State the amount of time generally required to perform a pole loading study.

RESPONSE:

The amount of time to conduct pole loading varies. But on average, when Charter performs make ready and pole loading analyses in connection with applications for attachment to LG&E structures, it can take 15 days or longer for Charter's third-party engineering firm to perform pole loading and make ready analyses necessary for Charter's attachment applications.

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Responding Witness: Randy Hollis

KU REQUEST NO. 28:

State whether any KCTA member has been required by KU without cause to have an inspector present during attachment construction for routine work and to pay the cost of that inspection. If yes, describe each incident and provide the date of occurrence.

RESPONSE:

KCTA does not have information on instances in which KU required the presence of an inspector for routine work and the payment of costs incurred through inspection of routine work by any KCTA member. However, it appears KU proposes to reserve such authority and require KCTA members to pay for inspection during any construction or maintenance KU desires.

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Responding Witness: Randy Hollis

KU REQUEST NO. 29:

State whether KU has ever required a KCTA member to remove an existing attachment to recover the pole space for KU's needs. If yes, describe each incident and provide the date of the incident.

RESPONSE:

KCTA does not have information about instances in which KU required a KCTA member to remove an existing attachment to recover pole space of KU's needs. But whatever its past practice has been, the PSA Rate Schedule proposes to reserve such authority to KU and to enable KU to deny Attachment Customers access to KU's Structures for any "good reason." This is particularly troubling given KU intends to force the removal and relocation of existing attachment to deploy its proposed AMS/DA facilities. Furthermore, utilities may not require Attachment Customers to pay for the cost of changes made to the use of a structure "after the initial CATV attachments have been made, when such changes were not required by CATV operations." Administrative Case No. 251, 49 P.U.R.4th 128 (1982). The proposal for KU to deny pole access to essential facilities for third party communications Attachment Customers for any "good reason" it identifies in its sole discretion is unjust and unreasonable, especially given KU's plan to displace communications attachers to deploy its own communications infrastructure.

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Responding Witness: Joseph H. Crone III

LG&E REQUEST NO. 1:

Under Mr. Crone's approach regarding the use of pole loading studies, what responsibility, if any, does the Attachment Customer have to indicate any concerns regarding the need for a load bearing study?

RESPONSE:

Third party Attachment Customers can and do make visual inspections of poles to which they intend to attach, and they have training and experience to detect poles that appear overloaded. It is reasonable and appropriate for Attachment Customers to share information they gather based on visual pole inspections with their pole owner counterparts as part of the permit application process, including whether they think pole loading analysis is necessary. Attachment Customers share an interest in ensuring the safety of pole workers and the public as well as the availability of a reliable network.

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LG&E REQUEST NO. 2:

Under the proposal set forth at page 7 of Mr. Crone's Direct Testimony, what information, if any, must the Company provide in its notice to the Attachment Customer when it determines a load bearing study should be performed?

RESPONSE:

LG&E should provide the attachment customer with all information that it maintains related to the loading of the pole in question, including the size and weight of LG&E's facilities on the pole.

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LG&E REQUEST NO. 3:

Does Mr. Crone agree that, if the Public Service Commission permits the PSA Rate Schedule to become effective, all persons who currently have a license agreement to attach a wireline or a wireless facility to a LG&E utility pole, will upon expiration of that license agreement be required to provide a load bearing study as part of any application to make further attachments to LG&E's utility poles? If not, explain why not.

RESPONSE:

KCTA objects to this Request because it calls for a legal conclusion. Subject to and without waiving the foregoing objection, based on KU and LG&E's testimony and evidence, LG&E's intention apparently is to require wireline and wireless facility Attachment Customers to perform a pole loading study as part of any application for attachment. But Mr. Crone does not see any reason for a loading study unless, based on visual analysis, it appears that the new attachment may cause the pole to exceed permissible loading.

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LG&E REQUEST NO. 4:

Refer to Mr. Crone's Direct Testimony at pages 8-9. Describe the contents of the "documentation" that Mr. Crone testifies should be provided.

RESPONSE:

LG&E should provide detailed information to back up the charges identified in an invoice submitted to an Attachment Customer. The charges should be based on a standard set of published costs for labor and materials made available to Attachment Customers in advance of attachment, and the invoice itself should contain line items indicating the project cost for materials, labor, and overhead.



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LG&E REQUEST NO. 5:

Refer to Mr. Crone's Direct Testimony at page 9 at which he states: "Pole owners generally provide detailed documentation supporting the charges imposed to show that they are reasonable and cost-based." State whether this statement includes invoices that LG&E has previously provided Charter Communications for the charges that LG&E assessed.

