

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE )  
PROPOSED POLE ATTACHMENT TARIFFS OF ) Case No. 2022-00105  
INVESTOR OWNED UTILITIES )

---

**DUKE ENERGY KENTUCKY, INC.’S FIRST REQUEST FOR  
INFORMATION PROPOUNDED UPON  
KENTUCKY BROADBAND AND CABLE ASSOCIATION**

---

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky), and addresses the following First Request for Information to the Kentucky Broadband and Cable Association (KBCA) to be answered by the date specified in the Commission’s Order of Procedure, and in accordance with the following instructions:

**I. DEFINITIONS AND INSTRUCTIONS**

1. With respect to each discovery request, all information is to be divulged that is within the knowledge, possession or control of the parties to whom it is addressed, including their agents, employees, attorneys and/or investigators.
2. Please identify the witness(es) who will be prepared to answer questions concerning each request.
3. These requests shall be deemed continuing so as to require further and supplemental responses if the company receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.
4. All answers must be separately and fully stated in writing under oath.

5. Where a request calls for an answer in more than one part, each part should be separated in the answer so that the answer is clearly understandable.

6. For purpose of these discovery requests, the following terms shall have meanings set forth below:

- (a) As used herein, “document,” “documentation” and/or “record,” whether stated as the singular or the plural, means any course of binders, book, pamphlet, periodical, letter, correspondence, memoranda, including but not limited to, any memorandum or report of a meeting or telephone or other conversation, invoice, account, credit memo, debit memo, financial statement, general ledger, ledger, journal, work papers, account work papers, report, diary, telegram, record, contract, agreement, study, draft, telex, handwritten or other note, sketch, picture, photograph, plan, chart, paper, graph, index, tape, data processing card, data processing disc, data cells or sheet, check acceptance draft, e-mail, studies, analyses, contracts, estimates, summaries, statistical statements, analytical records, reports and/or summaries of investigations, opinions or reports of consultants, opinions or reports of accountants, trade letters, comparisons, brochures, pamphlets, circulars, bulletins, notices, forecasts, electronic communication, printouts, all other data compilations from which information can be obtained (translated if necessary by defendants into usable form), any preliminary versions, drafts or revisions of any of the foregoing, and/or any other written, recorded,

transcribed, punched, taped, filmed or graphic matter, however produced or reproduced and regardless of origin or location, in the possession, custody and/or control of the defendant and/or their agents, accountants, employees, representatives and/or attorneys. “Document” and “record” also mean all copies of documents by whatever means made, if the copy bears any other markings or notations not found on the original.

- (b) The terms “relating to,” “referring to,” “referred to,” “pertaining to,” “pertained to” and “relates to” means referring to, reporting, embodying, establishing, evidencing, comprising, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, presenting and/or constituting and/or in any way involving.
- (c) The terms “and,” “or,” and “and/or” within the meaning of this document shall include each other and shall be both inclusive and disjunctive and shall be construed to require production of all documents, as above-described, in the broadest possible fashion and manner.
- (d) The term “KBCA” shall mean Kentucky Broadband and Cable Association, and shall include, but is not limited to, each and every agent, employee, servant, insurer and/or attorney of the Kentucky Broadband and Cable Association. The term “you” shall be deemed to refer to the Kentucky Broadband and Cable Association.
- (e) The term “Commission” shall mean the Kentucky Public Service

Commission.

(f) The term “Duke Energy Kentucky” shall mean Duke Energy Kentucky, Inc., its employees, agents, officers, directors and representatives.

(g) To “identify” shall mean:

(1) With respect to a document, to state its date, its author, its type (for example, letter, memorandum, chart, photograph, sound reproduction, etc.), its subject matter, its present location, and the name of its present custodian. The document may be produced in lieu of supplying the foregoing information. For each document which contains information as privileged or otherwise excludable from discovery, there shall be included a statement as to the basis for such claim of privilege or other grounds for exclusion.

(2) With regard to a natural person, to state his or her full name, last known employer or business affiliation, title and last known home address.

(3) With regard to a person other than a natural person, state the title of that person, any trade name, or corporate name or partnership name used by that person, and the principal business address of that person.

(h) To “produce” or to “identify and produce,” shall mean that the Kentucky Broadband and Cable Association (KBCA) shall produce

each document or other requested tangible thing. For each tangible thing which KBCA contends is privileged or otherwise excludable from discovery, there shall be included a statement as to the basis for such claim of privilege or other grounds for exclusion.

- (i) The terms “Party or Parties” shall mean any organization, person, corporation, entity, etc., which intervened in the above-captioned proceeding and shall further include the Kentucky Public Service Commission Staff.

## **II. REQUESTS FOR INFORMATION**

### **General Questions**

1. Other than Witnesses Avery, Bast, and Kravtin, please identify any persons, including experts whom KBCA has retained or consulted regarding evaluating the Commission’s Investigation in this proceeding.

