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April 30, 2025

Jeb Penny  
Executive Advisor  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40602Remitted via Electronic Mail to [jeb.pinney@ky.gov](mailto:jeb.pinney@ky.gov) April 30 2025**Re: Comments on Emergency Regulation 807 KAR 5:015E – Pole Attachments**

Dear Mr. Penny:

Quad State Internet LLC (“Quad State”) appreciates the opportunity to submit these comments on Emergency Regulation 807 KAR 5:015E concerning pole attachments. Quad State is a competitive broadband provider actively deploying fiber networks in Western Kentucky. We commend the Commission for its extensive work with stakeholders in developing these emergency rules – a collaborative process that has already yielded meaningful improvements to pole attachment practices statewide. As Kentucky prepares to leverage unprecedented state and federal broadband funding, ensuring fair and efficient access to utility poles is more critical than ever to our shared goal of expanding high-speed internet across the Commonwealth. In this spirit, Quad State offers the following four comments, focused on areas where further clarity or action is needed:

**1. Municipal Utility Pole Attachments – Addressing a Regulatory Gap**

**Jurisdictional Ambiguity:** The emergency regulation highlights a significant gap: municipally owned utilities are not clearly subject to the same pole attachment rules as investor-owned utilities. Kentucky law generally exempts municipal utilities from Public Service Commission oversight, except in limited circumstances (e.g. providing wholesale service to a regulated utility). In practice, this means broadband attachers have little recourse or consistency when dealing with city-owned pole systems. We have encountered this “gray area” of Commission jurisdiction firsthand. For example, Paducah Power System – a municipal electric utility – owns most poles in our Western Kentucky service area but is not subject to PSC pole attachment tariffs or supervision. This gap creates uncertainty and undermines the uniform application of attachment standards and rates that the Commission is striving to achieve.

**Impact on Competition and Deployment:** The lack of clear jurisdiction over municipal pole owners has real-world consequences. In Paducah, once the municipal utility launched its own fiber-to-the-home service (becoming a direct competitor to Quad State), we experienced a drastic change in pole attachment terms. It began to enforce new attachment requirements that had never been previously documented or required – for instance, citing our use of standard J-hook support hardware as “improper” despite the municipal network using the very same hardware. These sudden changes, coming two years into our deployment and without prior written standards, significantly delayed our buildout. The situation is compounded by a clear conflict of interest: the municipal utility’s fiber division now oversees third-party pole access, effectively allowing a competitor to regulate our attachments. This is precisely the type of anti-competitive scenario that consistent regulatory oversight is meant to prevent.

Additionally, Paducah Power System’s annual pole attachment rate of approximately \$31 per pole significantly exceeds both investor-owned utilities’ typical rates (\$5–11 per pole) and the \$20–\$25

average identified among other Kentucky municipal utilities. Our analysis, though based on limited publicly available data due to the lack of published agreements from municipal utilities, reveals a consistent trend: municipal utilities offering broadband services typically charge approximately \$5–\$15 more per pole annually compared to those without broadband operations. To enable comprehensive analysis and ensure transparency, we recommend municipal utilities be required to publish their pole attachment agreements and rates, as is currently mandated for PSC-regulated utilities.

These experiences highlight a concerning lack of functional separation between municipal utilities' electric and telecommunications divisions, allowing direct competitors to regulate third-party attachments—precisely the scenario effective regulatory oversight should prevent.

**Need for Commission Guidance/Legislative Action:** Quad State respectfully urges the Commission to acknowledge this municipal oversight gap and to take whatever steps possible to address it. We recognize that the Commission's authority under KRS Chapter 278 may not currently extend to municipal utilities providing retail broadband. However, the Commission is uniquely positioned to highlight the need for a remedy. In the context of this emergency regulation (and the forthcoming permanent rule), we ask the Commission to formally recommend that the General Assembly clarify the statute to bring municipal electric utilities' pole attachments within PSC jurisdiction or otherwise ensure they adhere to baseline state standards. Clarification could be achieved by statute or legislative directive, and we note there is precedent for such action – *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460 (Ky. 1994), established that a city can waive its exemption when it provides wholesale utility services to regulated entities. A similar statutory solution for pole attachments is warranted. In short, all pole owners in Kentucky should play by consistent rules to guarantee a level playing field. We believe all broadband providers share this concern and would welcome the Commission's leadership in closing the municipal loophole.

## 2. Transparency of Standards and Practices for Pole Attachments

**Publication of Engineering Standards:** Quad State strongly supports the emergency regulation's requirements that pole owners publish their pole attachment specifications, standards, and application procedures. Transparency is an essential protection for attachers. In our experience with Paducah, many disputes could have been avoided had the pole owner's construction standards (including approved attachment hardware and techniques) been clearly documented from the outset. Instead, we faced retroactive enforcement of unwritten rules, which undermined our deployment. Requiring up-front publication of standards will ensure all parties know the "rules of the road" in advance and can plan networks accordingly. We applaud the Commission for including this provision and note that investor-owned utilities like Duke Energy and LG&E/KU have already made their pole standards available on their websites in compliance. This is a positive step toward industry-wide consistency.

