

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

In the Matter of:

ELECTRONIC INVESTIGATION OF)	
THE PROPOSED POLE ATTACHMENT)	Case No. 2025-00392
TARIFFS OF RURAL ELECTRIC)	
COOPERATIVE CORPORATIONS)	

**RESPONSE OF KENTUCKY’S ELECTRIC COOPERATIVES
IN OPPOSITION TO KBCA’S OBJECTIONS TO
THE POLE ATTACHMENT TARIFFS**

Kentucky’s electric cooperatives (the “Cooperatives”),¹ by counsel and in response to the Kentucky Broadband and Cable Association’s (“KBCA”) objections to the Cooperatives’ pole attachment tariffs (“Tariffs”), state as follows.

I. The Proposed Tariffs are the Same as the Tariffs Previously Approved.

The proposed Tariffs are the same as the pole attachment tariffs filed April 28, 2025 – without protest or suspension – to comply with the final version of 807 KAR 5:015E (the “Emergency Regulation”). The Commission approved the April tariffs, and they remain in effect today. The only reason the proposed Tariffs that are the subject of this case were filed is that the Emergency Regulation was replaced by the substantively identical ordinary regulation (“Regulation”), and the Regulation required that “[t]ariffs conforming to the requirements of this

¹ The following electric cooperatives are party to this case: Big Rivers Electric Corporation; Big Sandy RECC; Blue Grass Energy Cooperative Corporation; Clark Energy Cooperative, Inc.; Cumberland Valley Electric, Inc.; Farmers RECC; Fleming-Mason Energy Cooperative; Grayson RECC; Inter-County Energy Cooperative Corporation; Jackson Energy Cooperative Corporation; Jackson Purchase Energy Corporation; Kenegy Corporation; Licking Valley RECC; Meade County RECC; Nolin RECC; Owen Electric Cooperative; Salt River Electric Cooperative Corporation; Shelby Energy Cooperative, Inc.; South Kentucky RECC; and Taylor County RECC. Although this filing speaks on behalf of the group’s common interests, each cooperative reserves the right to also address issues on an individual basis throughout this proceeding.

administrative regulation and with a proposed effective date no later than December 3, 2025, shall be filed by November 3, 2025.”² Thus, the April tariffs filed in compliance with the Emergency Regulation were simply refiled to reflect the new effective dates required by the Regulation.

The KBCA did not file any objections to the April tariffs previously approved by the Commission and currently in effect; thus, the KBCA has waived the right to object to the substantively identical proposed Tariffs, and the Commission should approve them as filed.

II. The Pole Attachment Application Requirements are Reasonable and Comply with the Regulation.

Even so, KBCA’s objections have been previously considered and rejected by the Commission. KBCA claims that the Cooperatives’ Tariffs are unjust and unreasonable to the extent a professional engineer is required to certify the attacher’s aerial design complies with applicable standards and codes including the NESC. The KBCA also objects to the Tariffs to the extent they require a pole-loading analysis. In support of its objections, the KBCA cites Section 4(2)(a)(5) of the Regulation. The Commission has specifically rejected these objections in the prior tariff investigation case (Case No. 2022-00106), and there is no reasonable argument to change course here. The Cooperatives will address the KBCA’s objection to a professional engineer’s certification in subsection a. and the purported requirement of a pole-loading analysis in subsection b.³

a. The Commission Previously Held that the Cooperatives’ Application Requirements are Reasonable in Case No. 2022-00106.

The KBCA claims that the Tariffs are unjust and unreasonable because they require a

² 807 KAR 5:015 § 3(8) (eff. Sept. 18, 2025).

³ The KBCA also objects to certain language in Shelby Energy’s Tariff that was applicable under a previous iteration of the Regulation. That language will be removed.

professional engineer to certify that the attacher’s application complies with applicable law and standards such as the NESC. The KBCA’s objection and the applicable Tariff provisions have already been litigated before the Commission in Case No. 2022-00106.⁴ The Commission found the Tariff provisions reasonable and approved the Tariffs.⁵

The Commission originally promulgated 807 KAR 5:015 effective as of February 1, 2022.⁶ In compliance with that iteration of the Regulation, the Cooperatives filed Tariffs on February 28, 2022. In response to the KBCA’s objections, the Commission suspended the Tariffs and opened Case No. 2022-00106 to investigate the Tariffs and objections thereto.

