

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)

CLARK ENERGY COOPERATIVE, INC.'S
RESPONSE TO COMMISSION STAFF'S SECOND REQUESTS FOR INFORMATION

Clark Energy Cooperative, Inc. (“Clark Energy” or the “Cooperative”), by counsel, files its Response to the Commission Staff’s Second Requests for Information, issued in the above-captioned case on May 19, 2022.

FILED: June 2, 2022

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

CLARK ENERGY COOPERATIVE, INC.'S RESPONSE TO THE COMMISSION STAFF'S
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REQUEST NO. 1: Provide the service lives of distribution poles used to determine the average service life, by type and vintage, to the degree they are broken down.

RESPONSE: Based on our most recent depreciation study the average service life for all poles is 31 years. The Cooperative does not assign different service lives to poles of different type and vintage.

Witness: Todd Peyton, Vice President, Engineering

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REQUEST NO. 2: Describe your recent efforts, if any, to reduce the number of above ground transmission and distribution lines, and identify the number of poles that have been eliminated in your system in each of the last ten years because the electric lines previously attached to those poles were placed underground.

RESPONSE: Clark Energy has no systematic program to reduce the number of distribution poles on its system in favor of underground conductor. Conversion from overhead to underground conductor has been minimal in years past, and the Cooperative does not maintain information concerning the number of poles impacted by such efforts.

Witness: Todd Peyton, Vice President, Engineering

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REQUEST NO. 3: Other than identifying specific defective poles through inspections that require replacement, state whether you have a policy or practice of replacing poles in a circuit on a periodic basis or as they reach the end of their useful lives and, if so, describe that policy or practice in detail, including how and when (e.g. how far in advance) such replacements are identified or included in your projected capital spending budget.

RESPONSE: Clark Energy does not have a policy or practice of replacing poles in a circuit on a periodic basis or as they reach the end of their useful lives. Instead, poles are replaced based on condition and need.

Witness: Todd Peyton, Vice President, Engineering

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REQUEST NO. 4: Describe in detail the process you use to budget for future capital expenditures, including when you first develop a preliminary capital spending budget for a particular year (e.g. three years in advance, five years in advance, etc.), how you determine the amounts to include in the preliminary capital budget, the level of specificity included in any preliminary budget, and each step that is taken in the process to get from any preliminary budget to a final capital spending budget for a particular year.

RESPONSE: Clark Energy's capital budgets are prepared on an annual basis. In developing a preliminary capital budget for a particular year, Clark Energy examines the current year-to-date capital expenditures and forecasts capital expenditures for the remainder of the year. In addition, the previous two to three years are also examined to obtain a more complete picture of Clark Energy's recent capital spending. This information is compiled and analyzed by Clark Energy's Vice Presidents of Finance, Engineering, and Operations, and Clark Energy's CEO. Once all are in agreement, a preliminary capital budget is created. The preliminary capital budget contains an itemized breakdown of forecasted special equipment, fleet, and general plant capital expenditures for the upcoming year. Once created, the preliminary budget is taken before Clark's Board of Directors. If approval is obtained, the capital budget becomes final for the upcoming year.

Witness: Billy O. Frasure, Vice President, Finance

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REQUEST NO. 5: Provide any current joint use agreements.

RESPONSE: Current joint use agreements are provided herewith in conjunction with a
request for confidential treatment.

Witness: Todd Peyton, Vice President, Engineering

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CLARK ENERGY COOPERATIVE, INC.'S RESPONSE TO THE COMMISSION STAFF'S
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REQUEST NO. 6: For all except EKPC:

- a. Explain each basis for your contention, upon information and belief, that a market exists for the performance bonds required by Article XXI and Appendix D of the proposed tariff.
- b. Explain each basis for your contention that remedy through an insurance claim is not typically feasible if an attacher is no longer a going concern.
- c. Provide the average cost per attachment for the cooperatives' crews to remove stranded attachments left on the cooperatives used to determine the amount of the performance bond, and explain how that average cost per attachment was reached.

RESPONSE:

a. Performance bonds are often required in connection with projects involving construction and real property, and they are commonly used in pole attachment agreements across the country to mitigate risk in the event of default or non-performance by an attacher. There are many available sources for these types of bonds nationwide—for example, Surety One, Inc.¹, Telcom Insurance Group,² and Swiftbonds³—due to the ubiquity of bonding requirements in the industry. In Kentucky, specifically, performance bonds have historically served a proper role in the pole attachment framework, having been approved by the Commission as part of many tariffs filed by pole-owning utilities.⁴

¹ See <https://suretyone.com/pole-attachment-bond>, last accessed May 27, 2022.