RESPONSE:

It does not. LG&E does not provide a breakdown of costs per item and Attachment Customers have no ability to dispute charges. This practice is unjust and unreasonable because there is no advance notice or transparency in the charges that LG&E imposes on Attachment Customers. To conform with the general practice described above and in Mr. Crone's testimony, LG&E should provide an itemized list of materials, labor, and overhead charges to Attachment Customers so that they may meaningfully review invoices LG&E sends them. But the PSA Rate Schedule purports to allow LG&E to impose charges on Attachment Customers without sufficient advance notice or back-up documentation, as well as impose penalties for non-payment of disputed charges.

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LG&E REQUEST NO. 6:

State whether Charter Communications currently tags its attached facilities. If yes, state when it generally tags a facility that is being attached.

RESPONSE:

Charter currently tags its attached fiber plant at the time an attachment is installed. Charter also identifies and tags any untagged fiber during field work on existing attachments and routine plant inspection. Charter does not always tag its coaxial cable plant and other facilities because these facilities are distinctive and unique to Charter and other communications attachers recognize them as Charter's facilities without tags.

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LG&E REQUEST NO. 7:

State when Charter Communications first began tagging its facilities.

RESPONSE:

Charter objects to this Request to the extent that it seeks information not relevant to the above-captioned proceeding. Subject to and without waiving the foregoing objection, Charter began tagging its fiber facilities in KU and LG&E's service areas in 1994.

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LG&E REQUEST NO. 8:

State how frequently Charter Communications conducts inspections of its facilities. State whether tagging is currently part of Charter Communications' inspection process.

RESPONSE:

Charter routinely inspects its facilities during the course regular of ride outs of its plant and while performing field and construction work. During these inspections, Charter, among other things, notes maintenance issues such as "untagged" fiber attachments. If Charter identifies an "untagged" fiber attachment during its work in the field or during the course of a routine plant inspection, it tags the fiber facility as part of routine maintenance work.

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LG&E REQUEST NO. 9:

Regarding Mr. Crone's objections to the Attachment Customer bearing the cost of correcting an "out of specification condition," explain how this requirement differs from the requirements currently found in the CTAC Rate Schedule. Term and Condition 3 provides: "In the event any of Customer's construction does not meet any of the foregoing requirements, Customer will correct same in fifteen work days after written notification. Company may make corrections and bill Customer for total costs incurred, if not corrected by Customer." Term and Condition 4 provides: "Customer shall, at its own expense, make and maintain said attachments in safe condition and in thorough repair, and in a manner suitable to Company and so as not to conflict with the use of said poles by Company, or by other parties, firms, corporations, governmental units, etc., using said poles, pursuant to any license or permit by Company, or interfere with the working use of facilities thereon or which may, from time to time, be placed thereon."

RESPONSE:

Under the existing tariff, Attachment Customers are obligated to maintain their facilities in specification and correct issues that they cause. KCTA members accept the obligation to correct problems with their own construction and maintain their facilities in compliance with applicable specifications. But under the PSA Rate Schedule, LG&E proposes to conduct safety inspections to identify out of specification conditions without any mechanism to identify the cause and appropriate allocation of costs to correct the out

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of specification condition. This is an unjust and unreasonable departure from the existing tariff because it vests LG&E with authority to require an Attachment Customers to repair and bear the costs of correcting out of specification conditions caused by other attachers, including but not limited to LG&E. This is inappropriate because LG&E may only charge Attachment Customers the cost to repair substandard installations “which are not created by the utility but by the CATV operator.” Administrative Case No. 251, 49 P.U.R.4th 128 (1982). LG&E must ensure that it does not require cable operators to correct, or pay to correct, out of compliance conditions created by other attachers, as required by the Commission.

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LG&E REQUEST NO. 10:

Refer to Mr. Crone's Direct Testimony at pages 21-22.

- a. Explain how the provisions in the proposed PSA Rate Schedule differ from those in the existing CTAC Rate Schedule.
- b. Mr. Crone testifies: "In my experience, the reality is that the numbers of unauthorized attachments utilities claim to "discover" during inspections are misleading and overblown. The identification of "unauthorized attachments" typically results from inaccurate and faulty audits, including, among other things, novel methods to count attachments, that are not designed to determine whether any given attachment has actually been installed without a permit – which of course makes it exceedingly difficult for an Attachment Customer to verify or contest the utility's claimed number of unauthorized attachments." State whether Mr. Crone is referring to his experiences with KU or LG&E and provide the specific details of each audit involving these companies where the methods Mr. Crone describes were used.

