

KENTUCKY PUBLIC SERVICE COMMISSION

In the Matter of:)
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)
ELECTRONIC INVESTIGATION OF THE) CASE NO. 2022-00108
PROPOSED POLE ATTACHMENT)
TARIFFS OF INCUMBENT LOCAL)
EXCHANGE CARRIERS)
)
)

The Kentucky Broadband and Cable Association and its members¹ (“KBCA”), pursuant to the Commission’s March 30, 2022, Order, respectfully submits these Responses to the Commission’s First Request For Information To Kentucky Broadband And Cable Association.

RESPONSES

1. Refer to the Direct Testimony of Jerry Avery (Avery Testimony), page 6, in which he states “Charter has faced situations where a pole owner publicly threatened to remove its attachments during a billing dispute.” Explain whether Charter has ever faced such a situation in Kentucky, and if so, explain the circumstances under which it has occurred in Kentucky.

ANSWER: Mr. Avery states as follows: the instance referenced in my direct testimony related to a situation in Hopkinsville, Kentucky, in which Charter disputed the proper calculation of the pole attachment rate, and the amount due to Hopkinsville Electric System. While the parties were negotiating the issue, the cable board notified the local newspaper and radio stations, stating it would remove Charter’s cable attachments because Charter failed to pay its invoices, without mentioning the dispute. This caused widespread confusion among Charter’s broadband and cable customers. Charter has also faced other situations outside of Kentucky where pole owners have threatened to remove Charter’s attachments, including when the parties are engaged in good faith billing or pole attachment agreement disputes (even *after* Charter has instituted formal proceedings to resolve the dispute).

WITNESS: Jerry Avery

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>.

2. Refer to the Avery Testimony, pages 5–8, regarding the removal of attachments.

- a. State whether language that required a nexus between the alleged tariff violation and the attachment being removed would address KBCA’s concerns.**
- b. If language that required a nexus between the alleged tariff violation and the attachment being removed would not address KBCA’s concerns, then explain in detail why it would not address their concerns.**
- c. If language that required a nexus between the alleged tariff violation and the attachment being removed would address KBCA’s concerns, even in part, explain what such language KBCA contends should be added to address its concerns.**

ANSWER: While KBCA certainly agrees there should be a nexus between any alleged tariff violation and an attachment being removed, KBCA is chiefly concerned that even with a nexus requirement utilities will threaten to remove attachments even in the face of a good faith dispute over a bill or a NESC compliance issue (for example, who caused the violation and who should pay to correct it). These threats provide untoward leverage to pole owners in these types of disputes.

KBCA proposes the Commission require pole owners to state they will not remove an attacher’s facilities “if the parties have a good faith dispute,” and remove any provision allowing pole owners to remove attachments if there is a good faith dispute concerning the issue on which the removal is based.

WITNESS: Jerry Avery

3. Refer to the Avery Testimony, pages 9–10, regarding insurance requirements.

- a. Explain whether, and if so why, KBCA would object to the insurance requirements if they were limited to agents, contractors and subcontractors that perform work related to pole attachments.**

ANSWER: KBCA objects to this request to the extent it asks a witness for legal conclusions. Subject to its objection, KBCA states it would still object to the insurance requirements if they were limited to agents, contractors, and subcontractors that perform work related to pole attachments for the same reasons explained in Mr. Avery’s testimony: cable companies enter into large, proprietary contracts with their contractors and subcontractors who work on pole attachments and would not realistically be able to modify each of those to satisfy a single pole owner. Moreover, the KBCA members are ultimately responsible to the pole owners if the attachers’ contractors are not adequately insured.

WITNESS: Jerry Avery

- b. Confirm that the tariff provisions requiring agents, contractors and subcontractors to maintain certain insurance coverages would not require**

renegotiation of contracts but rather could be satisfied by an attacher simply listing a contractor as an additional insured on its policy to the extent an agreement between an attacher and its contractor did not require the coverage required by the tariff. If you are not able to confirm, explain each reason why you are not able to confirm.

