

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

In the Matter of:

ELECTRONIC INVESTIGATION)	
OF POLE ATTACHMENTS)	CASE NO. 2023-00416
)	

**KENTUCKY’S ELECTRIC COOPERATIVES
PROPOSED EMERGENCY AMENDMENTS TO 807 KAR 5:015**

Kentucky’s electric cooperatives (the “Cooperatives”),¹ by counsel and pursuant to the Commission’s Order entered in this matter on April 11, 2024, respectfully propose the following emergency amendments to 807 KAR 5:015 (the “Pole Attachment Regulation”). In support of their proposed amendments, the Cooperatives state as follows.

The Cooperatives believe the existing Pole Attachment Regulation—developed not long ago following extensive stakeholder input and Commission review—reflects an appropriate balance between access on the one hand, and safety and reliability on the other. That said, in a spirit of cooperation to find ways to improve and refine the pole attachment process, the Cooperatives propose the following emergency amendments to the Pole Attachment Regulation.

I. Section 4(2)(a) of the Pole Attachment Regulation – Application Completeness

The Cooperatives continue to emphasize the vital importance of a safe and reliable electric

¹ The following electric cooperatives are jurisdictional utilities that were made party to this case by 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; Kenenergy 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.

grid. It is critical, therefore, that new attachers submit complete, accurate pole attachment applications that meet each of the applicable requirements. The Cooperatives' receipt of such applications enables them to determine the make-ready that must be performed before the attachment can proceed in a manner that does not jeopardize the primary purpose for which the poles exist—the provision of essential electric service. Moreover, submission of incomplete or inaccurate applications create unnecessary and costly delays for all parties in the permitting process because it requires additional coordination and requires both parties to review applications multiple times.

For the foregoing reasons, the Cooperatives propose to add a new subsection 1. to Section 4(2)(a) of the Pole Attachment Regulation. The existing subsection one (1) would become subsection two (2) and all of the subsequent subsections would be renumbered accordingly.²

1. Prior to submitting a pole attachment application to a utility, an attacher shall review the application for completeness and certify in writing that the application satisfies the utility's requirements, pole attachment tariff, and applicable law. The new attacher shall submit the written certification with the pole attachment application. The attacher shall designate in its written certification an attachment manager generally responsible for overseeing all attachments with the utility, as well as an application contact associated with each application, who shall be responsible for coordinating with the utility and ensuring that attachment-related issues are addressed in a timely manner. If the utility uses an electronic system to manage pole attachments, this certification shall be uploaded to the utility's designated system.

II. Section 4(7) of the Pole Attachment Regulation - Procedures for New Attachers to Request Utility Attachments

Large orders for pole attachments require significant levels of cooperation between the new attacher and the utility to ensure the quality and completeness of applications, thereby

² The new text is shown in bolded and underlined font.

protecting the safety and reliability of the electric grid. These large orders are best handled by the parties working cooperatively and in good faith to prioritize and process the requests. To this end, the Cooperatives propose to amend Section 4(7) of the Pole Attachment Regulation as indicated below.³

(7) For the purposes of compliance with the time periods in this section:

(a) A utility shall apply the timeline as established in subsections (2) through (4) of this section to all requests for attachment up to the lesser of 300 poles or zero and five tenths (0.5) percent of the utility's poles in the state;

~~(b) A utility may add up to fifteen (15) days to the survey period established in subsection (4) of this section to larger orders up to the lesser of 1,000 poles or 1.50 percent of the utility's poles in Kentucky;~~

~~(c) A utility may add up to forty-five (45) days to the make-ready periods established in subsection (4) of this section to larger orders up to the lesser of 1,000 poles or 1.50 percent of the utility's _____ poles _____ in _____ Kentucky;~~

~~(db)~~ A utility shall negotiate in good faith with the new attacher to prioritize the timing of all requests for attachment larger than the lesser of ~~1,000~~ 300 poles or ~~1.50~~ zero and five-tenths (0.5) percent of the utility's poles in Kentucky;

~~(ec)~~ A utility may treat multiple requests from a single new attacher as one (1) request if the requests are submitted within thirty (30) days of one another; and

~~(fd)~~ As soon as reasonably practicable, but no less than sixty (60) days before the new attacher expects to submit an application in which the number of requests exceed the lesser of the amounts identified in paragraph (a) of this subsection, a new attacher shall provide written notice to a utility in the manner and form stated in the utility's tariff that the new attacher expects to submit a high volume request.

III. Section 4(3) of the Pole Attachment Regulation – Payment of Make-Ready Estimates

Ensuring timely payment of make-ready estimates by new attachers serves to improve the

³ Proposed deletions are shown using bolded and strikethrough font, and proposed additions are shown using bolded and underlined font.

overall efficiency of the pole attachment process. Delays in receiving timely payments cause delays in the commencement of make-ready work. Accordingly, the Cooperatives propose to amend Section 4(3) of the Pole Attachment Regulation to include a prepaid fund for large orders in excess of 300 poles.⁴ The Cooperatives have indicated that the amount of the prepaid fund is yet to be proposed, subject to further discussions in this proceeding.

(3) Payment of make-ready estimates.

(a) Within fourteen (14) days of providing a response granting access pursuant to subsection (2)(b)4. of this section, a utility shall send a new attacher whose application for access has been granted a detailed, itemized estimate in writing, on a pole-by-pole basis if requested and reasonably calculable, and consistent with subsection (6)(b) of this section, of charges to perform all necessary make-ready.

(b) A utility shall provide documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.

(c) A utility may withdraw an outstanding estimate of charges to perform make-ready beginning fourteen (14) days after the estimate is presented.

(d) A new attacher may accept a valid estimate and make payment any time after receipt of an estimate, except a new attacher shall not accept the estimate after the estimate is withdrawn.

(e) For requests for attachment of more than 300 poles, the utility may require the new attacher to create a prepaid fund in the amount of [TBD]⁵ to be applied toward the estimated charges to perform necessary permit review, survey, make-ready, and post-construction inspection. The utility may require the new attacher to create the fund at the same time the request to attach is submitted. The utility may draw against the fund as permitting, survey, engineering and inspection costs are incurred. Upon acceptance of the make-ready estimate by the new attacher, the utility may draw against the fund in the amount of the accepted make-ready estimate. The utility may require the attacher to maintain a minimum balance in the fund throughout the course of the project, as determined by the

⁴ Proposed deletions are shown using bolded and strikethrough font, and proposed additions are shown using bolded and underlined font.

⁵ This “[TBD]” designation is intentional in this draft, but the Cooperatives reserve the right to propose a specific measure following the contemplated discussions that are forthcoming in this docket.

utility, and the utility will be required to refund any remaining funds to the attacher once the utility has closed out the project.

IV. Conclusion.

The Cooperatives thank the Commission for its consideration of their proposed amendments to the Pole Attachment Regulation, and they look forward to furthering this process in a manner that will continue to support statewide broadband access while ensuring electric system safety, reliability, and affordability.

This the 19th day of April, 2024.

Respectfully submitted,

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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

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