RESPONSE:

- a. Under the PSA Rate Schedule and the responses that LG&E submitted to KCTA's requests for information, LG&E does not intend to provide, or

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use policies and procedures to provide, sufficient information about attachments it deems “unauthorized.” That is because LG&E does not intend to identify particular attachments that have been installed without a permit. Instead, LG&E intends to compare the number of attachments counted in the field against the number of attachment permits on file and deem any overage to constitute “unauthorized” attachments. This approach appears to depart from its current practice, but the approach is unjust and unreasonable regardless whether it is a new or existing one. An audit LG&E undertakes to identify “unauthorized” attachments must be geared to identify attachments that were made without a permit and carried out using policies and procedures to ensure that Attachment Customers are given sufficient information and opportunity to validate and/or contest LG&E's findings of “unauthorized” attachments.

Furthermore, even if the current and proposed tariff provide LG&E the same authority, LG&E has in the past provided Charter notice of specific attachments it believes are unauthorized. LG&E should continue this practice, and it should be expressly provided for under the proposed tariff.

- b. Mr. Crone does not have any specific information about audits performed by LG&E. His testimony is based on experience with audits conducted by other pole owners in reliance on terms and conditions similar to those



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proposed by LG&E. In Mr. Crone's experience, these kinds of terms and conditions are subject to abuse by monopoly pole owners. Among other things, LG&E's proposed method to identify a mismatch between the number of "attachments" counted in the field and the number of attachments reflected in its books and records for any given Attachment Customer is not a valid way to determine whether any particular attachment has been made without a permit. That method does not avoid the possibility that the audit is counting for the first time a drop attachment made years ago that was not counted in prior audits, that the audit is counting, for the first time, more than one attachment on a pole, that the auditor has mistaken the pole ownership, or that a pole for which the attacher was paying a phone company has been replaced by LG&E without the attacher's knowledge.

KCTA does not dispute that where an attacher is attached to an LG&E pole, the attacher may be charged going forward. But KCTA's members are entitled to know what poles have been counted, what attachments have been counted, and whether the ownership of any of those poles has changed over time. KCTA members are also entitled to know which specific poles LG&E believes were not properly permitted by the attacher. LG&E's testimony about the methods it will employ to conduct its audits also will not even provide Charter adequate information to validate or

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challenge LG&E's audit findings. Audits conducted using this approach are unjust and unreasonable and tend to result in inflated and unsubstantiated numbers of "unauthorized attachments." Such findings are aggravated by terms and conditions that provide for stiff penalties and removal of "unauthorized attachments."

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LG&E REQUEST NO. 11:

Refer to Mr. Crone's Direct Testimony at pages 22-24. State whether Mr. Crone is aware of 807 KAR 5:006, Section 12, which provides that "a customer account shall be considered to be current while the dispute is pending if the customer continues to make undisputed payments and stays current on subsequent bills."

RESPONSE:

Yes. But LG&E proposes in the PSA Rate Schedule a standard that is inconsistent with 801 KAR 5:006. If LG&E intends to comply with 801 KAR 5:006, it should be incorporated in the PSA Rate Schedule.

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LG&E REQUEST NO. 12:

Provide the studies, surveys, and all other documents upon which Mr. Crone relies for his statement that “[o]n average, pole load bearing studies increase attachment application costs upward of \$650 per pole.”

RESPONSE:

Mr. Crone's testimony is based on his decades of experience with pole loading issues, not studies, surveys, or documents.

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LG&E REQUEST NO. 13:

Provide all studies, surveys, and reports regarding the cost of load bearing studies that Mr. Crone reviewed in the course of preparing his testimony.

RESPONSE:

KCTA objects to this request to the extent it is duplicative of Request No. 12. Subject to and without waiving the forgoing objection, Mr. Crone's testimony is based on his decades of experience with pole loading issues, not studies, surveys, or reports.

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LG&E REQUEST NO. 14:

List each electric and telephone utility in Charter Communication's Southern Ohio Region to which Charter Communications attaches facilities that requires a load bearing study as a condition for permitting an attachment to its poles or structures.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017. KCTA further objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which LG&E must direct its Requests. Subject to and without waiving the foregoing objections, in the Southern Ohio Region, only LG&E requires make ready engineering and pole loading for every new attachment and overlash.

