

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

**In the Matter of:**

**THE ELECTRONIC APPLICATION OF )  
KENERGY CORP. FOR A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND NECESSITY )  
FOR THE CONSTRUCTION OF A HIGH-SPEED )  
FIBER NETWORK AND FOR APPROVAL OF THE )  
LEASING OF THE NETWORK'S EXCESS CAPACITY )  
TO AN AFFILIATE TO BE ENGAGED IN THE )  
PROVISION OF BROADBAND SERVICE TO )  
UNSERVED AND UNDERSERVED HOUSEHOLDS )  
AND BUSINESSES OF THE COMMONWEALTH )**

**Case No.**  
**2021-00365**

**KENERGY CORP'S and KENECT, INC.'S**  
**RESPONSES TO KBCA DATA REQUESTS**

Kenergy Corp. and Kenect, Inc., submit the following Responses to the Data Requests from the KBCA.

1. Has Kenergy determined which areas within its service area are unserved or underserved?
  - a. If the answer is yes, please describe the method(s) Kenergy used to determine what areas are unserved or underserved, and provide all documents related to that determination.
  - b. If the answer is yes, please describe whether, and if so how, how Kenergy's determination included consideration of binding commitments by third parties to offer broadband service pursuant to federal or state broadband

programs, including but not limited to the FCC's Rural Digital Opportunity Fund (RDOF") and provide all related documents.

- c. If the answer is no, please describe when and how Kenergy plans to determine what areas are unserved or underserved.

**RESPONSE: Yes.**

- a. **See Response to Staff Data Request 15 and the response to KCBA Data Request 1(b), below.**

- b. **See attached Exhibit A.**

- c. **N/A**

**WITNESS: JONATHAN CHAMBERS**

2. Is Kenergy proposing to lease its proposed fiber optic facilities to Kenect throughout its service area, or to limit the lease to areas determined to be unserved or underserved?

**RESPONSE: Kenergy and Kenect object to this request as being beyond the scope of the intervention. KBCA's intervention is limited to "the issue of maps depicting whether the service areas are underserved or unserved." Order on Intervention at p. 5. Without waiving the objection, Kenect plans to focus its initial service offerings on unserved and underserved areas.**

**WITNESS: JEFF HOHN**

3. Has Kenergy projected the transmission capacity or other technical specifications required for its current and future internal communication needs as a rural electric cooperative as set forth in the Application (*i.e.*, exclusive of the proposed provision of broadband service by Kenect and its subleases)? If so, please describe transmission capacity and other specifications Kenergy has determined to be necessary for those needs.

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of KBCA's intervention. KBCA's intervention is limited to "the issue of maps depicting whether the service areas are underserved or unserved."**

**Order on Intervention at p. 5.**

**WITNESS: COUNSEL**

4. Identify the transmission capacity of the fiber optic cable and related facilities Kenergy is proposing to deploy as part of its Amended Construction Work Plan. If the capacity differs for certain portions of the proposed network from others, identify the nature and location of those differences.

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of KBCA's intervention. KBCA's intervention is limited to "the issue of maps depicting whether the service areas are underserved or unserved."**

**Order on Intervention at p. 5.**

**WITNESS: COUNSEL**

5. Please provide the map attached as Exhibit 1 to the Testimony of Robert Stumph in .kmz format.

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of KBCA’s intervention. KBCA’s intervention is limited to “the issue of maps depicting whether the service areas are underserved or unserved.” Order on Intervention at p. 5. Notwithstanding the foregoing objection, and without waiving it, see the attached map provided in .kmz format.**

**WITNESS: ROBERT STUMPH**

6. Please provide a map, in .kmz format, of the area(s) where Kenergy, Kenect, or Conexon Connect plan(s) to deploy broadband service to customers.