ANSWER: KBCA objects to this request to the extent it asks a witness for legal a conclusion. Subject to its objection, KBCA states its members provide certificates of insurance to pole owners, upon request, and the pole owners are listed as additional insured when required. The contractors cannot be listed as additional insured because they are not necessarily known at the time the COIs are provided to the pole owners. Most KBCA members have a number of contractors they use; and, the use of a contractor at any particular time depends on availability, skill, location, etc. It would not be possible to constantly revise COIs to add the chosen contractor, and any such requirement would be an impediment to efficient broadband deployment. In any case, KBCA members are ultimately liable to the pole owner if the attacher's contractor is not adequately insured.

WITNESS: Jerry Avery

- c. Confirm that an attacher would generally not be liable for the negligence of its independent contractor such that a policy providing liability coverage to the attacher only would not provide coverage for a loss arising from the negligence of an independent contractor. If you are not able to confirm, explain each reason why you are not able to confirm.**

ANSWER: KBCA objects to this request to the extent it asks a witness for legal conclusions. Subject to its objection, KBCA states it does not understand this question as phrased. KBCA further states its members require their contractors to be responsible for their own negligence.

WITNESS: Jerry Avery

- d. Explain how the insurance requirements in the tariff differ from the typical types of insurance requirements in agreements between attachers and their contractors.**

ANSWER: KBCA objects to this request to the extent it asks a witness for legal conclusions. Individual KBCA members require the insurance they believe will be necessary when their contractors are working on the members' attachments. Because the KBCA member is ultimately liable to the pole owner if their contractors are not adequately insured, it is irrelevant if the types of insurance match. With that understanding, the types of insurance that are required by the pole owners, including Commercial General Liability, Automobile Liability, Property Insurance, Workers Compensation and Employers' Liability, and Umbrella Liability, are typical when dealing with contractors and pole attachment issues.

WITNESS: Jerry Avery

4. Refer to the Direct Testimony of Richard Bast (Bast Testimony), pages 4–7, regarding pole loading analyses for overloading.

- a. Describe the analysis Charter and other attachers typically perform when determining whether to proceed with a project to overlash existing attachments, including a description of any review or analysis of pole loading performed to determine whether to proceed with a project to overlash existing attachments and a description of who performs the analysis.**

ANSWER: The review Charter typically performs depends on the condition of the pole it encounters. Moreover, Charter complies with the overlash policies of the pole owner, which vary. Some do not require more than a picture of the pole and its location, while others require more formal analyses. Regardless, before Charter attaches to a pole, it visually inspects the pole for any evident safety violations, and will not attach if it observes a safety issue that needs to be corrected to make a safe attachment. Charter also visually inspects cable before overloading to ensure the bundle size is reasonable and not likely to overload the pole.

WITNESS: Richard Bast

- b. Explain how Charter and other attachers determine that an overloading project will not overload poles or the attachments being overlash without performing a pole loading analysis before proceeding with such a project.**

ANSWER: Charter visually inspects the pole for clear safety violations, and will not attach if it observes a safety issue that needs to be corrected to make a safe attachment. Charter also visually inspects cable before overloading to ensure the bundle size is reasonable and not likely to overload the pole. Additionally, pole owners have a 30 day overloading notice period in which to inspect the proposed overlash and reject it if it would create capacity, safety, reliability, or engineering issues.

WITNESS: Richard Bast

- c. Identify and describe any National Electric Code, National Electric Safety Code, or Occupational Safety and Health Administration regulations relating to when and under what circumstances a pole loading analysis must be performed.**

ANSWER: I am not aware of National Electric Code, National Electric Safety Code, or Occupational Safety and Health Administration regulations related specifically to pole loading analyses for overloading.

WITNESS: Richard Bast

- d. Identify the circumstances under which it would be reasonable to conduct or require a pole loading analysis for an overlashing project, and explain the basis for your response.**

ANSWER: It is not necessary to do a pole loading analysis on most poles. It depends on the condition of the pole and the facilities on that pole. For instance, it may be reasonable to conduct a pole loading analysis for an overlashing project if the existing cable bundle to which the attacher plans to overlash is large or if the pole already has many other facilities. The overlashing attacher would be able to make this determination of whether a load study would be useful during the “walk-out” conducted to determine which poles to include in an overlash notice. Of course, a pole owner is always free to conduct a pole loading analysis during the 30 day overlashing review period. However, as I explained in my testimony, because a pole loading analysis is not usually necessary to ensure safe overlashing, the attacher should only be required to pay for a pole loading analysis if the utility discovers that the overlashing would cause an issue that must be addressed prior to overlashing, i.e., the attacher should not be charged for every study that demonstrates a pre-existing violation. It is my understanding that this is consistent with (or perhaps even more generous than) the Federal Communication Commission’s rules, which prohibit a utility from charging the overlasher for the utility’s review of the proposed overlash.

