

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

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	
PROPOSED POLE ATTACHMENT TARIFFS)	Case No.
OF RURAL ELECTRIC COOPERATIVE)	2022-00106
CORPORATIONS)	

REBUTTAL TESTIMONY

OF

**SEAN KNOWLES
CHIEF EXECUTIVE OFFICER
MCLEAN ENGINEERING COMPANY**

ON BEHALF OF

THE RURAL ELECTRIC COOPERATIVE CORPORATIONS

FILED: July 11, 2022

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OF
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REBUTTAL TESTIMONY
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5 **I. INTRODUCTION AND OVERVIEW**

6 **Q. Please state your name, business address, and position with McLean Engineering**
7 **Company.**

8 A. My name is Sean Knowles. I am employed by McLean Engineering Company (“*McLean*”),
9 2929 S. Main Street, Moultrie, Georgia 31768, as its Chief Executive Officer (“*CEO*”).

10 **Q. Please briefly describe your work history and educational background.**

11 A. A copy of my CV/résumé is attached hereto as **Exhibit Knowles-1**.

12 **Q. Please describe your work with members of the electric and telecommunication**
13 **industries in connection with pole attachments.**

14 A. McLean Engineering provides design, engineering, and inspection solutions to electric
15 utilities, and is nationally-recognized in the area of pole attachments, having presented to
16 audiences and consulted for electric utilities across the U.S. on pole attachment issues, including
17 rental rates, permitting, inspection, attacher management, make-ready engineering as well as
18 contract development, negotiation, and administration. In Kentucky in particular, the McLean
19 team has worked and continues to work with several Rural Electric Cooperative Corporations
20 (“RECCs”) in connection with their pole attachment programs.

21 **Q. Have you previously testified before the Commission?**

22 A. No, I have not.

1 **Q. What is the purpose of your testimony in this proceeding?**

2 A. The purpose of my testimony is to support the pole attachment tariffs filed by the RECCs
3 and to address and rebut the testimony filed in this case by the intervenors, The Kentucky
4 Broadband and Cable Association (“KBCA”) and BellSouth Telecommunications, LLC, d/b/a/
5 AT&T Kentucky (“AT&T”), respectively.

6 **Q. Are you sponsoring any exhibits?**

7 A. Yes. I am sponsoring the following exhibits:

8 **Exhibit Knowles-1** – Professional Summary; and

9 **Exhibit Knowles-2** – Photographed Compliance Issues.

10 **Q. Are you familiar with Kentucky’s pole attachment regulation, 807 KAR 5:015?**

11 A. Yes—in fact, I have worked closely with Kentucky Association of Electric Cooperatives,
12 Inc. (“Kentucky Electric Cooperatives”), for the past several years in connection with the
13 Commonwealth’s development of regulations governing pole attachments. I was involved when
14 the Kentucky Public Service Commission (“Commission”) sought initial stakeholder input through
15 its Administrative Regulations Working Group, and I took part in the public regulatory process
16 after the Commission formally promulgated the relevant regulation. I also assisted in the
17 development of the pole attachment tariffs proposed for adoption by each of the RECCs, and I
18 have been involved in this case since its inception earlier this year.

1 **Q. How do you describe the primary interests of the RECCs in connection with the**
2 **regulation and proliferation of pole attachments?**

3 A. Driven by purpose, not profit, the RECCs have worked around-the-clock, decade after
4 decade to construct and maintain a useful network of poles, ducts, conduits, and rights-of-way, all
5 in service of the electric needs of their member-owners. With roughly 100,000 miles of conductor
6 supported by hundreds of thousands of wooden poles and similar structures essential to the
7 provision of electric service to over 1.5 million Kentuckians, the RECCs and their members have
8 a substantial amount to lose if concessions are made to attachers in pursuit of cost-savings or
9 expediency. It is against this backdrop that the RECCs approach the use of utility assets by public
10 and private third parties.

