

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

**IN THE MATTER OF:**

<b>APPLICATION OF KENERGY CORP. FOR A )</b>	<b>CASE NO.</b>
<b>WAIVER PURSUANT TO KRS 278.2219 )</b>	<b>2020-00215</b>

**SUPPLEMENTAL NOTICE OF FILING UNREDACTED DATA RESPONSES  
AND  
TESTIMONY DEEMED NOT CONFIDENTIAL**

**KENERGY CORP.**, in compliance with the Commission's orders of October 22, 2020, and October 26, 2020, files the attached unredacted data request responses and testimony inadvertently omitted from the initial filing:

- 3) Chambers testimony
- 4) Hohn Supplemental Testimony questions 6, 9, 12, 13 and 15; and

The Fact Sheet originally filed as confidential under Kenergy Corp.'s Supplemental Responses to Commission Staff's First Request for Information filed on September 2, 2020.

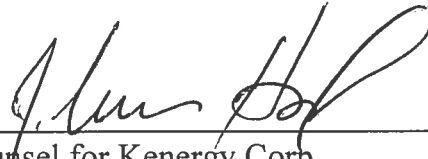
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Attorneys for Kenergy Corp.

By \_\_\_\_\_

  
**J. Christopher Hopgood**  
**chopgood@dkgnlaw.com**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was served by electronic filing to the Kentucky Public Service Commission, 211 Sower Blvd., Frankfort, KY 40602 with a copy served electronically to the Kentucky Attorney General, Office of Rate Intervention, 700 Capital Avenue, Suite 20, Frankfort, KY 40601-8204, on this 25<sup>th</sup> day of June, 2021.



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Counsel for Kenergy Corp.

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

**In the Matter of:** )  
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**KENERGY CORP. FOR APPLICATION FOR** ) **CASE NO. 2020-00215**  
**A WAIVER PURSUANT TO KRS 278.2219** )

**TESTIMONY OF JONATHON CHAMBERS**

Q1. State your name.

A. Jonathon Chambers

Q2. What is your business address?

A. 2001 Grand Boulevard, Kansas City, MO 64108.

Q3. What is your job title and background?

A. I am a partner in Conexon, LLC ("Conexon"). I have worked for over twenty-five (25) years at start-up companies, large corporations and the U.S. Government. For the four years prior to Conexon, I was Chief of the Office of Strategic Planning for the Federal Communications Commission. I was part of the senior leadership at the FCC that reformed \$12 billion in annual federal spending, including the rural and high-cost fund, e-rate, telecommunications relay services and the lifeline programs. I also conceived of the Rural Broadband Experiment and was involved in the auction design for the Connect America Fund.

Prior to the FCC, I worked in the cable and telecommunications industry in the U.S. and Europe. He was one of the original employees at Sprint PCS, where he was Vice President of Public Policy and Associate General Counsel. In Europe, I worked with Telenet (Belgium), Ono (Spain) and Ish (Germany). I was General Counsel of TVGateway, a company formed by Comcast, Cox and Charter to develop an electronic program guide.



1 Jonathan was Chief Strategy Officer, General Counsel and a founder of Movida  
2 Communications, Inc., an MVNO focused solely on the US Hispanic market.

3  
4 At the start of his professional career, I spent eight years in the U.S. Senate, as staff director  
5 for the Commerce Committee, staff member of the Intelligence Committee and legislative  
6 director to Senator Jack Danforth (R-MO). I hold a BA in economics from Yale College,  
7 an MA in international affairs from Columbia University and a JD from Georgetown  
8 University Law Center.

9  
10 In March 2016, I left the FCC to join Conexon to help electric cooperatives bring FTTH  
11 broadband to rural areas throughout the country.

12  
13 Q4. What is Conexon's business?

14  
15 A. Feasibility planning and funding, rural fiber distribution design, construction  
16 management services and other related functions.

17  
18 Q5. Has Conexon consulted with Kenergy about a potential fiber to home project?

19  
20 A. Yes.

21  
22 Q6. What information has Conexon provided to Kenergy?

23  
24 A. An oral feasibility study presentation and power point presentation to Kenergy's  
25 board along with various meetings with Kenergy's staff.

26  
27 Q7. Was this feasibility study initially reduced to a written report?

28  
29 A. No.

30  
31 Q8. Has this feasibility study since been reduced to a written report?