WITNESS: Richard Bast

- 5. Refer to the Bast Testimony, page 10, in which he states that Charter estimates the preconstruction survey cost per pole in Kentucky to be roughly \$35 per pole. Explain the information Charter relied upon to come up with a \$35 per pole estimate for preconstruction survey cost per pole in Kentucky.**

ANSWER: I based the \$35 per pole average on my 20 years of experience in the cable industry. As part of my job at Charter, I review preconstruction survey costs utilities request Charter to pay. On average, these preconstruction survey costs are around \$35, but Charter considers anything between \$30-50 to be in the normal range. This range is also supported by the majority of the estimated preconstruction survey costs proposed by the utilities in this proceeding. See Bast Testimony at fn. 13. Preconstruction survey fees significantly above this range are likely not based on actual costs, and are not true per-pole estimates. *Id.* at 11 & fns. 14-16.

WITNESS: Richard Bast

- 6. Refer to the Bast Testimony, page 13, in which he states that Cincinnati Bell’s proposal requiring an attacher to pay the full cost, plus 10 percent, of any work Cincinnati Bell performs is unreasonable. Also refer to the Commission’s June 1, 1983 Order in Administrative Case No. 251-4, in which the Commission characterized Kentucky Cable Television Association, Inc.’s objection to Cincinnati Bell’s addition of a 10 percent surcharge to CATV make-ready and rearrangement activity as unreasonable. Explain why the Commission should find otherwise in this proceeding.**

ANSWER: The 10% surcharge the Commission approved for Cincinnati Bell 39 years ago related only to “make-ready and rearrangement activity.” Kentucky Public Service Commission, *The CATV Pole Attachment Tariff of Cincinnati Bell, Inc.*, Order, Case No. 251-4, ¶ 5 (June 1,

1983), available at [19000251_06011983_2.pdf \(ky.gov\)](#). In contrast, Cincinnati Bell's current tariff includes a 10% surcharge for "all work performed by the Telephone Company" including "but not [] limited to, prelicense survey, make-ready work, inspection and removal of the attachee's communication facilities." The surcharge in the current tariff is thus much more expansive – and unreasonable – than the previous surcharge.

Additionally, through the Commission's rulemaking, and this tariff proceeding, the Commission is re-examining the just and reasonable terms that will promote efficient broadband deployment in Kentucky. One such policy is ensuring utilities are not up-charging attachers without any cost basis. Cincinnati Bell has not identified any basis for its arbitrary surcharge. Bast Testimony at 13. Allowing Cincinnati Bell to add 10% to all make-work, or even to its pre-construction survey, would serve no purpose other than to increase the cost of deploying broadband for new attachers, hampering broadband growth in Kentucky, and providing an unjustified windfall to Cincinnati Bell.

WITNESS: Richard Bast

7. Refer to the Direct Testimony of Patricia Kravtin (Kravtin Testimony), page 9, stating that her proposed approach "mitigates a utility's ability to exercise its hold-up power to raise attachers' costs by strategically under-identifying, misreporting, or withholding strategic private information pertaining to its classification of red-tagged and non-red tagged poles." Identify any evidence that Kentucky utilities have strategically under-identified, misreported, or withheld strategic private information pertaining to their classification of red-tagged.