**Consistency and Accountability:** We recommend that the Commission reinforce and, if necessary, expand these transparency provisions in the permanent regulation. It should be clear that published standards must cover all relevant aspects of attachments – including the types of hardware allowed or disallowed – so that there is no ambiguity. Any changes to a utility's standards should be transparent and not applied retroactively to existing attachments without good cause. Furthermore, while municipal and cooperative utilities may fall outside PSC regulation, we encourage the Commission to set the example by insisting on transparency from all jurisdictional utilities and by encouraging other pole owners in Kentucky to voluntarily follow suit. Lack of public information on municipal pole attachment agreements (which are often kept confidential and not filed with the Commission) has made it difficult for new entrants to assess pole costs and practices. Public posting of standard rates, fees, and technical requirements by all pole owners would greatly increase confidence and fairness in the broadband buildout process. We believe the Commission's voice in promoting this broader transparency — even where it cannot mandate it — will carry significant weight.

### 3. Burden of Municipal Franchise Fees on Broadband Deployment

**Disproportionate Fees for New Entrants:** In addition to pole attachment rents, city-imposed franchise fees in some municipalities present a substantial financial hurdle for broadband providers. In Paducah, the city's franchise ordinance requires a minimum annual fee (starting at \$6,000 per year and escalating) or 5% of gross revenues, whichever is greater. For a small provider in the early stages of building a customer base, this structure can result in an exorbitant effective fee far exceeding 5% of actual revenues. In our case, the Paducah franchise fee has at times amounted to roughly 50% of our broadband service revenue from our facilities based infrastructure in Paducah, Kentucky – a level that is plainly unsustainable. This punitive minimum fee floor, coupled with revenue-based percentage fees, disproportionately harms small and growing companies. It diverts capital that would otherwise be reinvested in network expansion and makes it extremely challenging to justify extending service to additional areas. We emphasize that these burdens are not theoretical; they have directly reduced the funds we can put toward connecting more homes and businesses in Western Kentucky.

**Policy Implications and Need for Relief:** Excessive local franchise fees run counter to Kentucky's policy objective of encouraging broadband deployment in unserved areas. While cities have the authority to require franchises for use of public rights-of-way, that authority should be exercised in a manner consistent with the Commonwealth's broadband goals. We respectfully ask the Commission to recognize and articulate how onerous franchise terms undermine the effectiveness of state and federal broadband investments. Notably, the Kentucky General Assembly has previously shown interest in this issue – for instance, exploring legislation to limit or standardize franchise fees on telecommunications providers. Quad State encourages the Commission to support renewed consideration of such measures.

At minimum, the Commission could recommend that any broadband-related grant programs or state initiatives take into account local fee burdens and condition funding on reasonable franchise terms. We understand the Commission's direct authority may not extend to dictating franchise fees, but the Commission can be an influential voice in policymaking discussions. By highlighting the franchise fee issue in its reports or in communications with the legislature, the Commission would reinforce the message that double-digit percentage fees on broadband providers hinder Kentucky's progress toward universal connectivity. Ultimately, a balanced approach – one that allows localities a fair franchise revenue while not penalizing nascent broadband ventures – is needed to foster a healthy competitive environment.

### 4. Ongoing Administrative Oversight and Stakeholder Collaboration

**Value of the Current Process:** Quad State applauds the Commission's inclusive approach throughout this emergency rule-making. The workshops, public comment hearings, and open dialogue have been extremely beneficial to identify and resolve issues. We agree with other stakeholders that this continuing forum – bringing all parties together regularly – has been as important as the rules themselves in working through complex pole attachment challenges. The emergency regulation represents a major step forward, and we appreciate the Commission's willingness to “take another bite at the apple” with a permanent regulation in the coming months. We encourage the Commission to continue this collaborative spirit as broadband deployment needs and industry dynamics continue to evolve.

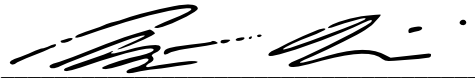
**Need for Continued Review:** Given the fast-paced evolution of broadband deployment and the sheer scale of make-ready construction about to commence under new grant programs, it is crucial that the Commission remain vigilant and responsive. Unanticipated issues or ambiguities will undoubtedly arise as the new rules are put into practice. We respectfully request that the Commission continue its administrative review of pole attachment practices even after the permanent regulation is adopted. This could take the form of ongoing technical workshops, a standing industry advisory panel, or periodic reporting requirements to gather data on application timelines, make-ready costs, and attachment disputes. By keeping the lines of communication open, the Commission can quickly pinpoint any

regulatory shortcomings and recommend solutions – whether through subsequent adjustments to the rules or, if beyond the Commission’s current authority, through legislative avenues. In particular, we ask that the Commission remain engaged on the municipal pole attachment issue and the franchise fee concerns described above, as these may require sustained attention and advocacy beyond this docket. Quad State stands ready to participate in any further proceedings, provide data, or otherwise assist the Commission in refining Kentucky’s pole attachment framework.

**Closing Commitment:** In closing, Quad State Internet LLC reiterates its gratitude for the Commission’s leadership on this emergency regulation. We share the Commission’s commitment to expanding broadband access to every Kentuckian and ensuring a fair, efficient infrastructure-sharing environment that makes this expansion possible. The issues we have highlighted – municipal regulatory gaps, the need for transparent standards, burdensome local fees, and ongoing oversight – all speak to a central theme: the importance of clear and equitable rules for infrastructure access. By addressing these concerns, the Commission will help unlock faster broadband deployment and promote genuine competition, to the ultimate benefit of Kentucky consumers and communities.

Thank you for considering our comments. We deeply respect the work that the Commission and its Staff have devoted to pole attachment reform. Quad State is committed to doing its part, alongside the Commission, utilities, and policymakers, to achieve our mutual goal of broadband growth and infrastructure fairness across Kentucky. Please do not hesitate to contact us if we can provide any further information or support on these matters.

Respectfully,



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