COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of: ELECTRONIC APPLICATION OF KENTUCKY UTILITIES COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC RATES, AND APPROVAL OF CERTAIN REGULATORY AND ACCOUNTING TREATMENTS	)	CASE NO. 2025-00113

In the Matter of: ELECTRONIC APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC AND GAS RATES, AND APPROVAL OF CERTAIN REGULATORY AND ACCOUNTING TREATMENTS	)	CASE NO. 2025-00114

KENTUCKY BROADBAND AND CABLE ASSOCIATION'S
PETITION FOR REHEARING

Pursuant to KRS 278.400, the Kentucky Broadband and Cable Association ("KBCA")[1] respectfully submits this petition for rehearing.

INTRODUCTION

In its orders regarding Kentucky Utilities Company's ("KU's") and Louisville Gas and Electric Company's ("LG&E's") pole attachment rates, the Commission made findings that

[1] The KBCA's members are Access Cable, Armstrong, C&W Cable, Charter Communications, Comcast, Inter Mountain Cable, Mediacom, Suddenlink, and TVS Cable. Kentucky Broadband & Cable Association, Our Members, *available at* https://www.kybroadband.org/members.

foreclose approval of the rates it nevertheless adopted. Specifically, the Commission found that: 1) KU and LG&E were obligated to base their rate calculations on public, transparent, verifiable data; 2) the utilities failed to explain the origin and basis of key inputs used in their pole attachment calculations; 3) that settlement rates are not precedential and do not excuse KU and LG&E from adopting rates that fully comply with Commission rules; and 4) that utilities that have not merged remain separate entities with separate accounting structures and must have separate pole attachment rates based on their own actual, historic costs. Yet despite those findings, the Commission did *not* require the utilities to adopt rates that reflected them. Instead, it approved pole attachment rates that do not comply with those governing principles.

Based on the Commission's own core findings, the Orders identify defects that preclude a lawful finding that those rates are fair, just and reasonable. KBCA, therefore respectfully seeks rehearing on the portion of the Orders approving KU and LG&E's pole attachment rates.

BACKGROUND

On May 30, 2025, LG&E and KU filed applications for adjustments of various rates, including pole attachment rates. KU and LG&E proposed combined rates of $10.49 per attachment for two-user poles and $10.75 per attachment for three-user poles—which represented a 45% to 48% increase over current rates of $7.25 per attachment.[2] Those combined rates were based on individual rates of $13.17 for two-user poles and $14.08 for three-user poles for LG&E,[3] and $9.29 for two-user poles and $9.33 for three-user poles for KU.[4]

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[2] KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab "Combined OH;" KBCA DR2 LGE Corrected Attach to Q2 - Stipulation ROE, Tab "Combined OH;" Kravtin Testimony at 5.

[3] KBCA DR2 LGE Corrected Attach to Q2 - Stipulation ROE, Tab "LG&E OH."

[4] KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab "KU OH."

The Commission held a hearing on the utilities' applications for rate adjustments from November 3 to November 5, 2025. At the hearing, KU and LG&E admitted:

- They employed forecasted costs in preparing their pole attachment rates even though historical data were available.[5]

- Much of the data on which the companies relied—including total number of distribution poles, maintenance expenses, depreciation, taxes, debt, and other key inputs—were either "[n]ot reported in the FERC Form 1," "[n]ot consistent with the FERC Form 1," or included amounts that "have not yet been reported."[6]

- They could not identify the source or rationale for key forecasted costs, including why certain forecasted costs tripled from 2025 to 2026.[7]

- The witnesses designated to testify regarding pole attachment rates did not know the "source data nor the source methodology" for the forecasted costs and did not prepare, vet, or validate them.[8]

- The utilities have not applied for, much less completed, any merger.[9]

- Under the combined rate, attachers to LG&E's poles would pay rates that are artificially lower (26% and 31%) than the rates calculated based on LG&E's own forecasted costs, and attachers to KU poles would pay rates artificially higher (11% and 13%) than the rates calculated based on KU's forecasted costs.[10]

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[5] VR: 11/5/2025; 1:51:02pm-1:51:35pm; VR: 11/6/2025; 2:08:25pm-2:08:40pm.

[6] *Compare* KU Response to KBCA Request For Information 2-12, *with* KU Corrected Response to KBCA Request For Information 1-13, *and* LG&E Response to KBCA Request For Information 2-12, *with* LG&E Corrected Response to KBCA Request For Information 1-13.

[7] *See* VR: 11/6/2025; 2:31:37pm-2:31:43pm; VR: 11/6/2025; 2:10:52pm-2:11:02pm; *see* VR: 11/6/2025; 3:08:05pm-3:08:30pm.

[8] VR: 11/5/2025; 1:52:51pm-1:53:20pm & 1:58:53pm-1:59:33pm; VR: 11/6/2025; 2:30:44pm-2:31:24pm.