ANSWER: Because the Commission's regulations have not taken effect, no poles have yet been "mis-classified" as non-red tagged poles. However, the data provided by the utilities demonstrate an underreporting of the number of red-tagged poles will occur once the regulations do take effect. Kravtin Testimony at 29-32. As explained in Ms. Kravtin's testimony, if utilities were properly designating as red-tagged all poles that would be replaced within two years in accordance with the utilities' identified depreciation parameters, the annualized red-tagged percentage should be close to the utilities' theoretical annual utility pole replacement rate. *Id.* & *Table 4*. But it is not. *Id.* Instead, the utilities' rate of red-tag poles is a fraction of utilities' annual replacement rate based on identified depreciation parameters for the pole asset group. *Id.* This shows utilities have not historically reported, and apparently are not intending going forward to report, all red-tagged poles as red-tagged, and are likely to shift pole replacement costs to new attachers. *Id.*

Even once the regulations do take effect, it will be difficult for attachers to discover when utilities mis-classify non-red-tagged poles. Part of the problem with the red-tag framework is that there is no way for attachers independently to verify whether a pole falls under the Commission's definition of red-tagged, especially if it is one without obvious safety defects but is nevertheless "[d]esignated for replacement within two (2) years of the date of its actual replacement for any reason unrelated to a new attacher's request for attachment." 807 KAR 5:015 § 1(10); Kravtin Testimony at 14. Utilities confirmed this fact in responding to KBCA's RFI by stating attachers would have to follow up with utilities if they have questions regarding whether or not a pole is red-tagged. *Id.* Without any independent way to verify whether a utility intends to replace a pole

within two years of the attachment request, attachers will likely be stuck with the bill for replacing large portions of a utility's network, even if the utility would have replaced the poles themselves in the normal course of business.

Ms. Kravtin further expands on these questions in her recent white paper, submitted to the FCC on June 27, 2022, and attached to these responses as Exhibit 1. In the white paper, she elaborates on why and the various means by which utilities strategically hold up access to poles, one of those being under-identifying, misreporting and overstating the need for pole replacement, overattributing the reason for a pole replacement to a new attachment, and misreporting or underreporting the number of red tagged poles. White paper at 24-27. Part of the incentive utilities have to exercise their hold-up power is that they are facing pressure to upgrade and harden their existing pole network to provide more reliable power for electric customers. *Id.* And for their own pole hardening purposes, it is widely acknowledged that replacing a pole is the preferred course of action to reinforcing, restoring, or other forms of remediation. *Id.*

WITNESS: Patricia Kravtin

8. Refer to the Kravtin Testimony, page 8, stating that “pole attachers, through both the recurring pole attachment rental rates paid to the utility (in addition to the non-recurring) and more generally as a utility customer, already share efficiently and equitably in the costs of replacing all utility poles (including those precipitated in connection with the new attachment) through the depreciation allowances the pole owner charges customers as a non-cash expense.”

a. Explain the basis for the contention that pole attachers “share efficiently and equitably in the costs of replacing” poles necessary to accommodate a new attachment by the payment of pole attachment rates and utility rates.

ANSWER: As explained in Ms. Kravtin's testimony and expanded upon in her recent white paper, pole attachers share efficiently and equitably in the costs of replacing poles by paying recurring pole rental rates that recover a cost causative share of the pole owner's fully allocated costs. These include depreciation, the cost of capital on the pole owner's total net pole investment, and non-recurring charges like make-ready fees. *See* Kravtin White Paper at 51-54.

An efficient and equitable allocation of costs would allow a utility only to recover in make ready charges from the new attacher the utility's true marginal costs when a pole is replaced to host the new attachment, as calculated by the net book value approach (or a similar approach). *Id.* By making the attacher pay for an early replacement of a pole in connection with its attachment *on an individual pole basis*, an attacher shares both efficiently and equitably in the cost of pole replacement. *Id.* Requiring the attacher to pay for the entire replacement cost of the pole, without regard to the primary betterment value to the pole owner, would be both inefficient and inequitable.

However, attachers also share efficiently and equitably in the replacement of non-red-tagged poles by paying – in addition to make ready charges – a cost causative share of the ongoing fully allocated costs of all utility poles, including in the form of recurring rents that utilities collect from all the attachers *on an average cost basis*, which includes a depreciation component. *Id.* This

provides equitable recovery to the utility in assuring utilities recover more than the cost of a pole from attachers. *Id.*