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of KBCA’s intervention. KBCA’s intervention is limited to “the issue of maps depicting whether the service areas are underserved or unserved.” Order on Intervention at p. 5. Notwithstanding the foregoing objection, and without waiving it, see the response to KCBA Data Request 5, above.**

**WITNESS: ROBERT STUMPH**

7. Referencing p. 14-15 of Kenergy’s Application, please describe how Kenergy determined that “there are no public utilities, corporations, or persons with whom

the proposed electric distribution-purposed construction or extension is likely to compete” and provide all documents related to that determination.

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of the intervention. KBCA’s intervention is limited to “the issue of maps depicting whether the service areas are underserved or unserved.” Order on Intervention at p. 5. Notwithstanding the foregoing and without waiving it, Kenergy has an exclusive certified territory for electric distribution. By definition there are no electric distribution competitors for a smart grid network in Kenergy’s territory.**

**WITNESS: JEFF HOHN**

8. Referencing p. 14-15 of Kenergy’s Application, please describe how Kenergy determined that “the proposed fiber optic network is not duplicative of existing services” and provide all documents related to that determination.

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of KBCA’s intervention. KBCA’s intervention is limited to “the issue of maps depicting whether the service areas are underserved or unserved.” Order on Intervention at p. 5.**

**WITNESS: COUNSEL**

9. Referencing p. 9 of Kenergy’s Application, Kenergy states that it plans to enter into “definitive arrangements to lease the excess capacity to an affiliate (Kenect)

engaged exclusively in the provision of broadband service to unserved or underserved households and businesses, as well as sublease of the network to Conexon Connect.” Will Conexon Connect also engage exclusively in the provision of broadband service to unserved or underserved households and businesses? If not, what customers does Conexon Connect plan to serve using the leased fiber optic capacity?

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of the intervention. KBCA’s intervention is limited to “the issue of maps depicting whether the service areas are underserved or unserved.” Order on Intervention at p. 5.**

**WITNESS: COUNSEL**

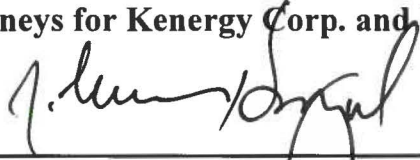
10. Is Kenergy seeking Commission approval of the sublease of its fiber optic capacity to Conexon Connect?

**RESPONSE: Kenergy and Kenect object to this request as beyond the scope of the intervention. KBCA’s intervention is limited to “the issue of maps depicting whether the service areas are underserved or unserved.” Order on Intervention at p. 5.**

**WITNESS: JEFF HOHN**

**DORSEY, GRAY, NORMENT & HOPGOOD**  
**318 Second Street**  
**Henderson, KY 42420**  
**Telephone (270) 826-3965**  
**Telefax (270) 826-6672**  
**Attorneys for Kenergy Corp. and Kenect, Inc.**

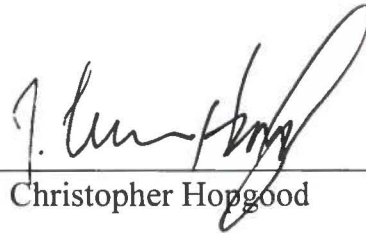
By \_\_\_\_\_



**J. Christopher Hopgood**  
[chopgood@dkgnlaw.com](mailto: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, and James W. Gardner and M. Todd Osterloh, Sturgill, Turner, Barker & Maloney, PLLC, 333 W. Vine St., Suite 1500, Lexington, KY 40507, on this 20<sup>th</sup> day of December, 2021.



