

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 1 of 2

DATA REQUEST

- KBCA 1_01** Identify the “per unit” cost for the contractors utilized by Kentucky Power to complete make-ready surveys. Response at 7.
- a. Explain and provide the “administrative processing costs; (2) field data collection costs; (3) engineering costs; and (4) post-construction inspection costs” You incur. Response at 7.
 - b. Explain how and why “[t]he unit cost for engineering varies based on the condition of the pole: (a) a pole that requires no make-ready or other work; (b) a pole that requires rearrangement of existing attachments; and (c) a pole that requires additional work beyond rearrangement.” Response at 7.
 - c. Explain the basis for Your “50-pole proposal,” including why you selected 50 poles. Response at 7.
 - d. Explain why Your survey estimate formula divides by 3.

RESPONSE

Data responsive to this request is provided in the chart below:

| | |
|--|------------|
| Administrative Processing/proposal | \$98-\$135 |
| Field Data Collection/ pole | \$52-\$79 |
| “OK to Attach” Pole/pole | \$46-\$82 |
| Rearrangement (Standard) Remedy/pole | \$129-132 |
| Work Order (Complex) Remedy/pole | \$186-191 |
| Post Construction Inspection/pole | \$19-\$43 |
| Overlash Post Construction Inspection/pole | \$12-\$45 |

a. Kentucky Power incorporates by reference its response to Data Request 1-1 *supra*, which sets forth the relevant cost data. The administrative processing cost is a per application (as opposed to per pole) set-up and processing cost charged by the contractor. The field data collection costs, as the name implies, are the per pole costs charged by the contractor for collecting field data in connection with the poles associated with an application. The engineering costs are the per pole costs charged by the contractor associated with engineering the make-ready and work directives necessary to accommodate proposed attachments. The post-construction inspection costs are the per pole costs charged by the contractor to inspect an attachment after an Operator provides notice that it has completed installation of an approved attachment.

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 2 of 2

b. Kentucky Power utilizes contract engineering firms to provide engineering services for make-ready. The unit costs set forth in Kentucky Power's response to Data Request 1-1 are from the contract engineering firms utilized by Kentucky Power. The unit costs for engineering vary based on the condition of the pole because the condition of the pole dictates the amount of engineering work required. For example, it takes less time and effort to engineer a pole that requires no make-ready to accommodate an additional attachment than it does to engineer a pole that requires rearrangement of existing attachments to accommodate an additional attachment.

c. Kentucky Power utilizes a 50-pole proposal because it represents the maximum number of poles that can be included in a single application. This limitation is designed to break larger projects into more manageable segments to avoid overwhelming Kentucky Power's engineering contractor. Deployment projects can exceed fifty (50) poles, though. In other words, an attaching entity can submit multiple applications at the same time for the same project. Kentucky Power selected this input (50-pole proposal) for estimating purposes to err on the side of overestimation. Though it is possible for a single application to carry a cost higher than \$275/pole (if it disproportionately includes poles that require work beyond rearrangement), most applications will carry a lower cost.

d. Kentucky Power's survey estimate formula "divides by 3" so that each of the three (3) types of engineering unit costs is weighted equally (to avoid understating or overstating the estimate).

Witness: Pamela F. Ellis

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022

DATA REQUEST

- KBCA 1_02** Explain the cost basis for Your 15% surcharge for Your survey estimate. Response at 8.
- a. Explain and provide data related to how the 15% surcharge is “designed to cover the maintenance costs of Kentucky Power’s Joint Use Portal.”
 - b. Explain how these costs are not recovered in the annual rental rate

RESPONSE

The 15% surcharge is designed to capture two recurring costs: (1) annual maintenance costs of Kentucky Power’s Joint Use Portal and (2) Kentucky Power's administrative costs associated with processing pole attachment applications. The administrative costs fluctuate widely based on the number and complexity of applications Kentucky Power receives each year. Amounts recovered through the 15% surcharge are *credited* to the following FERC accounts: 5880000 and 1070001. This ensures that the Kentucky Power’s ratepayers do not bear the costs associated with the Joint Use Portal or the processing of pole attachment applications.