The utilities cannot credibly argue that attachers only paying to replace the net book value of a pole negatively impacts their budgets. *Id.* at 58-61. Utilities record pole depreciation as a non-cash expense on their books based on their identified useful life for a pole. *Id.* They then recover that depreciation expense through their recurring pole attachment rental rates and from their electric customers. *Id.* The purpose of depreciation is to allow the utilities to build up funds sufficient to replace plant at the end of its useful life, or when it is fully depreciated. *Id.* Thus, through their annual depreciation accruals utilities accumulate sufficient funds to pay for replacement of its total pole investment, including poles retired earlier than average, at the average useful life, and later than average. *Id.* And when a utility keeps a pole in service far beyond the useful life it uses for depreciation purposes – which utilities in this proceeding openly admit they are doing – they enjoy extra capital recovery of their investment beyond what is sufficient to make them whole for the costs of pole replacement *Id.* Given utilities depreciate poles on an average group account basis, the extra recovery on poles in service longer than average balances any shortfall in depreciation for poles replaced earlier than average, ensuring the utility is made whole. It is both inefficient and inequitable to allow utilities to be made more than whole by charging new attachers more than the remaining net book value of a pole that is replaced before the end of its useful life. *Id.*

WITNESS: Patricia Kravtin

- b. If the pole attachment rate did allow for the efficient and equitable recovery of the costs of replacing poles over the life of the pole, explain whether costs would still be shifted to other utility customers if the attacher removed attachments before the end of the useful life of the pole.**

ANSWER: The only costs that would theoretically be shifted to utilities – or their customers – if an attacher removes attachments before the end of the useful life of the pole are the temporal costs associated with replacing a pole early, not the entire cost of replacing the pole. This is because, as explained below, the utility and its customers immediately enjoy the betterment value of the replaced pole. This includes, among other savings, additional sources of revenue that offset those temporal costs of advancing the pole replacement. Thus, to be efficient, fair, and equitable, a utility should not be allowed to pass on to attachers more than the cost of advancing the pole's replacement. The net book value approach described in Ms. Kravtin's testimony is one of the easiest and most widely accepted methodologies for calculating the remaining net book value of a pole and can be readily applied on the basis of an average pole in service, a pole-specific basis, or a pole age range basis, which is why it is the approach Ms. Kravtin recommended the Commission adopt. *See* Kravtin White Paper at 40-49, 77-79 & 86-87. Under this approach, no costs would be shifted to other utility customers if an attachment is removed before the end of a pole's useful life.

WITNESS: Patricia Kravtin

- c. Explain whether any jurisdictions have instituted a procedure that requires a new attacher to bear the initial cost of replacing non-red tagged poles but**

allows all or a portion of those costs to be reimbursed when the benefits are determined to have actually accrued to other customers, e.g. when another new attacher uses capacity created by a new pole or the new pole continues to be used beyond the useful life of the replaced pole, and explain whether and if so how such an approach could be reasonable.

ANSWER: To be clear, this is not the proposal of the KBCA, and Ms. Kravtin is not aware of jurisdictions that have instituted the referenced procedure. Nor does it make economic or public policy sense. Approaching the allocation of non-red-tagged pole replacement costs in this manner ignores the betterment value utilities receive from replaced poles, which are discussed in more detail below. This betterment value, which includes revenue, operational, and tax-related benefits, accrues immediately. The referenced procedure as described would be administratively complex to implement, and does not reflect the economic realities of pole replacements.

WITNESS: Patricia Kravtin

9. Refer to the Kravtin Testimony, page 11, arguing that allocating all costs to replace non-red tagged poles to new attachers could undermine the deployment of broadband.

a. Explain whether the utilities can be required to replace a non-red tagged pole pursuant to 807 KAR 5:015 in order to generate additional capacity for attachments.

ANSWER: KBCA objects to this request to the extent it asks a witness for legal conclusions. Subject to its objection, KBCA states utilities would be required to replace the non-red-tagged pole, but are not explicitly required to pay for it under 807 KAR 5:015.

WITNESS: N/A

b. If not, explain whether requiring utilities to cover the cost of replacing non-red tagged poles could create a disincentive for such replacements.

ANSWER: Requiring a utility to use funds it has collected through depreciation allowances to cover the costs of non-red tagged poles, including poles only partially depreciated, should not create a disincentive for such replacements. Regardless, it is contrary to the public interest to adopt a policy that allows utilities to exercise their hold up power by effectively requiring double or triple recovery in order to incentivize them to complete replacements they should be doing in the normal course of their business and for which they are allowed sufficient depreciation allowances. For the reasons explained above, as long as attachers pay for the remaining undepreciated value of the replaced pole, in addition to recurring rental rates, the pole owner should be sufficiently, if not more than sufficiently, incentivized to perform the pole replacement and enjoy the upgrade to its pole inventory.

