

KENTUCKY PUBLIC SERVICE COMMISSION

In the Matter of:)	
)	
)	
ELECTRONIC INVESTIGATION OF THE)	CASE NO. 2022-00106
PROPOSED POLE ATTACHMENT)	
TARIFFS OF RURAL ELECTRIC)	
COOPERATIVE CORPORATIONS)	
)	
)	

The Kentucky Broadband and Cable Association and its members¹ (“KBCA”), pursuant to the Commission’s March 30, 2022, Order, respectfully submits these initial Requests For Information to Big Rivers Electric Corporation (“Big Rivers”), Blue Grass Energy Cooperative Corporation (“Blue Grass”), Clark Energy Cooperative, Inc. (“Clark Energy”), Cumberland Valley Electric, Inc. (“Cumberland”), Farmers R.E.C.C. (“Farmers”), Fleming-Mason Energy Cooperative, Inc. (“Fleming-Mason”), Grayson R.E.C.C. (“Grayson”), Inter-County Energy Cooperative Corporation (“Inter-County”), Jackson Energy Cooperative Corporation (“Jackson Energy”), Jackson Purchase Energy Corporation (“Jackson Purchase”), Kenergy Corp. (“Kenergy”), Meade County, R.E.C.C. (“Meade”), Nolin R.E.C.C. (“Nolin”), Owen Electric Cooperative, Inc. (“Owen”), Salt River Electric Cooperative Corp. (“Salt River”), Shelby Energy Cooperative, Inc. (“Shelby”), South Kentucky R.E.C.C. (“South Kentucky”), and Taylor County R.E.C.C. (“Taylor”) in accordance with the following Definitions and Instructions.

¹ The KBCA’s members are Access Cable, Armstrong, C&W Cable, Charter Communications, Comcast, Inter Mountain Cable, Lycom Communications, Mediacom, Suddenlink, and TVS Cable. Kentucky Broadband & Cable Association, Our Members, *available at* <https://www.kybroadband.org/members>.

DEFINITIONS

1. The terms “You,” “Your,” and “the Company” refer individually to each of the R.E.C.C.s named above.
2. The term “KBCA” refers to the Kentucky Broadband and Cable Association.
3. The term “Commission” refers to the Kentucky Public Service Commission.
4. The term “Poles” refers to utility poles in Your electric distribution network in Kentucky that You own or control.
5. The term “Proposed Tariff” refers to the tariffs issued by each R.E.C.C. on February 28, 2022, in connection with this proceeding.
6. The term “Response” means the Joint Response of Rural Electric Cooperative Corporations To Objections Filed By KBCA And AT&T, filed with the Commission on April 14, 2022.
7. All capitalized terms not defined herein shall have the meanings given to them under the Proposed Tariff.

INSTRUCTIONS

1. Each RECC must respond individually to these Requests for Information, and provide the requested data. If a response is identical for one or more RECCs, specify the RECCs to which the response applies.
2. In answering these Requests for Information, please furnish all information that is known or available to You, regardless of whether the information is possessed directly by You or Your agents, employees, representatives, or investigators, or by Your attorneys or their agents, employees, representatives, or investigators.

3. Please identify at the end of Your response to each Request for Information the person or persons most knowledgeable about such response and the person or persons responsible for the preparation of such response.

4. If any information responsive to these Requests for Information is withheld, identify the Requests as to which such information is withheld and the reason(s) for withholding it.

5. For any information that You claim is unavailable, state why it is unavailable. If You cannot respond to the Request for Information precisely as it is stated, provide any information that is available and is responsive to the Request at a level of detail different from that specified herein.

6. KBCA requests that You produce all documents referenced in any response or that you referenced, reviewed, or relied upon to respond to any Request for Information.

REQUESTS FOR INFORMATION

1-1. Please explain what You mean by “realities and risks associated with expanded use of overlashing,” when overlashing has been utilized by KBCA members extensively for decades. Response at 3.

a. Identify each “risk” encompassed by Your Response.

1-2. Please explain why a pole analysis would be necessary following every overlash, even for extremely lightweight fiber overlashing.

1-3. Please state whether You maintain current pole loading data for all of Your poles and, if so, explain how such data is maintained.

a. Please identify the number or percentage of poles you own that are currently at, near, or over their load capacity.