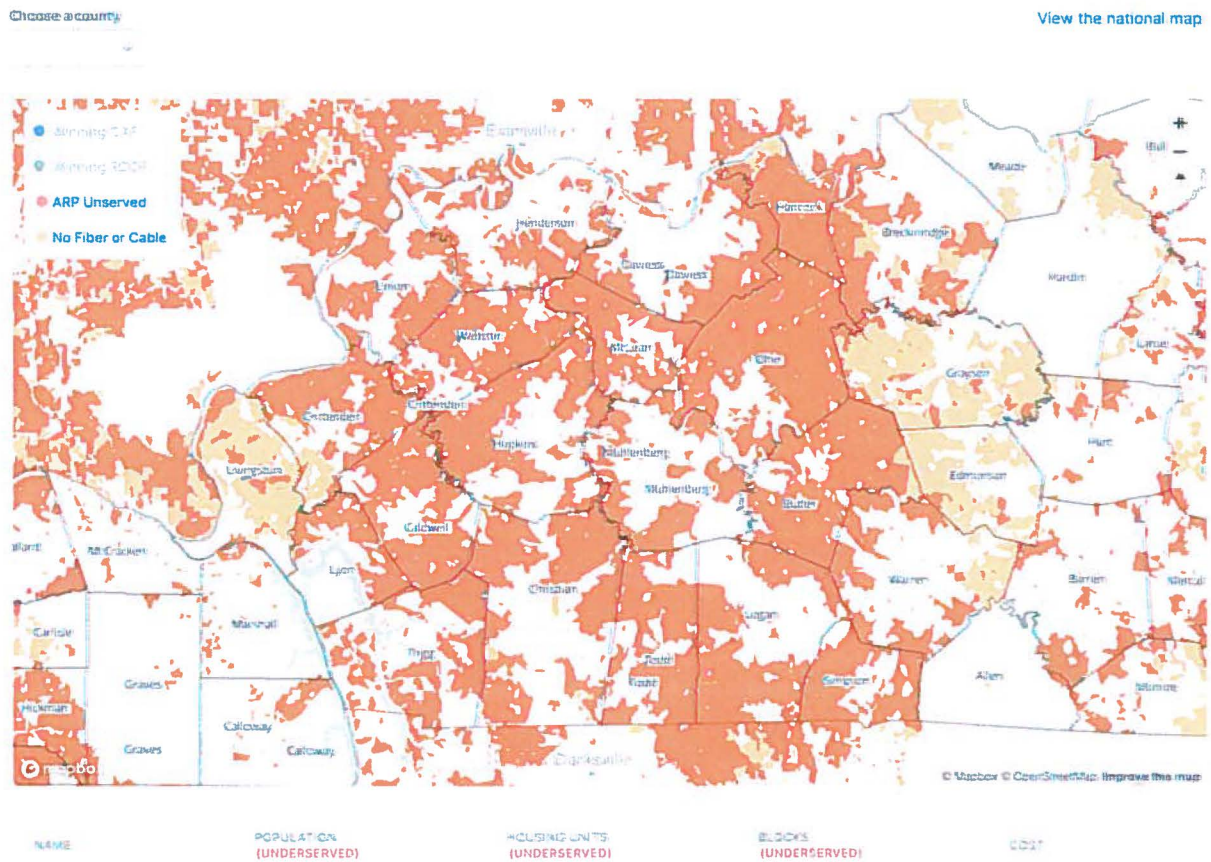
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J. Christopher Hopgood

**EXHIBIT A TO KENERGY CORP.'S AND KENECT'S INC'S  
RESPONSES TO KBCA'S DATA REQUESTS**

**RESPONSE TO REQUEST 1(B)**

We have prepared a detailed analysis of construction costs by county to every unserved housing unit in the country, which is publicly available here:

<https://conexonmaps.com/policy/arp>



We are using FCC data by technology type and reported speeds for the display of unserved and underserved census blocks. “Underserved” areas are those census blocks lacking cable or fiber optic service. “Unserved” areas are those census blocks without cable or fiber and



where no internet service provider (“ISP”) reports DSL service of at least 25 Mbps download and 3 Mbps upload. Conexon’s approach approximates the definitions of unserved and underserved areas in the Infrastructure Investment and Jobs Act.<sup>12</sup>

We recognize that the FCC Form 477 data has shortcomings. The criticism of Form 477 data, however, is that it overstates the level of service available, since it relies on unverified provider data and since service anywhere in a census block is treated as service everywhere in the census block. The FCC is preparing new, more granular maps, which may be available in 2022. We will use updated data as it becomes available, but at present the Form 477 data is the only consistent, publicly available national database.

