

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

In the Matter of:

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

Grayson Rural Electric Cooperative Corporation (“Grayson” or the “Cooperative”), by counsel, hereby files its Response to Commission Staff’s First Requests for Information, issued in the above-captioned case on April 21, 2022.

FILED: May 5, 2022

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 1: Refer to the Joint Response of Rural Electric Cooperative Corporations to Objections filed by KBCA and AT&T, page 7, regarding the reservation of space.

- a. Explain what limits, if any, the language in your proposed tariff places on the utility's ability to reserve space with references to relevant tariff language and statutes and regulations, if applicable.
- b. Explain specifically whether the ability to reserve space is intended to be limited to space for equipment necessary to provide electric service.

RESPONSE:

- a. The Cooperative's pole network is a unique asset, as it must be shared with third parties in a nondiscriminatory manner consistent with law. *See* 807 KAR 5:015 Section 2; KRS 278.030. The issue of reservation of space is fundamentally one of access, which is addressed both generally and specifically throughout the regulatory framework and the proposed tariff. The Cooperative's ability to reserve space on its own infrastructure is entirely necessary to satisfy its reasonably anticipated service needs, but also tempered by its general inability to deny access without appropriate cause, *see, e.g.*, 807 KAR 5:015 Section 4(2)(b)(5); Proposed Tariff, Article IV(C)(3)(ii) (consistent with 807 KAR 5:015 Section 4(10) and requiring denial to be specific, include all relevant evidence and information supporting the decision, and explain how the evidence and information relate to a denial of access). Moreover, the Proposed Tariff promotes transparency and permits Licensees to request documentation to validate the need for any future space that may be

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

reserved by the Cooperative. *See* Proposed Tariff, Article VIII(A)(v). Though the Cooperative's pole network at all times remains the Cooperative's own vital infrastructure, any pole owner which abuses its rights to its poles by refusing reasonable access in accordance with law can be held to account under presently-available remedies. While our proposed tariff provides opportunity for the electric utility to choose to install a taller pole than standard for anticipated future use requiring additional supply space, as stated in Article VIII(A)(v), Grayson will be transparent in providing evidence of future plans as requested.

b. Grayson does not currently reserve space, but the ability to reserve space is intended to be limited to space for equipment necessary to provide electric service.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 2: Refer to the Joint Response of Rural Electric Cooperative Corporations to Objections filed by KBCA and AT&T, page 8, regarding penalties for violations other than unauthorized attachments.

- a. Identify how often such penalties are expected to be imposed per year and the amount of revenue expected to be generate from them.
- b. Explain whether the penalty would be imposed on a per pole basis and, if so, explain whether there would be any limit to the penalties that could arise from a single practice, such as an improper means of attachment repeated on multiple poles.
- c. Explain why the imposition of the penalty is permissive (i.e., “Cooperative may impose”) and how that would be imposed on a non-discriminatory basis.
- d. Describe the types of issues this penalty is intended to prevent.

RESPONSE:

a. It is the hope and expectation that the Cooperative imposes no penalties; however, the Cooperative routinely observes occurrences of code violations ranging from inadequate clearance to improper installation and construction practices. Cooperatives do not have the resources, nor in many cases expertise or equipment, to perform corrections to communication equipment. Without the pole-owner having some other form of recourse like monetary penalties, there is little incentive for attachers to ensure safe and appropriate attachment and to timely and effectively remediate violations. Penalties would be imposed when violations are detected in accordance with the timelines described in the proposed

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

tariff Article VIII Part B. The intention of the penalty is not to create a revenue stream (and no significant revenue stream is anticipated), but the Cooperative must ensure it has the reasonable tools available to ensure the applicable rules are followed.

b. Penalties are intended to be imposed on a per pole basis. No limits are anticipated since the actual impacts to the utility are expected to be on a per pole basis, and each violation requires remediation.

c. The permissive “may” was employed to avoid a situation, *e.g.*, where an attacher is taking good-faith action to remedy a violation but still technically in violation. The Cooperative believes it may reasonably employ penalties in a discretionary, but nondiscriminatory, manner (recognizing, of course, that any unreasonable or discriminatory imposition of penalties could subject the Cooperative to a complaint case available under law).

d. Examples of issues that would warrant a penalty include mid-span ground or conductor clearance violations, encroachment into the communication worker safety zone, failure to properly install guys/anchors, installations inside the supply space, and improper grounding (when applicable). The overall desire is to prevent improper connections that could pose a safety risk, a reliability risk to those who utilize the facilities, or any other risks to the facilities. The penalty is intended to discourage unsafe attachment practices and to incent the offending entity to correct the violation in a timely manner to ensure the facility can continue to be operated in a safe and reliable manner.