- a. To the extent applicable, Kentucky Power incorporates by reference its response to Data Request 1-2 *supra*.
- b. To the extent applicable, Kentucky Power incorporates by reference its response to Data Request 1-2 *supra*. As explained above, the recurring costs associated with the Joint Use Portal and the processing of pole attachment applications are booked as *credits* to the appropriate FERC accounts. Furthermore, Kentucky Power has not changed its annual rental rates since January 19, 2018. *Compare* Kentucky Power Company Tariff C.A.T.V., P.S.C. KY. NO. 11 ORIGINAL SHEET NO. 16-1, Rate (effective Jan. 19, 2018) *with* Kentucky Power Company Tariff C.A.T.V., P.S.C. KY. NO. 12 ORIGINAL SHEET NO. 16-1, Rate (effective Jan. 14, 2021). Therefore, Kentucky Power’s annual rental rates could not have captured the annual maintenance costs associated with the Joint Use Portal, as the Joint Use Portal did not become operational until 2018.

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Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022

DATA REQUEST

KBCA 1_03 Identify the number or percentage of Your poles that are currently red-tagged.

RESPONSE

Currently, Kentucky Power has 301 “red-tagged” poles.

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Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022

DATA REQUEST

KBCA 1_04 Provide data related to the number of Your Poles that are anticipated to be red-tagged in the next five years.

RESPONSE

Based on the data set forth in the chart below, Kentucky Power anticipates that its Circuit Inspection program will identify approximately 1,151 “red-tagged” poles over the next five (5) years.

| | 2017 | 2018 | 2019 | 2020 | 2021 | Average: Prev. 5 Years | Estimate: Future 5 Years |
|--|-------------|-------------|-------------|-------------|-------------|---------------------------------------|---|
| Rejected Poles from Circuit Inspections | 307 | 77 | 174 | 341 | 252 | 230.2 | 1,151 |

In estimating the number of poles that Kentucky Power anticipates will be “red-tagged” over the next five (5) years, Kentucky Power: (1) averaged the number of “red-tagged” poles its Circuit Inspection program identified each year from 2017-2021 and (2) multiplied this figure by five (5).

Witness: Pamela F. Ellis

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 1 of 2

DATA REQUEST

- KBCA 1_05** Explain how You will determine if a pole is red-tagged.
- a. Explain what You will do when You are notified of a red-tagged pole.
 - b. Explain how an attacher can determine and assess whether or not a pole is or will be red tagged.

RESPONSE

The primary way in which Kentucky Power identifies “red-tagged” poles within its service territory is through the inspections it performs to satisfy its regulatory obligations under 807 KAR 5:006. Specifically, Kentucky Power inspects all distribution poles within its service territory—on a circuit-by-circuit basis—every two (2) years. During these inspections, Kentucky Power:

[V]isually inspect[s] all overhead and the external, above ground portions of underground facilities on a 2 year cycle to identify and correct deficiencies necessary for the safety of employees and the public under the conditions specified in the NESC and for system reliability.

AEP-Kentucky Overhead/Underground Circuit Facilities Inspection and Maintenance (“Inspection Plan) at 1. Please see KPCO_R_KPSC_1_12_Attachment1 for a copy of Kentucky Power’s Inspection Plan. The overhead component of Kentucky Power’s inspections includes, but is not limited to, the following:

[V]isual inspection[s] of poles (including foreign owned poles with company owned attachments), conductors, and pole-mounted equipment (transformer, regulators, reclosers, capacitors, etc.) and related materials (insulators, brackets, terminations, cutouts, surge arresters, etc.) owned by the company.

Id. When a safety or reliability issue is identified on a pole, Kentucky Power documents the issue for corrective action in a detailed map of the circuit being inspected. “Red-tagged” poles are also recorded in a cloud-based database that is available to Kentucky Power’s engineering and administrative personnel. Kentucky Power then schedules the pole for either repair or replacement, depending on the severity of the defect. Kentucky Power also identifies “red-tagged” poles during the permitting process for pole attachments. Specifically, Kentucky Power visually inspects poles along a proposed pole attachment route during the make-ready survey. If any poles along the proposed route

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 2 of 2

exhibit signs of material defects, Kentucky Power will identify those poles as being deficient.

a. To the extent applicable, Kentucky Power incorporates by reference its response to Data Request 1-3 *supra*. It is not entirely clear what KBCA means by “notified of a red-tagged pole.” As set forth above, Kentucky Power identifies “red-tagged” poles during its regulatory inspections and during its visual inspections of poles along proposed routes during make-ready surveys. When it identifies a “red-tagged” pole during its inspections or surveys, Kentucky Power schedules the pole for either repair or replacement, depending on the severity of the defect. To the extent that a pole sustains damage or becomes deficient in between Kentucky Power’s regulatory inspections and the attaching entity identifies the pole in its pole attachment application as being deficient, Kentucky Power will visually inspect the pole during the make-ready survey and, if necessary, repair or replace the pole. Moreover, to ensure that the cost of replacing a “red-tagged” pole is not accidentally attributed to an attaching entity (*e.g.*, in those rare instances where Kentucky Power previously identified—but failed to tag—a “red-tagged” pole during an inspection), Kentucky Power will also query the cloud-based database referenced above during the application review process to ensure that none of the poles along an attaching entity’s proposed route are “red-tagged.” In either of these scenarios, the cost of repairing or replacing the defective pole is not included within the make-ready estimate Kentucky Power prepares in response to the attaching entity’s application.

