

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)	
)	
)	
ELECTRONIC APPLICATION OF DUKE)	CASE NO. 2022-00372
ENERGY KENTUCKY, INC. FOR (1) AN)	
ADJUSTMENT OF ELECTRIC RATES; (2))	
APPROVAL OF NEW TARIFFS; (3))	
APPROVAL OF ACCOUNTING)	
PRACTICES TO ESTABLISH)	
REGULATORY ASSETS AND)	
LIABILITIES; AND (4) ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	
)	

KENTUCKY BROADBAND AND CABLE ASSOCIATION’S
PETITION TO INTERVENE

Pursuant to KRS 278.310 and 807 KAR 5:001 § 4(11), the Kentucky Broadband and Cable Association and its members¹ (“KBCA”) respectfully petition for full intervention in the above-captioned rate case filed by Duke Energy Kentucky (“Duke”).

The KBCA has a strong and abiding interest in access to utility pole infrastructure under just and reasonable rates. KBCA members are connectivity companies offering broadband, voice, mobile, and video services to more than one million homes and businesses and employing nearly 4,000 people across the Commonwealth. KBCA and its members are driving innovation and expanding access to broadband to ensure that residents of the Commonwealth receive the information, services, and entertainment they want and need to stay connected, informed, competitive, and successful in today’s ultra-connected world. Access to reliable, high-speed

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>.

broadband is critical to ensuring that Kentuckians, no matter where they live, have access to vital broadband services. KBCA members' tens of thousands of miles of Kentucky infrastructure ensure that some of Kentucky's largest businesses, hospitals, and anchor institutions can also serve the public. Hundreds of thousands of families and small businesses across the Commonwealth depend on KBCA members' robust networks, many of which deliver 1 Gigabit broadband connections (with 940 Mbps maximum download), video services offering some of the greatest selections of HD channels available anywhere, and reliable voice services—including mobile services. To construct, operate, and maintain the communications networks to provide these vital services across Kentucky, KBCA must rely on reasonable access to existing utility infrastructure, including Duke's poles.

Given its members' reliance on reasonable access to utility pole infrastructure, KBCA, on behalf of its members, actively participated in the Commission's proceeding to adopt just and reasonable pole attachment regulations. In that proceeding, KBCA submitted multiple rounds of comments on the Commission's proposed regulations, objected to certain pole attachment terms that the utilities proposed, and also submitted extensive briefing and testimony.²

KBCA now seeks to intervene in this proceeding because Duke's proposed tariff contains rates that are unsupported, unjust, and unreasonable. Duke's rates, if approved, would significantly impact KBCA members' ability to access Duke's poles under just and reasonable rates in order to construct and operate their communications networks.

Given their reliance on reasonable and lawful access to utility poles to deploy vital broadband services across the Commonwealth, KBCA and its members are vital stakeholders

² See, e.g., *In the Matter of Electronic Investigation Of The Proposed Attachment Tariffs Of Investor Owned Electric Utilities*, Case No. 2022-00105 (2022) (reflecting KBCA filings).

who will provide the Commission with unique views and perspectives not offered by another participant in this proceeding. 807 KAR 5:001 § 4(11)(b). KBCA’s views and experiences will assist the Commission in developing a robust and complete record on which to evaluate Duke’s proposed rate increases and ensure that the Commission considers all relevant stakeholders’ positions in determining whether Duke’s rates are just and reasonable. 807 KAR 5:001 § 4(11)(a).³

Accordingly, the Commission should grant KBCA’s petition to intervene.

Respectfully submitted,

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and

³ Duke’s proposed tariff also proposes pole attachment terms and conditions that are inconsistent with the Commission’s newly-promulgated pole attachment regulations, and the proposed tariff that Duke submitted in that separate proceeding. *Compare* Duke Energy Kentucky, Rate DPA Distribution Pole Attachments, at Revised Sheet No. 92, available at https://psc.ky.gov/pscscf/2022-00372/debbie.gates%40duke-energy.com/12012022053335/Volume_11.pdf (incorporating all previous tariff terms, with the exception of the rate), and Duke Energy Kentucky, Rate DPA Distribution Pole Attachments, at Revised Sheet No. 92, available at https://psc.ky.gov/pscscf/2022%20cases/2022-00105/20220228_Duke%20Energy%20Kentucky,%20Inc.%20Tariff%20Filing.pdf (tariff filed in the Kentucky pole attachment proceeding). With respect to pole attachments, KBCA assumes that Duke is seeking a change only to its Attachment Charges in this proceeding, and will address any other terms and conditions the context of the Commission’s separate pole attachment proceeding. *See In the Matter of Electronic Investigation Of The Proposed Attachment Tariffs Of Investor Owned Electric Utilities*, Case No. 2022-00105, Order (Dec. 28, 2022), available at https://psc.ky.gov/pscscf/2022%20Cases/2022-00105/20221228_PSC_ORDER.pdf (ordering Duke to file a new tariff that complies with the Commission’s order).

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