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LG&E REQUEST NO. 15:

State the average cost for the period from January 1, 2016 to December 31, 2016 for Charter Communications to perform a load bearing study as part of the process to make an attachment to a KU, LG&E, or AT&T Kentucky pole. Provide the cost of each load study performed and the cost of field design component of each study.

RESPONSE:

KCTA objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which LG&E must direct its Requests. Subject to and without waiving the foregoing objection, KU and AT&T Kentucky do not require Charter to conduct pole loading or other engineering analyses in connection with its attachment applications, and Charter does not undertake such analyses.

Charter retains a third-party engineering firm to perform the make-ready engineering analyses and pole loading studies LG&E requires in connection with attachment applications. Since about October 2016, LG&E has required both make ready engineering analyses to assess the necessary work to be performed prior to Charter's proposed attachment installation and pole loading analysis. Prior to October 2016, LG&E required only make ready analysis. To perform all work that LG&E currently requires to make an attachment application, Charter's costs for make ready and pole

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loading studies range from about \$300 to \$900 per pole. This range depends on the number and complexity of the attachments involved.



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LG&E REQUEST NO. 16:

State the number of LG&E poles on which Charter Communications placed new attachments under the CTAC Rate Schedule for the period from January 1, 2016 to December 31, 2016. State the number of load bearing studies Charter Communications performed as part of placing these attachments.

RESPONSE:

KCTA objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which LG&E must direct its Requests. Subject to and without waiving the foregoing objection, Charter made 485 new attachments to LG&E structures in 2016, exclusive of overlashing, deployment of strand-mounted Wi-Fi facilities, and service drops. Charter also overlashed 1,481 new wires over existing attachments on LG&E structures. Charter performed make ready engineering analyses for all 1,966 installations on LG&E structures, and it performed pole loading for each attachment or overlash in installed since October 2016.

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LG&E REQUEST NO. 17:

State the total number of attachments that Charter Communications made in the period from January 1, 2016 to December 31, 2016 in its Southern Ohio Region. State the number of loading studies that Charter Communications made in its Southern Ohio Region during this same period in connection with these attachments.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.

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LG&E REQUEST NO. 18:

State whether Mr. Crone agrees that under the provisions of the proposed PSA Rate Schedule all wireline and wireless facility attachers subject to the PSA Rate Schedule will be required to submit load study with their attachment applications.

RESPONSE:

KCTA objects to this Request to the extent it is duplicative of Request No. 3. KCTA further objects to this Request because it calls for a legal conclusion. Subject to and without waiving the foregoing objections, based on KU and LG&E's testimony and evidence, LG&E apparently intends to require a pole loading study as part of any application for a wireline or wireless facility attachment.

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LG&E REQUEST NO. 19:

State the requirements that Charter Communications must currently meet to place an attachment on an AT&T Kentucky utility pole.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017. Subject to and without waiving the foregoing objections, KCTA members are not required to perform pole loading for attachments to AT&T Kentucky utility poles.

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LG&E REQUEST NO. 20:

Assume that the Public Service Commission adopts Mr. Crone's recommendation that an attachment customer should be required to tag untagged existing attachments as it conducts system upgrades or routine maintenance work. Explain how the Company would enforce an attachment customer's compliance with the requirement if a specific time period is lacking.

RESPONSE:

If LG&E detects an untagged attachment, it can request the Attachment Customer to correct the condition within a reasonable period of time and enforce compliance with its request for correction within a reasonable time.

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LG&E REQUEST NO. 21:

Identify the tagging requirements that each electric and telephone utility in Charter Communications' Southern Ohio Region imposes on Charter Communications' attachments.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.

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LG&E REQUEST NO. 22:

State the average cost or fee that Charter Communications pays to utilities in Charter Communications' Southern Ohio Region to attach a wireless facility that is not a strand-mounted wi-fi device to a utility pole or structure.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017. Subject to and without waiving the foregoing objection, Charter does not deploy any wireless facilities that are not strand-mounted wireless devices in its Southern Ohio Region.

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LG&E REQUEST NO. 23:

State whether Charter Communications has ever withheld payment from KU or LG&E over a billing dispute. If yes, describe the outcome of the dispute.

RESPONSE:

KCTA objects to this Request because it inappropriately seeks information from Charter rather than KCTA, the appropriate party to which LG&E must direct its Requests. Subject to and without waiving the foregoing objection, Charter withheld payment from KU and LG&E during a tariff dispute over the utilities' attachment charges in 2015. Charter paid the undisputed portion of the invoices during the course of the dispute, and upon resolution of the dispute, Charter made a true-up payment in 2016 to reflect the payment that would have been due under the agreement reached between the parties.