b. To the extent applicable, Kentucky Power incorporates by reference its responses to Data Requests 1-3 and 1-3.a. *supra*. Where Kentucky Power determines that a pole is deficient and in need of replacement, Kentucky Power typically places a red tag on the pole with a white arrow pointing towards the source of the deficiency. For example, if a “red-tagged” pole is marked with an arrow pointing towards the base of the pole, that means that the base of the pole is deficient. If a “red-tagged” poles is marked with an arrow pointing up, that means that the pole-top is deficient. Furthermore, the Commission’s pole attachment regulation provides a new attacher with the right to be present during any field inspection performed by Kentucky Power. *See* 807 KAR 5:015, Section 4(2)(b)2. If Kentucky Power identifies a pole in need of replacement due to defect during a make-ready survey, and the attacher is present, the attacher would learn in real time that a pole is being red-tagged.

Witness: Pamela F. Ellis

DATA REQUEST

- KBCA 1_06** Explain the basis for Your proposed requirement that an attacher pay the entire cost of replacing a pole that is not red-tagged, including all economic basis for this requirement.
- a. Explain your accounting treatment of a non-red-tagged pole that is replaced with a new pole paid for by an attacher.
 - b. Explain whether or not You receive any financial or other benefit as a result of an attacher paying to replace an existing pole with a new pole so that it may attach.

RESPONSE

This has been a Commission and Kentucky Power requirement for many years. The Commission's longstanding "cost causation" principles dictate that the cost of prematurely replacing a non-red-tagged pole with a pole capable of hosting an additional communications attachment should be borne solely by the party requiring the additional capacity afforded by a taller and/or stronger pole—*i.e.*, the cost causer. *See* Regulatory Impact Analysis and Tiering Statement Regarding 807 KAR 5:015 at 35-36 (explaining that the new pole attachment regulation seeks to "minimize[es] [the] burdens placed on utilities and consider[s] the fair allocation of costs between attachers and the traditional utility customers based on cost causation principles traditionally applied by the PSC"); Statement of Consideration Relating to 807 KAR 5:015 at 47 (rejecting the pole replacement cost allocation proposal submitted by KBCA and stating that "the Commission generally attempts to ensure that costs are assigned to the party responsible for causing the utility to incur the cost" and that "[i]f a utility must replace a pole that does not need to be replaced with a larger pole or a pole of a different type to accommodate a new attachment, then the cost to replace that pole is caused by the new attacher"). This is consistent with the way pole replacements are handled in all jurisdictions where Kentucky Power's affiliates operate—some of which are governed by FCC rules and others of which are governed by state rules.

Moreover, unless a make-ready pole replacement happens to coincide with plans for infrastructure improvement, a make-ready pole replacement provides no benefit at all to utility customers. Outside of this context, any future benefit to utility customers occasioned by a make-ready pole replacement is too speculative to be meaningful. Some poles will never be replaced in the ordinary course of Kentucky Power's operations and will, instead, be removed from service as part of an undergrounding project prior to the end of their useful lives. In this scenario, the replacement pole is of no benefit to Kentucky Power and its ratepayers. It is also impossible to know at the time of a make-

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 2 of 3

ready pole replacement what type of pole Kentucky Power's electric service needs would require at the time the existing pole would have otherwise been replaced. If, at the time the existing pole would have otherwise been replaced, Kentucky Power's electric service needs would require a taller or stronger pole than the replacement pole, then the replacement pole previously installed to accommodate a new attachment would be of no use or benefit to Kentucky Power or its ratepayers. Kentucky Power addressed this issue at length in its reply comments in the underlying rulemaking proceedings. Kentucky Power's Reply Comments at 9-10 (Oct. 19, 2020). The Commission also addressed this issue at length in its Statement of Consideration:

The amendment proposed by KBCA could result in electric rates that are not fair, just and reasonable. When reviewing utility rates and charges to determine if they are fair, just and reasonable and otherwise comply with statutory requirements imposed by KRS Chapter 278, the Commission generally attempts to ensure that costs are assigned to the party responsible for causing the utility to incur the cost. If a utility must replace a pole that does not need to be replaced with a larger pole or a pole of a different type to accommodate a new attachment, then the cost to replace that pole is caused by the new attacher.

