

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC JOINT APPLICATION OF)
KENTUCKY UTILITIES COMPANY AND) CASE NO. 2026-00077
LOUISVILLE GAS AND ELECTRIC COMPANY)
FOR APPROVAL OF MERGER)**

**KENTUCKY UTILITIES COMPANY AND
LOUISVILLE GAS AND ELECTRIC COMPANY’S RESPONSE TO
THE MOTION TO INTERVENE OF THE
KENTUCKY BROADBAND AND CABLE ASSOCIATION**

Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively “Companies”) hereby respond to and ask the Commission to deny the Kentucky Broadband and Cable Association’s (“KBCA”) Motion to Intervene because the sole substantive ground upon which KBCA seeks to intervene—pole-attachment rates, terms, and conditions—is outside the scope of this merger proceeding. Moreover, the Commission has recently decided upon or is currently considering these *exact issues* in other currently pending proceedings,¹ making KBCA’s attempt to intervene here and relitigate those issues duplicative at best. Indeed, KBCA has provided no basis to believe it has a cognizable interest in these proceedings not otherwise adequately represented or that it will present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding.² Therefore, the Companies respectfully ask the Commission to deny KBCA’s Motion to Intervene.

¹ *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; *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; *Electronic Investigation of the Proposed Pole Attachment Tariffs of Kentucky Utilities Company and Louisville Gas and Electric Company*, Case No. 2025-00391.

² See 807 KAR 5:001 Sec. 11(4)(b).

I. The Commission Should Deny KBCA’s Motion to Intervene Because the Sole Interest It Asserts—Rate PSA Rates, Terms, and Conditions—Is Irrelevant to this Case, in which the Companies Propose to Merge, Not to Alter their Rates, Terms, or Conditions.

KBCA’s Motion to Intervene plainly states that KBCA “seeks to intervene in this proceeding to assist in developing the record on the narrow issue of ensuring the proposed merger does not adversely impact pole-attachment rates, conditions, and terms.”³ None of those issues is relevant to this merger case, in which the Companies have asked the Commission for relevant authority to merge the Companies, *not to revise their tariffed rates, terms, or conditions*. The statutory provisions under which the Companies have applied to the Commission in this case clearly demonstrate this; KRS 278.018, 278.020(6), and 278.300 do not concern rate or tariff changes. Indeed, the only rate-related component of the Companies’ application in this case is a request for the Commission to declare that unifying the Companies’ Fuel Adjustment Clause and Off-System Sales mechanisms—which KBCA does not seek to address—will *not* constitute a rate or tariff change. Therefore, because the sole substantive issue upon which KBCA premises its request for intervention is wholly irrelevant to this proceeding, the Commission should deny KBCA’s Motion to Intervene.

There is Commission precedent supporting denying KBCA intervention in this case. The Commission has previously denied intervention to parties seeking to address issues irrelevant to a proceeding because, in asserting an irrelevant interest, the prospective intervenors failed to satisfy the intervention criteria of 807 KAR 5:001 Section 4(11).⁴ This is true even for sophisticated potential intervenors, including Commission-jurisdictional utilities. Recently, the Commission

³ KBCA Motion to Intervene at 3.

⁴ See, e.g., *Electronic Application of Pennyryle Regional Energy Agency for a Declaratory Order Regarding the Jurisdiction of the Public Service Commission*, Case No. 2023-00195, Order at 4-5 (Ky. PSC Oct. 20, 2023).

denied intervention to Atmos Energy Corporation on facts and reasoning analogous to KBCA's intervention motion in this case:

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that Atmos has failed to demonstrate that it has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that Atmos is likely to present issues or develop facts that will assist the Commission in considering this matter without unduly complicating the proceedings, for the reasons discussed below.

