

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

**In the Matter of:**

<b>ELECTRONIC INVESTIGATION OF THE</b>	)	
<b>PROPOSED POLE ATTACHMENT TARIFFS OF</b>	)	<b>CASE NO. 2022-00106</b>
<b>RURAL ELECTRIC COOPERATIVE</b>	)	
<b>CORPORATIONS</b>	)	

**RURAL ELECTRIC COOPERATIVE CORPORATIONS’ RESPONSE TO**  
**KBCA’S MOTION FOR CLARIFICATION**

Big Rivers Electric Corporation; Big Sandy R.E.C.C.; Blue Grass Energy Cooperative Corp.; Clark Energy Cooperative, Inc.; Cumberland Valley Electric, Inc.; East Kentucky Power Cooperative, Inc.; Farmers R.E.C.C.; Fleming-Mason Energy Cooperative, Inc.; Grayson R.E.C.C.; Inter-County Energy Cooperative Corporation; Jackson Energy Cooperative Corporation; Jackson Purchase Energy Corporation; Kenegy Corp.; Licking Valley R.E.C.C.; Meade County R.E.C.C.; Nolin R.E.C.C.; Owen Electric Cooperative, Inc.; Salt River Electric Cooperative Corp.; Shelby Energy Cooperative, Inc.; South Kentucky R.E.C.C., Taylor County R.E.C.C. (collectively, the “RECCs”), by counsel, hereby file this Response in Opposition to the Motion for Clarification filed herein by the Kentucky Broadband and Cable Association (“KBCA”).

As an initial matter, KBCA’s characterization of its motion as one seeking “clarification” is utterly disingenuous. The Commission established a procedural schedule in this matter—as it has done in hundreds (likely thousands) of other proceedings in recent years—in which it provided for discovery through requests for information and submission of prepared testimony, followed by an opportunity to request a hearing on the merits. KBCA and its experienced counsel are undoubtedly familiar with this process and the expected format of intervenor testimony, as exhibited by their ability to routinely file intervenor testimony in prior Commission

proceedings and without the need for any “clarification.” KBCA’s motion should be considered for what it really is: an attempt to modify the procedural schedule so that KBCA can continue the same advocacy it has undertaken incessantly since the new pole attachment regulation was even proposed.

Respectfully, the Commission has already heard legal and other arguments from KBCA during the approximately 2.5 year process to develop the Commission’s new pole attachment regulation. For the reasons set forth in the Commission’s Statement of Consideration, the Commission rejected many of KBCA’s legal arguments when implementing 807 KAR 5:015. Neither the Commission nor the RECCs should be forced to expend time and resources responding to KBCA’s already-rejected legal arguments, including further attempts to explain non-binding “FCC precedent,” which the Motion for Clarification explicitly requests the right to do.

The Commission is distinctly capable of implementing its own regulations and determining if the tariffs comply with 807 KAR 5:015 based on the evidence presented. Accordingly, the RECCs do not believe legal briefing is necessary in this proceeding.

Finally, the Commission should not overlook the fact that the procedural schedule KBCA proposes would allow the RECCs just one (1) business day to review intervenor responses to requests for information before the proposed deadline to submit both a responsive legal brief and rebuttal testimony. This is patently unreasonable. Moreover, the Commission should be aware that KBCA filed its Motion for Clarification and suggested this schedule without any prior discussion with or concurrence from the RECCs. As an intervenor, KBCA may not unduly complicate or disrupt the proceedings, which it seeks to do by forcing the RECCs into an unfair

procedural schedule and by seeking revision to the procedural schedule without any forewarning or attempts at cooperation.

No briefing is necessary. No clarification of how to draft factual testimony is necessary. Consequently, the RECCs respectfully request the Commission deny KBCA's Motion for Clarification.

Respectfully submitted,

/s/ Edward T. Depp

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**Certification**

I hereby certify that a copy of the foregoing has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

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