Other utility customers may eventually benefit from the installation of the new pole installed to accommodate a new attacher as alleged by KBCA, but only to the extent the new pole adds useful life. For instance, if a new pole has a 50-year life and the pole that was replaced had a 30 year remaining useful life, then other customers may get the benefit of 20 additional years of life that were paid for by the new attacher. However, in 30 years, the relevant pole may not be necessary such that other customers would not receive any benefit from the new pole installed to accommodate the new attacher's equipment. Further, depending on the age of the pole being replaced and the types of poles involved, it is possible that a new pole of a different type necessary to accommodate a new attacher may not actually have a longer life than the existing pole.

Statement of Consideration Relating to 807 KAR 5:015 at 47. Thus, unless the attacher bears the entire cost of replacing a pole that is not red-tagged, then utility customers would, in effect, be subsidizing the deployment costs of attachers.

a. Work order costs (i.e. the costs that comprise a make-ready pole replacement reimbursement) are charged against various capital and O&M accounts according to percentages that are dependent upon the project. When an attacher reimburses Kentucky Power for the pole replacement, the reimbursement payment is initially credited to

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 3 of 3

account 1860092, then allocated as a credit to the same accounts to which the work order costs were originally charged in the same percentage.

b. No. As explained in its response to Data Request 1-6 *supra*, which is incorporated by reference herein, Kentucky Power does not derive any benefit, financial or otherwise, from the early replacement of a pole with remaining useful life to accommodate an additional communications attachment, unless the replacement happens to coincide with Kentucky Power's own plans for infrastructure upgrades.

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Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 1 of 2

DATA REQUEST

- KBCA 1-07** Explain and provide data concerning why You should only be liable for gross negligence or willful misconduct. Response at 12-13.
- a. Explain why the same standard of liability does not apply to the You and the third party attachers.
 - b. Explain why third party attachers should be liable for Your negligence.

RESPONSE

This Data Request appears to be addressing the limitation of liability provision in Section 19 of the Revised Tariff. By law, Kentucky Power is required to accommodate third-party attachments on its poles. The purpose of Section 19 is to limit Kentucky Power's exposure to liability arising from these attachments. Because this liability would not exist but for the presence attaching entities on its poles, it is a direct, incremental cost of providing pole attachments. It would be unjust and unreasonable to require Kentucky Power's ratepayers to bear this liability because: (1) it has nothing to do with the provision of electric service, (2) and it would not exist but for the legal obligation to accommodate third-party attachments. The limitation of liability applies only to liability "arising out of, or relating to, or in connection with this tariff." The language regarding gross negligence and willful misconduct is, in essence, a carve-out from the limitation of liability—a concession (and perhaps an overly generous one) that the limitation of liability will not apply where Kentucky Power is grossly negligent or engages in willful misconduct, even if such liability arises out of or is related to the tariff. Identical language has been included in Louisville Gas and Electric Company's and Kentucky Utilities Company's tariffs since 2017. *See* Louisville Gas and Electric Company Pole and Structure Attachment Charges, P.S.C. Electric No. 11, Original Sheet No. 40.21, Section 29 (effective Jul. 1, 2017); Kentucky Utilities Company Pole and Structure Attachment Charges, P.S.C. Electric No. 18, Original Sheet No. 40.21, Section 29 (effective Jul. 1, 2017).

- a. To the extent applicable, Kentucky Power incorporates by reference its response to Data Request 1-7 *supra*. Third party attachers are gaining access to Kentucky Power's network of poles, at minimal cost, as a result of the Commission's requirements. Kentucky Power gets virtually nothing out of this arrangement, other than additional operating expense and additional risk. The risk and expense to Kentucky Power could be entirely avoided without the presence of third party attachers. But because Kentucky Power has no choice in the matter, and because the benefit of access to third party attachers vastly exceeds the amounts third party attachers pay Kentucky Power for that

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 2 of 2

access, a different standard of liability should apply. This is particularly true given that electric ratepayers bear the cost of incremental liability associated with forced-placed occupancy by third party attachers, even though the presence of third party attachers in no way benefits the electric ratepayers.

b. To the extent applicable, Kentucky Power incorporates by reference its response to Data Requests 1-7 and 1-7.a. *supra*. Regardless of whether liability arising out of a pole attachment was caused by Kentucky Power's negligence or not, the liability would not have existed but for the presence of attaching entities on Kentucky Power's poles.