11 Throughout this process, the overarching objective of the Commonwealth's member-
12 owned electric cooperatives has been to facilitate the fastest possible deployment of broadband
13 without compromising the continued provision of safe, reliable and affordable electric service to
14 their local communities. To be clear, the RECCs most certainly support the proliferation of
15 broadband and other technologies in their service territories. For decades, the RECCs have worked
16 cooperatively with those seeking to attach to their poles and have historically been ready to engage
17 (pursuant to tariff, special contract, or joint use agreement) to ensure the fair and timely delivery
18 of communication and other services via cooperative assets. Indeed, outside of a rate dispute
19 involving Ballard Rural Telephone Cooperative Corporation, Inc. and Jackson Purchase Energy
20 Corporation nearly two decades ago (Case No. 2004-00036), I am not aware of any complaint
21 cases involving pole attachments that have required the Commission's attention in the roughly
22 forty (40) years since the RECCs first adopted CATV tariffs. In my experience, the RECCs'

1 processes and timelines for granting access have been reasonable, and they have sought to work
2 constructively with third-party attachers and joint users whenever possible.

3 The RECCs not only work in these communities; they live in them. And they want, need,
4 and deserve broadband access just the same as residents of the Commonwealth's more populated
5 areas, where the large national companies have historically concentrated their offerings. So, it is
6 not a question of whether the RECCs want broadband or are willing partners in its deployment.
7 They most certainly do, and they most certainly are. As their comments throughout this proceeding
8 and the various comment filings and informal conferences pertaining to the promulgation of the
9 regulation have shown, the RECCs intend to be good partners in this effort because it benefits their
10 communities and their members. Indeed, I have been very impressed with how engaged the
11 RECCs have been in the pole attachment process. In my firm's consulting work on pole
12 attachment issues across the country, this is not always the case.

13 The RECCs' support for broadband cannot exist in a vacuum, however. Though the rural
14 service territories of the RECCs may benefit from broadband proliferation, risking RECC
15 infrastructure and shifting costs to the RECCs for recovery from members through electric bills is
16 unreasonable and unjust. This is particularly true for many members of the RECCs in rural
17 Kentucky, who already face significant economic challenges due to their locations and lack of
18 customer (member) density. The safety and reliability of the electric distribution system are
19 paramount for both electric and broadband purposes, and no use of cooperative infrastructure can
20 be allowed to jeopardize the purpose for which the infrastructure was designed and erected: the
21 provision of safe, reliable, and affordable electricity to RECC members.

1 **Q. Has the landscape changed with respect to pole attachment activity in recent years?**

2 A. Absolutely. As this Commission is aware, the service areas of the RECCs have not
3 historically attracted the attention and investment of cable and broadband providers. Certain rural
4 electric cooperatives in Kentucky average fewer than ten (10) customers per mile of line, and in
5 certain places within their territories, far fewer. Many of the larger, for-profit telecommunications,
6 cable and broadband companies have understandably focused on more densely populated
7 locations. In fact, McLean conducted an informal survey of eight (8) RECCs in the fall of 2020
8 and found that, of 104 total attaching entities known to the RECCs, only 50 attachers (48%) had
9 submitted a permit request to the cooperative in the prior year. The average number of permits
10 received was 6.25 – slightly more than one permit request every other month. Thus, while an
11 investor-owned utility may have always addressed a steady flow of pole attachment requests, many
12 rural electric cooperatives have historically found it difficult to justify maintenance of extensive
13 on-hand resources to accommodate only the occasional attachment. However, the landscape has
14 changed in light of substantial subsidies made available and awarded to broadband providers by
15 federal, state and local governments and similar bodies, resulting in Kentucky’s RECCs beginning
16 to receive an exponential increase in the number of permit requests, a trend likely to continue.

17 **Q. Are the RECCs prepared to handle the ongoing and anticipated increase in pole**
18 **attachment requests?**

19 A. Yes, I believe so. The RECCs have been working diligently to further develop their pole
20 attachment programs, at least since KRS 278.5464(6) directed the Commission to promulgate its
21 pole attachment regulation in 2019, and extensive efforts have been undertaken by individual
22 cooperatives and the statewide association to ensure the RECCs are proactive and responsive in
23 this area. As I stated previously, many RECC representatives and I assisted with the submission

