

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)
)
) CASE NO. 2025-00391
ELECTRONIC INVESTIGATION OF THE)
PROPOSED POLE ATTACHMENT) **KBCA STATEMENT ON HEARING**
TARIFFS OF KENTUCKY UTILITIES)
COMPANY AND LOUISVILLE GAS AND)
ELECTRIC COMPANY)
)
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ELECTRONIC INVESTIGATION OF THE)
PROPOSED POLE ATTACHMENT) **KBCA STATEMENT ON HEARING**
TARIFFS OF RUAL ELECTRIC)
COOPERATIVE CORPORATIONS)
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The Kentucky Broadband and Cable Association (“KBCA”) respectfully submits this Statement on Hearing in accordance with the Commissions’ December 2, 2025, Scheduling Order.

INTRODUCTION

Based on the extensive record and the Commission’s careful consideration of the issues and orders in this proceeding, KBCA believes the record is sufficient for the Commission to rule on its objections to the November 2025 tariffs filed pursuant to 807 KAR 5:015 § 3(8) by the Rural Electric Cooperative Corporations (“RECCs”), Louisville Gas and Electric Company (“LG&E”), and Kentucky Utilities Company (“KU”) without a further evidentiary hearing. After the Commission issued its order, KBCA filed limited objections to ensure the responsive tariffs filed

by the utilities clearly and explicitly comply with the Commission's new pole attachment regulations. As illustrated by KBCA's objections and the utilities' responses, there are certain areas in which the proposed tariffs appear to require engineering certifications or pole loading analyses in violation of the Commission's regulations. Additionally, certain utilities omit key provisions of the Commission's regulations in their tariffs, which will create needless and counterproductive confusion among field personnel and potential disputes. To dispel any latent confusion and cure clear non-compliance issues, the Commission should require these utilities to clarify and revise their tariffs to clearly and explicitly comply with the Commission's regulations.

Should the Commission seek additional information through an evidentiary hearing, KBCA is pleased to appear to present evidence and argument.

BACKGROUND

The Commission's new pole attachment regulations are the product of a nearly two-year effort supported by the General Assembly to promote the deployment of high-speed broadband internet service to unserved and underserved citizens in the Commonwealth. As the General Assembly and this Commission recognized, clear and efficient pole attachment regulations – that remove burdens and promote efficient and cost-effective pole attachments – are necessary to expedite broadband deployment across Kentucky. Clear and streamlined regulations are indeed a key policy priority for the Commonwealth as pole owners and attachers work to manage the surge in pole attachment activity caused by the influx of billions of dollars in state and federal grants and significant private sector investments. That is why this Commission, and all the stakeholders who participated in this proceeding, have invested so much time and resources to promulgate clear and fair regulations. As this process now reaches an important milestone, it is critical for the utilities' tariffs to comply with the Commission's rules.

To that end, on December 22, 2025, KBCA filed objections to the November 2025 tariffs filed pursuant to 807 KAR 5:015 § 3(8) by the RECCs, LG&E and KU. The utilities responded to KBCA’s objections on January 9, 2026. No party to this proceeding has filed any witness or expert testimony.

RECC Tariffs. With regard to the RECC tariffs, KBCA objected that they:

- Appear to require the attacher to submit a certification from a professional engineer or a pole loading analysis as part of its application, including implicitly requiring those certifications by requiring an attacher to identify poles that need to be replaced or rearranged, in violation of 807 KAR 5:015 4(2)(a)(5) and as depicted below:

Checklist of Attached Documents (Containing Licensee Job #):	
<input type="checkbox"/> Appendix A- OTMR Addendum selected contractors (if applicable)	
<input type="checkbox"/> Permit Submittal Certification Form	
<input type="checkbox"/> Detailed construction plans, drawings, and maps consistent with Appendix B	
<input type="checkbox"/> Spreadsheet, containing the following:	
<input type="checkbox"/> Poles that we wish to use (number, Lat, Long)	<input type="checkbox"/> Relocations or replacements of poles
<input type="checkbox"/> Point of attachment (proposed height) on each pole	<input type="checkbox"/> Rearrangements of fixtures and equipment necessary
<input type="checkbox"/> Number and type of attachments to be placed on each pole (including anchor type and distance from poles)	<input type="checkbox"/> Additional poles required

- Incorporate applications or forms on their websites that implicitly require a pole loading or engineering analysis, *id.*;
- Fail to incorporate the form specified in 807 KAR 5:015 § 3(5);¹
- Incorporate terms the Commission rejected in its rulemaking.²

In response, the RECCs noted that their previous tariffs required applications be signed by a professional engineer, and that “[o]n [their] face,” their tariffs do not require a pole loading

¹ See, e.g., Cumberland Valley Electric, Inc., Tariff; Grayson Rural Electric Cooperative Corporation Tariff; Licking Valley Rural Electric Cooperative Corporation Tariff; Meade County Rural Electric Cooperative Corporation Tariff; Nolin Rural Electric Cooperative Corporation Tariff; Owen Rural Electric Cooperative Corporation Tariff; Shelby Energy Cooperative Tariff.

