

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	CASE NO.
PROPOSED POLE ATTACHMENT TARIFFS OF)	2022-00107
RURAL LOCAL EXCHANGE CARRIERS)	

ORDER

On February 28, 2022, Duo County Telephone Cooperative Corporation, Inc. (Duo County), a rural local exchange carrier (RLEC), filed amendments to its pole attachment tariff pursuant to 807 KAR 5:015. Several RLECs,¹ on February 28, 2022, filed proposed schedules that would delete their current pole attachment tariffs and concur in Duo County's tariff. The RLECs all proposed an effective date of March 31, 2022, for each of their tariffs.

KRS 278.030 provides that a utility may collect fair, just and reasonable rates and that the service it provides must be adequate, efficient and reasonable. Having reviewed the proposed tariffs and being otherwise sufficiently advised, the Commission finds that an investigation is necessary to determine the reasonableness of the proposed tariffs and that such investigation cannot be completed by March 31, 2022. Pursuant to

¹ Ballard Rural Telephone Cooperative Corporation, (Ballard Telephone), Inc. Brandenburg Telephone Company, Inc. (Brandenburg Telephone), Foothills Rural Telephone Cooperative Corporation, Inc. (Foothills Telephone), Gearheart Communications Company, Inc. (Gearheart Communications), Highland Telephone Cooperative, Inc., (Highland Telephone), Logan Telephone Cooperative, Inc. dba LTC Connect (LTC Connect), Mountain Rural Telephone Cooperative Corporation (Mountain Telephone), North Central Telephone Cooperative, Inc. (North Central Telephone), Peoples Rural Telephone Cooperative Corporation, Inc. (Peoples Telephone), South Central Rural Telecommunications Cooperative, Inc.(South Central Telephone), Thacker-Grigsby Telephone Company, Incorporated, (Thacker-Grigsby Telephone).

KRS 278.190(2), the Commission will, therefore, suspend the effective date of the proposed tariffs for five months, up to and including August 31, 2022.²

The Commission, in Case No. 2022-00064,³ established a procedure to receive comments and objections concerning the RLECs' proposed individual tariffs. The Kentucky Broadband and Cable Association (KBCA) filed objections to the proposed tariffs of Ballard Telephone, Brandenburg Telephone, Logan Telephone, South Central Telephone, and Thacker-Grigsby Telephone; or rather, KBCA objected to the Duo County tariff in which those RLECs had concurred. The Commission finds that, for the sake of administrative efficiency, KBCA shall be made a party to this proceeding, and its respective comments shall be incorporated by reference into the record of this proceeding.

The Commission directs all parties to the Commission's July 22, 2021 Order in Case No. 2020-00085⁴ in which the Commission mandated the use of electronic filing procedures listed in 807 KAR 5:001, Section 8. The Commission finds that electronic filing procedures shall be used, consistent with the filing procedures set forth in Case No. 2020-00085.

² While the Duo County tariff is the only tariff that will be reviewed in this proceeding, because the RLECs propose, in addition to concurring in the Duo County tariff, to delete whatever tariff provisions address pole attachments in their respective tariffs, if those deletions are allowed to go into effect, and the Duo County tariff is suspended, the RLECs essentially would be operating without any tariff provisions governing pole attachments.

³ Case No. 2022-00064, *Electronic Review of Pole Attachment Tariffs Filed Pursuant to 807 KAR 5:015, Section 3* (Ky. PSC Mar. 3, 2022).

⁴ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

The Commission further finds that a procedural schedule shall be established to review the reasonableness of the proposed tariffs. The procedural schedule is attached as an Appendix to this Order and is incorporated herein.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of the proposed tariffs.

2. The proposed tariffs of Ballard Telephone, Brandenburg Telephone, Duo County, Foothills Telephone, Gearheart Communications, Highland Telephone, LTC Connect, Mountain Telephone, North Central Telephone, Peoples Telephone, South Central Telephone, and Thacker-Grigsby Telephone are suspended for five months from March 31, 2022, up to and including August 31, 2022.

3. KBCA is made a party to this proceeding.

4. KBCA's objections and comments filed in Case No. 2022-00064 are incorporated by reference into the records of this proceeding.

5. All parties shall, by counsel, enter an appearance in this proceeding within seven days of the date of entry of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.

6. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

7. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, all parties shall file by electronic means a written statement that it waives any right

to service of Commission Orders by United States mail and that it or its authorized agent possess the facilities to receive electronic submissions.

8. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of entry of an Order of the Commission, granting intervention, file with the Commission a written statement that:

(1) It or its authorized agent possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

9. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

10. The procedural schedule set forth in the Appendix to this Order shall be followed.

11. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding, which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or

develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rate or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

12. The RLECs shall give notice of any hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time publication is requested, the RLECs shall forward a duplicate of the notice and request to the Commission.

13. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

14. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

15. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of times with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

16. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman

Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00107 DATED MAR 30 2022

- Requests for intervention shall be filed no later than 04/07/2022
- The RLECs' responses to
KBCA's objections shall be filed no later than 04/14/2022
- Initial requests for information to the RLECs
shall be filed no later than 04/21/2022
- The RLECs shall file responses to
initial requests for information no later than 05/05/2022
- All supplemental requests for information to the RLECs
shall be filed no later than 05/19/2022
- The RLECs shall file responses to supplemental requests
for information no later than 06/02/2022
- Intervenor Testimony, if any, in verified prepared
form shall be filed no later than 06/09/2022
- All requests for information to Intervenors shall
be filed no later than 06/23/2022
- Intervenors shall file responses to requests for
information no later than 07/07/2022
- The RLECs shall file, in verified form, their respective rebuttal
testimony no later than 07/11/2022
- Any party or any Intervenor shall request either a
hearing or that the case be submitted for decision
based on the record no later than 07/18/2022

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