

In the Matter of: )  
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)  
) CASE NO. 2023-00416  
ELECTRONIC INVESTIGATION OF POLE )  
ATTACHMENTS )  
)  
) **KBCA OBJECTIONS TO KENTUCKY**  
) **TARIFFS AND REQUEST FOR TARIFF**  
) **SUSPENSION**  
)  
)

In their tariffs, certain utilities have proposed terms and conditions that are inconsistent with 807 KAR 5:015E or are otherwise unreasonable. *See id.* at § 3(4); KRS § 278.030 (stating utilities’ rates and terms of service must be reasonable). For example, certain proposed tariffs omit critical timelines or purport to tie application processing timelines to when a utility *determines* an application is complete rather than when it *receives* a complete application, as required by 807 KAR 5:015E § 4(2)(b)(4). *Id.* at Original Sheet No. 40.9. Moreover, certain proposed tariffs fail to include any provision relating to the prioritization of applications, as permitted by 807 KAR 5:015E § 4(2)(a)(9). *See e.g.*, Kentucky Power Company, TFS2025-00214. Lastly, certain proposed tariffs fail to specify the timeline within which a “series of applications” is considered as one for purposes of triggering the 90-day notice requirement for large applications. *See e.g.*, Big Sandy Rural Electric Cooperative Corporation, TFS-2025-00203 at Original Page No. 8. Such omission violates 807 KAR 5:015E § 4(8)(f), which expressly states that a utility may treat

multiple applications from an attacher as one only “if the applications are submitted within thirty (30) days of one another.” *Id.*

KBCA’s specific objections are summarized in the table below. In light of the unlawful conditions the utilities seek to impose on pole attachers, KBCA hereby requests that the Commission suspend the proposed tariffs – which are set to become effective as early as May 28, 2025 – until such time as the utilities submit revised tariffs that fully conform with Kentucky law and remove these improper terms.

### **OBJECTIONS TO PROPOSED TARIFFS**

#### **Big Rivers Electric Corporation**

##### ***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 38.11

#### **Big Sandy Rural Electric Cooperative Corporation**

##### ***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Revised Page No. 8

**Blue Grass Energy Cooperative Corporation**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 193

**Clark Energy Cooperative**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Page No. 117

**Cumberland Valley Electric, Inc.**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 107

**Farmers R.E.C.C.**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
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<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	2 <sup>nd</sup> Revised Page No. 118
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**Grayson Rural Electric Cooperative Corporation**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 9.8

**Inter-County Energy**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Revised Sheet No. 123.1

**Jackson Energy Cooperative Corporation**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 305

**Jackson Purchase Energy Corporation**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Second Revised Sheet No. 167

**Kenergy**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	6 <sup>th</sup> Revised Sheet No. 76

**Kentucky Power Company**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Failure to Permit Application Prioritization.</i></b> KBCA objects generally to the tariff’s failure to include a provision permitting an attacher to prioritize the order in which the utility reviews its applications. Such prioritization is expressly permitted under 807 KAR 5:015E § 4(2)(a)(9).	<i>Passim</i>

**Kentucky Utilities Company**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Failure to Permit Application Prioritization.</i></b> KBCA objects generally to the tariff’s failure to include a provision permitting an attacher to prioritize the order in which the utility reviews its	<i>Passim</i>

applications. Such prioritization is expressly permitted under 807 KAR 5:015E § 4(2)(a)(9).	
<b><i>Application Completeness.</i></b> KBCA objects to the tariff’s failure to provide that a resubmitted application shall be deemed complete if the utility does not object to it within 10 days, in violation of 807 KAR 5:015E § 4(2)(a)(10). <i>See</i> 3rd Revised Sheet No. 40.7. KBCA further objects to the tariff’s provision that the utility’s application processing deadlines are “measured from the date on which Company designates an application as complete.” <i>See id.</i> at 40.9. Such provision violates 807 KAR 5:015E § 4(2)(b)(4), which ties application processing timelines to when a utility <i>receives</i> a complete application, not when it deems an application to be complete. <i>Id.</i>	3 <sup>rd</sup> Revised Sheet No. 40.7; 3 <sup>rd</sup> Revised Sheet No. 40.9
<b><i>Make-Ready Timelines.</i></b> KBCA objects to the tariff’s failure to set forth <i>any</i> make-ready timeliness. <i>See</i> 3 <sup>rd</sup> Revised Sheet No. 40.11. While the tariff provides the make-ready timelines that will apply “except for the period during which 807 KAR 5:015E is effective,” it does not provide the make ready timelines that <i>do</i> apply while the emergency regulation is effective. <i>See id.</i> Such omission violates 807 KAR 5:015E §§ 4(4)(a) & 4(4)(b).	3 <sup>rd</sup> Revised Sheet No. 40.11
<b><i>Good Cause To Deviate From Make-Ready Timelines.</i></b> KBCA objects to the tariff’s purported definition of what constitutes good and sufficient cause to deviate from applicable make-ready timelines. <i>See</i> 3rd Revised Sheet No. 40.13. Such definition conflicts with 807 KAR 5:015E § 4(9)(b), which does not define good cause.	3rd Revised Sheet No. 40.13

**Meade County Rural Electric Cooperative Corporation**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 34

**Nolin R.E.C.C.**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
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<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 9
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**Owen Electric Cooperative, Inc.**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 84.7

**Salt River Electric**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 135

**Shelby Energy Cooperative, Inc.**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	2 <sup>nd</sup> Revised Sheet No. 302.8

**South Kentucky R.E.C.C.**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Page No. T-1 9.9

**Taylor County Rural Electric Cooperative Corporation**

***Objections To Terms That Violate 807 KAR 5:015E***

<b>Terms That Violate 807 KAR 5:015E</b>	<b>Citation</b>
<b><i>Application Notice Timeline.</i></b> KBCA objects to the provision that a “series of applications” may trigger the 90-day notice requirement for large applications where “series of applications” is not constrained by any temporal limitation. Such requirement violates 807 KAR 5:015E § 4(8)(f), which states that a utility may treat multiple applications as one only “if the applications are submitted within thirty (30) days of one another.” <i>Id.</i>	Original Sheet No. 57



Dated: May 22, 2025

Respectfully submitted,

/s/ M. Todd Osterloh

James W. Gardner

M. Todd Osterloh

Sturgill, Turner, Barker & Moloney, PLLC

333 West Vine Street, Suite 1500

Lexington, KY 40507

Phone: (859) 255-8581

jgardner@sturgillturner.com

tosterloh@sturgillturner.com

Paul Werner (*pro hac vice* to be submitted)

Hannah Wigger (*pro hac vice* to be submitted)

Sheppard Mullin Richter & Hampton LLP

2099 Pennsylvania Avenue NW

Suite 100

Washington, DC 20006

(202) 747-1900

pwerner@sheppardmullin.com

hwigger@sheppardmullin.com

*Counsel for KBCA*

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