

**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

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) CASE NO. 2025-00113
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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

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**KENTUCKY BROADBAND AND CABLE ASSOCIATION’S
POST-HEARING MEMORANDUM**

Pursuant to the Commission’s November 6, 2025, Order, the Kentucky Broadband and Cable Association (“KBCA”)¹ respectfully submits this post-hearing memorandum.

INTRODUCTION

As part of this rate case, Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively, “utilities”) seek to impose significant pole attachment

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>.

rate increases² on broadband providers. The record evidence in this case demonstrates that the utilities' proposed rate increases are unjust and unreasonable, and the Commission should reject them.

The proposed pole attachment rates in this case are based on the use of a novel forecast approach that is fundamentally incompatible with this Commission's established cost-based formula. Moreover, the proposed method to calculate attachment rates based on unsupported forecasted costs has not been accepted by *any* authority that regulates pole attachment rates for a variety of sound policy reasons. Among other things, using actual, as opposed to forecasted costs, promotes transparency in the rate setting process and rates that can be more easily vetted by regulators and pole attaching entities. The record evidence here underscores the importance of that need for transparency and verifiability in the pole attachment rate calculation process as the utilities' proposed rates in this case were derived using unsupported, unjust, and inflated forecasted costs that are impossible to verify, and that do not reflect the actual costs of attaching to either KU or LG&E's poles.

In contrast with the utilities' unsanctioned approach, the Commission's well established rules for calculating pole attachment rates are clear, time-tested, and consistent with the equitable approach used by regulatory authorities across the country to ensure that attachment rates are just and reasonable. Under the Commission's existing formulaic approach, utilities must use actual, historic costs to calculate pole attachment rates. The current, fully allocated cost methodology, ensures that utilities are able to recover adequate compensation without forcing pole attachment customers to subsidize other rate classes. Further, the existing approach promotes transparent rates

² The proposal by KU and LG&E to increase their current pole attachment rates from a single rate of \$7.25 to a two-user rate of \$10.49 and three-user rate of \$10.75 represents an increase in rates of 45–48%.

that attachers and regulatory bodies can validate, which in turn minimizes disputes and eliminates the need for multiple, time consuming proceedings to true up costs.

Here, KU and LG&E's proposed pole attachment rates diverge from two of the fundamental principles in Kentucky's well-established pole rate methodology. The record evidence confirms that these departures create the very problems that the Commission's existing cost-based approach is designed to avoid, and result in significantly inflated pole attachment rental charges.

First, KU and LG&E use forecasted costs – rather than actual embedded costs – in their pole rate formula. This is in direct contravention of this Commission's approved rental rate formula, which requires the use of embedded, actual costs. The Kentucky formula does not allow for forecasted rates, but even if it did, KU and LG&E do not provide adequate, if any, support for their financial forecasts, many of which are tens of millions of dollars in excess of their historical costs, and some of which inexplicably increased by hundreds of millions of dollars over the course of this rate proceeding. As a result, the Commission cannot verify – and KU and LG&E have not met their burden to prove – that these forecasted costs are reasonable, or that their use generates just and reasonable pole attachment rates. In fact, the evidence shows they do not.

That KU and LG&E's forecasted cost approach results in unreasonably inflated rates is further illustrated by the pole attachment rates that were calculated by Patricia Kravtin using KU and LG&E's actual, reported data in compliance with *Order 251*. The utilities have not seriously contested the accuracy of Ms. Kravtin's calculations, or that her proposed rates do not contain any subsidies and provide full recovery for the utilities' pole attachment costs – because they cannot. Ms. Kravtin's calculated rates show that the utilities' steep rate increases are not cost-based and

they also track the recently-filed pole attachment rates of other similarly-situated Kentucky utilities.

Second, KU and LG&E propose *combined* pole attachment rates, even though these are two separate companies with different cost structures that lead to starkly different individual rates for each company. Their combined rates are not cost-based and reflect improper subsidies. It is therefore not appropriate for the Commission to authorize such blatant and inequitable cross-subsidies.

Aside from the utilities asserting that they have not sought to increase their rental rates in years, and that their proposed rates track prior settlement approaches, the utilities have not defended their rates, or how they were generated, on the merits. They failed to put any evidence on substantiating the fact that their proposed rates are fair, just, and reasonable, nor have they challenged the evidence presented by KBCA clearly demonstrating that the rates are unjust and unreasonable. The fact that the utilities have not sought increases at regular intervals in the past, or that their proposed rates track other, unrelated past settlements, does not serve as a basis to justify the proposed rate increases in this case. For all of the reasons outlined above, KU and LG&E have failed to meet their burden to prove their proposed rates are fair, just, and reasonable, and as a result the Commission should reject them.

BACKGROUND

The utilities have requested that the Commission approve significant pole attachment rate increases as part of this proceeding. However, instead of doing so under the Commission's long-standing, time-tested, and cost-based approach, they propose rate increases based on a fundamentally different and novel approach that results in rate increases that are not supported by actual, historic pole attachment costs – or even the data that was submitted by the utilities in this

proceeding. KRS 278.030(1); VR: 11/6/2025; 1:58:22pm-1:58:27pm. The uncontroverted record evidence also shows that the utilities' proposed rates are higher than rates calculated using the Commission's required, cost-based formula, and those of other, similarly-situated Kentucky utilities. As a result, the record evidence supports a finding that KU and LG&E's rates do not comply with *Order 251*, and are not otherwise fair, just, or reasonable.