1 of comments and participated in meetings when the Commission sought initial stakeholder input
2 through its Administrative Regulations Working Group, and again as part of the public regulatory
3 process after the Commission formally promulgated 807 KAR 5:015. Additionally, the Kentucky
4 Electric Cooperatives established a Pole Attachment Working Group at the outset of this process,
5 coordinated under the Chief Executive Officer's direction by the statewide Safety Director, which
6 is comprised of engineering personnel and other individuals responsible for coordinating pole
7 attachments at the various cooperatives. I have been involved with many meetings of this Group
8 over the past two (2) years, during which its members have worked to educate themselves about
9 the new pole attachment framework and make plans and preparations for its implementation from
10 a practical perspective. I have worked alongside cooperative engineers, accountants, lawyers, and
11 others throughout this process, as well as potential industry members and vendors that may assist
12 with streamlining the pole attachment activities through the use of software and other efforts.
13 Based on what I have observed and been a part of, I am certain the RECCs have taken and are
14 taking seriously the responsibility to ensure safe, sensible, workable pole attachment programs
15 while meeting the aggressive deployment timelines required in 807 KAR 5:015, and their efforts
16 have culminated in the proposed tariffs now before the Commission.

17 The RECCs have proposed a consistent tariff scheme designed to accommodate attachers
18 from around the state, including significant enhancements to the application process that should
19 facilitate prompt broadband deployment. Most importantly, the proposed tariffs fully reflect 807
20 KAR 5:015 and include only terms that are fair, just, and reasonable.

1 **II. THE PROPOSED TARIFFS ARE FAIR, JUST, AND REASONABLE**

2 **Q. Have you reviewed the testimony filed in this matter on behalf of each of the**
3 **intervenors?**

4 A. Yes, I have, and it is not surprising. At the end of the day, the difference in perspectives
5 between the intervenors, particularly KBCA, and the RECCs and other pole owners is the
6 difference in a short-term point of view versus a long-term point of view. Undeniably, the
7 intervenors' focus is not on the long-term safety and reliability of grid infrastructure, nor on the
8 electric rates paid by Kentucky families and businesses, but rather on meeting their deployment
9 timelines in a least-cost manner. They do not wish to conduct pole loading analyses to ensure that
10 their overlashes are safe and that they will not increase risk to cooperative property (and
11 cooperative services, and cooperative members), because it adds additional cost. They do not wish
12 to require their contractors to comply with the tariff provisions, as that could increase bid prices
13 and add additional cost. They do not want pole owners to have tools to ensure the orderly
14 administration of their tariffs if that timely ongoing compliance may add additional cost. To be
15 sure, the intervenors do not have a long-term view of the asset they wish to use. They do not own
16 it, and they do not have to maintain or repair it. They would prefer their access to cooperative poles
17 be as fast as possible, and with as much cost and risk shouldered by the cooperative as possible.
18 Again, I would describe this as understandable and even reasonable from their point of view, but
19 it is a very short-term view with long-term negative effects on the owner of the assets.

20 Conversely, a pole owner must take the long-term view of the assets they own and are
21 responsible to maintain. The RECCs understand that administering the new tariffs in accordance
22 with the regulation will financially impact cooperatives as well, but they are unwilling to
23 compromise safety and reliability in the interest of cost and expediency.

1 A number of the intervenors' assertions in this case reflect preferences rather than
2 objections to reasonableness, and the issues they raise are also often theoretical. The RECCs
3 certainly do not dispute that an otherwise-reasonable tariff provision could potentially be exercised
4 in such a way as to render the service provided unreasonable, but the Commission should not be
5 enticed to try and address every conceivable disagreement that could hypothetically arise. Indeed,
6 the tariffs provide intermediate tools to encourage compliance and good stewardship of assets.
7 These enforcement tools are intended to allow parties to work out small issues before they become
8 bigger issues that require the Commission to mediate a dispute.

9 As earlier discussed, the RECCs have established a track record of reasonable, timely
10 performance and have undertaken extensive efforts with respect to education, training, and
11 planning to promote the successful implementation of the new regulatory framework; in fact, in
12 responding to the RECC's Request for Information in this matter, KBCA was unable to identify a
13 single issue caused by any RECC in connection with a pole attachment request,¹ instead relying
14 upon theoretical concerns and unsupported hypothetical scenarios of unreasonable
15 implementation. Of course, to the extent issues do arise, attachers and pole owners are afforded
16 an opportunity to address them through the thorough provisions governing complaints that are
17 contained in 807 KAR 5:015. Overall, the intervenor testimony is unpersuasive and should not
18 carry significant weight for the Commission.