The map also displays areas where funding was auctioned by the FCC through the Connect America Fund (“CAF”) Phase II and Rural Digital Opportunity Fund (“RDOF”) Phase I auctions.

It is important for the Commission to understand two points about FCC funding programs. First, the FCC operates sixteen active rural, high-cost programs that support broadband networks. Nearly every unserved census block in Kentucky has received FCC funding over the past decade. Below is a map that displays all unfunded and unserved areas in the state (the census blocks that are colored red). The interactive map can be found here:

<https://conexonmaps.com/policy/100mb#6.55/37.845/-84.872>

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<sup>1</sup> Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021) (“Infrastructure Act” or “Act”).

<sup>2</sup> For the definition of “unserved area” in the Act, see Division F, Title I, § 60102(a)(2)(G)(ii), and for the definition of “underserved” with respect to an area, see Division F, Title IV, § 60401(a)(16). Title IV relates to enabling middle mile broadband infrastructure.

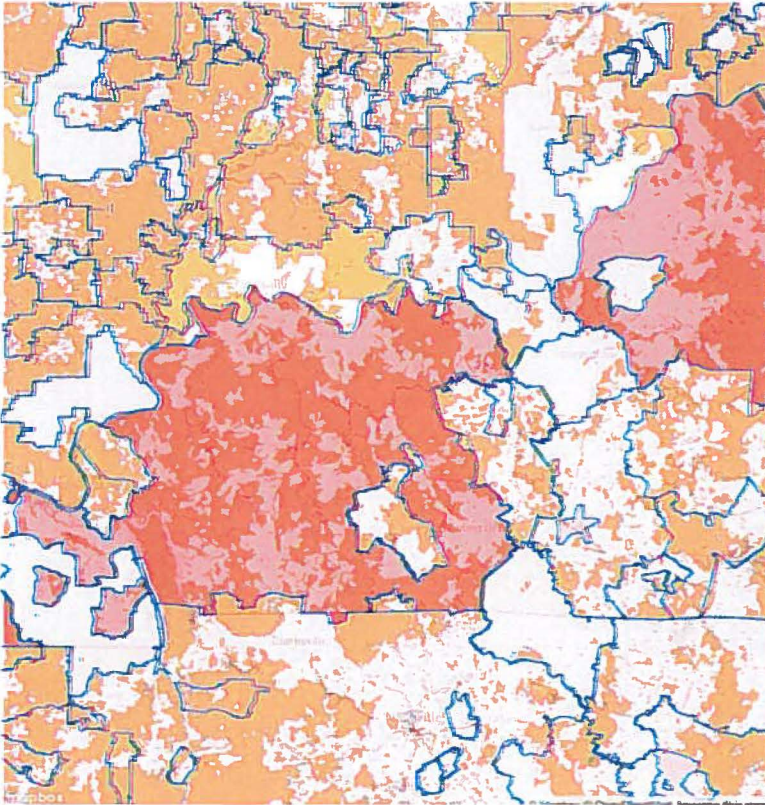
## Areas that are unserved with fiber or cable broadband and unfunded by FCC programs

Broadband funding limited to unserved and unfunded rural areas, will not work.



Second, nearly 100% of that funding has been provided to telephone companies, such as AT&T. Despite tens of billions in public funding, the FCC programs have not been successful in closing the digital divide in rural Kentucky. We have mapped out the funding across the state and country and indicated the areas that remain unserved, notwithstanding those prior investments by the federal government. Below is a display of one such funding recipient in the state. The interactive map can be found here: <https://nationalunbroadbandmap.com/>

The only reason Kenergy is seeking authority to serve its members with broadband is precisely because of the failure to-date of federal programs and the broadband industry. It is disingenuous for the very industry that has failed Kenergy's members to seek now to block Kenergy from doing what the telephone and cable industry has failed to do in vast portions of Kenergy's territory.



