

COMMONWEALTH OF KENTUCKY
BEFORE THE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF POLE) CASE NO.
ATTACHMENTS) 2023-00416

COMMENTS OF KITCOM¹, INC. FOLLOWING MAY 17th, 2024, CONFERENCE
ON POTENTIAL EMERGENCY REGULATIONS

At the May 17th, 2024, conference interested parties were invited to file comments on the proposed emergency pole attachment regulations.

INTRODUCTION

While KITCOM¹ members are some of the smallest telecommunication providers in the state, we have also been among the most successful in bringing broadband to customers and members in our own incumbent service areas as well as customers in adjacent communities who would otherwise be unserved. Accordingly, we are both pole owners *and* pole attachers and offer our input on the following four items.

COMMENTS

1) The Proposed Regulations introduce a new Section 5 (appearing on Page 7, Lines 9-18 of the Proposed Regulations) that requires pole owners to post certain information on their websites.

Generally, we do not oppose the requirement to post information on our website but ask that this Section 5 be further modified to expressly include a requirement that the pole owner also posts, at a minimum, a contact for the pole owner knowledgeable about its pole attachment process as well as information needed for the payment of attachment fees.

We further suggest that any tariff updates to comply with this new Section 5 be limited to the URL of the pole owner's website. We ask that the Commission refrain from requiring us to also file in our tariffs information otherwise required found on our website, including the newly proposed "certification form." Duplicative postings – on both the website and the tariff – are unduly burdensome and prevent companies from adapting quickly to necessary changes in this process.

¹Ballard Rural Telephone Coop., Corp, Inc., Brandenburg Telephone Company, Inc., Duo County Telephone Coop. Corp, Inc., Foothills Rural Telephone Coop. Corp., Inc., Gearheart Communications Company, Inc. d/b/a Coalfields Telephone Co., Inc., Highland Telephone Cooperative, Inc., Logan Telephone Cooperative, Inc. dba LTC Connect, Mountain Rural Telephone Coop., Inc., North Central Telephone Coop., Inc., Peoples Rural Telephone Coop. Corp., Inc., South Central Rural Telecommunications Cooperative, Inc., Thacker-Grigsby Telephone Company, Inc., West Kentucky Rural Telephone Coop. Corp., Inc. Note that while these comments are submitted on behalf of all members of KITCOM, a few no longer own poles.

2) Proposed Regulations, Page 12, Line 2 indicates that applications will be deemed effective lacking a timely and complete response rejecting the application.

The revised regulation includes a statement that the application will be “accepted for filing.” Since there is no filing, we suggest that the added language be struck as unnecessary or, in the alternative changed to read “accepted for processing.”

3) The Proposed Rules Section 7(d) (Pages 18, Line 14 through Page 19, Line 14) replaces existing language of a good faith negotiation of attachment timing to instead require a “special contract” that carries an exhaustive list of requirements.

The provision for triggering a contract can be the lessor of 3000 or 3% of the total poles. For KITCOM companies 3% would be a very small number and yet still trigger a mandated requirement to negotiate a “special contract” if the attacher demands that they do so. The 1000 / 3000 line cap should suffice, eliminating the need for the 3% baseline entirely.

4) The Proposed Rules (Page 22, Line 9) strikes in its entirety Section 9(d) and, if implemented, would allow self-help for pole replacements.

Pole replacements must remain with the pole owner. There is an incorrect perception that because a contractor appears on a pole owner’s approved list this means that the contractor is blindly trusted to perform all tasks that pole owners may require and to perform such activities without any pole owner supervision. Anecdotally, even self-help for simple make ready work has identified contractor errors that pole owners are forced to correct. Pole replacement is not simple and by its nature can impose a host of safety issues for which the pole owner remains responsible. Self-help for pole replacements ignores the complexity of such work and introduces unjustified liability for pole owners and the increased potential for injuries.

Respectfully Submitted,

/s/ Keith Gabbard

Keith Gabbard
KITCOM President
P.O. Box 159
1080 Main Street S
McKee, KY 40447
606-287-7101
keith.gabbard@prtc.org