A. Like Other Regulatory Authorities, The Commission Requires Utilities To Charge Only Cost-Based Pole Attachment Rates.

This Commission's *Order 251*³ established a straightforward process for setting pole attachment rental rates based on a utility's historic costs that contain no subsidies and allow utilities to recover their fully allocated pole attachment costs. *Order 251* at 8. Those fully-allocated rates are the product of the "embedded cost of an average bare pole of the utility," "an annual carrying charge," and the "percentage of usable space" occupied by a third-party attachment. *Id.* The Kentucky pole attachment formula does not allow rates to be averaged or mixed and matched across different utilities. *Id.*

There is no question that "embedded costs" as used in *Order 251* are actual historic costs, *i.e.*, costs that have been "incurred previously" and that "cannot be avoided," not projections that cannot be understood or tested.⁴ *Order 251* 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

³ *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) (attached as Exhibit ("Ex.") 2 to the testimony of Patricia Kravtin) (hereinafter "*Order 251*").

⁴ See Harvard Kennedy School, Harvard Electricity Policy Group, *Embedded Cost*, available at <https://hepg.hks.harvard.edu/faq/embedded-cost>; *In Re Amend. Of Comm'n's Rules & Pol'ys Governing Pole Attachments*, 16 F.C.C. Rcd. 12103, 12117 ¶ 22 (2001) ("Since 1978, the Commission has applied an **embedded cost** methodology, which has been upheld by the United States Supreme Court. The Commission's continued use of a **historical cost methodology** in the pole attachment context is consistent with Congressional expectations.") (emphasis added).

required annual reports to the Commission or other public agencies,” including the Federal Energy Regulatory Commission (“FERC”). *Order 251* at 8. Those reported costs are actual utility costs that can be verified and confirmed by attachers and the Commission in evaluating a utility’s pole attachment rate. As the FCC has explained, “the continued use” – for four decades – “of historical costs accomplishes key objectives of assuring, to both the utility and the attaching parties, just and reasonable rates; establishes accountability for prior cost recoveries; and accords with generally accepted accounting principles.”⁵

In the alternative, if a utility purports to rely on cost factors that are not based on readily available public information, it must provide further information and support necessary to justify that reliance. Thus, “each 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.”⁶ *Order 251* at 8. There is a very good reason for that, as the Commission has directed that “[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.”⁷ That of course means that, absent such evidence, the Commission cannot calculate a rate or support findings of just and reasonableness.

⁵ 16 F.C.C. Rcd. at 12114 ¶ 15.

⁶ Even the embedded cost studies referenced in NARUC by the utilities’ witnesses, according to NARUC, “rely on the company’s historical records or projections of these records, *whose accuracy can be audited and verified* either at the time of filing or at the end of the period projected.” KBCA Hearing Ex. 1, NARUC Electric Utility Cost Allocation Manual at 17 (Jan. 1992).

⁷ *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 And Liabilities; And (4) All Other Required Approvals And Relief*, Case No. 2022-00372, Order at 84 (Ky. PSC 2023) (hereinafter, “Duke Energy Order”).

B. The Utilities Deploy Unsupported, Unverifiable Forecasted Costs To Inflate Their Proposed Pole Attachment Rates.

In calculating their pole attachment rates, KU and LG&E did not rely on the cost-based approach set forth in *Order 251*. Instead, KU and LG&E employed some (but not all) forecasted costs covering test year 2026 in preparing their pole attachment rates even though historic numbers are available for the forecasted expenses. VR: 11/5/2025; 1:51:02pm-1:51:35pm; VR: 11/6/2025; 2:08:25pm-2:08:40pm. KU and LG&E's rate support spreadsheet identifies at least thirteen (13) forecasted cost factors:⁸

Forecasted Acct 364 (Incl CWIP & RWIP)	\$ 900,891,795
Forecasted Accumulated Depreciation	(294,080,839)
Forecasted Accumulated Deferred Income Taxes	(120,327,573)
Forecasted Net Cost Rate Base	486,483,383
Forecasted Maintenance (593)	\$ 59,670,282
Forecasted Maintenance (593001)	9,459,478
Forecasted Labor (593001)	3,138,922
Forecasted Tree Trimming (593004)	15,871,492
Forecasted Tree Trimming Labor (593004)	707,822
Forecasted Depreciation Expense (364)	26,510,804
Forecasted Property Taxes (364)	9,699,037
Forecasted Total Labor	171,129,179
Forecasted Total A&G Expense	\$ 183,618,903

The utilities also confirmed that every input listed in KBCA Request for Information 1-13 – including Total Number of Distribution Poles – was 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.”⁹ In other words, these thirteen (13) forecasted inputs cannot be verified by any reported actual costs.

⁸ KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab “Combined OH;” KBCA DR2 LGE Corrected Attach to Q2 - Stipulation ROE, Tab “Combined OH.”

⁹ 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.

Moreover, the utilities submitted no evidence to explain or support their use of these forecasted costs where actual costs were readily available to calculate their pole attachment rates.