[9] *In the Matter of Electronic Application of Kentucky Utilities Company For An Adjustment of Its Electric Rates & Approval of Certain Regulatory & Accounting Treatments*, Case No. 2025-00113, Order, at 189 (Ky. PSC Feb. 16, 2026) (hereinafter "KU Order"); *In the Matter of Electronic Application of Louisville Gas & Electric Company For An Adjustment of Its Electric Rates & Approval of Certain Regulatory & Accounting Treatments*, Case No. 2025-00114, Order, at 198 (Ky. PSC Feb. 16, 2026) (hereinafter "LG&E Order").

[10] KBCA DR2 LGE Corrected Attach to Q2 - Stipulation ROE, Tab "LG&E OH"; KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab "KU OH."

In response, KBCA submitted the expert testimony of Patricia Kravtin, who testified that using the Commission's longstanding cost-based approach—grounded in public, transparent information—generated just and reasonable rates of $9.04 per attachment for two-user poles and $9.65 per attachment for three-user poles for LG&E, and $7.10 per attachment for two-user poles and $7.13 per attachment for three-user poles for KU.[11]

Kravtin's calculations were based on the principles articulated in *Order 251*, which mandates that "the various cost factors needed to apply the formula should be readily available public information, such as that disclosed in the utility's required annual reports to the Commission or other public agencies," including the Federal Energy Regulatory Commission ("FERC")—or, at a minimum, that the utility "shall file with its proposed tariffs the source and justification for cost factors used in applying the formula to compute its rate to the CATV operator."[12] It is important to note that no expert witness for the utilities disputed Kravtin's testimony or rate calculations.

On February 16, 2026, the Commission issued its orders in the LG&E and KU cases. As relevant to pole attachments, the Commission "reiterate[d] that the pole attachment rates should be based on public, transparent information,"[13] and that "transparent," "public" information should include "FERC Form 1 and annual reports' information."[14] The Commission explained that "[t]he calculation should be transparent and easily verifiable" and "should not require an outside party to

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[11] Kravtin Testimony at 19; Kravtin Testimony Exs. 3–5; 2025.09.23 Kravtin Combined LGE KU Rate Calc Attachment Workpaper.

[12] *In The Matter Of The Adoption Of A Standard Methodology For Establishing Rates For CATV Pole Attachments*, Administrative Case No. 251, Order at 8 (Ky. PSC 1982) (emphasis added) (hereinafter "Order 251").

[13] KU Order at 188; LG&E Order at 197.

[14] KU Order at 188; LG&E Order at 197.

reconcile conflicting numbers or guess as to how a number was derived."[15] Settlement rates are not "precedential" and do not satisfy this standard.[16] And the Commission correctly stated, until companies actually complete a merger they "are supposed to be separate entities and . . . are to be operated and accounted for as such."[17]

The Commission further found that KU and LG&E violated each of these principles. They did not rely on public or transparent information in calculating their rates. As the Commission articulated, "[i]t was evident at the hearing that KU [and LG&E] could not explain the origin or basis for certain information used in its calculation."[18] Instead, they relied on past settlements to justify their current black-box rates.[19] And the companies, which have not completed a merger and are still separate companies, issued a single, combined rate.[20]

The Commission nevertheless approved the utilities' combined pole attachment rates, citing the "longstanding nature of [their] pole attachment rates."[21] The Orders did not identify a basis under *Order 251* or KRS Chapter 278 for treating that history as sufficient to overcome the evidentiary and legal defects the Commission had already found.

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15 KU Order at 188-89; LG&E Order at 197.

16 KU Order at 188; LG&E Order at 197.

17 KU Order at 189; LG&E Order at 198.

18 KU Order at 188; LG&E Order at 197.

19 *See* KU Order at 188; LG&E Order at 197.

20 KU Order at 189; LG&E Order at 198.

21 LG&E Order at 197; *see* KU Order at 188.

STANDARD

The Commission grants motions for rehearing to address new evidence, to "correct any material errors or omissions," or to "correct findings that are unreasonable or unlawful."[22] An Order is unreasonable "when the evidence presented leaves no room for difference of opinion among reasonable minds."[23] And an Order is unlawful if it "violates a state or federal statute or constitutional provision."[24]

Pole attachment rates in Kentucky must be "fair, just and reasonable." KRS 278.030. As the Commission has previously explained, "[a]s part of imposing fair, just and reasonable rates, the Commission *must* be able to evaluate the evidence, calculate the rate, and support its findings."[25] The Commission expressly found that it could not do so here.

Rehearing is warranted here because the Orders are both unreasonable and unlawful. They are unreasonable because the Commission found that critical inputs to the approved rates could not be explained or verified, leaving no evidentiary basis on which those rates could be found to be fair, just and reasonable. They are unlawful because Kentucky law and Order 251 require rates

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22 *In the Matter of Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience & Necessity to Convert its Wet Flue Gas Desulfurization System From a Quicklime Reagent Process To A Limestone Reagent Handling System At Its East Bend Generating Station & for Approval to Amend its Environmental Compliance Plan for Recovery by Environmental Surcharge Mechanism*, Case No. 2024-00152, 2025 WL 1065576, at *1 (K.P.S.C. Apr. 2, 2025) (hereinafter "Duke Energy Application"); *In the Matter of Electronic Application of Shelby Energy Cooperative, Inc. for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407*, Case No. 2023-00213, 2023 WL 8235717, at *1 (Ky. PSC Nov. 22, 2023) (hereinafter "Shelby Energy Application"); *see* KRS 278.400.