² See, e.g., Shelby Energy Cooperative, Inc. Tariff.

analysis to be submitted with an application.³ The RECCs also provided links to the missing pole attachment forms for certain utilities.⁴

LG&E and KU Tariffs. KBCA objected that the tariffs filed by LG&E and KU:

- Fail to incorporate terms required by the Commission’s rules, including those:
 - Requiring a utility to state the reason for an application denial with specific citations to the regulations, 807 KAR 5:015 § 4(2)(a)(7);
 - Stating any resubmitted application shall be deemed complete within ten (10) business days after the application’s resubmission unless the utility states which reasons were not addressed and how the resubmitted application did not sufficiently address the reasons, 807 KAR 5:015 § 4(2)(a)(10)(a);
 - Allowing a new attacher to follow resubmission procedures as many times as necessary, 807 KAR 5:015 § 4(2)(a)(10)(b);
 - Expressly allowing attachers to reprioritize applications, 807 KAR 5:015 § 4(2)(a)(9);
 - Requiring invoices for make ready estimates to “clearly identify the application or project for which payment is requested,” 807 KAR 5:015 § 4(3)(e), or requiring itemized estimates or final invoices, 807 KAR 5:015 §§ 4(3)(a), 4(7)(a)(1) & (2); and
 - Limiting extended review periods to “the lesser of 3,000 poles or three (3) percent of the utility’s poles in Kentucky,” 807 KAR 5:015 § 4(8)(b).
- Appear to require the attacher to submit a certification from a professional engineer or a pole loading analysis as part of its application, including through handbooks incorporated in their tariffs by reference, in violation of 807 KAR 5:015 4(2)(a)(5).⁵

³ *In the Matter of Electronic Investigation of the Proposed Pole Attachment Tariffs of Rural Electric Cooperative Corporations*, Case No. 2025-00392, Response of Kentucky’s Electric Cooperatives in Opposition to KBCA’s Objections to The Pole Attachment Tariffs at 4-5 (Ky. PSC Jan. 9, 2026) (hereinafter “RECC Objection Responses”).

⁴ *Id.* at 7. KBCA incorporates its objections regarding engineering certifications and pole loading analyses to the Cumberland Valley Electric, Grayson RECC., Licking Valley RECC, Owen Electric, and Shelby Electric forms. Additionally, the Nolin RECC link appears to be password protected and therefore inaccessible.

⁵ In accordance with 807 KAR 5:015 4(8)(f), KBCA will withdraw its objections to the utilities “treat[ing] multiple applications from a single new attacher as one (1) application if the applications are submitted within thirty (30) days of one another.”

In response, LG&E and KU noted that the companies “need not repeat every provision of the regulation in their tariffs verbatim,” and implied that their pole attachment handbooks may in fact impose obligations contrary to the tariffs as long as the tariffs themselves do not.⁶

ANALYSIS

I. The Commission Should Sustain KBCA’s Objections To The RECC Tariffs.

The Commission should require the RECCs to comply with 807 KAR 5:015 by explicitly not requiring pole loading analyses and engineering certifications in a pole attachment application.

Pole Loading Analyses. Contrary to the RECC’s suggestion, *supra* at 3-4, the Commission’s regulations expressly prohibit utilities from requiring a pole loading analysis as a filing requirement for an application. 807 KAR 5:015 4(2)(a)(5). Yet, by requiring an attacher affirmatively to state whether a pole must be “replace[d]” and if “additional poles [are] required” as part of the application process, the RECCs are implicitly requiring a pole loading analysis because that is often required to state whether a pole must be replaced.⁷ If these boxes are optional, as the RECCs suggest,⁸ they need to explicitly say that on their forms.⁹ Otherwise, the RECCs cannot implicitly require what the Commission has explicitly prohibited.

Engineering Certifications. Nor may the RECCs require an engineering certification to submit a pole attachment application. *Supra* at 3-4. Again, the Commission’s regulations prohibit utilities from requiring a survey or pole loading analysis as part of an application. 807 KAR 5:015

⁶ LG&E and KU Objection Responses at 7-10.

⁷ See, e.g., Cumberland Valley pole attachment form, available at <http://www.cumberlandvalley.coop/pole-attachments>.

⁸ RECC Objection Responses at 6.

⁹ In their objection responses, the RECCs use past practice and previous negotiations to justify their current tariffs. See, e.g., RECC Objection Responses at 3. Given their penchant for relying on the outcome of past proceedings to justify current and future behavior, the Commission should ensure the RECC tariffs are crystal clear regarding their requirements.