In addition to using forecasted costs – instead of available publicly-reported costs – the utilities failed to provide the source or rationale for their forecasted costs. *See* VR: 11/6/2025; 2:31:37pm-2:31:43pm (testifying witnesses Michael E. Hornung and Timothy S. Lyons were the only individuals who sponsored the rate support spreadsheet). In response to KBCA’s data request seeking “the mathematical/numerical derivation of each forecasted amount in [KU and LG&E’s rate support spreadsheet],” KU and LG&E offered that the forecasted amounts for Account 364, Accumulated Depreciation, and Depreciation Expense were “[f]rom Asset Accounting, Financial Planning, and Budgeting” – which precludes any review of the utilities’ numbers.¹⁰

At hearing, Lyons – who is not a pole attachment rate expert, and admittedly has never performed or provided a pole attachment calculation before¹¹ – confirmed that he did not know the “source data nor the source methodology” for the forecasted costs and that he did not prepare them. VR: 11/5/2025; 1:52:51pm-1:53:20pm & 1:58:53pm-1:59:33pm. Rather, he took data provided by KU and LG&E and inputted it into a spreadsheet. VR: 11/5/2025; 1:58:53pm-1:59:33pm. He never vetted or validated the numbers that KU and LG&E supplied. VR: 11/5/2025; 1:59:25pm-1:59:33pm. With regard to the forecasted costs for Account 364, Lyons further admitted that he did not even know if there is *any* support for that number in the schedules. VR: 11/5/2025; 1:56:00pm-1:58:18pm. Hornung likewise testified that he did not supply any of

¹⁰ KU Response to KBCA Request For Information 2-1; LG&E Response to KBCA Request For Information 2-1.

¹¹ KU Response to KBCA Request For Information 2-7; LG&E Response to KBCA Request For Information 2-7.

the forecasted numbers in the rate support spreadsheet and that he could not explain their bases, if any. VR: 11/6/2025; 2:30:44pm-2:31:24pm.

The expenses for Maintenance of Overhead Lines illustrate the problem with KU and LG&E's unsupported and unverifiable costs. In its spreadsheet detailing the pole attachment rate formula, KU listed the "Forecasted Maintenance (593)" number for KU as \$37,313,251 for test year 2026.¹² However, the actual costs for that expense have not come close to a \$37 million annual average over the past several years. From January through May 2025, that maintenance expense was \$11,443,172.¹³ In 2024, it was \$22,247,777.¹⁴ In 2023, the expense was \$25,070,725.¹⁵ And in 2022, it was \$36,968,788.¹⁶ At hearing, Lyons testified he had never seen these historic maintenance costs, and that again, he simply copied over the information that KU and LG&E provided. VR: 11/5/2025; 2:00:01pm-2:01:40pm & 1:59:36pm-2:00:00pm. Hornung similarly testified he could not explain the justification for the \$37 million number for test year 2026. VR: 11/6/2025; 2:10:52pm-2:11:02pm.

It is also important to note that KU and LG&E's forecasted costs were inconsistent in the context of various versions of their pole attachment calculation spreadsheets submitted in connection with this proceeding. KU and LG&E submitted a revised spreadsheet updating their rates five business days before the hearing – notably, after other parties had settled with the

¹² KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab "KU OH."

¹³ 2025 KBCA DR1 KU Attach to Q13 (l-m) - FERC 593 Maint of OH Lines.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

utilities.¹⁷ Lyons testified that neither he nor his employer were involved in updating the spreadsheet. VR: 11/5/2025; 2:07:27pm-2:07:51pm. And KU and LG&E did not provide any further explanation for the changes to the spreadsheet, which resulted in striking differences. For example, the “forecasted” KU number for “Forecasted Acct 364 (Incl CWIP & RWIP)” inexplicably increased by over **\$128 million** – almost 30% – from \$436,405,675 to \$565,348,849.¹⁸

Original Rate Filing v. Corrected Stipulated ROE Rate Filing

Pole Description	Total
Quantity	
Gross Plant as of January 2025	\$ 552,231,037
Accumulated Depreciation	\$ 178,127,406
Accumulated Deferred Income Taxes	\$ 69,979,929
Net Cost Rate Base	\$ 304,123,702
593001 (Labor)	\$ 1,274,183
593001 (Non-Labor)	\$ 2,351,021
593004 (Labor)	\$ 461,448
593004 (Non-Labor)	\$ 9,184,851
Depreciation Expense	\$ 8,454,175
Forecasted Acct 364 (Incl CWIP & RWIP)	\$ 436,405,675
Forecasted Accumulated Depreciation	\$ (169,510,747)
Forecasted Accumulated Deferred Income Taxes	\$ (43,034,241)
Forecasted Net Cost Rate Base	\$ 223,860,687
Forecasted Maintenance (593)	\$ 37,313,251
Forecasted Maintenance (593001)	\$ 3,870,284
Forecasted Labor (593001)	\$ 1,360,324
Forecasted Tree Trimming (593004)	\$ 10,285,557
Forecasted Tree Trimming Labor (593004)	\$ 492,028
Forecasted Depreciation Expense (364)	\$ 9,598,035
Forecasted Property Taxes (364)	\$ 4,270,319
Forecasted Total Labor	\$ 111,541,645
Forecasted Total A&G Expense	\$ 105,242,356

