

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

**In the Matter of:**

**ELECTRONIC INVESTIGATION OF THE )**  
**PROPOSED POLE ATTACHMENT TARIFFS OF )**  
**INVESTOR OWNED ELECTRIC UTILITIES )** **CASE NO. 2022-00105**

**RESPONSE OF**  
**LOUISVILLE GAS AND ELECTRIC COMPANY AND**  
**KENTUCKY UTILITIES COMPANY**  
**TO**  
**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION**  
**DATED MAY 19, 2022**

**FILED: JUNE 2, 2022**





**LOUISVILLE GAS AND ELECTRIC COMPANY AND  
KENTUCKY UTILITIES COMPANY**

**Response to Commission Staff's Second Request for Information  
Dated May 19, 2022**

**Case No. 2022-00105**

**Question No. 1**

**Responding Witness: Jason P. Jones**

Q-1. Refer to LG&E/KU's response to Commission Staff's First Request for Information (Staff's First Request), Item 11, regarding the estimated pole survey costs. Provide a detailed breakdown of the costs of \$235,816.75 and \$450,654.50.

A-1. The costs identified in the Companies' Response to Commission Staff's First Request for Information, Item 11, represent the amount the Companies paid to contract resources to review pole attachment applications that were submitted between 2018 and 2021. The figures assume that applications were submitted in the standard format required by the Companies prior to the existence of the new regulation. The Companies' review of a pole attachment application consists of the items listed below. The costs identified in the Companies' Response capture the Companies' actual costs, in the aggregate, to perform these items. The Companies are not in possession of more detailed, unaggregated information regarding the cost of each of these items.

- Initial review of the application for completeness and accuracy.
- Field visit to the affected poles.
- Review of proposed new attachment relevant to existing facilities and pole loading.
- Evaluation of proposed make-ready solutions.
- Creation of work order for Company construction (i.e. power space make-ready).
- Communication with new attacher.
- Post-construction inspection.

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**Question No. 2**

**Responding Witness: Christopher M. Garrett**

- Q-2. Refer to LG&E/KU's response to Staff's First Request, Item 4. Provide the service lives of distribution poles used to determine the average service life, by type and vintage, to the degree they are broken down.
- A-2. Please see attached the vintage data utilized in the 2015 depreciation study.

The attachments are  
being provided in  
separate files in Excel  
format.

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**Question No. 3**

**Responding Witness: Jason P. Jones**

- Q-3. Refer to LG&E/KU's response to Staff's First Request, Item 7. Other than identifying specific defective poles through inspections that require replacement, state whether LG&E/KU has a policy or practice of replacing poles in a circuit on a periodic basis or as they reach the end of their useful lives and, if so, describe that policy or practice in detail, including how and when (e.g. how far in advance) such replacements are identified or included in LG&E/KU's projected capital spending budget.
- A-3. The Companies do not have a policy of replacing poles on the basis of time or pole age. Rather, the Companies maintain and replace poles based on their condition as identified by regular inspection. Numerous factors impact a wood pole's integrity—exposure to moisture, vegetation, and vehicle traffic; its natural internal structure when it was installed; loading stresses, and treatment and reinforcement efforts it has encountered over time; exposure to insects and other wildlife; etc. While some poles can safely remain in service beyond their actuarial "lives", others must be replaced sooner than would be expected. The Companies' practice of routinely inspecting and evaluating its pole plant ensures that poles are replaced at the appropriate time—when they can no longer safely support the Companies' distribution network—and not too early or too late.

The Companies budget for pole inspection, treatment, and replacement in the areas of PITP, PSC inspections, storm restoration, system reliability, and trouble work. The Companies' budgets in these areas reflect historical experience (anticipated inspection results, incidence of motor vehicle collisions, etc.) as well as system planning priorities. Pole replacements in these categories occur every year, and while the Companies budget as well as practicable, the actual number of replacements that will occur cannot be known in advance.

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Question No. 4

Responding Witness: Michael E. Hornung / Counsel

- Q-4. Refer to LG&E/KU's response to Staff's First Request, Item 13(c) and (d), regarding the penalty for unauthorized attachments above the communications space on a distribution pole and unauthorized attachments on a transmission pole or within a duct. As the Federal Communications Commission (FCC) has stated that it considers a penalty for unauthorized attachments to be presumptively reasonable if the penalty does not exceed five times the current annual rental fee per pole if the pole occupant does not have a permit and the violation is self-reported or discovered through a joint inspection, with an additional sanction of \$100 per pole if the violation is found by the pole owner in an inspection in which the pole occupant declined to participate,<sup>1</sup> explain how the \$500 penalty is reasonable given that it appears to exceed the amounts the FCC would find presumptively reasonable.
- A-4. As explained in the Companies' responses to the Commission's First Set of Requests for Information, the FCC adopted the Oregon Public Utilities Commission's unauthorized attachment penalties as a "safe harbor." See *Implementing Section 224 of the Act; A National Broadband Plan for Our Future*, Report and Order and Order on Reconsideration, WC Docket No. 07-245, GN Docket No. 09-51, 26 FCC Rcd 5240, 5290-91 at ¶ 115 (Apr. 7, 2011) (the "2011 Order"). The 2011 Order did not (and could not) address unauthorized attachment penalties on transmission poles because the FCC does not have jurisdiction over transmission poles. See *Southern Co. v. FCC*, 293 F.3d 1338, 1345 (11<sup>th</sup> Cir. 2002) ("In sum, the plain language of the [Pole Attachments] Act mandates the following: transmission towers and other interstate transmission facilities are not subject to the Act's provisions, and the FCC lacks the authority to regulate these facilities."). Further, the 2011 Order's treatment of unauthorized attachments is limited to unauthorized pole attachments—it does not address unauthorized attachments within ducts or conduit. See, e.g., 2011 Order, 26 FCC Rcd at 5290, ¶ 113 ("Another issued addressed by the *Further Notice* was attachments **installed on poles** without a lawful agreement with or permit from

