

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 ELECTRIC UTILITIES)

AT&T KENTUCKY'S ("AT&T's") RESPONSE TO
COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION

FILED: July 7, 2022

AT&T Responses To Commission Staff's First Request For Information

General Objections:

AT&T Kentucky objects to each request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. AT&T Kentucky also objects to each request to the extent it purports to require the release of information that is confidential and/or proprietary and/or is otherwise protected by any other discovery privilege recognized under applicable law. AT&T Kentucky objects to any request for creating, compiling, or producing information, or producing documents not maintained in the ordinary course of business. AT&T Kentucky further objects to each request to the extent that it is vague, ambiguous, overly broad, unduly burdensome, oppressive, and/or is impossible to answer fully. AT&T Kentucky further objects to each request to the extent that it seeks information that is not reasonably calculated to lead to the discovery of admissible information.

Subject to and without waiving these objections, AT&T responds to the individually enumerated requests as follows:

- 1. Refer to the Testimony of Daniel Rhinehart (Rhinehart Testimony), pages 4–5, and 8–9, regarding the tagging requirement.**
 - a. Explain in detail why AT&T contends that the 180-day period for tagging attachment is not practical.**

AT&T Response: AT&T's standard practice, and the practice that it allows Attaching Parties to follow, is to tag its facilities at the time of construction, maintenance, or other work. This is consistent with the general expectation expressed in Kentucky Power's (KP's) tariffs, and the nearly identical tariffs of Kentucky Utilities (KU) and Louisville Gas and Electric (LG&E) that facilities of attachers be tagged. Notably, the Duke tariff does not have a similar tagging requirement.

However, problems arise in real life. Construction projects may not be perfect, and some tagging may be missed. Weather, other attachers, or attachment activity can and do cause tags to be damaged or lost. Random facilities replaced on an emergency basis may not be instantaneously tagged. Further, the overly broad definitions of "attachment" embedded in most proposed tariffs, could require unnecessary over-tagging of attacher facilities. For example, KP's tariff (P.S.C. KY. No 12 1st Revised Sheet No 16-1) includes such items as guying, small splice panels, risers, and drops in the definition of attachment. KU and LG&E tariffs (on Original Sheet 40 of each tariff) also include guys, splice panels, and risers. Often these types of "attachments" are clearly associated with attacher cables that are already tagged. KP's tariff appears to require tagging of individual drops which may be grouped on a single hook, while the KU and LG&E tariffs expressly exclude drops from a tagging requirement.

Beyond the overbroad requirements for tagging and the real-life problems discussed above, there is the issue of practicality. AT&T is attached to tens of thousands of KP and LG&E poles. A new requirement mandating tagging of all attachments, broadly defined, within 180 days of the effective date of the new tariff, on all poles attached, regardless of whether the attachments were made years or decades ago, is simply impractical and leaves attachers, especially long-term attachers such as AT&T, potentially vulnerable to adverse sanctions

embedded in the subject tariffs. AT&T strongly recommends that tariffs with tagging requirements take a permissive approach for existing attachments such as in AT&T's proposed tariff Section 16.1 (PSC KY Tariff 21, Original page 64) where tagging is required when an attaching party visits the pole for maintenance or other work.

Responsible Person: Daniel Rhinehart, Director - Regulatory

1. **Refer to the Testimony of Daniel Rhinehart (Rhinehart Testimony), pages 4–5, and 8–9, regarding the tagging requirement.**
 - b. **Assuming AT&T's approach was adopted and attachers had to tag untagged facilities any time they visit an untagged location to perform maintenance or other work (and assuming the requirement was applicable to AT&T), state how long AT&T estimates it would take to tag all of its facilities attached to Kentucky Power Company's (Kentucky Power) poles; and state how long AT&T estimates it would take to tag all of its facilities attached to Louisville Gas and Electric (LG&E) and Kentucky Utilities' (KU) poles i.e. how long would take before AT&T visited every location to perform maintenance or other work on each system.**

AT&T Response: AT&T is unable to estimate how long it would take to tag all of its facilities.

Responsible Person: Daniel Rhinehart, Director - Regulatory

1. **Refer to the Testimony of Daniel Rhinehart (Rhinehart Testimony), pages 4–5, and 8–9, regarding the tagging requirement.**
 - c. **If there is no hard date for completing tagging, explain how the requirement could ever be enforced.**

AT&T Response: *See* Response to 1.a. Enforcement would be just as impractical as the original requirement that all attachments be tagged within an arbitrary 180-day time frame.