Pole Description	Total
Quantity	
Gross Plant as of January 2025	\$ 552,231,037
Accumulated Depreciation	\$ 178,127,406
Accumulated Deferred Income Taxes	\$ 69,979,929
Net Cost Rate Base	\$ 304,123,702
593001 (Labor)	\$ 1,274,183
593001 (Non-Labor)	\$ 2,351,021
593004 (Labor)	\$ 461,448
593004 (Non-Labor)	\$ 9,184,851
Depreciation Expense	\$ 8,454,175
Forecasted Acct 364 (Incl CWIP & RWIP)	\$ 565,348,849
Forecasted Accumulated Depreciation	\$ (186,234,062)
Forecasted Accumulated Deferred Income Taxes	\$ (77,293,332)
Forecasted Net Cost Rate Base	\$ 301,821,455
Forecasted Maintenance (593)	\$ 37,313,251
Forecasted Maintenance (593001)	\$ 3,870,284
Forecasted Labor (593001)	\$ 1,360,324
Forecasted Tree Trimming (593004)	\$ 10,285,557
Forecasted Tree Trimming Labor (593004)	\$ 492,028
Forecasted Depreciation Expense (364)	\$ 14,246,791
Forecasted Property Taxes (364)	\$ 5,934,791
Forecasted Total Labor	\$ 111,541,645
Forecasted Total A&G Expense	\$ 105,242,356

Forecasted financials that are based on concrete, reliable studies should not inexplicably spike by more than \$125 million (30%) in the run up to a hearing, as they did here. Without any explanation or data to validate the utility’s two numbers, neither KBCA nor the Commission – nor,

¹⁷ KU Corrected and Supplemental Response to KBCA DR2 Question No. 2; KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE; LG&E Corrected and Supplemental Response to KBCA DR2 Question No. 2; KBCA DR2 LGE Corrected Attach to Q2 - Stipulation ROE.

¹⁸ Compare 2025 PSC DR1 KU LGE Attach to Q54 – Exhibit MEH-1 – PSA Rate Support, Tab “KU OH,” with KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab “KU OH.”

apparently the utilities – can begin to understand the numbers or reasons that they changed, much less validate their accuracy or use them as a basis to calculate rates or support reasonable findings. See VR: 11/6/2025; 3:05:48pm-3:06:45pm. Therefore, absent any apparent record-based justification, such a dramatic cost spike on the heels of a settlement with other customer classes is highly suspect and must be carefully scrutinized – and likely rejected – absent a clear and reasonable justification for the change.

The “forecasted” account 364 numbers are not the only numbers to increase after KU and LG&E settled with other customer classes. Cash working capital, property taxes, and depreciation expenses also increased by hundreds of thousands of dollars without explanation or support.¹⁹ See VR: 11/6/2025; 3:08:05pm-3:08:30pm.

Original Rate Filing v. Corrected Stipulated ROE Rate Filing

Pole Description			35'	40'	45'	Total
Gross Plant			\$ 33,290,332	\$ 142,500,927	\$ 131,063,654	\$ 306,854,913
Remove Appurtenances			15%	15%	15%	
Gross Plant less Appurtenances			\$ 28,296,782	\$ 121,125,788	\$ 111,404,106	\$ 260,826,676
Accumulated Depreciation			(12,930,788)	(55,350,881)	(50,908,362)	(119,190,030)
Remove Appurtenances			15%	15%	15%	
Accumulated Depreciation less Appurtenances			\$ (10,991,169)	\$ (47,048,249)	\$ (43,272,107)	\$ (101,311,526)
Net Plant			\$ 17,305,613	\$ 74,077,539	\$ 68,131,999	\$ 159,515,150
Accumulated Deferred Income Taxes			\$ (3,656,389)	\$ (15,651,356)	\$ (14,395,162)	\$ (33,702,907)
Cash Working Capital			118,874	508,848	468,007	1,095,730
Common Plant			572,750	2,451,601	2,254,833	5,279,183
Net Cost Rate Base			\$ 14,340,828	\$ 61,386,632	\$ 56,459,677	\$ 132,187,137
Rate of Return			8.10%	8.10%	8.10%	
Return			\$ 1,161,830	\$ 4,973,270	\$ 4,574,110	\$ 10,709,209
Income Taxes	24.84%		\$ 274,393	\$ 1,174,552	\$ 1,080,281	\$ 2,529,227
Property Taxes			\$ 218,815	\$ 936,647	\$ 861,471	\$ 2,016,933
Depreciation Expenses			\$ 622,342	\$ 2,663,965	\$ 2,450,153	\$ 5,736,460
Maintenance of Poles			\$ 198,317	\$ 848,904	\$ 780,770	\$ 1,827,991
Tree Trimming of Poles			\$ 527,041	\$ 2,256,024	\$ 2,074,953	\$ 4,858,017
A&G Expense Allocation to Poles			\$ 161,169	\$ 689,891	\$ 634,520	\$ 1,485,580
Revenue Requirement			\$ 3,163,905	\$ 13,543,253	\$ 12,456,258	\$ 29,163,416
Quantity			88,815	147,479	76,862	313,156
Average Installed Cost			\$ 35.62	\$ 91.83	\$ 162.06	\$ 93.13
Space Usage Factor			0.0759	0.0759	0.0759	0.0759
Pole Attachment Rate			\$ 2.70	\$ 6.97	\$ 12.31	\$ 7.07