23 Duke Energy Application.

24 *Id.*

25 *In The Matter Of Electronic Application Of Duke Energy Kentucky, Inc. For (1) An Adjustment Of Electric Rates; (2) Approval Of New Tariffs; (3) Approval Of Accounting Practices To Establish Regulatory Assets & Liabilities; And (4) All Other Required Approvals And Relief*, Case No. 2022-00372, Order at 84 (Ky. PSC 2023) (hereinafter, "Duke Energy Order") (emphasis added).

to be tied to the utility's own costs and supported by transparent, public information. The Commission's findings establish that those standards were not met here.

ARGUMENT

The Commission should grant rehearing to correct findings that are unreasonable and unlawful.

First, the Commission's order approving KU and LG&E's rate is unreasonable and unlawful because neither the Commission nor anyone else can "evaluate the evidence" that might "support" the utilities' rate.[26] The Commission acknowledged, "[i]t was evident at the hearing that KU [and LG&E] could not explain the origin or basis for certain information used in its calculation."[27] The Commission was correct: KU and LG&E repeatedly failed to explain or justify almost all the numbers underlying their pole rate calculations—some of which were facially inconsistent.[28] Their pole attachment rates are indisputably not "based on public, transparent information," in accordance with Order 251 or the Commission's directive in this case.[29] As a result, no one—not KBCA, not KU or LG&E, and not the Commission—knows the basis for KU and LG&E's rates. If the Commission cannot "evaluate the evidence, calculate the rate, and support its findings," it cannot conclude that a rate is fair, just, and reasonable.[30] The Commission erred by nevertheless doing so.

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[26] Duke Energy Order at 84.

[27] KU Order at 188; LG&E Order at 197.

[28] *Supra* at 3.

[29] *Supra* at 4–5.

[30] Duke Energy Order at 84; K.Y. Stat. § 278.030.

Second, and relatedly, neither KU nor LG&E "provid[ed] justification" for the combined carrying costs they added into their pole attachment rates—because they cannot.[31] As Kravtin explained, the novel carrying cost approach relied on by KU and LG&E involved the same "series of allocations and assumptions to pole costs" that they could not justify or "explain" with regard to their pole attachment applications.[32] There was no contrary testimony in this proceeding.

Third, the Commission's Order approving KU and LG&E's rate is unreasonable and unlawful because it imposes artificially inflated rates on attachers to KU's poles—about 11% and 13% higher than the rates calculated based on KU's forecasted costs.[33] As the Commission acknowledged in its Orders, KU and LG&E are separate companies with separate costs and separate accounting.[34] The "fair, just and reasonable" pole attachment formula implemented in Kentucky is based in part on the "embedded cost of an average bare pole *of the utility*," not on the cost of a conglomerate of utilities.[35] There is thus no lawful basis for charging attachers to KU's poles an inflated rate to cover LG&E's costs.

The Commission cannot, consistent with *Order 251*, require attachers to KU's poles to subsidize LG&E's poles simply because it previously approved the same settlement rate for both companies.[36] As the Commission acknowledged in its Order, settlements are not precedent.[37] Indeed, parties would have little incentive to settle if doing so waived any future requirement that

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[31] KU Order at 189; LG&E Order at 198.

[32] Kravtin Direct Testimony at 17-18; KU Order at 188; LG&E Order at 197.

[33] *Supra* at 3.

[34] *Supra* at 5.

[35] KRS 278.030; Order 251 at 8 (emphasis added); *see* KRS 278.040 (authorizing the Commission to promulgate administrative regulations to implement the provisions of KRS Chapter 278).

[36] KU Order at 188-89; LG&E Order at 197-98.

[37] KU Order at 189; LG&E Order at 198.

rates must comply with applicable law. Here, Kentucky's law states that *each* rate the Commission approves must be "fair, just, and reasonable" and based on the "embedded cost[s]" of *each* "utility."[38] It is undisputed that this is not what happened here.

Nor can an anticipated merger justify imposing artificially inflated rates on attachers to KU's poles. No merger between LG&E and KU has occurred—indeed, the companies have not even requested approval of a merger.[39] And the companies (and Kravtin) have already calculated separate rates. There is no legal basis for refusing to apply them.

CONCLUSION

For the foregoing reasons, KBCA respectfully requests that the Commission grant rehearing and reconsider the portions of the KU and LG&E Orders approving pole attachments.

Respectfully submitted,

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[38] KRS 278.030; *see* KRS 278.040; Order 251 at 8.

[39] KU Order at 189; LG&E Order at 198.