WITNESS: Patricia Kravtin

10. Refer to the Kravtin Testimony, pages 11–13, discussing the benefits of broadband deployment, particularly in unserved and underserved areas.

- a. Explain whether lack of capacity for pole attachments in unserved or underserved areas requiring make-ready pole replacements is typically an issue, and if so, explain why that would be the case considering that there should be fewer attachments on such poles.**

ANSWER: This question underscores the problem identified in Ms. Kravtin’s Testimony and supported by the utilities’ own data: there is higher incidence of pole replacements for new attachments than would be expected given the fewer number of attachments that are typical in unserved or underserved areas and the normal rate of life cycle replacements assumed in the utility’s depreciation allowances. *See, e.g.*, Kravtin Testimony at 31; White Paper at 31-34. As explained in Ms. Kravtin’s Testimony and recent White Paper, the explanation lies in the holdup power of the utility to shift the costs of replacements onto attachers, either by overstating the need to replace poles or under-identifying red tagged poles. *Id.* As suggested by this question, there is no logical explanation for the extent of the make ready problem other than economic hold up power by the utilities. *Id.*

WITNESS: Patricia Kravtin

- b. Explain whether lack of capacity for pole attachments in unserved or underserved areas requiring make-ready pole replacements is or is expected to be an issue in Kentucky, and explain the basis for your response.**

ANSWER: While Ms. Kravtin does not opine directly on this issue in her testimony, and the data to answer this question would be in the possession of the utilities, Ms. Kravtin answers as follows. Based on the attention given this matter here in Kentucky and nationwide in connection with broadband infrastructure grant funding in unserved and underserved areas, Ms. Kravtin expects utilities will increasingly assert that a lack of capacity in unserved or underserved areas requires pole replacement for purportedly non-red-tagged poles. The utilities themselves have emphasized throughout this proceeding the number of RDOF grants and projects KBCA members are undertaking in Kentucky, raising the capacity issue. In Ms. Kravtin’s view, the utilities are making the lack of capacity a bigger issue that it might otherwise be to justify excessive make-ready charges, whereas as explained above, the driving force behind pole replacements is the utilities’ own need to harden their existing networks, of which replacing older, shorter, and lighter poles with taller, stronger poles is a key component. *See* White paper at 24-27.

WITNESS: Patricia Kravtin

11. Refer to the Kravtin Testimony, page 17.

- a. Explain in more detail the contention that utilities could be over recovering the cost of pole replacements.**

ANSWER: As explained above, utilities are recovering the cost of pole replacements in the form of fully allocated recurring rates (which by design and in practice provide capital recovery in excess of the attacher’s incremental cost burden), non-recurring make ready charges, and

depreciation allowances built into both their pole attachment charges and rates charged to their electric customers. *See* Kravtin White Paper at 50-68, *see also* Appendix 1 (regarding the capital recovery opportunities built into the Recurring Rate). Utilities also openly admit they depreciate poles more quickly than the poles' actual service lives, meaning they collect the full replacement value of the pole long before they replace it, then continue to accrue more funds (including pole attachment rent) on the fully/over depreciated pole. *Id.*

WITNESS: Patricia Kravtin

- b. Explain whether this over recovery would be eliminated if utilities removed the costs of make-ready pole replacements paid by new attachers from the rate base used to calculate pole attachment and other rates.**