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 3: Refer to the Joint Response of Rural Electric Cooperative corporations to Objections filed by KBCA and AT&T, pages 12–13, regarding the definition of attachment. Explain how attachers would be charged for overlashing based on the definition of attachment in the proposed tariff.

RESPONSE: Overlashing is intended to remain subject to code compliance and safety standards, like all attachments, but it is not the intention of the Cooperative to charge an annual rental rate for overlashed facilities.

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 4: Refer to the Joint Response of Rural Electric Cooperative Corporations to Objections filed by KBCA and AT&T, pages 15–16, regarding the definition of “Supply Space.” Explain whether the requirement that the initial attachment be one foot above the required ground clearance was included, in part or in whole, to account for a drop in the height of the line across the span length. If so, explain why the one-foot drop was used (as opposed to some other amount).

RESPONSE: It appears there is a misunderstanding with respect the pertinent language. It is not the intention of the Cooperative to require an initial attachment be placed one foot above the lowest possible point that provides appropriate ground clearance, but rather at the lowest possible point that provides appropriate ground clearance. The reference to “one foot” can be eliminated from the final tariff.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 5: Refer to the Joint Response of Rural Electric Cooperative Corporations to Objections filed by KBCA and AT&T, pages 20–21, regarding the cost of safety inspections.

- a. Explain what circumstances would generally justify a finding of “reasonable cause to believe code violations or unsafe conditions (or other violations of ARTICLE III) exist on its system.”
- b. Explain how such safety inspections would differ from pole inspections required by 807 KAR 5:006, and explain whether they would be conducted in conjunction with such inspections or any other required system inspection.
- c. Explain how the cost of such safety inspections would be separated from other operation and maintenance costs and how such costs, if any, would be allocated to specific attachers.

RESPONSE:

- a. Various circumstances could result in the determination of reasonable cause, including the observation of a potential code violation, safety risk, reliability risk, or other issue reported by field personnel or others while working in the vicinity of the subject facility, during a routine inspection, or from an inspection during or following a service interruption. Additionally, if the Cooperative identified a trend in the construction practices of a single attacher or multiple attachers involving, *e.g.*, mid-span ground or conductor clearance issues, encroachment into the communication worker safety zone, failure to properly install guys/anchors, installations inside the supply space, or improper

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

grounding, then a safety inspection may be deemed appropriate to ensure the safety and reliability of the electric distribution system is not compromised. While we make effort to follow up and perform inspection of new attachments when we are notified of attachment completion, attachers do not always provide those notices of completion.

b. Routine pole inspections conducted pursuant to 807 KAR 5:006 generally focus on the integrity of the pole, cross arms, insulators, conductors, guy wires and anchors, and similar infrastructure required to maintain electric reliability and safe system operation. While these inspections certainly include attention to third-party attachments, the primary focus is on “electric facilities...including insulators, conductors, meters, and supporting facilities...for damage, deterioration, and vegetation management...[,]” as contemplated by regulation. *See* 807 KAR 5:006 Section 26(4)(b)(4). Safety inspections outlined in the Proposed Tariff are intended to specifically focus on third-party attachments and the issue(s) that gave rise to the inspection, though if possible, utilization of a safety inspection concurrent with system line inspection would be explored for available efficiencies.

c. All costs associated with safety inspections outside of normal inspections will be separately captured through specific account coding and allocated to the relevant attacher(s) first by project code or other identifier, and then proportionally among the relevant attacher(s) based on number of attachments inspected, consistent with the Proposed Tariff.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 6:

- a. Identify each account and subaccount in which the costs of utility poles in service are recorded.
- b. Provide a narrative description of the costs that are recorded in each such account, including a description of the type and vintage of poles for which costs are recorded in the account and a description other plant, if any, for which costs are recorded in the account.
- c. Provide an Excel spreadsheet with all formulas, rows, and columns unprotected and fully accessible showing the plant in service balance of each such account at the end of each of the last five fiscal years.