Pole Description		35'	40'	45'	Total
Gross Plant		\$ 30,618,283	\$ 134,906,597	\$ 120,004,499	\$ 285,529,378
Remove Appurtenances		15%	15%	15%	
Gross Plant less Appurtenances		\$ 26,025,540	\$ 114,670,607	\$ 102,003,824	\$ 242,699,972
Accumulated Depreciation		(10,086,104)	(44,440,178)	(39,531,212)	(94,057,494)
Remove Appurtenances		15%	15%	15%	
Accumulated Depreciation less Appurtenances		\$ (8,573,188)	\$ (37,774,151)	\$ (33,601,530)	\$ (79,948,870)
Net Plant		\$ 17,452,352	\$ 76,896,456	\$ 68,402,294	\$ 162,751,102
Accumulated Deferred Income Taxes		\$ (3,558,158)	\$ (15,677,530)	\$ (13,945,753)	\$ (33,181,441)
Cash Working Capital		136,831	602,889	536,292	1,276,012
Common Plant		537,446	2,368,030	2,106,452	5,011,928
Net Cost Rate Base		\$ 14,568,471	\$ 64,189,845	\$ 57,099,285	\$ 135,857,601
Rate of Return		7.46%	7.46%	7.46%	
Return		\$ 1,087,480	\$ 4,791,524	\$ 4,262,241	\$ 10,141,246
Income Taxes	24.84%	\$ 251,760	\$ 1,109,275	\$ 986,742	\$ 2,347,778
Property Taxes		\$ 279,695	\$ 1,232,357	\$ 1,096,228	\$ 2,608,281
Depreciation Expenses		\$ 655,844	\$ 2,889,699	\$ 2,570,496	\$ 6,116,039
Maintenance of Poles		\$ 182,399	\$ 803,663	\$ 714,889	\$ 1,700,951
Tree Trimming of Poles		484,738	2,135,793	1,899,868	4,520,399
A&G Expense Allocation to Poles		159,304	701,905	624,371	1,485,580
Revenue Requirement		\$ 3,101,219	\$ 13,664,218	\$ 12,154,836	\$ 28,920,273
Quantity		81,580	139,241	70,991	291,812
Average Installed Cost		\$ 38.01	\$ 98.13	\$ 171.22	\$ 99.11
Space Usage Factor		0.0759	0.0759	0.0759	0.0759
Pole Attachment Rate		\$ 2.89	\$ 7.45	\$ 13.00	\$ 7.53

These numbers are particularly troubling, given that the utilities’ own reported numbers cannot be reconciled. For example, in its pole attachment calculation, KU asserted \$552,231,037

¹⁹ Compare 2025 PSC DR1 KU LGE Attach to Q54 – Exhibit MEH-1 – PSA Rate Support, Tab “KU OH,” with KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab “KU OH.”

in “Gross Plant as of January 2025” and “forecasted” \$565,348,849 in the same account for 2026.²⁰ But in its Annual Report to the Commission,²¹ KU reported \$568,544,968 as of December 31, 2024 – *more* than either its pole rate number or forecasted number – and in direct contradiction to the \$530,583,576.83 it stated in its Continuing Property Records²² for the same time period. At hearing, none of the witnesses responsible for calculating the utilities’ pole attachment rates could reconcile or otherwise explain these numbers. VR: 11/6/2025; 2:49:16pm-2:52:54pm; VR: 11/5/2025; 2:06:45pm-2:10:32pm. As a result, there is no record evidence upon which the Commission can reasonably do so either.

In contrast to KU and LG&E, Patricia Kravtin calculated the utilities’ pole attachment rates based on the utilities’ actual, reported costs and in compliance with *Order 251*.²³ As Kravtin testified, using the Commission’s longstanding cost-based approach results in 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.²⁴

<u>Just & Reasonable Pole Attachment Rates for</u>			
<u>LG&E and KU</u>			
Pole Rate	LG&E	KU	Combined
Two User	\$9.04	\$7.10	\$7.79
Three User	\$9.65	\$7.13	\$7.98

²⁰ KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab “KU OH.”

²¹ Kentucky Utilities Company, Annual Report at 39 (May 7, 2025), *available at* https://psc.ky.gov/UFR_PDF/%5CElectric%5C2024%5C400_Kentucky_Uilities_Company.pdf.

²² 2025 KBCA DR1 KU Attach 5 to Q10 Distribution Poles Account 364-2024.

²³ While a uniform rate is improper, KBCA also submitted evidence showing combined rates for the Commission’s reference. KBCA’s proposed rates incorporate KU and LG&E’s actual embedded costs rather than speculative forecasted costs. Kravtin Testimony at 19; Kravtin Testimony Ex. 5; 2025.09.23 Kravtin Combined LGE KU Rate Calc Attachment Workpaper.

²⁴ Kravtin Testimony at 19; Kravtin Testimony Exs. 3–5; 2025.09.23 Kravtin Combined LGE KU Rate Calc Attachment Workpaper.

Neither KU nor LG&E effectively challenged these rate calculations or the actual costs upon which they were based.²⁵ Furthermore, there is no evidence her proposed rates contain any subsidies from any other rate classes or provide less than the utilities fully allocated costs of pole attachments. Their inability to present any evidence challenging Kravtin’s proposed rates is not a surprise given that they are actually closer to the rates just filed by other, similarly-situated Kentucky utilities based on the Commission’s last pole attachment proceeding, including, for example, by Duke Energy Kentucky, Inc. (\$7.50),²⁶ Clark Energy (\$5.91/\$4.59),²⁷ Blue Grass Energy (\$7.00/\$5.71),²⁸ Kenergy (\$6.10/\$4.76),²⁹ Meade County RECC (\$9.30/\$5.89),³⁰ and Farmers RECC (\$3.97/\$3.48).³¹

²⁵ While Hornung previously suggested there was no real mathematical difference in the way he and Patricia Kravtin calculated pole attachments rates, Hornung Rebuttal Testimony at 24:11-17, he admitted at hearing that is not true: part of his calculation omitted tree trimming expenses that properly belonged in his maintenance carrying charge analysis and accounted for the larger difference in their calculations. VR: 11/6/2025; 2:54:13pm-2:56:07pm.