Regardless whether any KCTA member has withheld any disputed payment in a given circumstance, it is important for Attachment Customers to have a remedy to challenge improper charges without having a pole owner threaten to or actually remove their attachments. LG&E proposes to deny Attachment Customers a remedy to resolve good faith billing disputes.



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LG&E REQUEST NO. 24:

Provide a copy of each attachment agreement that Charter Communications has with electric utilities in Charter Communications' Southern Ohio Region.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.

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LG&E REQUEST NO. 25:

Provide a copy of each attachment agreement that Charter Communications has entered that contains an indemnification provision requiring Charter Communications to indemnify the pole owner from claims and that further provides Charter Communications with the right to select counsel to defend the claim and control the defense of the claim.

RESPONSE:

Please refer to KCTA's objection to this Request filed on March 27, 2017.

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LG&E REQUEST NO. 26:

State whether there have been any incidents in which LG&E denied access to pole space to a KCTA member and did not offer to replace the utility pole in question or permit the rearrangement of facilities to accommodate the proposed attachment. If yes, describe each incident and provide the date of occurrence.

RESPONSE:

KCTA does not have information on instances where LG&E has denied access to pole space to a KCTA member without offering to replace the structure in question. However, LG&E proposes to reserve that very authority in the PSA Rate Schedule by providing that it may deny Attachment Customers access to LG&E's Structures for any "good reason." This authority is particularly troubling given that LG&E intends to displace existing third party attachments to deploy AMS/DA network facilities. The PSA Rate Schedule's vague and inappropriate "good reason" standard for permitting LG&E to request Attachment Customers to remove their facilities to accommodate LG&E's needs is unjust and unreasonable.

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LG&E REQUEST NO. 27:

State the amount of time generally required to perform a pole loading study.

RESPONSE:

The amount of time to conduct pole loading varies. But on average, when Charter performs make ready and pole loading analyses in connection with applications for attachment to LG&E structures, it can take 15 days or longer for Charter's third-party engineering firm to perform pole loading and make ready analyses necessary for Charter's attachment applications.

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LG&E REQUEST NO. 28:

State whether any KCTA member has been required by LG&E without cause to have an inspector present during attachment construction for routine work and to pay the cost of that inspection. If yes, describe each incident and provide the date of occurrence.

RESPONSE:

KCTA does not have information on instances in which LG&E required the presence of an inspector for routine work and the payment of costs incurred through inspection of routine work by any KCTA member. However, it appears LG&E proposes to reserve such authority and require KCTA members to pay for inspection during any construction or maintenance LG&E desires.

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LG&E REQUEST NO. 29:

State whether LG&E has ever required a KCTA member to remove an existing attachment to recover the pole space for LG&E's needs. If yes, describe each incident and provide the date of the incident.

RESPONSE:

KCTA does not have information about instances in which LG&E required a KCTA member to remove an existing attachment to recover pole space of LG&E's needs. But whatever its past practice has been, the PSA Rate Schedule proposes to reserve such authority to LG&E and to enable LG&E to deny Attachment Customers access to LG&E's Structures for any "good reason." This is particularly troubling given LG&E intends to force the removal and relocation of existing attachment to deploy its proposed AMS/DA facilities. Furthermore, utilities may not require Attachment Customers to pay for the cost of changes made to the use of a structure "after the initial CATV attachments have been made, when such changes were not required by CATV operations." Administrative Case No. 251, 49 P.U.R.4th 128 (1982). The proposal for LG&E to deny pole access to essential facilities for third party communications Attachment Customers for any "good reason" it identifies in its sole discretion is unjust and unreasonable, especially given LG&E's plan to displace communications attachers to deploy its own communications infrastructure.

**VERIFICATION**

STATE OF OHIO )  
 )  
COUNTY OF HAMILTON ) SS:

The undersigned, **Joseph H. Crone III**, being duly sworn, deposes and says that he is the Senior Director of Regional Construction for Charter Communications in the Southern Ohio Region, and that he has personal knowledge of the matters set forth in the foregoing testimony and exhibits, and that the answers contained therein are true and correct to the best of his information, knowledge, and belief.

*Joseph H. Crone III*  
\_\_\_\_\_  
**Joseph H. Crone III**

Subscribed and sworn to before me, a Notary Public, in and before said County and State, this 30 day of March, 2017.

*Tamara Newsom* (SEAL)  
\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_



**TAMARA NEWSOM**  
Notary Public, State of Ohio  
My Commission Expires 11-13-2021