ANSWER: Removing the cost of make-ready pole replacements from the rate base used to calculate pole attachments and other rates would help mitigate utility over-recovery provided it is all credited to Account 364, but would not fully address the issue if the attacher pays the full cost to replace a pole. Such credits to Account 364 should have the effect of reducing utilities' total gross pole investment to which carrying charge factors are applied, and thereby reduce (by a corresponding amount) the annual costs of the poles allocated to attachers. This rule, however, is administratively complex and confirming compliance with it is difficult, for many reasons. For example, much of the relevant data is not reported publicly, and there is little visibility into internal utility credit tracking mechanisms. Additionally, the crediting procedure would have to have been applied correctly to Account 364 embedded booked balances on a historic basis for all years for which make-ready charges were paid, not just on a going forward basis. These implementation challenges are further compounded by the time lags inherent in utilities' accounting processes. Thus, even if a utility were properly tracking and accounting for make-ready reimbursements received from attachers on a historic basis (and excluding them from capital investment) by crediting them to the relevant pole Account 364 instead of spreading them across other FERC accounts not included in the rate formula, the utility may not be matching them to the appropriate cost year. The increasingly common use of outside contractors to perform this work further complicates the accounting of the make-ready credit. *See* White Paper at 55-58.

WITNESS: Patricia Kravtin

12. Refer to the Kravtin Testimony, pages 20–22.

- a. Explain in more detail how accumulated deferred income taxes (ADIT) would affect the calculation on page 20, and provide an example calculation with ADIT.**

ANSWER: ADIT does not apply to Cooperatives. However, in situations in which it did apply, ADIT would be subtracted in the net book value calculation as illustrated in Tab V.2 of Kravtin's white paper. *See* Kravtin White Paper at 47.

WITNESS: Patricia Kravtin

b. Explain why under the proposed calculation you would remove undepreciated cost of appurtenances.

ANSWER: The proposed calculation treats appurtenances consistent with Section 224 regulation of pole attachments, whereby pole attachment charges, which are both recurring and non-recurring under cost causation principles, are designed to recover the costs of installing and removing the bare pole net of appurtenances used exclusively for the benefit of the utility. The referenced illustrative calculation does so by applying the standard recurring rate formula methodology of using an 85% presumptive value designed to remove both gross investment and depreciation related to the appurtenances from the net book value. Other methods that calculate the net book value based on bare pole costs directly (and hence would not require an explicit appurtenance reduction) are also available. *See* Kravtin White Paper at 42. The Kentucky formula may also be calculated using information on bare pole investment directly, if such data is available.

WITNESS: Patricia Kravtin

13. Refer to the Kravtin Testimony, page 40.

a. Explain the basis for the contention that the make-ready replacement of non-red tagged poles will result in “[s]trategic benefits.”

ANSWER: Utilities acquire many strategic benefits from replacement of non-red-tagged poles with taller and stronger poles, including the ability to offer additional services and enhancements, like smart-grid applications, and the utility’s own (or affiliated) broadband or fiber services, and the betterment value of the taller and stronger poles for hardening purposes. Kravtin White Paper at 26-30. As one utility explained, replacing a pole “can preempt pole failure, thereby enhancing public safety by keeping overhead lines and equipment in place, enhance reliability by preventing a potential outage, and decrease the need for an emergency replacement which is generally more expensive than planned work performed during normal business hours.” *Id.* at 27 & fn 26. The data submitted by utilities in this proceeding supports this concept in that utilities’ normal replacement rates under identified depreciation parameters far exceed the number of poles each year that the utilities identify as currently red-tagged. Kravtin Testimony at 31.

WITNESS: Patricia Kravtin

b. Explain the basis for the contention that the make-ready replacement of non-red tagged poles will result in “[r]evenue-enhancing benefits, including enhanced rental opportunities from the increased capacity on the new replacement pole.”

ANSWER: When a utility replaces a pole with a taller pole, or a harder or more technologically advanced pole, it can increase its revenue from the pole by offering additional attachment space to attachers and enhanced smart grid service offerings to its own customers. Kravtin White Paper at 26-30. It can also use the pole to deploy its own broadband network.

WITNESS: Patricia Kravtin

- c. Explain the basis for the contention that the make-ready replacement of non-red tagged poles will result in “[c]apital cost savings associated with future planned plant upgrades and cyclical replacement programs.”**

ANSWER: As explained above, utilities agree that replacing poles before they absolutely must be replaced because they have become dangerous “can preempt pole failure, thereby enhancing public safety by keeping overhead lines and equipment in place, enhance reliability by preventing a potential outage, and decrease the need for an emergency replacement which is generally more expensive than planned work performed during normal business hours.” Kravtin White Paper at 26-27 & fn 26. Thus, replacing poles before they become red-tagged saves the utilities money in the long run.