## Unbroadband Map

This map represents all funding disbursed from the Universal Service Administration Cooperation for High Cost and Connect America Fund programs from January 2015 through August 2021.

Clicking on the map will result in a table showing the amount of funding given to that company to further broadband availability. The orange still lack the services that are widely available in urban areas. Unaccounted for funds are typically disbursed to large carriers like

### AT&T

AT&T has received the federal support shown below to deliver service in the red shaded area. Even with this support, the orange shaded areas still lack access to basic broadband services, such as services that are widely available in urban and suburban areas.

PROGRAM	SUPPORT SINCE 2011
High Cost	\$0.00
CAF	\$203,836,751.00
<b>Total</b>	<b>\$203,836,751.00</b>

Source: The Universal Service Administrative Co. Funding Disbursement Tool  
<https://www.usac.org>  
 FCC Form 477 <http://www.fcc.gov>  
 Universal Service Administration: Lack of Broadband Service  
 How we made this map: <https://github.com/Comcast/usa-477-coverage>

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RESPONSES TO KBCA DATA REQUESTS

Maps in Response to Data Requests 5 & 6 are filed electronically in a zip file.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

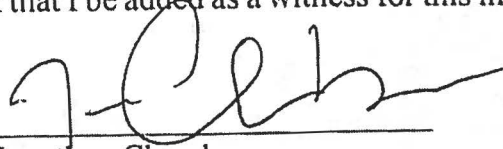
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Case No.  
2021-00365

(KBCA Data Requests B Item 1)

I verify, state and affirm that the data request response attached hereto and filed with this verification is true and correct to the best of my knowledge and belief formed after a reasonable inquiry, and I ask that I be added as a witness for this information.

  
Jonathan Chambers

STATE OF MARYLAND  
COUNTY OF MONTGOMERY

The foregoing was signed, acknowledged and sworn to before me by JONATHAN CHAMBERS this 17th day of December, 2021.

My commission expires 02/09/2025

Notary Public,  
Notary Public ID#: N/A

(seal)

YODN YONG CHUNG  
Notary Public - State of Maryland  
Montgomery County  
My Commission Expires Feb 9, 2025



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

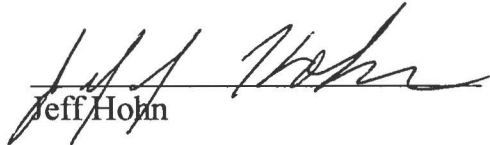
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Case No.  
2021-00365

(KBCA Data Requests Items 2, 3, 4,7, 8, 9 & 10)


I verify, state and affirm that the data request response attached hereto and filed with this verification is true and correct to the best of my knowledge and belief formed after a reasonable inquiry, and I ask that I be added as a witness for this information.

  
Jeff Hohn

STATE OF Kentucky  
COUNTY OF Daviess

The foregoing was signed, acknowledged and sworn to before me by JEFF HOHN this 16 day of December, 2021.

My commission expires 18 March 2024

  
Notary Public,  
Notary Public ID#: KYNP 1149

(seal)

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

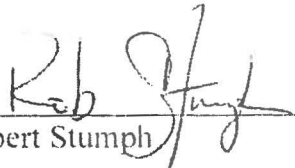
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Case No.  
2021-00365

(KBCA Data Requests Items 5 & 6)

I verify, state and affirm that the data request response attached hereto and filed with this verification is true and correct to the best of my knowledge and belief formed after a reasonable inquiry, and I ask that I be added as a witness for this information.

  
Robert Stumph

STATE OF Kentucky  
COUNTY OF Henderson

The foregoing was signed, acknowledged and sworn to before me by ROBERT STUMPH this 26 day of December, 2021.

My commission expires 4-24-22

(seal)

Notary Public.   
Notary Public ID#: 609387