

**COMMONWEALTH 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)	

**JACKSON PURCHASE ENERGY CORPORATION'S
RESPONSE TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

Jackson Purchase Energy Corporation ("JPEC" 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

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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. See Article VIII-Division of Costs, section A, subsection v. in JPEC's proposed Pole Attachment Tariff. JPEC reserves the right to reserve additional space if a taller pole than initially required is installed in anticipation of future needs of the cooperative. Documentation will be provided to the Licensee, if requested, to validate the additional reserved space. This right is necessary to allow for proper system planning to better serve JPEC's members.
- b. The ability to reserve space is intended for electrical equipment for future system needs.

Witness: Travis Spiceland, Manager of Engineering

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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

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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. The penalty will be imposed on a pole-by-pole basis for each violation that occurs. This is the only way to treat all parties fairly and justly and ensure every issue is corrected in a timely manner as specified in Article VII Section D-Corrections. If a violation is not corrected via the timeframe in the aforementioned section, the cooperative can charge the amount set forth in Article VII Section E-Penalties until the violation is addressed by the Licensee. This is necessary to ensure each violation is addressed timely to ensure safety across JPEC's distribution system.

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 is still technically in violation. The Cooperative believes that 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. The types of issues this penalty is intended to prevent includes violations of the NESC, technical specifications listed in Appendix B, and other requirements specified in the pole attachment tariff.

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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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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.

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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. Generally, the circumstance would be related to a NESC violation causing a safety concern on/to the distribution system. It would also include safety violations of other industry recognized codes or standards, such as OSHA.
- b. Although safety issues are noted on pole inspections, safety inspections would not normally be conducted in conjunction with pole inspections. A periodic safety inspection will be conducted no more than once every 5 years. Any other safety inspection will be warranted due to the findings of safety violations by Licensee.

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c. This cost would be separated from other costs by recording personnel hours, overheads, and mileage specific to the safety inspection. These costs will be allocated to specific attachers based on number of attachments each licensee has along the inspection route.

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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. See attached Exhibit 6(a).
- b. See attached Exhibit 6(b).
- c. See attached Exhibit 6(c).

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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. See attached Exhibit 7(a).
- b. See attached Exhibit 7(b).
- c. See attached Exhibit 7(c).
- d. See attached Exhibit 7(d).

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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. See attached Exhibit 8(a).
- b. See attached Exhibit 8(b).
- c. See attached Exhibit 8(c).

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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: See attached Exhibit 9.

Witness: Travis Spiceland, Manager of Engineering

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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: Jackson Purchase owns zero (0) transmission poles.

Witness: Travis Spiceland, Manager of Engineering

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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: Currently, our pole inspections are completed by Quality Resources LLC on a 2-year cycle. Poles are inspected visually and also sounded (hammer tested). Work orders are created for all poles deemed "bad," where a staking technician will visit the pole, complete a work order for replacement, and submit order to operations for work to be completed. JPEC does not have a plan or policy detailing this process at this time.

Witness: Travis Spiceland, Manager of Engineering

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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.

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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: Travis Spiceland, Manager of Engineering

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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: An abundance of issues can result from pole overloading due to overlashing. These include exceeding limitation of pole stress, tangential loading, and columnar loading. Licensee overlashing creates additional stress on distribution poles due to the added weight of the overlash. Overlashing also increases the surface area of Licensee's cable which allows more ice to accumulate. The increased surface area also creates increased wind loading which contributes to added stress on the pole. Technically, the added weight of the cabling, and possibly ice, along with the increased surface area exposed to wind both contribute to increased stress which can create an overloading issue if the pole is not of appropriate size. An overloading issue caused by overlashing will require remedial action to be taken. The pole loading analysis requirement ensures the additional loading does not negatively impact the distribution system.

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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: Travis Spiceland, Manager of Engineering

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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: For cost determination, see attached Exhibit 16. The estimated per pole survey cost was determined by time required to review previous applications, taking this time allotment on a per pole basis, then multiplying by hourly wage including overheads.

Witness: Travis Spiceland, Manager of Engineering

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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: Travis Spiceland, Manager of Engineering

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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

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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.

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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.

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- 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.

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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 -8- Case No. 2022-00106 Bill of Sale have not been included in the proposed tariff and is instead only available upon request.

RESPONSE: Not applicable.

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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.

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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.

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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.