In that case, the KBCA objected to the Tariff requirement that applications be signed and sealed by a professional engineer registered in the Commonwealth of Kentucky.⁷ This is the same objection that KBCA asserts today. In ruling on the matter, the Commission noted that “attachers or their contractors are being granted access to facilities that play a key role in ensuring the Kentuckians have access to safe and reliable energy, and therefore, believes that the RECC’s concerns about whether attachments comply with applicable standards or will negatively affect their poles and equipment are reasonable.”⁸ The Commission also questioned “why a professional engineer would not already be involved in designing and managing the construction of any significant deployment of new attachments.”⁹ The Commission found the requirements reasonable and approved the Tariff provisions.¹⁰

The KBCA’s present objection to certification of applications by a professional

⁴ *In the Matter of: Electronic Investigation of the Proposed Pole Attachment Tariffs of Rural Electric Cooperative Corporations*, Case No. 2022-00106, Order, 39-41 (Ky. PSC Dec. 28, 2022).

⁵ *Id.* at 41.

⁶ *Id.* at 2.

⁷ *Id.*

⁸ *Id.* at 40.

⁹ *Id.*

¹⁰ *Id.* at 41.

engineer simply repeats its objections to Tariff provisions that were fully litigated and previously approved by the Commission. Moreover, there have not been any Complaints filed against the Cooperatives related to the provisions. There is no reason for the Commission to reach a different conclusion now than it did just three years ago. Grid reliability remains as important today as it was then. Therefore, the Cooperatives respectfully request the Commission reach the same conclusion as it did in Case No. 2022-00106 and approve the certification requirement language in the Cooperatives' tariffs.

b. The Tariffs Do Not Require Attachers to Submit Pole-Loading Analyses.

Section 4(2)(a)5 of the Regulation prohibits pole owners from requiring attachers to submit pole-loading analyses with pole attachment applications. Specifically, it provides that “A utility shall not require a new attacher to submit a survey or pole loading analysis as a filing requirement for an application.”¹¹ In the event of a conflict between the Regulation and the Tariff (of which there is none in this case), the Regulation governs.¹² The Tariffs expressly recognize this order of authority, providing that “This Schedule includes the Cooperative’s rates, terms, and conditions governing attachments to Cooperative’s Poles. It is intended to be (and should be interpreted) consistent with the requirements of 807 KAR 5:015 (the “Pole Attachment Regulation”) and KRS Chapter 278.”¹³

To be clear, however, the Tariffs do not require new attachers to submit a pole-loading analysis in violation of Section 4(2)(a)5 of the Regulation. Appendix B – Specifications for Attachments – prescribes the engineering and construction practices for attachments. Pursuant

¹¹ 807 KAR 5:015 § 4(2)(a)5.

¹² See, generally, *In the matter of: Electronic Investigation of the Proposed Pole Attachment Tariffs of Investor Owned Electric Utilities*, Case No. 2022-00105, Order, 6 (Ky. PSC Dec. 28, 2022).

¹³ See, e.g., Clark Energy Cooperative, Inc., KY P.S.C. Tariff No. 2, Schedule PA – Pole Attachments, Second Revised Page No. 109, Article I (emphasis omitted).

to Section D.1. of Appendix B, either the attacher or the Cooperative, at the attacher's option, may perform the required engineering.

Licensee's Attachment Permit application must be signed and sealed by a professional engineer, registered in the State of Kentucky, certifying that Licensee's aerial cable design fully complies with the NESC and [Cooperative's] Construction Standards and any other applicable federal, state or local codes and/or requirements, or Licensee will pay Cooperative for actual costs for necessary engineering and post-construction inspection and to ensure Licensee's design fully complies with the NESC and Electric Utility's Construction Standards and any other applicable federal, state or local codes and/or requirements.¹⁴

Pursuant to the plain language of the Tariff, there is no pole-loading analysis requirement, and attachers may, at their option, elect to: (i) perform their own engineering; or (ii) pay the Cooperative to perform the engineering.

