

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)	
)	
)	
ELECTRONIC JOINT APPLICATION OF)	CASE NO. 2026-00077
KENTUCKY UTILITIES COMPANY AND)	
LOUISVILLE GAS AND ELECTRIC)	
COMPANY FOR APPROVAL OF MERGER)	
)	
)	

KENTUCKY BROADBAND AND CABLE ASSOCIATION’S
RESPONSE IN SUPPORT OF MOTION TO INTERVENE

On behalf of its members,¹ the Kentucky Broadband and Cable Association (“KBCA”), by counsel, hereby submits this response in support of its motion to intervene.

KBCA moved to intervene in this matter to protect its interests and aid the Commission in its evaluation of the proposed merger of Kentucky’s principal utility companies – Louisville Gas & Electric (“LG&E”) and Kentucky Utilities (“KU”). As both this Commission and the Legislature have recognized, just and reasonable pole attachment rates, terms, and conditions are critical to the timely and efficient deployment of critical broadband services across the Commonwealth. KBCA is uniquely positioned to assist the Commission in evaluating those important issues, and developing the record on how the proposed merger could impact the Commission’s long standing policy to speed broadband deployment to Kentucky’s unserved and underserved communities. Indeed, as KBCA explained in its motion to intervene, KBCA and its members have “special interest[s]” in this proceeding, including those related to high volume agreements with KU that

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

will be acquired by LG&E as a result of the merger, and access to the combined companies' poles, and will "present issues or develop facts" on those topics that will assist the Commission in rendering a decision.² It is imperative for the Commission to consider these issues as part of this merger case.

The Commission routinely³ grants intervention where, as here, a prospective intervenor has contractual rights affected by the proposed action, and should do so again here – particularly given the well-recognized importance of timely broadband deployment facilitated by agreements like those between KBCA members and KU.⁴

KBCA and its members also have a direct interest in ensuring LG&E and KU commit to following the specific procedures set forth by the Commission in its recent pole attachment proceeding. KBCA participated actively in that proceeding, and its involvement here is "likely to develop a fuller and more robust case record for the Commission's consideration" regarding any pole issues that arise in this merger proceeding.⁵ In particular, as part of the recent pole attachment proceeding, the Commission instructed that LG&E and KU's pole attachment rates must be based

² *In Re Matter Of Electronic Tariff Filing Of Kentucky Power Company For Approval Of A Special Contract Under Its Economic Development Rider And Demand Response Service Tariffs With Cyber Innovation Group, LLC*, Case No. 2022-00424, Order at *1 (Ky. P.S.C. Jan. 12, 2023) (stating standard for intervention); Mot. at 3.

³ *See, e.g., In the Matter Of Electronic Application Of Fleming-Mason Energy Cooperative, Inc. For Pass Through Of East Kentucky Power Cooperative, Inc. Wholesale Rate Adjustments*, Case No. 2021-00109, Order at *2 (Ky. P.S.C. May 24, 2021); *In the Matter Of Electronic Tariff Filing Of Kentucky Utilities Company For Approval Of An Economic Development Rider Special Contract With Bitiki-KY, LLC*, Case No. 2022-00371, Order at 1 (Ky. P.S.C. Dec. 16, 2022).

⁴ While LG&E and KU point to the *Pennyrile* proceeding to oppose KBCA's intervention, that case is off point. *Electronic Joint Application of Kentucky Utilities Company And Louisville Gas & Electric Company For Approval Of Merger*, Case No. 2026-00077, Kentucky Utilities Company's And Louisville Gas & Electric Company's Response To The Motion To Intervene Of The Kentucky Broadband And Cable Association, at 2-4 (Ky. P.S.C. Apr. 22, 2026) (hereinafter "Response in Opposition"). The Commission denied the intervenor's motion in *Pennyrile* because that case involved a "question of legal interpretation" and no issues of fact. *Electronic Application of Pennyrile 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). That is not the case here. *Id.*

⁵ *In the Matter Of Electronic Tariff Filing Of Kentucky Power Company For Approval Of A Special Contract Under Its Economic Development Rider And Demand Response Service Tariffs With Cyber Innovation Group LLC*, Case no. 2022-00424, Order at *2 (Ky. P.S.C. Jan. 12, 2023).

on “public, transparent information,” and that “transparent,” “public” information should include “FERC Form 1 and annual reports’ information.”⁶ Yet, those requirements are not memorialized in either company’s tariffs, and neither company has affirmed they will calculate pole rates using only transparent, publicly available information.

Accordingly, contrary to LG&E and KU’s suggestion, KBCA is not attempting to “relitigate” issues decided in that proceeding.⁷ Rather, KBCA appropriately seeks to participate in this proceeding given its interests are directly at stake and therefore to ensure that the merger does not conflict with the Commission’s existing rulings on pole attachment rates, terms, or conditions, or the combined utilities’ obligations to comply with them, in order to advance deployment of modern broadband services in the Commonwealth.

KBCA respectfully requests the Commission grant its motion.

Dated: April 27, 2026

Respectfully submitted,

/s/ Rebecca C. Price

Sturgill, Turner, Barker & Moloney, PLLC

Rebecca C. Price

James W. Gardner

Peter W. Dooley

333 West Vine Street, Suite 1500

Lexington, KY 40507

Phone: (859) 255-8581

rprice@sturgillturner.com

jgardner@sturgillturner.com

pdooley@sturgillturner.com

and

⁶ *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 188 (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 197 (Ky. PSC Feb. 16, 2026) (hereinafter “LG&E Order”).

⁷ Response in Opposition at 1.

Sheppard Mullin Richter & Hampton LLP

Paul Werner (*pro hac vice forthcoming*)

Hannah Wigger (*pro hac vice forthcoming*)

Meredith Lerner (*pro hac vice forthcoming*)

2099 Pennsylvania Avenue NW, Suite 100

Washington, DC 20006

(202) 747-1900

pwerner@sheppardmullin.com

hwigger@sheppardmullin.com

mlerner@sheppardmullin.com

Counsel for KBCA