32  
33 A. Yes, see attached report ("Exhibit A") and assumption ("Exhibit B"). I incorporate  
34 these documents by reference and adopt the information in them as if fully restated under  
35 oath in this testimony.

36  
37 Q9. Are the contents of the report, the methodology in the report and the assumption  
38 proprietary to Conexon?

1 A. Yes. Conexon is not the only entity that consults in the fiber to home business  
2 Our methodology has developed by consulting on over 40 projects similar to Kenergy's.  
3 As a for-profit, private limited liability company, our reports, analysis and methodology  
4 are not available to the public. To allow this information to become public would place  
5 Conexon at a competitive disadvantage, allow competitors to copy and obtain our  
6 intellectual property and dissuade Conexon from consulting with regulated entities such as  
7 Kenergy. As a consultant, few companies, if any, would consult with regulated entities if  
8 that company's methodology were to be available for public consumption. Conexon  
9 request that the Kentucky Public Service Commission give confidential treatment to the  
10 documents attached hereto and incorporated by reference.

11

12 Q10. Does this conclude your testimony?

13

14 A. Yes.

CASE NO. 2020-00215

VERIFICATION

I hereby verify, state and affirm that the testimony filed herein is true and correct to the best of my knowledge, information and belief formed after a reasonable inquiry.

STATE OF Maryland

COUNTY OF Montgomery

J. Chambers  
JONATHAN CHAMBERS

The foregoing was signed, acknowledged and sworn to before me by JONATHAN CHAMBERS, this 18 day of September, 2020.

My commission expires \_\_\_\_\_

MAXINE SHAYNE  
Notary Public  
Montgomery County  
Maryland  
My Commission Expires 09/20/22

M. Shayne  
Notary Public

(seal)

1 COMMONWEALTH OF KENTUCKY

2 BEFORE THE PUBLIC SERVICE COMMISSION

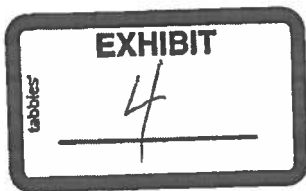
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10 SUPPLEMENTAL TESTIMONY OF JEFF HOHN

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- Q6. How will Kenect obtain funding?
- A. The immediate source of funding is federal funds (subsidy) to be provided through the Rural Digital Opportunity Fund (“RDOF”). In addition, once Kenect obtains subscribers, it will have monthly service revenue.
- Q9. Physically, what will the plant and fixtures of a broadband operation look like?
- A. A fiber optic network operates much like an electric distribution network. Where an electric distribution network picks up power at its wholesale provider’s substations, a fiber optic network picks up the information it distributes at trunk line points. From that point, distribution fiber is strung along utility poles. Service lines are then run to individual businesses and residences where it terminates into an Optical Network Termination (“ONT”) device that converts optical signals into electronic signals. From the ONT, an Ethernet cable (CAT 5) is run inside the home where it is connected to the home/business owner’s router. The router is used to provide connectivity to all of the business/residence’s devices. The “heavy lifting” is the done by the distribution fiber and that is the bulk of the capital cost of the system. See Chambers testimony and report.
- Q11. Who owns the fiber and why that entity?



1 A. Kenergy would construct the fiber and lease it to Kenect. First, Kenergy has the  
2 ability to borrow at low interest rates from the Rural Utility Service (“RUS”). RUS  
3 has a smart grid program specifically designed to lend money to rural electric  
4 cooperatives for this purpose. Kenect does not have access to such low interest  
5 funding and as such, the interest expense on the project would be four times higher  
6 if Kenect builds the fiber. Second, Kenergy can utilize the fiber for intra-system  
7 communications and the fiber serves as an alternative to automated meter  
8 communications when the current radio frequency automated meter system reaches  
9 the end of its useful life (approximately 5 years from the completion of the fiber  
10 construction project). Additionally, Kenergy has the right to attach its equipment  
11 to its poles. Most of Kenergy’s poles are in the highway right of way. Others are  
12 on member’s property to which each member has consented by virtue of  
13 membership according to the terms of the membership. On the odd occasion where  
14 a private easement is necessary, Kenergy has been successful in obtaining private  
15 easements. There are no known instances where Kenergy or its predecessors have  
16 had to exercise eminent domain for its infrastructure. See Kenergy’s membership  
17 agreement attached as Exhibit B hereto and its standard private easement attached  
18 as Exhibit C hereto.  
19