The Commission finds that the issue raised in Pennyrile Agency'[s] application is a question of legal interpretation – is Pennyrile Agency a “utility” within the meaning of KRS 278.010(3)(b). Atmos in its motion to intervene did not offer any argument or information pertaining to this issue or contest the verified facts as presented by the applicant. The Commission finds that this case will not involve consideration of the need for Pennyrile Agency's proposed facility or the potential for wasteful duplication. Presentation of these factual issues would not assist the Commission in ruling on Pennyrile Agency's jurisdictional status. Granting Atmos party status and allowing it to serve data requests regarding these issues also could unduly disrupt the proceeding.⁵

Importantly, the Commission denied Atmos intervention in the *Pennyrile* case while acknowledging that “Atmos could be indirectly affected by the Commission's decision in this case.”⁶ The Commission went on to hold that Atmos could adequately represent its interests by making a filing as a non-intervenor.⁷

Similarly, the fact that the Commission has previously granted intervention to KBCA in other cases does not mean that intervention is proper here. In denying intervention to the “Joint Movants” in a recent Eastern Kentucky Power Company rate case, the Commission noted that

⁵ *Id.* at 4.

⁶ *Id.* at 5.

⁷ *Id.*

their prior intervention in other cases did not equate to intervention in the rate case when the Joint Movants' special interest was irrelevant to the rate case:

The Commission emphasizes that being granted permissive intervention in one case does not guarantee intervention in another case, and just because an intervenor has a special interest or can help develop facts in one case, does not mean the fact holds true for another case.⁸

KBCA's intervention in other cases in which pole attachment rates, conditions and terms are relevant may be appropriate, but that is not true for this merger case. Here, nothing would prevent KBCA from expressing its views on the Companies' proposed merger through public comment. Thus, there is no reason for the Commission not to follow its recent precedent in the *Pennyrile* and *East Kentucky Power Company* cases by denying KBCA intervention here.

II. The Commission Should Deny KBCA's Motion to Intervene Because the Commission Has Already Decided or Is Currently Addressing in Other Pending Cases the *Exact Issues* KBCA Asserts as Its Interest in this Case, Making Its Attempt to Address the Same Issues Here Duplicative at Best.

There is greater reason to deny KBCA intervention here than there was to deny Atmos intervention in the *Pennyrile* and *East Kentucky Power Company* cases. Unlike Atmos, KBCA has already had three bites at the apple of the issues it seeks to address yet again here. The Commission addressed the PSA rate issues twice in the Companies' pending 2025 base rate cases, first in its Final Order issued on February 16, 2026 and second in its March 27, 2026 Order denying KBCA's Motion for Rehearing (Case Nos. 2025-00113 and 2025-00114), and it is currently addressing KBCA's objections to the Companies' proposed tariff terms and conditions in another pending case (Case No. 2025-00391). The issue of the amount of the pole attachment rates was decided by the Commission in the rate cases (it is now the "law of the case") and is not before the

⁸ *Electronic Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Rates*, Case No. 2025-00208, Order at 16 (KY. PSC Sep. 19, 2025).

Commission on rehearing. KBCA's attempt to intervene and relitigate Rate PSA issues in this merger case is certainly duplicative and arguably an attempt to mount an impermissible collateral attack on issues the Commission has already recently decided in the rate cases.

The Commission's February 16, 2025 Orders in the Companies' pending rate cases explicitly premised the Commission's approval of the Companies' Rate PSA rates, *which are the same for both utilities*, on the Companies' anticipated merger application.⁹ KBCA sought rehearing of the Rate PSA rates the Commission approved in those cases, including on the issue of having a single set of Rate PSA rates for both Companies.¹⁰ The Commission rejected KBCA's rehearing petition *less than a month ago*, again citing the Companies' then-anticipated merger application filing as supporting having a single set of Rate PSA rates.¹¹ In short, the Commission has already approved Rate PSA rates effectively premised on merging the Companies. It did so—and affirmed that decision—over KBCA's objections *just in the last nine weeks*. Therefore, there is no reasonable justification for KBCA to seek, or to have the opportunity to seek, to relitigate these issues again here.

Note also that KBCA's Motion to Intervene does *not* assert KBCA's members' interests in the Companies' rates, terms, or conditions as electric or gas utility customers as a ground for intervening here. Again, even if such issues were relevant to this case (they are not), there is no reason to believe KBCA's members' interests in the Companies' electric or gas rates, terms, or conditions differ from any other customers' interests represented by the Attorney General or others seeking intervention. Certainly, KBCA's Motion to Intervene does not assert a special interest in

⁹ Case No. 2025-00113, Order at 189 (Ky. PSC Feb. 16, 2026); Case No. 2025-00114, Order at 198 (Ky. PSC Feb. 16, 2026).