1-4. Explain the basis and provide relevant supporting data and the legal basis for the non-compensatory Unauthorized Attachment penalty You propose to impose based on failure to provide advance notice of attachment for overloading.

1-5. Please identify and provide data concerning all costs (including how such costs are calculated) incurred by You in connection with overloading that You claim are not recovered from the overloading attacher.

1-6. Identify the number or percentage of Your poles that are currently red-tagged.

1-7. Provide data related to the number of Your Poles that are anticipated to be red-tagged in the next five years.

1-8. Explain how You will determine if a pole is red-tagged.

- a. Explain what you will do when You are notified of a red-tagged pole.
- b. Explain how an attacher can determine and assess whether or not a pole is or will be red tagged.

1-9. Explain the basis for Your proposed requirement that an attacher pay the entire cost of replacing a pole that is not red-tagged, including all economic basis for this requirement.

- a. Explain your accounting treatment of a non-red-tagged pole that is replaced with a new pole paid for by an attacher.
- b. Explain whether or not You receive any financial or other benefit as a result of an attacher paying to replace an existing pole with a new pole so that it may attach.

1-10. Explain whether You would require an attacher to replace a pole where there would be space for it to attach but for Your reservation of space for Your sole use.

- a. Explain how You decide what size and strength of pole You to put in service.

- b. Explain the basis for Your assertion that “KBCA’s suggestion that a ‘specific, known plan to provide core electric service’ must support a reservation of space is unreasonable and directly counter to the Commission’s objective to speed broadband deployment,” as stated on page 7 of Your Response.

1-11. Explain the cost basis for Your \$100 penalty for uncorrected violations and violations not corrected to Your satisfaction.

- a. Explain and provide data concerning all costs you incur as a result of uncorrected violations that You do not correct.
- b. Explain how those costs are not recovered in the annual rental rate.
- c. Explain and provide data concerning how you will determine whether a violation is corrected to Your satisfaction.
- d. Explain and provide data concerning how you will determine which attacher on the pole caused a given violation.
- e. Explain and provide data explaining how these penalties will be accounted for in Your financial reporting requirements.
- f. Explain the legal basis for collecting non-compensatory damages from a third party.

1-12. Explain and provide data concerning why the RECCs should only be liable for gross negligence, including the basis for Your statement “RECCs should be liable only if they are solely the cause of any damage or injury.” Response at 9.

- a. Explain why the same standard of liability does not apply to the RECCs and the third party attachers.
- b. Explain why third party attachers should be liable for Your negligence.

1-13. Explain whether or not members of cooperative utilities benefit from access to communications services, such as cable television and internet access service. Response at 9.

- a. Identify all costs that electric cooperatives or their members incur as a result of third party communications attachments that are not covered by non-recurring charges, such as pre-construction survey fees, make ready charges, or recurring annual rental payments from attachers.

1-14. Explain the basis for and provide all data concerning Your requirement that “Licensee shall require its agents, contractors and subcontractors to comply with the specifications required under this Schedule and the obligations of this Schedule (including but not limited to the insurance and indemnification obligations under this Schedule).”

1-15. Explain the basis for and provide all data concerning Your assertion that “from an operational standpoint, it is important to consider that contractors unable to acquire the required coverage may not be sophisticated enough or may have previous safety violations making adequate insurance unaffordable.” Response at 10.

- a. Explain how Cooperatives are at an “elevated risk[]” if contractors and subcontractors are not required to carry the same insurance as KBCA members, including any data concerning Your assertion, even though KBCA members require their contractors and subcontractors to be insured and are ultimately liable to the Cooperative. Response at 10.
- b. Explain how You quantify any “elevated risk” caused by contractors and subcontractors that are not required to carry the same insurance as a third party attacher, even though the third party attacher requires its contractors and subcontractors to be insured and is ultimately liable to You.

1-16. *To Clark Energy only*: Explain the cost basis for Clark Energy’s “administrative review fee” of \$100, including any data supporting the fee.

- a. Explain how those costs are not recovered in the annual rental rate.
- b. Identify and provide all data concerning the “costs associated with performing the work required to comply with the regulation’s review and processing requirements.”

Response at 11.

Dated: April 21, 2022

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2022, I electronically filed the foregoing document using the Kentucky Public Service Commission's electronic system for filing, which sent notice of filing to counsel of record.

/s/  _____