20 Q12. Will Kenergy use any of its assets to subsidize Kenect’s operations?  
21

22 A. In the long term, no. In the short term, yes because Kenect is a start-up entity and  
23 lacks capital. Kenergy must provide the credit support necessary for Kenect to  
24 obtain a letter of credit. A letter of credit is required for RDOF funding to ensure  
25 the FCC that the RDOF funding will be used for the fiber to home project. If the  
26 funds aren’t properly applied then the FCC can call the letter of credit to recoup the  
27 funding. However, any short term subsidy advanced by Kenergy to Kenect will be  
28 repaid by Kenect once it is able to do so.  
29

30 Q13. What is needed of the Commission in order to move the project forward?  
31

32 A. Kenergy needs a waiver or deviation from KRS 278.2201 and KRS 278.2213 in  
33 order to participate in the RDOF auction. If awarded funding in the auction, Kenect  
34 must, in its long form application, supply a letter of credit for the funds awarded.  
35 Kenect can only get a letter of credit one of two ways: Kenergy can guarantee it or  
36 Kenergy can invest \$3,000,000 in Kenect and CoBank will supply the initial letter  
37 of credit without parent guarantee. KRS 278.2201 prevents Kenergy from



1 subsidizing a non-regulated activity. Kenect cannot get started unless Kenergy  
2 lends it short term aid or subsidy. KRS 278.2213(14) prevents Kenergy from  
3 financing aid to Kenect that subjects the assets of Kenergy to recourse. The  
4 execution of a parent guarantee of a letter of credit by definition subjects Kenergy's  
5 assets to backstop the letter of credit. However, there will be no unfair competition  
6 to this project. Any interested provider is free to enter the auction. Kenect will pay  
7 Kenergy's costs for constructing the fiber. If some other entity prevails in a census  
8 block that entity will be entitled to hang its fiber on Kenergy's poles for the tariffed  
9 pole attachment rates. Kenect's advantages come from the RDOF funding subsidy  
10 and not from use of Kenergy's assets.

11  
12 Q15. Does the Application subject Kenergy's assets to undue risk?

13  
14 A. No. Kenergy would not propose this project if it caused undue risk to Kenergy's  
15 mission of providing safe, reliable electricity at reasonable rates. Because Kenergy  
16 controls Kenect, the parent guarantee option's risk factor is minimized. Simply,  
17 Kenergy can ensure that Kenect expends the RDOF funds appropriately. Likewise,  
18 the short term option of investing \$3,000,000 in a wholly owned subsidiary is of  
19 minimal risk because Kenergy controls how Kenect will expend funds. Kenergy's  
20 control of Kenect ensures that the funds will be expended correctly and the broad  
21 band project will not get overextended.  
22

# Fact Sheet

## Rural Digital Opportunity Fund Auction Information

- Budget
- Support Term
- Deployment
- Technology-Neutral Service Tiers
- Eligible Areas
- Two-Stage Application Process
- Timeline
- Related Links

### Budget

A total of \$20.4 billion to be awarded over 10 years. Up to \$16 billion will be made available for Phase I of the Rural Digital Opportunity Fund auction, and the remaining Phase I budget, along with \$4.4 billion, will be awarded for Phase II of the auction.

### Support Term

10 years of support; support disbursed in equal monthly installments. Disbursements to winning bidders begin after the winning bidder submits a long-form application and becomes authorized to receive support.

### Deployment

Rural Digital Opportunity Fund support recipients must:

- Offer commercially at least one voice and one broadband service meeting the relevant service requirements to all locations within the awarded area in the following timeframe:
- 40% of the required number of locations in a state by the end of third year of support and an additional 20% by the end of the fourth and fifth years of support
- By the end of year six, revised location totals will be announced:
- If there are fewer locations than originally estimated by the cost model, support recipients must serve the revised number of locations by end of year six. If there are more locations than originally estimated by the cost model, support recipients must serve the cost model-estimated number of locations by the end of year six and must serve the remainder of locations by the end of year eight
- All support recipients must serve locations newly built after the revised location total but before the end of year eight upon reasonable request
- The exact deployment schedule is determined by the carriers themselves, not the FCC.
- File with USAC annual reports and build-out milestone certifications, as well as data on the locations where service is available. Failure to meet the terms and conditions of support can result in increased reporting obligations and possible withholding and/or recovery of support.