WITNESS: Patricia Kravtin

- d. Explain the basis for the contention that the make-ready replacement of non-red tagged poles generates “[o]perational cost savings in the form of lower maintenance and operating expenses.”**

ANSWER: Replacing non-red tagged poles allows the utility to avoid costs associated with servicing deteriorating poles, or any emergencies related to the structural integrity of those poles. Kravtin White Paper at 26-30. That is why utilities are seeking to replace their plant with taller, stronger poles for hardening purposes. *Id.* Additionally, newer poles require less maintenance and have lower operating expenses. *Id.*

WITNESS: Patricia Kravtin

- e. Explain the basis for the contention that the make-ready replacement of non-red tagged poles generates a benefit to a utility due to the “[e]njoyment of additional tax savings or cash flow opportunities from the accelerated depreciation of a new capital asset which reverses as the asset ages.”**

ANSWER: Because depreciation is tax-deductible, investor owned utilities enjoy tax benefits from accelerated depreciation and interest deductions. Kravtin White Paper at 30 & fn. 31. *See also* Kravtin White Paper, Appendix A-2. Depreciation applies at a mass group account basis, so it is not matched to individual poles reaching their full depreciation. *Id.* But with newer poles, the average of the group is younger and so the accelerated depreciation benefit will increase for the account as a whole. *Id.*

WITNESS: Patricia Kravtin

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Respectfully submitted,


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Counsel for KBCA

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

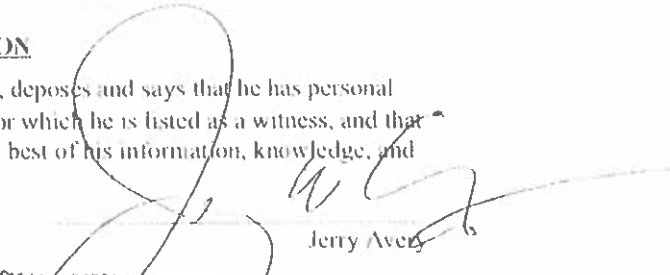
of
INVESTIGATION OF THE
POLE ATTACHMENT
INCUMBENT LOCAL
CARRIERS

) CYNTHIA HADLEY
) NOTARY PUBLIC
) STATE AT LARGE
) KENTUCKY
MY COMMISSION EXPIRES APRIL 8, 2023

Case No.
2022-00108

VERIFICATION

undersigned, Jerry Avery, being duly sworn, deposes and says that he has personal
knowledge of the matters set forth in these Responses for which he is listed as a witness, and that
the information contained therein are true and correct to the best of his information, knowledge, and



Jerry Avery

STATE OF KENTUCKY)
COUNTY)

) CYNTHIA HADLEY
) NOTARY PUBLIC
) STATE AT LARGE
) KENTUCKY
) MY COMMISSION EXPIRES APRIL 8, 2023

DESCRIBED AND SWORN TO before me by Jerry Avery on this the 6 day of July,

Cynthia Hadley
Notary 621067

**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

VERIFICATION

The undersigned, Richard Bast, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in these Responses for which he is listed as a witness, and that the answers contained therein are true and correct to the best of his information, knowledge, and belief.

Richard W. Bast

Richard Bast

COMMONWEALTH OF KENTUCKY)
JEFFERSON COUNTY)



SUBSCRIBED AND SWORN TO before me by Richard Bast on this the 7th day of
July, 2022.

CYNTHIA HADLEY
NOTARY PUBLIC
STATE AT LARGE
KENTUCKY
MY COMMISSION EXPIRES APRIL 8, 2023

Cynthia Hadley
NOTARY
#621067

**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

VERIFICATION


The undersigned, Patricia Kravtin, being duly sworn, deposes and says that she has personal knowledge of the matters set forth in these Responses for which she is listed as a witness, and that the answers contained therein are true and correct to the best of her information, knowledge, and belief.



Patricia Kravtin

STATE OF UTAH)
SUMMIT COUNTY)

SUBSCRIBED AND SWORN TO before me by Patricia Kravtin on this the 1st day of July, 2022.

STATE OF UTAH
COUNTY OF Summit
SUBSCRIBED AND SWORN TO BEFORE ME
THIS 1 DAY OF JULY 20 22

NOTARY PUBLIC