19 Of course, many of the issues raised in the intervenors' testimony were also raised as formal
20 objections shortly after each RECC filed its proposed tariff or were previously considered and
21 dismissed by the Commission during its regulatory proceedings. The RECCs provided detailed

¹ See generally KBCA's Responses to the RECC's Requests for Information (filed July 7, 2022), available at: https://psc.ky.gov/pscef/2022-00106/tosterloh%40sturgillturner.com/07072022074925/2022-00106_KBCA_Response_to_RECC_RFI_FINAL.pdf.

1 responses to those objections on April 14, 2022, and I do not intend to rehash each and every item
2 here, but I do endorse and support the comments in that filing, along with the other RECC
3 comments submitted throughout the process of promulgating the regulation. Likewise, a
4 significant portion of the testimony filed by KBCA is not directed at the RECCs, but rather
5 concerns tariffs filed by other utilities, and I will thus disregard the same. I address below certain
6 overarching issues and major misconceptions presented by the intervenor testimony.

7 **Q. Are the permitting and inspections processes that are reflected in the proposed tariffs**
8 **prudent and necessary, or can the RECCs just trust attachers to attach safely and remain**
9 **compliant?**

10 A. Unfortunately, there is a long and clear history of attachers seeking to attach quickly rather
11 than safely. In connection with my ongoing work with many of the RECCs, I have observed many
12 issues with compliance, often supported in part by photos and anecdotes that reflect an
13 unwillingness or inability by attachers to perform in compliance with applicable standards. For
14 example:

- 15 • broadband contactors using a utility's neutral as a place to hang their ladders;
- 16 • personnel running from pole to pole by walking on the fiber line;
- 17 • broadband construction contractors not properly guying a pole, causing the affected poles
18 to lean, causing excessive sagging which can result in faults and subsequent outages;
- 19 • Low hanging cable dangling across a backyard;
- 20 • Long-overdue transfers remaining on rotten poles; and
- 21 • a truck pulling down poles because the cable was sagging over a road and caught the top
22 of the truck.

1 A small sampling of compliance issues evident on RECCs’ systems can be observed in the
2 photographs and accompanying text attached hereto as Exhibit Knowles-2. These issues and
3 others like them (excessive overlashing, improper guying, untimely transfers, etc.), generally
4 reflect a recurring, significant issue with third-party use of cooperative poles: inattentiveness.
5 Attachers do not take a long-term view of the asset where they are renting space and so do not
6 work cooperatively with pole owners to give safety and reliability the attention they deserve. Even
7 now, in this very proceeding, KBCA and its participating members have essentially refused to
8 participate in the discovery process, declining to provide any information regarding existing or
9 planned attachments to RECC poles² and refusing to respond to any questions concerning safety,
10 claiming that the safety measures taken to protect rural Kentuckians are “not relevant.”³ This
11 *modus operandi* is precisely why the RECCs have proposed many of the tariff provisions to which
12 KBCA objects, and it is exactly why those provisions are fair, just, and reasonable.

13 The emphasis on speed over safety is a real cultural difference between the broadband and
14 electric utility industries, and for good reason—electric utilities understand that they are, every
15 day, working in and around facilities that are fully capable of causing death. Broadband
16 contractors, conversely, do not often have this concern top-of-mind because their primary work
17 does not involve potentially deadly levels of electricity. Further, with the billions of dollars of
18 government subsidies on offer to broadband providers, they are required to meet deployment
19 timelines, further increasing their incentive to work fast rather than safe. Electric utilities want
20 work done safely and right, as they will have to own and maintain the pole for the next several
21 decades.

² See *id.* at Nos. 1, 2, 17.

³ See, e.g., *id.* at No. 25.