- Offer at least one broadband and voice service at rates that are reasonably comparable to the rates for similar service in urban areas. The FCC uses its annual Urban Rate Survey to determine the range of rates that are reasonably comparable.

### Technology-Neutral Service Tiers

Bids will be accepted for four performance tiers, each with varying speed and usage allowances, and either high or low latency. Winning bidders must offer the service associated with their winning bid.

Performance Tier	Speed	Usage Allowance	Weight
Minimum	$\geq 25/3$ Mbps	$\geq 250$ GB or U.S. average, whichever is higher	50
Baseline	$\geq 50/5$ Mbps	$\geq 250$ GB or U.S. median, whichever is higher	35
Above Baseline	$\geq 100/20$ Mbps	$\geq 2$ TB	20
Gigabit	$\geq 1$ Gbps/500 Mbps	$\geq 2$ TB	0
Latency	Requirement		Weight
Low Latency	$\leq 100$ ms		0
High Latency	$\leq 750$ ms & MOS of $\geq 4$		40

Bids will be considered simultaneously, so that bidders proposing to meet one set of performance standards compete directly against bidders that propose to meet other performance standards. Bids will be placed as a percentage of the reserve price for the area subject to the bid in a descending clock auction, with lower bids selected first, with a preference for higher speeds and lower latency. The support amount that a winning bidder receives accounts for any weights associated with the performance tier and latency.

### **Eligible Areas**

The Commission made eligible for the Rural Digital Opportunity Fund auction census blocks where no provider is offering, or has committed to offering, either via the CAF II auction, the USDA ReConnect program, or state-specific programs, service of at least 25/3 Mbps (based on Form 477 data).

The FCC will publish an initial list of eligible census blocks, and, after a challenge process, the FCC will publish a final list of eligible areas.

### **Two-Stage Application Process**

*Short-Form Application* — Entities seeking to participate in the auction have to establish baseline financial and technical capabilities in order to be found eligible to bid. There are two pathways for establishing eligibility:

- Demonstrate two years of experience providing a voice, broadband, and/or electric distribution or transmission service and submit one year of audited financials (if an applicant with at least two years of experience is not audited in the ordinary course of business, it can instead submit one year of audited financials within 180 days after being announced as a winning bidder but has to submit one year of *unaudited* financials with its short-form application), or
- Submit three years of audited financials with the short-form application and a letter of interest from an eligible bank willing to issue a letter of credit for a specified amount

Entities will also be required to provide high-level technical information to demonstrate they have the technical qualifications to meet the applicable performance tier and latency requirements.

Entities can wait until after they were announced as winning bidders to obtain eligible telecommunication carrier designations from the relevant states or the Commission, if applicable.

*Long-Form Application* — Winning bidders or their designees must:

- Provide in their long-form applications additional information about qualifications, funding, and the network that they intend to use to meet their obligations
- Within a specified number of days, submit a letter from an eligible bank committing to issue a letter of credit; upon notification that the entity is ready to be authorized, must obtain a letter of credit from an eligible bank that remains open and covers disbursements until compliance with certain service milestones is complete and verified
- Within 180 days of being announced as winning bidders, certify they are eligible telecommunications carriers in any areas for which they seek support and submit relevant documentation.

Once a long form application is approved, the long-form applicant will be authorized to begin receiving support.

Any entity that filed a short-form application or any long-form applicant is subject to a forfeiture in the event it defaults prior to becoming authorized to receive support. Defaults include, but are not limited to, failing to meet submission deadlines, defaulting on a bid, or otherwise being disqualified for any reason.

The schedule of events is as follows:

September 18, 2020 – final bidders approved

October 26, 2020 – Mock auction

October 29, 2020 – bidding begins

November 24, 2020 – bidding ends

December 18, 2020 – Form 683 – divide winning bids window closes

January 4, 2021 – Form 683 Long-Form filing window opens

January 15, 2021 – Form 683 Long-Form filing deadline

February 5, 2021 – Form 683 letter of credit commitment

May 20, 2021 – Form 683 ETC designations and certifications due

August – December 2021 – Monthly funding begins

Source: <https://www.fcc.gov/auction/904/factsheet> & conexon.us