² See <https://www.telcominsgrp.com/products-and-services/bonds/>, last accessed May 27, 2022.

³ See <https://swiftbonds.com/performance-bond/kentucky/>, last accessed May 27, 2022.

⁴ See, e.g., Louisville Gas and Electric (PSC Electric No. 13, Rig Sheet 40.23), Big Rivers Electric Corporation (PSC Ky No. 27, Sheet No. 38), Clark Energy Cooperative, Inc. (PSC Ky No. 2, Sheet No. 116), and many others.

Clark Energy's Response to PSC No. 6

Witness: Todd Peyton

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b. The intention of the performance bond requirement is chiefly to ensure the Cooperative has recourse in the event an attacher is unwilling or unable to remove its attachments upon discontinuance of business and non-payment of rental fees. In such a case, recovery through insurance is unlikely, both due to the nature of the possible claim and the low probability that the defunct attacher continued to maintain its policy. Performance bonds and insurance are related but distinct risk-mitigation tools often employed together in the context of commercial contracts, and again, have worked alongside each other in Commission-approved pole attachment tariffs for decades.

c. Clark Energy estimates an average cost per attachment removed of \$288.95. That estimate is based upon the following.

Contractor pricing:

Foreman	\$82.97
Apprentice	\$55.63
Bucket Truck	\$36.25
Pickup Truck	\$13.90
Traffic Control	\$100.20 includes two personnel, vehicles and basic equipment.
Total	\$288.95

One hour per attachment removed includes the removal of attachment, adjoining span conductor, guys, anchors, as well as material removed from site, material disposal, and traffic control.

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At an estimated removal cost of \$288.95 per attachment, the proposed performance bond covers removal costs of approximately 35 attachments, which is likely on the low-side of any potential exposure that the Cooperative could face if an attacher abandons its facilities in place.

Witness: Todd Peyton, Vice President, Engineering

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REQUEST NO. 14: For Clark Energy only: Refer to Clark Energy's response to Commission Staff's First Request, Item 7. Provide the balance of account 108.60 – ACCUM PROV FOR DEP DIST PLANT at the end of each of the last five fiscal years.

RESPONSE:

Account 108.60 balance		
12/31/2021		\$ 40,699,813.81
12/31/2020		\$ 39,137,084.10
12/31/2019		\$ 36,970,880.09
12/31/2018		\$ 34,816,562.87
12/31/2017		\$ 33,668,158.86

Witness: Billy O. Frasure, Vice President, Finance

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REQUEST NO. 15: For Clark Energy only: Refer to Clark Energy's response to Staff's First Request, Item 8. State whether the 25 years identified is the average remaining useful life or the average useful life of the poles.

RESPONSE: The 25 years identified in response to Item 8(c) represents the approximate average depreciable life of a pole placed in service. To clarify, the average service life of poles utilized to arrive at Clark's current depreciation rate was 31 years.

Witness: Billy O. Frasure, Vice President, Finance

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REQUEST NO. 16: For Clark Energy only: Refer to Clark Energy's response to Staff's
First Request, Item 11.

- a. Explain in detail what you do when you identify a defect with a pole as part of a 10-year inspection, including specifically when and under what circumstances you would replace a pole due to a defect.
- b. Explain the timeline for replacing a pole when it is scheduled for replacement as part of normal work flow processes.
- c. Explain how you keep track of when poles are inspected as part of a 10-year inspection and how you track the condition of the pole at the time of inspection.
- d. Other than the 10-year inspection described, state whether you conduct any other pole inspections, visual or otherwise, and if so, describe those inspections in detail, including how they are documented.

RESPONSE:

a. If a defect is identified with a pole, the defect is evaluated in relation to the type of defect and the pole's existing condition. If the defect is related to deterioration and if additional preservative can be applied and extend the life of the pole until the next planned 10-year inspection, then preservative is applied, and the pole remains in place. If the defect is related to physical damage and the damage can be mitigated by repairs to extend the life of the pole until the next planned 10-year inspection, then the repairs are made and the pole remains in place. If the pole is at the end of its usable life, then a field engineer prepares a work order for each pole to be replaced that is deemed as a red flag pole during each 10-year inspection cycle.