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<sup>1</sup> See, *In the Matter of Implementation of Section 224 of the Act A National Broadband Plan for Our Future*, 26 F.C.C. Rcd. 5240, 5291 (2011), rule modification granted by *In the Matter of Implementation of Section 224 of the Act*, 30 F.C.C. Rcd. 13731 (2015).



the pole owner—so-called “unauthorized attachments.”) (bold/underline emphasis added); *id.* at 5291, ¶ 115 (“An unauthorized attachment fee of \$500 **per pole** for **pole occupants** without a contract...”)(emphasis added); *id.* (“An unauthorized attachment fee of five times the current annual rental fee if the **pole occupant** does not have a permit and the violation is self-reported...”)(emphasis added). Accordingly, the 2011 Order provides no guidance on penalties for unauthorized attachments on transmission poles or within ducts and conduit.

The 2011 Order is also of minimal value with respect to penalties for unauthorized attachments made above the communications space on distribution poles. In adopting the safe harbors for unauthorized attachment penalties, the FCC was focused solely on unauthorized attachments in the communications space. Despite not addressing unauthorized attachments above the communications space, the 2011 Order nevertheless supports the Companies’ \$500/attachment penalty for these types of unauthorized attachments. Specifically, the 2011 Order specifically permits higher penalties for more severe unauthorized attachment violations. For instance, the 2011 Order adopted (as a safe harbor) “unauthorized attachment fee of \$500 per pole for occupants without a contract.” 2011 Order, 26 FCC Rcd at 5291, ¶ 115. Attachments made without a pole attachment agreement are more serious violations because the entity making such attachments would have no familiarity with the electric utility’s design and construction standards. However, the installation of unauthorized attachments above the communications space constitutes an even more serious violation. As previously explained, performing make-ready within the electric supply space (and amongst energized lines) is far more dangerous than make-ready within the communications space, which is exacerbated by the fact that communications workers typically are not trained to work within the supply space. This not only jeopardizes the safety of the communications worker installing the unauthorized attachment, but it also jeopardizes the safety of the Companies’ personnel who work on the pole after the unauthorized attachment has been made. In addition, unauthorized attachments in the supply space also endanger the safety and reliability of the Companies’ electric distribution facilities. In light of this heightened risk profile, and in light of the fact that the 2011 Order has already approved a \$500/pole penalty for a less severe type of unauthorized attachment violation, the \$500/attachment penalty for unauthorized attachments in the supply space likely fits squarely within the contours of the FCC’s 2011 Order.

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**Question No. 5**

**Responding Witness: Jason P. Jones**

- Q-5. Describe LG&E/KU's recent efforts, if any, to reduce the number of above ground transmission and distribution lines, and identify the number of poles that have been eliminated in LG&E/KU's system in each of the last ten years because the electric lines previously attached to those poles were placed underground.
- A-5. The Companies often remove overhead electric facilities in favor of underground placement. For the most part, underground placement occurs because of a customer request to remove the poles supporting those overhead facilities—to improve sightlines, remove obstacles in a field, etc. The Companies do not have records identifying the number of poles removed in favor of underground placement. The Companies are always reviewing ways to improve the performance of their transmission and distribution systems and have not yet made any programmatic efforts to reduce the number of above-ground transmission and distribution lines.

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**Question No. 6**

**Responding Witness: Jason P. Jones**

- Q-6. Provide an estimate of the average cost to perform a make-ready pole replacement, and explain each basis for your response.
- A-6. The Companies estimate the average cost of a pole replacement to be \$5,908.77 for KU, \$7,497.00 for LG&E, and \$6,432.15 for both operating companies. This estimate is based on pole replacement costs from the Pole Inspection and Treatment Program (PITP). These amounts reflect like-for-like replacements, while make-ready pole replacements always require a new pole that is taller or stronger—and therefore more expensive—than the pole being replaced.

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**Question No. 7**

**Responding Witness: Jason P. Jones**

Q-7. Provide any current joint use agreements.

A-7. See attached. The agreements contain confidential information and are being provided pursuant to a petition for confidential protection.

The entire attachment is  
Confidential and  
provided separately  
under seal.