1 **Q. Certain intervenor testimony disputes the RECCs' proposed tariff requirements**
2 **related to overlashing, particularly with respect to obtaining a pole loading analysis. Why is**
3 **it important for the RECCs to have pole loading performed on new attachments and overlash**
4 **requests?**

5 A. Once attachments are made to poles, broadly speaking, they should never come down. The
6 RECCs must plan to support the attachments, as well as their own assets on the pole, basically *ad*
7 *infinitum*. The amount of broadband funding in Kentucky (currently approximately \$1 billion),
8 aimed primarily at rural areas, indicates there could be tens of thousands of new attachments to
9 RECC poles that were not designed with these attachments in mind. At some point, a pole will
10 become overloaded with new attachments and will not be sufficiently structurally-sound to support
11 the facilities attached to it. The pole might withstand one or two additional attachments, but at
12 some point, it will fail. The problem is two-fold: (1) without conducting a pole loading analysis,
13 no one knows when the pole is likely to fail, and (2) because the regulation does not limit the
14 number of third-party attachments or overlashes, the pole owner has no way of knowing which
15 entity caused the pole to fail, without requiring a pole loading analysis before each overlashing.
16 When the impact of an overlash is not properly considered on the front end by an attacher, the
17 result can be catastrophic.

18 The RECCs believe that a professional pole loading analysis should be par for the course,
19 as it is a simple, objective way to promote the reliability of electric and telecommunications
20 systems alike, particularly in the event of inclement weather when the systems can ill-afford an
21 outage. It is unreasonable to burden the RECCs with the cost of performing pole-loading analyses,
22 as it is the attacher who is causing the work. Overall, the proposed tariffs submitted by the RECCs

1 are intended to minimize the risk associated with unlimited third-party overlashing and ensure that
2 costs incurred by a utility related to overlashing are appropriately recovered.

3 **Q. Why is it appropriate for new attachers to pay the make-ready costs associated with**
4 **attaching to a pole, including the cost of replacing a pole that is not already tagged for**
5 **replacement?**

6 A. There has long been a standard principle in joint use and pole attachment relationships
7 (and, really, in many contexts involving ratemaking) that “the cost causer pays.” The Commission
8 explicitly recognized this in its Statement of Consideration in support of the new regulation. The
9 reason this principle has endured for so long is that it aligns costs and incentives. For example, if
10 a broadband provider seeks to serve new customers and makes a determination to invest in a new
11 deployment, it does not ask the electric utility’s opinion of this investment, nor should it. It
12 evaluates the investment by its own internal criteria and maintains freedom of action to deploy its
13 own capital in the way that provides it the best return. Likewise, if an electric cooperative
14 determines it must rebuild a pole line to ensure it will be safe and reliable for the next several
15 decades to continue to serve its member-owners, it does not consult with the local broadband
16 provider, but rather maintains the freedom to act and deploy capital in the way it believes is most
17 effective. It also does not demand that the broadband provider contribute to its investment.

18 The notion that a cost-causing attacher should be able to dictate how and when a pole owner
19 invests in its own infrastructure is troubling and patently unreasonable. There are obvious
20 operational and budgeting problems likely to result if cost-causing attachers can require pole
21 owners to make otherwise-unnecessary personnel deployments and financial outlays on the
22 attacher’s schedule. The RECCs necessarily manage their systems on limited financial and
23 operational resources, typically pursuant to a construction work plan with a multi-year time

1 horizon. Consequently, large companies which seek to unilaterally shift their costs to the RECCs,
2 undermining the RECCs' ability to manage their budgets, can not only drive up member rates, but
3 also require RECCs to delay or forego other important projects. Such power should not be wielded
4 by unregulated third parties.

5 The position that pole owners should pay for the poles desired by attachers not only
6 challenges the autonomy of the RECCs, but also ignores that the RECCs (not broadband
7 companies and the like) have the know-how, experience, and incentive to maintain their assets in
8 support of the retail electric service they provide. It further ignores the fact that the cable and
9 broadband industries now enjoy extensive federal, state, and local subsidies to assist with the cost
10 of broadband deployment, including expected pole replacement costs. KBCA's members were
11 even instrumental in successfully lobbying the Kentucky Legislature for a "pole replacement
12 fund," which passed as Section 5 of House Bill 315 earlier this year. (*See*
13 <https://apps.legislature.ky.gov/record/22rs/hb315.html>.) There is a fundamental unfairness in
14 asking Kentucky's non-profit, member-owned electric cooperatives to further contribute to the
15 capital budgets of large national companies who now have access to record levels of subsidy for
16 the explicit purpose of assisting with the same capital costs of broadband deployment about which
17 they now complain. Certainly the overwhelming taxpayer-funded support for broadband
18 proliferation is evident, but that support should not be so one-sided or so short-sighted that it comes
19 at the cost of vital cooperative infrastructure or increased electric rates.