RESPONSE:

- a. Account 364.00
- b. Account 364.00 includes poles, work order costs, purchases, and retirements.
- c. See attached Exhibit 6(c).

Witness: Sherry Buckler, Manager of Accounting and Human Resources

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 7:

- a. Identify each account and subaccount in which accumulated depreciation for poles in service is recorded.
- b. Provide a narrative description of how the accumulated depreciation in each such account is calculated.
- c. Identify the corresponding plant account or accounts for each account in which accumulated depreciation for poles is recorded.
- d. Provide an Excel spreadsheet with all formulas, rows, and columns unprotected and fully accessible showing the balance of each such account at the end of each of the last five fiscal years.

RESPONSE:

- a. Account 108.60
- b. Depreciation is calculated monthly based on the basis amount (General Ledger a/c balance) multiplied by the monthly depreciation rate of .00416
- c. Account 108.60
- d. See attached Exhibit 7(d).

Witness: Sherry Buckler, Manager of Accounting & Human Resources

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 8:

- a. Identify the depreciation rates currently used to calculate depreciation expense for each account containing utility pole costs.
- b. Identify the case in which each such depreciation rate was set.
- c. Identify the useful lives of the poles used to calculate each such depreciation rate.

RESPONSE:

- a. 4.99%
- b. Case No. 2008-00254
- c. 24 years

Witness: Sherry Buckler, Manager of Accounting and Human Resources

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 9: Identify the total number of distribution poles in your system, and provide a breakdown of those poles based on the year they were installed.

RESPONSE:

GRECC 2022 pole count						
Total number of poles	0-9 years old	10-19 years old	20-29 years old	30-39 years old	40 plus years old	Unknown age
35409	6620	6904	7212	3315	1849	9509

- Unknown age of pole was determined if the birth mark on the pole was not identifiable by the Mapping company that preformed the system survey.

Witness: Robert Brown, GIS Technician

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 10: Identify the total number of transmission poles in your system, and provide a breakdown of those poles based on the year they were installed.

RESPONSE: Grayson does not own any transmission poles.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 11: Describe in detail the current plan or policy regarding the inspection and replacement of aging or damaged poles in your system, and provide a copy of any such plan or policy that has been memorialized in writing.

RESPONSE: Grayson uses a certified pole testing company to test and treat poles on our system. Grayson also utilizes our linemen to do line inspections. The pole testing company inspects visually each pole that is 1 to 10 years. All poles after that are subject to be tested and treated. They do a sound test, and use an ultrasound technique, reading the wave lengths produced by the ultrasound equipment to determine if the pole is good or bad. A red tag is placed on the pole if the pole is bad. Also a bore test will be performed to confirm whether the pole is bad. Yellow tag is placed if the pole needs to be tested again in 5 years. The pole testing company will also treat those poles with a yellow tag. If a pole gets a red tag, a staking engineer is dispatched to the location of the pole to draw that pole up to be replaced. A pole may also be red tagged upon inspection by a lineman, who will tag the pole and thereafter a staking engineer is assigned to draw the pole up to be replaced. The yellow tagged poles are marked on our GIS map to be re-inspected in the next 5 years. Though a plan is under development, no formal written plan is available at this time.

Witness: Robert Brown, GIS Technician

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 12: State whether new attachers will be subsidizing other utility customers by paying the full cost to replace a utility pole that is not a red-tagged pole when the replacement pole has a longer useful life than the pole that is replaced, and explain each basis for the response.