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Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 1 of 2

DATA REQUEST

- KBCA 1_08** Explain the basis for and provide data concerning Your assertion that You may terminate KBCA’s rights under the tariff and remove its attachments “[i]f Operator fails to comply with any of the provisions of this Tariff or defaults in the performance of any of its obligations under this Tariff and fails within sixty (60) days, after written notice from the Company to correct such default or non-compliance,” including “failure to pay any of the charges, fees or amounts provided in this Tariff.” Response at 13-14.
- a. Explain the basis for terminating KBCA’s rights under the tariff and removing its attachments if You and KBCA are engaged in a dispute regarding the terms, conditions, or rates set forth in Your tariff.
 - b. Explain the basis for denying access to a pole for payment disputes.

RESPONSE

If a KBCA member defaults on its obligations, and fails after notice to cure its default, then termination and removal would be an appropriate (although sparingly utilized) remedy. The Commission’s pole attachment regulation implicitly (if not explicitly) permits termination and removal under these circumstances. *See* 807 KAR 5:015, Section 6(1)(a) (“[A] utility shall provide an existing attacher no less than 60 days written notice prior to...[r]emoval of facilities or termination of any service to those facilities if that removal or termination arises out of a rate, term, or condition of the utility’s pole attachment tariff or any special contract regarding pole attachments between the utility and the attacher[.]”). This scenario is analogous to a tenant who breaches a lease (non-payment or other material default) and is evicted from the property. Like the landlord in the scenario above, if Kentucky Power cannot ultimately evict attaching entities from its poles in the event of serial non-payment, then Kentucky Power would not have any efficacious remedies at its disposal (*i.e.*, where non-payment is the issue, no amount of financial penalties are going to motivate compliance).

- a. If there is a good faith dispute, a KBCA’s member’s rights would not be terminated, and its attachments would not be removed. Furthermore, under the Commission’s pole attachment regulation, Kentucky Power’s discretion is not unbridled. If a KBCA member believes that Kentucky Power has improperly exercised this remedy—in other words, if a KBCA member believes that non-payment is related to a good faith dispute—it can seek relief from the Commission under the new pole attachment regulation. *See* 807 KAR 5:015, Section 6(2) (providing attaching entities with the right to file a motion to stay

Kentucky Power Company
KPSC Case No. 2022-00105
KBCA's First Set of Data Requests
Dated April 21, 2022
Page 2 of 2

terminations or removals); *see id.* at Section 7 (establishing a complaint process through which an attaching entity can seek relief from the Commission).

b. As set forth above, if there is a good faith payment dispute, access would not be denied. And if an attaching entity believed that the denial of access is improper (*i.e.*, that contrary to Kentucky Power's position, there is a good faith reason for its non-payment of amounts due under the tariff), then it could seek relief through the Commission's complaint process. *See* 807 KAR 5:015, Section 7.

Witness: Pamela F. Ellis



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E-Signature 1: Pamela F Ellis (PFE)

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pfellis@aep.com (Principal) (Personally Known)

E-Signature Notary: Jennifer Young (JAY)

May 04, 2022 05:18:43 -8:00 [D759581E3EDA] [167.239.221.103]
jayoung1@aep.com
I, Jennifer Young, did witness the participants named above electronically sign this document.



VERIFICATION

The undersigned, Pam Ellis, being duly sworn, deposes and says she is Director- Energy Delivery Engineering Services for American Electric Power Service Corporation that she has personal knowledge of the matters set forth in the forgoing responses and the information contained therein is true and correct to the best of her information, knowledge and belief after reasonable inquiry.

Pamela F Ellis
Signed on 2022/05/04 05:18:43 -8:00

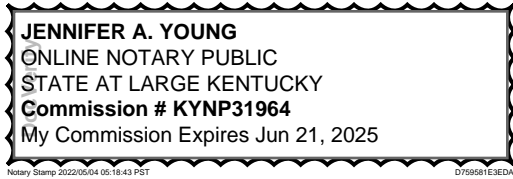
Pam Ellis

Commonwealth of Kentucky)

) Case No. 2022-00105

County of Boyd)

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Pam Eliis, this 4th day of May 2022.



J. Young
Signed on 2022/05/04 05:18:43 -8:00
Notary Public

Notary ID Number: KYNP31964

Notarial act performed by audio-visual communication My Commission Expires: 6/21/2025

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