²⁶ Duke Energy Kentucky, Inc., Rate DPA, Distribution Pole Attachments, Ninth Revised Sheet No. 92 at 1, *available at* https://psc.ky.gov/trf4/uploadedFiles/1001200_Duke_Energy_Kentucky__Inc_/10142025102440/Case_2024-00354_Tariffs_10-25.pdf (“Duke Energy Rate”).

²⁷ Clark Energy Cooperative, Schedule PA – Pole Attachments, Original Page No. 118.40, *available at* https://psc.ky.gov/trf4/uploadedFiles/1200_Clark_Energy_Cooperative__Inc_/11012025052450/SCHEDULE_PA_-_POLE_ATTACHMENT_TRAIFF.pdf.

²⁸ Blue Grass Energy, Schedule PA – Pole Attachments, Second Revised Sheet No. 227, *available at* https://psc.ky.gov/trf4/uploadedFiles/2000200_Blue_Grass_Energy_Cooperative_Corp_/10292025030438/Blue_Grass_Energy_Pole_Attachment_Tariffs_November_2025.pdf.

²⁹ Kenergy, Schedule 76 – Pole Attachment Tariff, Sixth Revised Sheet No. 76 at 48, *available at* https://psc.ky.gov/trf4/uploadedFiles/2000100_Kenergy_Corp_/11032025083850/Kenergy_Schedule_76_Pole_Attachment_Tariff_November_2025.pdf (“Kenergy Rates”).

³⁰ Meade County RECC, Schedule PA – Pole Attachments, Original Sheet No. 35.38, *available at* https://psc.ky.gov/trf4/uploadedFiles/2600_Meade_County_R_E_C_C_/10222025081226/Mead_e_County_R.E.C.C._Pole_Attachment_Tariff_Filing_Clean.pdf (“Meade County RECC Rates”).

C. The Utilities Improperly Propose Combined Rates That Result In Attachers Paying Rates Misaligned With The Utilities’ Actual Pole Attachment Costs.

In addition to using unverifiable forecasted costs, instead of actual costs, the two utilities also ask the Commission to approve a uniform, averaged pole attachment rate.³² They propose *combined* rates of \$10.49 per attachment for two-user poles and \$10.75 per attachment for three-user poles – representing a very significant increase of 45% to 48% over their current rates of \$7.25 per attachment.³³ These combined rates are based on individual rates of \$13.17 for two-user poles and \$14.08 for three-user poles for LG&E,³⁴ and \$9.29 for two-user poles and \$9.33 for three-user poles for KU.³⁵

As illustrated below, under the combined rate, attachers to LG&E 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.

Utility Forecasted – Individual vs Combined Pole Attachment Rates					
Pole Rate	Combined	LG&E	% Over Combined	KU	% Under Combined
Two User	\$10.49	\$13.17	26%	\$9.29	11%
Three User	\$10.75	\$14.08	31%	\$9.33	13%

³¹ Farmers RECC, Schedule PA – Pole Attachments, 1st Revised Sheet No. 149.003, *available at* https://psc.ky.gov/trf4/uploadedFiles/1500_Farmers_R_E_C_C_/11042025082105/Farmers_RECC_-_Pole_Attachment_Tariffs.pdf.

³² KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab “Combined OH;” KBCA DR2 LGE Corrected Attach to Q2 - Stipulation ROE, Tab “Combined OH.”

³³ 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.

³⁴ KBCA DR2 LGE Corrected Attach to Q2 - Stipulation ROE, Tab “LG&E OH.”

³⁵ KBCA DR2 KU Corrected Attach to Q2 - Stipulation ROE, Tab “KU OH.”

There is no record evidence (because the utilities failed to offer any) justifying the use of a combined rate that results in some pole attachers paying artificially more, while others pay artificially less. As a result, there is thus no evidence upon which the Commission could calculate a *combined* rate or on which it could issue findings that such a rate is just and reasonable.

STANDARD

It is well-established precedent that the utilities bear the burden to demonstrate their pole attachment rates are “fair, just and reasonable.” KRS 278.030(1) & 278.190(3); *Ky. Indus. Util. Customers, Inc. v. Ky. Pub. Serv. Comm’n*, 504 S.W.3d 695, 705 (Ky. App. 2016) (explaining “the [Commission] must ensure that utility rates are fair, just, and reasonable to discharge its duty . . . to ensure that utilities comply with state law”); *see, e.g.*, Duke Energy Order at 82. Because the utilities have failed to do so, the Commission should reject their substantial pole attachment rate increases.

ARGUMENT

The utilities’ proposed pole attachment rates are unjust and unreasonable, and this Commission should reject them. The utilities’ significant rate increases are based on a novel, forecast-based approach that deviates from this Commission’s longstanding cost-based approach – an approach that ensures utilities recover their fully allocated costs of pole attachments and has withstood the test of time for over four decades. Indeed, every regulatory authority that regulates pole attachment rates requires the use of actual costs instead of forecasts for important practical and policy reasons, and no authority *anywhere* has approved the type of approach that the utilities recommend the Commission should adopt in this case. The major deficiencies associated with the utilities’ approach and results are obvious and extensive. The utilities’ rates are based on opaque and unsupported forecasted costs that are impossible for the Commission to crosscheck or verify.

