

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

IN THE MATTER OF:

ELECTRONIC INVESTIGATION OF THE  
PROPOSED POLE ATTACHMENT TARIFFS  
OF INCUMBENT LOCAL EXCHANGE  
CARRIERS

CASE NO. 2022-00108

**MOTION TO STRIKE TESTIMONY OF PATRICIA D. KRAVTIN**

BellSouth Telecommunications, LLC, d/b/a AT&T Kentucky (“AT&T Kentucky”), moves the Commission to Strike the Testimony of Patricia D. Kravtin (“Kravtin”) filed June 9, 2022 (the “Kravtin Testimony”), on behalf of the Kentucky Broadband and Cable Association (“KBCA”). In support of its Motion, AT&T Kentucky states as follows:

AT&T Kentucky agrees with the Motions to Strike Testimony of Patricia D. Kravtin that Kentucky Power Company (“Kentucky Power”) and Louisville Gas and Electric Company and Kentucky Utilities Company previously filed in the companion Case No. 2022-00105, *In the Matter of: Electronic Investigation of the Proposed Pole Attachment Tariffs of Investor-Owned Electric Utilities*. In her proffered testimony, Kravtin again advocates for a regulatory framework in which pole owners recover only remaining net book value of a pole when it is replaced solely as a result of an attacher’s attachment(s). Specifically, AT&T Kentucky agrees with Kentucky Power that KCBA’s submission of the Kravtin Testimony is nothing more than an attempt at a second bite of the apple concerning an issue that the Commission considered and rejected in the rulemaking proceeding.

In her testimony, Kravtin incorrectly asserts that “the Commission’s regulations do not address the cost allocation treatment of non-red-tagged poles.”<sup>1</sup> Kravtin further asserts that “[u]tilites have taken advantage of the gap in the Commission’s regulations related to the replacement of non-red tagged poles . . . .”<sup>2</sup> However, Kravtin seemingly ignores the Commission’s previous remarks in its Statement of Consideration Relating to 807 KAR 5:015 during the rulemaking which demonstrates the falsity of such an assertion.

Indeed, a simple reading of the Commission remarks, made to the legislature in support of its proposed rules that were subject to extensive public comment, including by KBCA, clearly demonstrates that the Commission not only considered KCBA and Kravtin’s specific argument concerning non-red-tagged poles during the rule making proceeding, it squarely addressed the issue in its reasoning and detailed analysis for rejecting the KCBA proposal. Specifically, the Commission, in its discussion of non-red tagged poles, previously stated and concluded as follows:

“Section 4(6)(b)4, with which KBCA now takes issue, then indicates that the replacement costs for non-red tagged poles that must be replaced to accommodate a new attachment will be charged in accordance with each utility’s tariff or an applicable special contract . . . [t]he amendment proposed by KBCA could result in . . . rates that are not fair, just and reasonable and otherwise comply with statutory requirements imposed by KRS Chapter 278, the Commission generally attempts to ensure that costs are assigned to the party responsible for causing a utility to incur the cost. If a utility must replace a pole that does not need to be replaced with a larger pole or a pole of a different type to accommodate a new attachment, then the cost to replace that pole is caused by the new attacher.”<sup>3</sup>

Significantly, the Commission noted that it was certainly possible that “other customers would not receive any benefit from the new pole installed to accommodate the new attacher’s equipment . . .

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<sup>1</sup> Direct Testimony of Patricia D. Kravtin dated June 9, 2022, pp. 6,-10; Case No. 2022-00105.

<sup>2</sup> *Id.* at 7.

<sup>3</sup> *See* Commission’s Statement of Consideration Relating to 807 KAR 5:015, p. 47.

and the new pole . . . may not actually have a longer life than the existing pole.” The Commission stated that KBCA’s proposed language on cost allocation would “not eliminate disputes regarding the cost of new poles” because utilities “do not track depreciation on a pole-by-pole basis.”<sup>4</sup> To the contrary, the Commission concluded that “simply requiring the new attacher to pay the full cost of the new pole . . . would likely result in the fewest disputes and delays, because the cost would be easily identifiable.”<sup>5</sup> The amended text of the regulation specifically provides: “the replacement costs for non-red tagged poles that must be replaced to accommodate a new attachment will be charged in accordance with each utility’s tariff or an applicable special contract regarding pole attachments between the utility and the new attacher.”<sup>6</sup>

Certainly, it is not credible to now assert the Commission did not consider KCBA’s argument and Kravtin’s testimony on the same. Given the Commission has already extensively considered and reasonably decided this issue, KCBA’s attempt to proffer Kravtin’s testimony is nothing more than an attempt at a redo. The Commission should decline the invitation by KCBA and Kravtin to waste the valuable time and resources of both the Commission and the parties by re-litigating an issue well-considered and reasonably decided by the Commission.

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<sup>4</sup> *Id.* at 48.

<sup>5</sup> *Id.*

<sup>6</sup> 807 KAR 5:015 § 4(6)(b)(4).

WHEREFORE, AT&T Kentucky respectfully requests the Commission to enter an order granting its Motion to Strike the Testimony of Patricia D. Kravtin.

Respectfully submitted,

/s/ Cheryl R. Winn  
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**FILING NOTICE AND CERTIFICATE**

The undersigned hereby certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing was transmitted to the Commission on June 28, 2022; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/ Cheryl R. Winn

**FILING NOTICE AND CERTIFICATE**

The undersigned hereby certifies that a copy of the foregoing has been filed via the Commission's electronic filing system, served electronically upon all parties of record through the same, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. 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.

/s/ Cheryl R. Winn