2. For each person identified in (prior) response to Request No. 1 above, please state (1) the subject matter of the discussions/consultations/evaluations; (2) the written opinions of such persons regarding the Commission’s Investigation; (3) the facts to which each person relied upon; and (4) a summary of the person’s qualifications to render such discussions, consultations, or evaluations.

3. Please identify all proceedings in all jurisdictions in the last three years in which Witnesses Avery, Bast, and Kravtin, along with each person identified in response to Request No. 2 above, has offered evidence, including but not limited to, pre-filed testimony, sworn statements, and live testimony and analysis. For each response, please provide the following:

- (a) the jurisdiction in which the testimony, statement or analysis was pre-filed, offered, given, or admitted into the record;
- (b) the administrative agency and/or court in which the testimony, statement or analysis was pre-filed, offered, admitted, or given;
- (c) the date(s) the testimony, statement or analysis was pre-filed, offered, admitted, or given;
- (d) the identifying number for the case or proceeding in which the testimony, statement or analysis was pre-filed, offered, admitted, or given;
- (e) whether the witness was cross-examined;
- (f) the custodian of the transcripts and pre-filed testimony, statements or analysis for each proceeding; and
- (g) copies of all such testimony, statements or analysis.

4. Identify and provide all documents or other evidence that KBCA may seek to introduce as exhibits or for purposes of witness examination in the above-captioned matter.

5. Please provide copies of any and all documents, analysis, summaries, white papers, work papers, spreadsheets (electronic versions with cells intact), including drafts thereof, as well as any underlying supporting materials created by Witnesses Avery, Bast, and Kravtin as part of their evaluation of the Commission's Investigation or used in the creation of Witnesses Avery, Bast, and Kravtin's testimony.

6. Please provide copies of any and all documents not created by Witnesses Avery, Bast, and Kravtin, including but not limited to, analysis, summaries, cases, reports,

evaluations, *etc.*, that Witnesses Avery, Bast, and Kravtin relied upon, referred to, or used in the development of their testimony.

7. Please provide copies of any and all presentations or publications made, written or presented by Witnesses Avery, Bast, and Kravtin in a non-adjudicative forum within the last three years involving or relating to the following: 1) utility rate-making; 2) rate of return; 3) rider cost recovery; 4) depreciation; 5) pole attachments; 6) maintenance of utility poles; 7) cost allocations; and 8) taxes.

8. Please refer to Witnesses Avery, Bast, and Kravtin's testimony where they indicate they are testifying "on behalf of the Kentucky Broadband and Cable Association." To avoid unnecessary litigation expense and to promote judicial economy, please indicate whether KBCA agrees with the arguments and claims made by Witnesses Avery, Bast, and Kravtin and, if not, please identify which specific arguments or claims KBCA disclaims.

9. Please identify whether KBCA is taking any additional positions or making any additional recommendations on the Commission's Investigation that are not being offered by the direct testimony of Witnesses Avery, Bast, and Kravtin in this proceeding.

10. Please confirm that Witnesses Avery, Bast, and Kravtin are not customers of Duke Energy Kentucky.

11. Please confirm that KBCA is not a customer of Duke Energy Kentucky.

12. Please provide, for calendar years 2019, 2020, and 2021, for each and every KBCA member company, a list of all incomplete utility work-order requests to relocate attachments and/or facilities, with the date each work order was requested and the date each work order was completed.

**Questions for Witness Avery**

13. Please refer to where Witness Avery states that “such discretion is far outside industry norms,” regarding various tariff provisions describing a pole owner’s right to remove attachments after a notification period. Please identify all Kentucky pole attachment tariffs that, in Witness Avery’s opinion, are within the “industry norms” with respect to a pole owner’s right to remove attachments after a notification period.

14. Please refer to where Witness Avery states that “I am not aware of any situation where an attacher has sought to shift blame to a utility for damage that it caused.” Please identify all instances, since January 1, 2020, of which KBCA is aware in which a utility held an attacher responsible for the utility’s sole negligence.

**Questions for Witness Kravtin**

15. Please refer to where Witness Kravtin states that “there is ample opportunity and motive for utilities to understate the number of poles that fit the regulatory definition of re[d] tagged.” Please identify all instances since January 1, 2020, of which KBCA is aware, in which a utility had mis-classified poles that fit the regulatory definition of red tagged as non-red-tagged and the total number of poles involved in each such instance.

Respectfully submitted,

/s/Larisa M. Vaysman

Rocco O. D’Ascenzo (92796)

Deputy General Counsel

Larisa M. Vaysman (98944)

Senior Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

Cincinnati, Ohio 45202

Phone: (513) 287-4320

Fax: (513) 287-4385

rocco.d’ascenzo@duke-energy.com

larisa.vaysman@duke-energy.com

*Counsel for Duke Energy Kentucky, Inc.*



**CERTIFICATE OF SERVICE**

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on June 23, 2022; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

*/s/Larisa M. Vaysman*  
\_\_\_\_\_  
Larisa M. Vaysman