The utilities simply ask the Commission to assume that their forecasts are reasonable. Based upon the record in this case, it should not do so, as the evidence demonstrates that their forecasts are not reasonable. Simply stated, the utilities' varying numbers cannot be squared with their own historic costs, their records, or even their own projections from this proceeding. Moreover, no utility witnesses could even explain them. Those unsupported forecasts also generate rates that are suspect and demonstrably excessive – and openly result in large and inappropriate cost subsidies. Indeed, the utilities' rates are far higher than rates generated on a proper application of this Commission's rules, and the rates of other similarly-situated utilities generated using that approved approach. This Commission's approach is intended to ensure utility pole attachment rates can be easily verified to reduce disputes and the need for extensive rate hearings. The utilities' new approach accomplishes just the opposite. The Commission should reject rates that cannot be verified, are demonstrably excessive, and use an approach that invites disputes and contested proceedings.

I. The Utilities Propose Pole Attachment Rates Based On Unverifiable Forecasted Costs That Are Excessive, Unjust, And Unreasonable.

The utilities propose unjust and unreasonable pole attachment rates that are demonstrably excessive and result from its improper use of unverifiable forecasted costs in flagrant violation of *Order 251*'s mandate to use actual costs and results.

1. The utilities propose rates that are based on an approach that openly violates this Commission's established methodology. The Commission's *Order 251* clearly sets forth how pole attachment rates are to be calculated in Kentucky. *Order 251* at 8. As part of that formula, *Order 251* includes "embedded cost[s]" that are reflected in "readily available public information." *Order 251* at 8. As explained above, the "embedded cost[s]" referenced in Kentucky's pole attachment formula represent costs that have been incurred previously and are therefore reflected

in the utilities' public filings, like its Annual Reports to the Commission or FERC filings. *Supra* at 5–6.

But here, the utilities openly disregard *Order 251*'s mandate in favor of a novel forecast approach that no jurisdiction, including this Commission, has approved for many good, practical, and policy reasons.³⁶ There is nothing in *Order 251* that references forecasted costs, allows a utility to use unsupported forecasted costs in a pole attachment rate calculation, or provides any mechanism for verifying or truing up forecasted costs. *See generally Order 251*. The utilities submitted no evidence demonstrating that their novel approach generates pole attachment rates that are fair and reasonable.

2. The utilities' forecast approach creates the very problems that the Commission's cost-based formula is designed to avoid. The utilities' rates are based on ever-shifting numbers they cannot or have chosen not to support. *Supra* at 7–13; Duke Energy Order at 84 (holding “[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”). Indeed, KU and LG&E failed and refused to answer data requests inquiring into the basis of their numbers in contravention of *Order 251*, many of which are multiples of actual historical costs and increased inexplicably by up to \$100 million after the utilities' proposed settlement with a majority of the other parties. *Supra* at 8–11; *Order 251* at 8 (stating when a formula is not based on “readily available public information . . . each utility shall file with its proposed tariffs the source and justification for cost factors used in applying the formula”).

³⁶ *See, e.g.*, KU Response to KBCA Request For Information 2-7; LG&E Response to KBCA Request For Information 2-7.

Neither of the witnesses identified by the utilities as those sponsoring the utilities' pole attachment rate calculations could explain the source or basis of the utilities' numbers, or the discrepancies between those numbers and the utilities' public filings. *Supra* at 8–12; *Ky. Indus. Util. Customers, Inc.*, 504 S.W.3d at 709 (explaining Kentucky law “*mandates* that the Commission consider whether the full costs of the . . . agreement . . . are fair, just and reasonable”) (emphasis in original). Lyons, the witness who allegedly oversaw the rate calculations, admittedly never vetted or validated the numbers given to him by KU and LG&E – or even saw their final calculations. VR: 11/5/2025; 1:58:53pm-1:59:33pm. Hornung likewise testified that he did not supply any of the forecasted numbers in the rate support spreadsheet and that he could not explain their bases. VR: 11/6/2025; 2:30:44pm-2:31:24pm. Transparent inputs help the utilities catch mistakes and the Commission to carry out its statutory mandate to evaluate whether a proposed pole attachment rate is fair, just, and reasonable, which is particularly critical if the companies' sponsoring witnesses cannot explain their calculations. *Supra* at 8–12. But where, as here, the Commission cannot understand or verify that the utilities' inputs are cost-based and otherwise reasonable, it cannot calculate any rates or ensure they are fair, just, and reasonable. *Supra* at 7–13. The Commission cannot simply accept the utilities' proposed rates at face value or take their word they are just and reasonable – especially when all the evidence shows otherwise.