Responsible Person: Daniel Rhinehart, Director - Regulatory

1. **Refer to the Testimony of Daniel Rhinehart (Rhinehart Testimony), pages 4–5, and 8–9, regarding the tagging requirement.**
 - d. **Identify approximately how many attachments AT&T has to Kentucky Power's poles.**

AT&T Response: Based on recent billing, AT&T is attached to over 49,000 KP poles. The exact number of attachments on those poles is unknown, as KP defines attachments overly broadly in its tariff.

Responsible Person: Daniel Rhinehart, Director - Regulatory

1. **Refer to the Testimony of Daniel Rhinehart (Rhinehart Testimony), pages 4–5, and 8–9, regarding the tagging requirement.**
 - e. **Identify approximately how many attachments AT&T has to LG&E and KU’s poles.**

AT&T Response: AT&T is attached to over 67,000 LG&E poles. AT&T is attached to an unknown number of KU poles. In their Response to Objections filed on April 14, 2022, KU/LG&E stated that AT&T has 163,323 attachments on their poles, 3,459 of which would fall under the pole attachment tariffs. The exact number of “attachments” on those poles is unknown, as KU/LG&E definition of attachments is overly broad.

Responsible Person: Daniel Rhinehart, Director - Regulatory

2. **Refer to the Rhinehart Testimony, pages 8–9, regarding AT&T’s recommendation that, in order to address AT&T’s concern regarding the definition of attachment contained in the tariffs, the Commission should require that tariff rate terms be modified to be assessed on an occupied usable space basis and that a Commission Order should expressly state that while attachments may be more broadly defined for other applicable tariff terms, the rental component should be based on the average amount of usable space encumbered on the electric utility’s pole. Explain whether there are any other ways in which the Commission could address AT&T’s concerns regarding the definition of attachment. If so, identify and explain them.**

AT&T Response: One possible alternative to a requirement that tariff rates specify rates on a usable-space-occupied basis as in AT&T’s tariff (AT&T PSC KY Tariff 2A, Original Page 40, Section A5.13.3) would be to mandate a list of non-chargeable attachments either as part of the definition of “attachment” or as a component of the statement of the applicable rate. Non-chargeable attachments should include at a minimum: cable or wire attached to a messenger strand that is chargeable as an attachment, overlashing, drops not more than one vertical foot away from the point at which the messenger strand is attached to the pole [KP language], more than one drop on a single J-hook (or equivalent) if attached more than one vertical foot away from the point at which the messenger strand is attached to the pole, risers, attacher-provided guys and anchors, “associated equipment” [KP language] or “associated appliances” [KU/LG&E language] or “appurtenance, equipment, pedestal or apparatus” [RECC language] below the communications space on a pole (as this “unusable” space is paid for through the attachment rate) or that, regardless of location, does not impede accessibility to the pole.

Note that the Duke tariff specifies its rate to be “per foot” but inappropriately does not limit charges to “usable” space (Duke KY P.S.C. Electric No. 2, Fifth Revised Sheet No. 92). All tariff rates should be limited to usable space occupied.

Responsible Person: Daniel Rhinehart, Director - Regulatory

3. **Refer to the Rhinehart Testimony, pages 17–18, in which AT&T states that the term foreign-owned pole should be defined. Provide a definition of foreign-owned pole that would be acceptable to AT&T, and explain the basis of your response.**

AT&T Response: AT&T addressed the issue regarding “foreign-owned poles” in the context of RECC tariffs. The RECC’s intent in using the term “foreign-owned poles” is unclear and, therefore, AT&T declines to offer a definition. However, consistent with AT&T’s other positions, inventories and related counts of attachments should be limited to poles owned by the tariffing company. As such, the term “foreign-owned” could be stricken and replaced by “[COMPANY] -owned.”

Responsible Person: Daniel Rhinehart, Director - Regulatory

VERIFICATION

STATE OF TEXAS)
)
COUNTY OF WILLIAMSON)

The undersigned, Daniel Rhinehart, being duly sworn, deposes and says that he is Director-Regulatory, AT&T, and that he has personal knowledge of the matters set forth in the responses contained herein and that they are true and correct to the best of his information, knowledge and belief.

Daniel Rhinehart
Daniel Rhinehart

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 7 day of July 2020.

Heather Parks
Notary Public



Notary Public, ID No. _____

(Seal)

My Commission Expires:
4/20/2025