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b. Poles are scheduled for replacement based on crew availability and location. All red tagged poles are typically replaced within two years from work order preparation.

c. Substation circuits are used to break the system into ten, approximately-equal sections and each section is rotated through the 10-year inspection cycle. The condition of the red tagged pole is deemed priority one or two. Priority one poles are changed as soon as practical. This data is maintained in our GIS system.

d. The Cooperative also conducts inspections as required by 807 KAR 5:006 and, less formally, during the day-to-day operation of its business. Visual pole inspections are performed as part of 807 KAR 5:006 requirements. If a defect is related to physical damage and the damage can be mitigated by repairs to extend the life of the pole then those repairs are made. If a pole is deemed as in need of replacement during the 2-year system inspection required by 807 KAR 5:006, then the same process is followed related to field engineer preparing the work order, as defined in subpart a., above. As noted in subpart c., above, this data is maintained in our GIS system.

Witness: Todd Peyton, Vice President, Engineering

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REQUEST NO. 17: For Clark Energy only: Refer to Clark Energy's response to Staff's First Request, Item 15, regarding the administrative review fee. Provide detailed support for the employee cost of \$44.56 and the assertion that the tasks associated with the administrative review fee take 2.25 hours of dedicated time to complete.

RESPONSE: The hourly rate of \$44.56 is based on the average hourly rate of \$35.28 plus the average hourly benefit rate of \$9.28 for the employees involved in performing the administrative review process. The 2.25 hours of dedicated time is an estimate based on the timelines and processes as laid out in the proposed tariff to perform all the duties as described in Item 15 of Commission Staff's First Request for Information, as well as the entirely new procedures and processes imposed by the Commission's new regulation.

Witness: Todd Peyton, Vice President, Engineering

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REQUEST NO. 18: For Clark Energy only: Refer to Clark Energy's response to Staff's First Request, Item 16, regarding the estimated per pole survey costs. Provide detailed support for the field employee and truck expense of \$62.27.

RESPONSE: Average hourly rate of the employees performing surveys is \$35.28.

Average hourly benefits of the employees performing surveys is \$9.28.

FEMA hourly truck rate for the type of vehicles used for surveys is \$17.71

**Note:* The FEMA rate is the average of the FEMA Cost Codes 2019 Data

FEMA 8801 – ½ ton 4x2 Pickup \$12.78

FEMA 8807 – ¾ ton 4x4 Pickup \$22.64

This average rate was used because it most closely matches

the vehicles used. There is no FEMA rate for ½ ton 4x4 pickup.

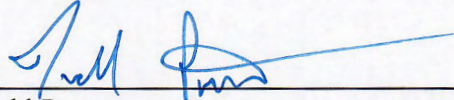
Witness: Todd Peyton, Vice President, Engineering

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VERIFICATION

I, Todd Peyton, verify, state, and affirm that the information request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

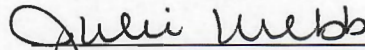


Todd Peyton
Vice President, Engineering
Clark Energy Cooperative, Inc.

COMMONWEALTH OF KENTUCKY)
) ss:
COUNTY OF)

SUBSCRIBED AND SWORN TO before me on this the 1 day of June, 2022.

My commission expires: Feb 3, 2022



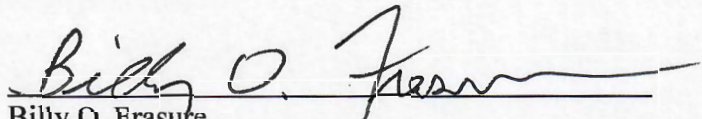
Notary Public KVNP21860

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VERIFICATION

I, Billy O. Frasure, verify, state, and affirm that the information request responses filed with this verification for which I am listed as a witness are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

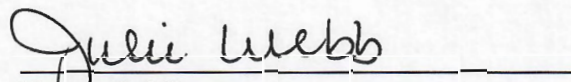


Billy O. Frasure
Vice President, Finance
Clark Energy Cooperative, Inc.

COMMONWEALTH OF KENTUCKY)
) ss:
COUNTY OF)

SUBSCRIBED AND SWORN TO before me on this the 1 day of June, 2022.

My commission expires: Feb 3, 2022



Notary Public KYNP21860