3. The evidence further shows the utilities' unsanctioned approach predictably results in rates that are not cost based and demonstrably excessive. As an initial matter, the rates reflect increases that are divorced from the utilities' actual pole attachment costs. The rates are also far higher than actual cost-based rates, as proven with rates calculated by Kravtin. As she explained, relying on KU and LG&E's embedded, reported costs – which neither utility challenged over the course of this proceeding – the maximum just and reasonable rates for KU and LG&E are no more

than \$7.10 (two user) and \$7.13 (three user) for KU, and \$9.04 (two-user) and \$9.65 (three-user) for LG&E (based on the utilities' stipulated ROE).³⁷ The utilities did not challenge the accuracy of these rates as calculated in compliance with *Order 251*, which also align with the just-filed rates from Duke Energy Kentucky, Inc. (\$7.50),³⁸ Kenergy (\$6.10/\$4.76),³⁹ Meade County RECC (\$9.30/\$5.89),⁴⁰ and others. *Supra* at 13–14. Nor is there any evidence her rates fail to provide full recovery for pole attachment costs or result in any subsidies. For all of these reasons, Kravtin's easily verifiable – and essentially unchallenged – rates stand in stark contrast with the unverifiable rates the utilities' put forward here.

4. The utilities have offered no explanation for how their methodology or resulting rates are fair or appropriate, despite record evidence demonstrating that they are unjust and unreasonable. In addition to all of the highly-problematic issues set forth above, KU and LG&E's forecast approach would require the Commission to implement a new, costly and time-consuming procedure not set forth in *Order 251* in order to verify forecasted costs in a pole rate and to true up the result. VR: 11/6/2025; 2:04:53pm-2:05:11pm (Hornung acknowledging that, while there is a mechanism that allows customer credits or refunds in the event of cost over-recovery of electric rates, that does not apply to pole attachment rates); Hornung Rebuttal Testimony at 21:10-13 (quoting a NARUC manual that contemplates "audit[ing]" the "accuracy" of forecasted numbers "at the end of the period projected"); *see, e.g.*, KRS 278.192(2) (noting "[a]ctual results for the estimated months of the base period shall be filed no later than forty-five (45) days after the last

³⁷ Kravtin Testimony at 19; Kravtin Testimony Exs. 3–4; 2025.09.23 Kravtin Combined LGE KU Rate Calc Attachment Workpaper.

³⁸ Duke Energy Rate, Rate DPA, Distribution Pole Attachments, Ninth Revised Sheet No. 92 at 1.

³⁹ Kenergy Rates, Schedule 76 – Pole Attachment Tariff, Sixth Revised Sheet No. 76 at 48.

⁴⁰ Meade County RECC Rates, Schedule PA – Pole Attachments, Original Sheet No. 35.38.

day of the base period”). There is no reason for the Commission to fundamentally overhaul its existing pole attachment regulations to create a more complicated, burdensome, and inefficient process, especially where its only apparent benefit would be allowing the utilities to charge pole attachers whatever they want upfront.

Instead of addressing any of the serious problems with the approach they propose, the utilities instead suggest their rates are justified because they have not raised pole attachment rates in a few years, and may not for several more years. *See, e.g.,* Hornung Rebuttal Testimony at 20:11-14. But the utilities choose when to seek rate adjustments, and the fact they have not done so in their previous rate proceedings does not make their calculations or rates more or less justified here. Utilities are bound by *Order 251* each time they seek rate adjustments. *Order 251* at 8.

II. The Commission Should Reject The Utilities’ Effort To Charge Attachers A Combined Pole Attachment Rate Misaligned With The Utilities’ Actual Costs.

The Commission should further reject the utilities’ attempt to charge attachers combined rates that are not based on the “embedded cost[s]” of each “utility.” *Order 251* at 8 (holding the pole rate formula should “produce a fair, just and reasonable rate, based on the fully allocated costs of the utility in furnishing pole attachment services”); *Ky. Indus. Util. Customers, Inc.*, 504 S.W.3d at 706 (“Just as a utility should not be denied a fair return on its investment properly included in rate base, so a customer or consumers should not be required to pay for investments made by the utility which are of no benefit to the consumer.”) (internal quotation marks & citation omitted). Here, KU and LG&E are different utilities with different cost profiles that lead to significantly different pole attachment rates, and combined rates do not accurately reflect either utility’s pole attachment costs or fairly or rationally allocate those costs to attachers to each respective utility’s poles. Kravtin Testimony at 9; *supra* at 14–15.

The utilities' combined rate means that some attachers pay more than their fair share of attachment costs, while others pay less. For example, KU and LG&E do not contest that, under their proposed pole attachment rate structure, attachers to KU poles would pay rates 11% to 13% artificially more than rates calculated based on KU's own costs, and attachers to LG&E poles would pay rates 26% to 31% artificially less than rates calculated based on LG&E's own costs. *Supra* at 14. In other words, the only reason an attacher on a KU pole would be paying \$10.49 per attachment for a two-user pole instead of \$9.29 under the utility's proposed rate structure is the presence of LG&E. *Id.*

That kind of cross-subsidy across companies and rate classes cannot be squared with *Order 251*, and the utilities have failed to offer any fair or reasonable justification for it. The fact that a uniform rate was accepted as part of a prior settlement is not evidence of its reasonableness in this proceeding. *See* VR: 11/6/2025; 1:55:58pm-1:56:52pm. Moreover, the uncontroverted evidence here shows that a uniform rate is not reasonable because the utilities have starkly different cost structures and a uniform rate results in some attachers, and in turn their broadband customers, paying excessive pole attachment rates. *Supra* at 14–15. The Commission cannot sanction such rates.

CONCLUSION

The Commission should reject the utilities' bid to charge broadband providers unjust and unreasonable pole attachment rates.

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Respectfully submitted,

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