4(2)(a)(5). And the RECCs have represented that their form “does not require attachers to submit documents addressing the rearrangement of facilities or replacement of poles.”¹⁰ As such, there is thus no purpose for a professional engineering certification on the pole attachment application. The only information left is basic information like the pole numbers, point of attachment and number of attachments, and attachers are already either completing or paying for a post-construction engineering inspection.¹¹ Requiring a professional engineer to certify basic information like the number of attachments not only violates the Commission’s regulations, but also serves no purpose other than to impose an unnecessary, expensive, administrative burden for attachers seeking to submit applications.

RECC-Specific Issues. Finally, the Commission should require individual RECCs to fully comply with its regulations. The Commission should thus order Nolin RECC to provide a link to its pole attachment form that is not password protected.¹² And it should require Shelby Energy to remove from its tariff the special contract language the Commission removed from its regulations, which the RECCs do not address and therefore do not oppose.¹³

II. The Commission Should Sustain KBCA’s Objections To LG&E And KU’s Tariffs.

The Commission should also require LG&E and KU to clearly and explicitly comply with the Commission’s regulations, including by not requiring pole loading analyses in a pole application.

Clear, Compliant Tariffs. *First*, the Commission should require LG&E and KU to **explicitly** follow its regulations. LG&E and KU admit they have left key timeline provisions out

¹⁰ RECC Objection Responses at 6.

¹¹ RECC Objection Responses at 5.

¹² RECC Objection Responses at 7; *see* <http://nolinrecc.com/?s=pole-attachment-information>.

¹³ Shelby Energy tariff at 3rd Revised Sheet Nos. 302.3 & 302.4.

of their tariffs, including the requirement that they provide citations to the administrative regulations for denied applications, the ten day timeline for completeness review, the resubmission procedure, and invoice requirements.¹⁴ That makes their tariffs confusing and difficult to operationalize, especially for field personnel who are of course not intimately familiar with this extensive proceeding and the Commission's orders, as it will require them to cross check the tariff against the Commission's regulations (and the utilities' handbooks, constructions standards, etc.). There is no reason for such burdensome procedural gymnastics and ineluctable confusion.¹⁵

Pole Loading Analyses. *Second*, the Commission should not allow LG&E and KU to circumvent the Commission's regulations through an informal operational "handbook" incorporated into their tariffs.¹⁶

LG&E and KU's tariffs explicitly incorporate their Third Party Pole Attachment Handbook into their tariffs.¹⁷ The handbook requires "[a] pole loading study (if required)" for an "application."¹⁸

¹⁴ *Supra* at 3-4; LG&E and KU Objection Responses at 7-9.

¹⁵ In recent cases before the Commission, LG&E and KU have repeatedly used past practice and even settlements to justify their current policies, even when they violate Commission orders. *See, e.g., 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, Post Hearing Brief of Kentucky Utilities Company and Louisville Gas and Electric Company, at 36-38 (Ky. PSC 2025). As a result, it is important that their practices and tariffs explicitly comply with the Commission's regulations.

¹⁶ LG&E and KU Objection Responses at 9-10.

¹⁷ KU Fourth Revision of Original Sheet No. 40.4; LG&E Fourth Revision of Original Sheet No. 40.4.

¹⁸ LG&E and KU Third Party Attachments Handbook (Mar. 17, 2020), available at [LGEKU-Third-Party-Attachment-Handbook.pdf](#)

3.1.1.4 Application Contents

1. To be considered complete, attachment applications must contain the following information:
 - a. Pole owner, pole number, pole location
 - b. Photo of the pole showing existing supply and communications attachments and their heights
 - c. Physical attributes of proposed attachments
 - d. Proposed start date for attachment construction
 - e. Any issues then known to the Attachment Customer regarding space, **engineering**, access, or other matters that may require resolution before installation of attachments
 - f. Proposed make-ready drawings (if applicable)
 - g. **A pole loading study (if required)**

That flatly violates the Commission's regulations. 807 KAR 5:015 4(2)(a)(5). LG&E and KU cannot evade the Commission's requirements by requiring one thing in a tariff, and another in a handbook incorporated into their tariffs.

CONCLUSION

The Commission should:

- Require the RECCs and LG&E and KU to clarify that a certification from a professional engineer or a pole loading analysis is not required as part of their applications;
- Order the RECCs to ensure their websites incorporate the forms specified in 807 KAR 5:015 § 3(5), and order Shelby Energy Cooperative, Inc., to remove the special contract language the Commission previously rejected from its tariff;
- Order LG&E and KU to explicitly incorporate complete and accurate information regarding the attachment procedure and invoicing in their tariffs.

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Respectfully submitted,

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