RESPONSE: Consideration of impact must look beyond mere accounting. As the Commission would expect, the Cooperative operates on an annual budget to ensure costs are incurred and managed in a prudent way. When new attachers seek to attach to Cooperative poles, this is a request that occurs outside of the annual budgeting process. If a pole is replaced due to the new attacher's request, this replacement is an unforeseen, unbudgeted action taken to allow the attacher to comply with NESC clearance requirements. It is not related to the useful life of the pole. If a pole is red-tagged, the Cooperative does not and would not request the new attacher to pay any portion of the cost to replace the pole, as this replacement is a budgeted maintenance cost based on the Cooperative's inspection of the pole.

If a utility were required to pay even a portion of the costs of new poles it neither intended nor budgeted to acquire, it would negatively impact the Cooperative and other areas of the utility's budget, likely deferring investments intended for the benefit of the Cooperative's members. Put plainly, the Cooperative should not be forced to expend funds on its infrastructure that it would not spend *but for* the attacher(s), as doing so is counter not only to the letter and spirit of the pole attachment framework but also the basic autonomy of an electric utility owned by the members it serves.

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 13: Explain how it would affect capital planning and the ability to complete other necessary projects if utilities were required to cover the cost of every pole that had to be replaced to accommodate a new attacher less the undepreciated value of the pole being replaced.

RESPONSE: If utilities were required to cover the cost of every pole that had to be replaced to accommodate a new pole less the undepreciated value of the pole being replaced, it would make capital planning virtually impossible. Utilities have no knowledge of the plans of attachers until they submit a permit request, if they submit a permit request at all. Utilities undertake detailed system analysis to plan their capital budgets. In the case of electric cooperatives, this takes the form of a 4-Year Construction Work Plan, which is used as a blueprint for each year's annual capital budget. According to the Commission's Pole Attachment Regulation (807 KAR 5:015), the response time from permit request to make-ready estimate is seventy (70) days. There is no way to plan a capital budget based on the available information and timelines to accommodate a new attacher.

Please also see the response to Request No. 12.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO 14: Describe in detail the issues with pole loading that arise from overlashing, including how wind and ice affect pole loading, and explain the technical bases for such contentions.

RESPONSE: When additional cables are overlashed to existing cables:

- 1) There are more stresses added to the pole because of the weight of the cable alone;
and
- 2) It adds additional surface area to the wire for ice and wind affects and we are seldom informed as to what size wire will be overlashed so loading cannot be considered.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 15: Explain how the amount of the administrative review fee for completeness was determined, and provide any documentation or analysis supporting the amount of that fee.

RESPONSE: There is no administrative review fee for completeness in the Proposed Tariff.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 16: Explain how the estimated pole survey costs in your proposed tariff were determined, and provide any documentation or analysis supporting the estimate.

RESPONSE: See attached Exhibit 16.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 17: Provide justification for the unauthorized attachment fee of five times the current annual fee.

RESPONSE: Attachers must be incentivized to follow the pole attachment permitting process required by the Commission's regulation and detailed in the tariff. The unauthorized attachment fee is intended to create an incentive for the attacher to follow the permitting process. A fee of five times the current annual fee is designed to work in concert with the pole attachment inspection provisions of the proposed tariff, which give the parties the right to conduct a field inspection of attachments once every five years. Under this design, an attacher that does not submit a permit request is required to pay the equivalent of annual rent for the past five years; of course, an unauthorized attachment may have been in place for more or less than five (5) years, but the Cooperative established a reasonable fee of 5x consistent with its justified desire to recover unpaid costs and disincentive unpermitted, dangerous attachment activity.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 18: Regarding payments not made on time:

- a. Explain the reasoning and justification for charging interest at 1.5 percent per month instead of establishing a late payment charge.
- b. Explain whether the interest charged on any balance that remains unpaid would be simple or compound interest.
- c. Explain why 807 KAR 5:006, Section 9(3)(h), which states that a late payment charge may be assessed only once on a bill for rendered services, would not apply to the interest charge.

