

**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)**

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

Nolin Rural Electric Cooperative Corporation (“Nolin” 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**

**NOLIN 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**

**NOLIN 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), Nolin will be transparent in providing evidence of future plans as requested.

b. The ability to reserve space is intended to be limited to space for equipment necessary to provide electric service.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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. We would prefer that all violations either never occurred or were quickly remedied such that the application of a penalty would not be necessary. This is not intended to generate revenue. This penalty would apply to safety violations created by an attacher, and the intention of the penalty is to incentivize a timely remediation of such concerns. The number of penalties imposed and the amount of revenue would be determined by each attacher's timely resolution of safety concerns and cannot be estimated. The need for such a penalty has been recognized historically through field review of our poles. As an example, there are currently approximately 800 requests pending in NJUNS (National Joint

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

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

Use Notification System) where Nolin has requested telecommunications transfers. The overwhelming majority (approximately 90%) of these requests were entered in Q1 of 2020, with the remainder in 2021. In addition there are also approximately 225 pending NJUNS requests we have submitted for the remediation of violations, with the majority (approximately 80%) being submitted in March of 2021, and we are still continuing to collect precise data on poles identified in our pole attachment audit that will result in more submissions to NJUNS. Please see attached Exhibit 2 for photographic representative examples of some concerns that have been identified on our system over the last couple of years.

b. The penalty would be imposed on a per pole basis, and there is no limit to the penalties that could be imposed. Again, this penalty would apply to safety violations created by an attacher, and the intention of the penalty is to incentivize a timely remediation of such concerns. Since violations types are common (not meeting NESC rules for ground line clearance, proximity to power, etc.), applying one penalty for repeated similar violations would devalue the incentive to the point it would be practically ineffective.

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

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

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

discriminatory imposition of penalties could subject the Cooperative to a complaint case available under law).

d. This penalty is intended to prevent a wide variety of public and telecommunications worker safety concerns that could be present. Specifically, it would apply to any violation of the National Electrical Safety Code (NESC). Please see attached Exhibit 2.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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. Such a finding would be based on findings of two-year line inspections, pole attachment audits, and other field reviews. Because the line inspections and pole attachment audits cover our entire system, recording obvious violations encountered during these inspections would be used as the basis for determining if a more detailed, licensee specific safety inspection is needed based on any patterns of poor construction practices that emerge from reviewing that inspection data, which is more cursory in nature and does not provide engineering level detail related to attacher violations. The NESC would be used as the basis of confirming the presence of violations.

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

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

b. The two-year line inspection covers many elements of the distribution system, and would only recognize obvious NESC violations. The safety inspection would consist of precise measurements, would be specific to telecommunications, and would likely be specific to one attacher.

c. The cost of safety inspections would be captured through invoices, timesheets, or a specific activity code depending on if the inspection was conducted by external or internal resources. The safety inspection would likely be specific to one attacher, in which case they would be responsible for 100% of the cost of the inspection. In cases where multiple attachers were identified as needing a safety inspection simultaneously, one inspection would be completed and the cost would be allocated on a pro rata basis by the number of attachments reviewed.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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. The capitalized costs of poles are recorded in account 364. There are no subaccounts, but we do have plant record unit breakdown that could be provided as necessary.
- b. The items that convert to assets in account 364 include poles, crossarms, anchors and guys, cluster brackets and aluminum platforms.
- c. See attached Exhibit 6(c).

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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. All plant asset depreciation is accounted for in account 108.6.
- b. Depreciation is computed on a composite basis. The ending plant balance is multiplied by 11 rates that are within RUS approved guidelines.
- c. Account 364.0: Poles, Towers, & Fixtures.
- d. See attached Exhibit 7(d).

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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. Depreciation is computed on a composite basis. The ending plant balance is multiplied by 11 rates that are within RUS approved guidelines. Our rate changed in 2020 following our depreciation study. It was formerly 5.72% annually and is now 4.68%.
- b. A new depreciation study was required by order dated June 21st, 2017 in our last rate case, Case No. 2016-0367. We were required to perform a depreciation study within five years of order or in conjunction with a rate case. This depreciation study was completed in accordance with the order and a copy was provided to the Commission.
- c. Depreciation study resulted in a 4.68% annual depreciation rate for account 364, which would be 21.36 years.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: The Company has 39,298 total distribution poles on our system, which does not include lighting, overhead guy poles, etc. Of this total, 26,152 do not have a known installation date because they were either installed prior to our modern mapping system, or an installation date was not collected. We continue to monitor aging poles through our line inspection program.

2,712 poles have an installation date between 2000 and 2005.

3,520 poles were installed between 2006 and 2010.

3,534 poles were installed between 2010 and 2015.

2,854 poles were installed between 2016 and 2020.

526 poles were installed in 2021 and so far in 2022.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: The Company does not have transmission poles on its system.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: The Company performs line/pole inspection as required by the KY PSC to determine poles in need to replacement, and its line inspection plan has been submitted to the PSC during each two-year utility inspection. A copy is attached as Exhibit 11.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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**

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

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: NESC Rule 250 prescribes the design criteria for wind and ice loading in different regions based on the anticipated wind and ice load conditions, and Nolin RECC designs to Heavy Loading standards based on our proximity to the Heavy Loading region and our experiences in significant ice events over the last several years. Ice accumulating on electrical conductors, telecommunications cables including overlashed cables, etc., add significant weight and stress to pole structures. Accumulating ice also adds significant surface area to such facilities, therefore creating a much larger surface for wind to be a problematic factor. This is why we perform and request attachers to perform pole loading analysis, to ensure that we stay within the design criteria for ice and wind loading on the facilities attached to poles. See attached Exhibit 2.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: Our survey cost includes application review, as well as pre- and post-construction field review. Based on our experience from reviewing pole attachment applications, we projected the number of poles we could review per man-hour for each of the aforementioned components. We then multiplied by an hourly rate including overhead and transportation to determine the numerical value of the fee. Our specific numbers can be produced, though we would request confidential treatment to provide more detail given that our calculations include payroll information.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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**

**NOLIN 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: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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**

**NOLIN 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: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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**

**NOLIN 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**

**NOLIN 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: As the regulation does not require the tariff to include those items, we felt it would be easier from an administrative perspective to not include them. As these documents may need minor changes from time to time, and would therefore require a tariff change if they were included in the tariff, we felt it would be simply easier to make the tariff dynamic and not include specific screenshots of those documents. Additionally, rather than having attachers try to utilize the screenshot version in the tariff, we can provide them with a fillable PDF that will be easier to utilize for all parties.

Witness: Devon C. Woosley, Manager - Engineering

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

**NOLIN 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.