20 It is on this point that the testimony of Ms. Patricia Kravtin, KBCA's consultant, misses its
21 mark. Ms. Kravtin goes to great lengths in her testimony to focus on the alleged ways that
22 replacing poles for attachers inures to the "betterment" of the pole owner, basically arguing that
23 costs should be borne by the pole owner unless they are "well documented and directly traceable

1 to the attacher.”⁴ Crucially, however, Ms. Kravtin entirely omits the effect that the massive federal,
2 state, and local broadband deployment subsidies have on the substance of her testimony. One does
3 not need a theoretical economic analysis to understand that the availability of many millions of
4 dollars in available government subsidies can significantly reduce her clients’ cost of doing
5 business, and in fact, it is this cost savings that is entirely responsible for their ability to assist in
6 the deployment of rural broadband to facilitate the broader benefits of modern communications
7 capabilities.

8 As the Commission has already determined when previously lobbied on this issue, forcing
9 a pole owner to pay to replace a pole because a third party desires more space on the pole is
10 misguided. It overturns the century-old precedent that the “cost causer pays” and misaligns the
11 costs and incentives of broadband deployment. It takes money from electric utility ratepayers and
12 invests it on behalf of the capital plans of private shareholders. It requires the electric utility to
13 subsidize a broadband provider that has already requested and received subsidies from, in many
14 cases, the federal, state, and local government. Finally, and most importantly, it does not guarantee
15 that one single additional rural Kentuckian will receive broadband service. It is a blank check with
16 no accountability required.

17 **III. CONCLUSION**

18 **Q. Please summarize your testimony in this proceeding.**

19 A. As members of the communities they serve, the RECCs seek to spread the benefits of new
20 technologies, particularly in their rural service territories that – as they well know from experience
21 – are all-too-often left behind by large national companies. For this reason, the RECCs have

⁴ See Kravtin Testimony, at p. 16.

1 proposed tariffs that support reasonable third-party access to their poles, entirely consistent with
2 the terms of 807 KAR 5:015. Importantly, however, RECCs face significant risks and costs
3 (financial, operational, legal, and others) in connection with third-party pole attachments. If the
4 positions of the intervenors are adopted by the Commission, the safe and reliable delivery of
5 affordable power will be compromised, counter to the predominant purpose of the RECCs and
6 their assets. For this reason, the fair, just, and reasonable tariffs proposed by the RECCs should
7 be approved for adoption as filed.

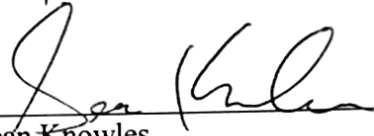
8 **Q. Does this conclude your testimony?**

9 A. Yes. I would like to take this opportunity to thank the Commission for its continuing
10 attention to the unique circumstances and considerations applicable to the RECCs and their
11 communities. Working with the RECCs through this process has left me confident in their earnest
12 desire to see broadband deployed in their communities and their willingness to work closely with
13 attachers to facilitate responsible deployment.

ELECTRONIC INVESTIGATION OF THE PROPOSED
POLE ATTACHMENT TARIFFS OF RURAL
ELECTRIC COOPERATIVE CORPORATIONS
CASE NO. 2022-00106

VERIFICATION

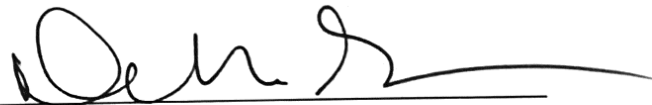
I, Sean Knowles, CEO of McLean Engineering Company, verify, state, and affirm that I prepared or supervised the preparation of the Rebuttal Testimony filed with this Verification, and that the Testimony is true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry on this 11th day of July, 2022.



Sean Knowles
CEO, McLean Engineering Company

STATE OF GEORGIA)
)
COUNTY OF Fulton)

SUBSCRIBED AND SWORN TO before me by Sean Knowles on this the 11th day of July, 2022.



Notary Public, ID No. _____
My Commission Expires _____