¹⁰ See Case Nos. 2025-00113 and 2025-00114, Order at 11 (Ky. PSC Mar. 27, 2026).

¹¹ *Id.* at 12-13.

such rates, terms, or conditions, and it cannot serve as a justification for granting KBCA intervention in this case.

To the extent KBCA seeks to address Rate PSA rates because they do not “comply with Commission requirements”—notwithstanding that the Commission approved those rates on February 16, 2026 and then affirmed that approval on March 27, 2026—such issues are entirely irrelevant to this *merger* case.¹² Nothing about merging the Companies affects which data sources they will use to formulate and propose future Rate PSA rates. Thus, allowing KBCA to intervene and seek to address these irrelevant issues here would necessarily unduly complicate or disrupt this case.

Similarly, there is no reasonable justification to allow KBCA to intervene in this case to address Rate PSA terms and conditions. The Commission has already initiated a pending proceeding to address pole attachment terms and conditions to which KBCA is a party (Case No. 2025-00391); KBCA can and has addressed Rate PSA terms and conditions in that proceeding. Moreover, there is no difference between LG&E’s and KU’s Rate PSA terms and conditions; they are identical.¹³ Thus, even if the Companies were proposing to unify their tariffs as part of merging—which they are not—it would have no effect on their Rate PSA terms and conditions. Therefore, an interest, special or otherwise, in Rate PSA terms and conditions provides no relevant justification for KBCA’s intervention in this case.

III. Conclusion

The Commission should deny KBCA’s Motion to Intervene because the only interests KBCA asserts, i.e., Rate PSA rates, terms, and conditions, are irrelevant to this case. This ensures

¹² KBCA Motion to Intervene at 3.

¹³ See Kentucky Utilities Company P.S.C. No. 21, Original Sheet Nos. 40 – 40.32; Louisville Gas and Electric Company P.S.C. Electric No. 14, Original Sheet Nos. 40 – 40.32.


that KBCA has neither a relevant special interest in this case nor a likelihood of presenting issues or developing facts to assist the Commission in fully considering the matter without unduly complicating or disrupting the case.

Also, the Commission should deny KBCA's Motion to Intervene because the Commission has already decided the Rate PSA rate issues definitively in the Companies' pending base rate cases where the Commission recently approved and affirmed jointly formulated Rate PSA rates for LG&E and KU. The Commission is about to rule on KBCA's objections to the Companies' proposed Rate PSA tariff changes in Case No. 2025-391. Moreover, LG&E's and KU's Rate PSA terms and conditions are identical. Thus, even if the Companies were proposing to unify their tariffed rates, terms, and conditions as part of merging—and they are not—it would have no effect on Rate PSA, and thus no effect on the very interests upon which KBCA's Motion to Intervene solely and exclusively relies.

WHEREFORE, the Companies respectfully ask the Commission to deny KBCA's Motion to Intervene in this case.

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Respectfully submitted,



Lindsey W. Ingram III
Monica H. Braun
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3000
Fax: (859) 259-3503
l.ingram@skofirm.com
monica.braun@skofirm.com


W. Duncan Crosby III
Stoll Keenon Ogden PLLC
400 W. Market Street, Suite 2700
Louisville, Kentucky 40202
Telephone: (502) 333-6000
Fax: (502) 627-8722
duncan.crosby@skofirm.com

Allyson K. Sturgeon
Vice President and Deputy General Counsel
Sara V. Judd
Senior Counsel
PPL Services Corporation
2701 Eastpoint Parkway
Louisville, Kentucky 40223
Telephone: (502) 627-2088
Fax: (502) 627-3367
ASturgeon@pplweb.com
SVJudd@pplweb.com

*Counsel for Kentucky Utilities Company and
Louisville Gas and Electric Company*

CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001, Section 8 as modified by the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on April 22, 2026; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



*Counsel for Kentucky Utilities Company and
Louisville Gas and Electric Company*