

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

**In the Matter of:**

<b>ELECTRONIC INVESTIGATION</b>	)	
<b>OF POLE ATTACHMENTS</b>	)	<b>CASE NO.</b>
	)	<b>2023-00416</b>
	)	

**RESPONSE OF KENTUCKY’S ELECTRIC COOPERATIVES IN OPPOSITION TO  
KBCA’S OBJECTIONS TO KENTUCKY TARIFFS**

Kentucky’s electric cooperatives (the “Cooperatives”),<sup>1</sup> by counsel and in response to the Objections to Kentucky Tariffs filed by the Kentucky Broadband and Cable Association (“KBCA”) on May 22, 2025 (the “Objections”), respectfully oppose the KBCA’s Objections. In support of their response, Kentucky’s electric cooperatives state as follows.

The Cooperatives’ Pole Attachment Tariffs (“Tariffs”) do not violate 807 KAR 5:015E. Consistent with 807 KAR 5:015E § 4(8)(g), the Tariffs provide in relevant part:

If a person or entity expects to submit an Application (or series of Applications) seeking to attach to more than zero and seventy-five hundredths percent (0.75%) of [Cooperative’s] Poles in Kentucky (or to more than 500 Poles, whichever is less), then as soon as reasonably practicable (and in no event less than ninety (90) days before submission of such Application(s)), the person or entity shall provide written notification to [Cooperatives] describing the details of the expected Application, including location and number of Poles to be impacted, relevant timelines, and similar information.

KBCA claims that this single paragraph violates 807 KAR 5:015E § 4(8)(f) because it fails to specify that a “series of applications” must be filed within a 30-day window to be considered as

---

<sup>1</sup> The following electric cooperatives are jurisdictional utilities that were made party to this case by the Order: Big Rivers Electric Corporation; Big Sandy RECC; Blue Grass Energy Cooperative Corporation; Clark Energy Cooperative, Inc.; Cumberland Valley Electric, Inc.; East Kentucky Power Cooperative, Inc.; Farmers RECC; Fleming-Mason Energy Cooperative; Grayson RECC; Inter-County Energy Cooperative Corporation; Jackson Energy Cooperative Corporation; Jackson Purchase Energy Corporation; Kenergy Corporation; Licking Valley RECC; Meade County RECC; Nolin RECC; Owen Electric Cooperative; Salt River Electric Cooperative Corporation; Shelby Energy Cooperative, Inc.; South Kentucky RECC; and Taylor County RECC. Although this filing speaks on behalf of the group’s common interests, each cooperative reserves the right to also address issues on an individual basis throughout this proceeding.

a single application when attachers apply for a high volume of attachments. However, under the clear terms of the Tariffs, there is no reasonable question that multiple applications will be considered as one when those applications are submitted within 30 days of one another. First, the 30-day timeline for a series of applications is already included in the tariff definitions for the terms “High Volume Orders” and “Lesser Volume Orders,” making it superfluous for the Cooperatives to yet again specify the 30-day timeline in the above-referenced paragraph. Second, the Commission has recently held – in response to a similar KBCA objection in another pole attachment tariff matter – that the inclusion of a savings clause can overcome a vagueness objection.<sup>2</sup> Here, the Tariffs contain exactly such a savings clause at the tariff definition of “Regulation,” which provides that the Tariffs are intended to be, and should be interpreted consistent with the requirements of 807 KAR 5:015E.<sup>3</sup> Finally, the language to which KBCA objects was included in the July 2024 tariff filing, and KBCA made no objection to this same language in that preceding tariff.<sup>4</sup>

Therefore, the Commission should overrule KBCA’s Objections and permit the Tariffs to go into effect on the stated effective date.

Respectfully submitted,

/s/ Edward T. Depp  
Edward T. Depp  
Holly C. Wallace  
**Dinsmore & Shohl LLP**  
101 S. Fifth Street  
Suite 2500

---

<sup>2</sup> See *In the Matter of: Electronic Investigation of the Proposed Pole Attachment Tariffs of Incumbent Local Exchange Carriers*, Case No. 2022-00108, 2023 Ky. PUC LEXIS 993 at \*10 (Ky. PUC Dec. 20, 2023) (“Furthermore, there is a savings clause in Windstream’s tariffs providing for 807 KAR 5:015 to prevail if there is a conflict between the tariffs and the regulation. Accordingly, the Commission finds that this proposed provision is reasonable and should be approved.”).

<sup>3</sup> E.g., Big Rivers Electric Corporation, KY P.S.C. Tariff No. 27, Schedule PA – Pole Attachments, First Revised Page No. 38.01; see also 807 KAR 5:015E § 4(8)(f) (providing the 30-day time period).

<sup>4</sup> Moreover, if the Commission allows this tariff to go into effect on May 28, 2025, this will moot any issues with the proposed tariff in Case No. 2024-00280 because the present tariff will supersede it.

Louisville, KY 40202  
(502) 540-2300  
(502) 585-2207  
[tip.depp@dinsmore.com](mailto:tip.depp@dinsmore.com)  
holly.wallace@dinsmore.com

*Counsel to Kentucky's Electric Cooperatives*

**Certification**

I hereby certify that a copy of this filing has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. 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/ Edward T. Depp*  
*Counsel to Kentucky's Electric Cooperatives*