RESPONSE:

- a. The interest proposed to be charged a late-paying Licensee is functionally equivalent to a late payment charge, it simply varies in amount based on when the Licensee satisfies its debt to the Cooperative. The escalating amount of the charge is, of course, intended to incentivize payment and thereby help avoid stagnant receivables which can financially impact the Cooperative, especially in times of economic turbulence. Because payments due from attachers can vary from very small to very large, the Cooperative believes a percentage-based late payment charge would be more broadly applicable to create appropriate on-time payment incentives for all types of payments from attachers.
- b. Simple.
- c. As discussed above, the Cooperative proposes a late payment charge calculated based on a 1.5% simple interest rate. The charge is assessed only once (when payment is

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

made), and in light of the simple nature of the interest, “[a]dditional late payment charges [are not] assessed on unpaid late payment charges[,]” as required by the pertinent regulation. *See* 807 KAR 5:006, Section 9(3)(h)(3). Moreover, it should be acknowledged that the cited regulation was designed and is most appropriately applied in connection with residential electric service, not ancillary services sought by sophisticated commercial counterparties.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 19:

- a. Explain what the performance bond required by Article XXI and Appendix D of the proposed tariff is intended to secure.
- b. Explain whether there is a market for such performance bonds, including specifically whether there is a market for performance bonds that secure “the payment by the Licensee of any damages, claims, liens, taxes, liquidated damages, penalties, or fees due to Cooperative.”
- c. Explain why it would not be duplicative to require an attacher to maintain performance bonds that secure “the payment by the Licensee of any damages, claims, liens, taxes, liquidated damages, penalties, or fees due to Cooperative” while also maintaining the required insurance coverages and listing the utility as an additional insured on the policies.
- d. Explain how the amount of the performance bond was determined.

RESPONSE:

- a. The performance bond required by Article XXI and Appendix D is intended to cover the cooperative's costs to safely remove the attacher's facilities from the cooperatives poles in the event that attacher ceases to operate or otherwise fails or refuses to address its obligations under the Proposed Tariff.

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

- b. Upon information and belief, the required bonds are available in the marketplace, and will generally secure all amounts owed as a consequence of a failure to perform by a principal.
- c. If an attacher is no longer a going concern, remedy through an insurance claim is not typically feasible. Moreover, insurance claims typically take far longer to resolve, and they are often more prone to dispute than payment of a performance bond. As a result, the performance bond provides a more efficient solution.
- d. The amount of the performance bond was determined by estimating the average cost per attachment for the cooperatives' crews to remove stranded attachments left on the cooperative's poles.

Witness: Bradley Cherry, President & CEO

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 20: For Shelby Energy only, refer to the proposed tariff, PSC KY No. 9 Original Sheet No. 302.33, Appendix A – Application/Request to Attach, and Original Sheet No. 302.36, Appendix C – Bill of Sale. Explain why the Application/Request to Attach and the Bill of Sale have not been included in the proposed tariff and is instead only available upon request.

RESPONSE: Not applicable.

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 21: For Big Rivers only, refer to the proposed tariff, P.S.C. KY No. 27, Original Sheet No. 38.12, Make-Ready. Explain whether Big Rivers requires pole attachment customers to prepay survey costs. If so, explain why the proposed tariff does not include a per pole estimate of survey costs.

RESPONSE: Not applicable.

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 22: For Nolin RECC only, refer to the proposed tariff, PSC KY No. 2, Original Sheet No. 36, Appendix A – Application/Request to Attach, and Original Sheet No. 40, Appendix C – Bill of Sale. Explain why the Application/Request to Attach and the Bill of Sale have not been included in the proposed tariff and is instead only available upon request.

RESPONSE: Not applicable.

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

**GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

REQUEST NO. 23: For East Kentucky Power Cooperative (EKPC) only: a. Refer to the March 18, 2022 cover letter to EKPC's proposed tariff filing. Explain why Commission approval of the proposed tariff is required prior to developing an application for attachment owners to submit and a contract for any approved attachments. b. Refer to EKPC's proposed tariff, P.S.C. No. 35, Original Sheet No. 102. Explain why a per pole estimate of survey costs is not included in the proposed tariff seeing as requesting attachment owners are required to prepay estimated modification costs. c. Refer to EKPC's proposed tariff, P.S.C. No. 35, Original Sheet No. 102. Explain why the attachment charges and terms and conditions of service are not included in the proposed tariff and why they will be determined on a case-by-case basis

RESPONSE: Not applicable.

