

**KENTUCKY PUBLIC SERVICE COMMISSION**

---

In the Matter of: )  
)  
)  
ELECTRONIC INVESTIGATION OF THE ) CASE NO. 2022-00107  
PROPOSED POLE ATTACHMENT )  
TARIFFS OF RURAL LOCAL EXCHANGE )  
CARRIERS )  
)  
)  

---

The Kentucky Broadband and Cable Association and its members<sup>1</sup> (“KBCA”), pursuant to the Commission’s March 30, 2022, Order, respectfully submits these initial Requests For Information (“RFI”) to Ballard Rural Telephone Cooperative Corporation (“Ballard”), Brandenburg Telephone Company Inc. (“Brandenburg”), Logan Telephone Cooperative, Inc. d/b/a/ LTC Connect (“Logan”), South Central Rural Telecommunications Cooperative, Inc. (“South Central”), and Thacker-Grisby Telephone Company, Incorporated (“Thacker-Grisby”), in accordance with the following Definitions and Instructions.

**DEFINITIONS**

1. The terms “You,” “Your,” and “the Company” refer individually to each of the Rural Local Exchange Carriers (“RLECs”) stated 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.

---

<sup>1</sup> 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>.

5. The term “Proposed Tariff” refers to the tariffs issued by each RLEC on February 28, 2022, in connection with this proceeding.

6. The term “Response” means the Rural Local Exchange Carriers’ Responses To KBCA’s Objections, 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 RLEC must respond individually to these Requests for Information, and provide the requested data. If a response is identical for one or more RLECs, specify the RLECs 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. Identify the number or percentage of Your poles that are currently red-tagged.

1-2. Provide data related to the number of Your Poles that are anticipated to be red-tagged in the next five years.

1-3. 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.

1-4. 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.

1-5. Explain and provide data concerning why You should not be responsible for Your own negligence, including the basis for Your requirement that “Attacher shall indemnify, protect, and hold harmless the Company and other joint-users of said poles from and against any and all loss, costs, claims . . . arising out of . . . the joint negligence of the Attacher and the Company and/or any joint users.”

a. Explain why the same standard of liability does not apply to You and the third party attachers.

b. Explain why third party attachers should be liable for Your negligence.

1-6. Explain the basis for and provide data concerning Your requirement that You may terminate KBCA's rights under the tariff and remove its attachments for failure to comply with the tariff, including failure to pay amounts You are claim are due, after a 30 day cure period.

a. Explain the basis for terminating KBCA's rights under the tariff and removing its attachments if You and KBCA are engaged in a dispute regarding the terms, conditions, or rates set forth in Your tariff.

b. Explain the basis for denying access to a pole for payment disputes.

c. Explain why the Commission's complaint process and the financial penalties already included in the tariff are not an adequate "remedy for an Attacher's failure to comply with the terms of the Tariff."

1-7. **To *Brandenburg* only:** Explain the cost basis for Brandenburg's "survey fee estimate" of \$225 per pole, including any data supporting the fee.

a. Explain and provide all data concerning the portion of this fee that is "included to provide Brandenburg Telephone with 'reasonable security' " as opposed to the portion that is an estimate of the cost of the survey itself. Response at 12.

1-8. **To *South Central* only:** Explain the cost basis for South Central's "survey fee estimate" of \$162.77 per pole, including any data supporting the fee.

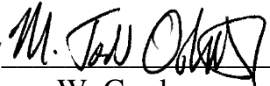
a. Explain and provide all data concerning the portion of this fee that is "included to provide South Central Rural Telephone with 'reasonable security' " as opposed to the portion that is an estimate of the cost of the survey itself. Response at 18.

1-9. *To Thacker-Grisby only*: Explain the cost basis for Thacker-Grisby’s “survey fee estimate” of \$119 per pole, including any data supporting the fee.

- a. Explain and provide all data concerning the portion of this fee that is “included to provide Thacker-Grisby Telephone with ‘reasonable security’ ” as opposed to the portion that is an estimate of the cost of the survey itself. Response at 24.

Dated: April 21, 2022

Respectfully submitted,

/s/  \_\_\_\_\_

James W. Gardner

M. Todd Osterloh

Sturgill, Turner, Barker & Moloney, PLLC

333 West Vine Street, Suite 1500

Lexington, KY 40507

Phone: (859) 255-8581

jgardner@sturgillturner.com

tosterloh@sturgillturner.com

Paul Werner

Hannah Wigger

Sheppard Mullin Richter & Hampton LLP

2099 Pennsylvania Avenue NW

Suite 100

Washington, DC 20006

(202) 747-1900

pwerner@sheppardmullin.com

hwigger@sheppardmullin.com

*Counsel for KBCA*

**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/ M. J. O'Connell