Section D.2. of Appendix B provides that the engineering referenced in Section D.1. must include confirmation "that the design is in accordance with pole strength requirements of the NESC, taking into account the effects of Cooperative's facilities and other Attaching Entities' facilities that exist on the poles without regard to the condition of the existing facilities."¹⁵ On its face, this language does not require a pole-loading analysis be performed by an attacher, nor can it reasonably be interpreted to do so given the Tariff's express statement that the Tariff should be interpreted consistent with the Regulation, as well as the Regulation's prohibition against requiring attachers to conduct pole-loading analyses.

When read appropriately in concert with Section D.1., Section D.2. provides that the entity performing the engineering shall be responsible for ensuring that the design complies with NESC pole strength requirements. Attachers remain free, at their discretion, to provide pole-

¹⁴ *Id.* at Appendix B, Original Page No. 118.35, ¶ D.1 (emphasis added).

¹⁵ *Id.* at ¶ D.2.

loading analyses; however, the Tariff does not require attachers to submit pole-loading analyses. Consequently, the Tariff does not violate the Regulation.

III. The Cooperatives' Pole Attachment Application Form Does Not Violate the Regulation.

The KBCA also objects to the Cooperatives' Application form ("Form"), attached as Exhibit A to the Tariff, to the extent it may require a pole-loading analysis or engineering analysis. As explained above, the Tariff does not require attachers to submit pole-loading analyses or engineering analyses. Consequently, interpreting the Form to include such a requirement is inconsistent with the plain language of the Tariff.

The reference to rearranging facilities or replacing poles in the Form does not alter the analysis above. Firstly, the plain language of the Form does not require attachers to submit documents addressing rearrangement of facilities or replacement of poles. Secondly, the Regulation requires pole owners to accept surveys submitted by attachers with their applications under certain circumstances. "A new attacher may submit a survey with an application of 500 poles or less, which the utility shall accept"¹⁶ if the survey meets the regulatory requirements specified in the Regulation. Therefore, in a scenario where an attacher chooses to submit a survey with the application, the checkbox provides a means for the attacher to alert the pole owner that it attached documentation to the application addressing rearrangements or pole replacements that might be necessitated by the attachments. Providing checkboxes in the Form to allow attachers to so notify the pole owner does not violate the Regulation; it facilitates an orderly and efficient processing of applications.

¹⁶ 807 KAR 5:015 § 4 (2)(a)(6).

IV. The KBCA Does Not Allege that the Tariffs Violate Section 3(5) of the Regulation.

Finally, the KBCA claims that the Cooperatives' Tariffs are unjust and unreasonable because the websites of a small subset of Cooperatives purportedly do not include the form specified in Section 3 (5) of the Regulation. Notably, the KBCA does not claim that the Tariff fails to comply with Section 3(5). The KBCA's objection, as stated by the KBCA, is not to the Tariff but to the contents of certain websites. Therefore, the objection is not grounds to find the Tariff unjust or unreasonable.

Additionally, to the best of the Cooperatives' knowledge, no Complaints have been filed with the Commission claiming that certain Cooperative websites fail to meet the requirements of the Regulation. However, to the extent there is any difficulty locating the form required by Section 3(5) of the Regulation on the identified websites, the form for those cooperatives identified by KBCA may be found at the following URLs:

- Cumberland Valley – <https://www.cumberlandvalley.coop/pole-attachments>
- Grayson RECC – <https://graysonrecc.com/utility-pole-attachment-service-information>
- Licking Valley RECC – <https://lvrecc.com/pole-attachments/>
- Meade County RECC – <https://www.mcrecc.com/wp-content/uploads/2025/06/MeadeCoRECCPoleAttachmentForm.pdf>
- Nolin RECC – <https://nolinrecc.com/?s=pole+attachment>
- Owen Electric – <https://owenelectric.com/pole-attachment-information>
- Shelby Energy – <https://www.shelbyenergy.com/pole-attachment-information>

V. Conclusion.

The Cooperatives' Tariffs do not violate the Regulation, and the Cooperatives respectfully request that the Commission approve the Tariffs as of the effective dates stated therein.

This the 9th day of January, 2026.

Respectfully submitted,

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Certification

I hereby certify that a copy of this filing has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

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