

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

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In the Matter of: )  
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ELECTRONIC INVESTIGATION OF POLE ) CASE NO. 2023-00416  
ATTACHMENTS )  
 )  
 ) **KBCA LIST OF ISSUES TO BE**  
 ) **DISCUSSED AT JANUARY 5, 2024,**  
 ) **CONFERENCE**  
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Pursuant to the Kentucky Public Service Commission’s (“PSC’s” or “Commission’s”) December 15, 2023, Order, the Kentucky Broadband and Cable Association (“KBCA”)<sup>1</sup> submits this list of issues for discussion during the Commission’s January 5, 2024, informal conference.

The KBCA applauds the Commission for starting this discussion, and welcomes the opportunity to fully participate based on its members’ real-world experience deploying broadband in the Commonwealth. At this juncture, the Commonwealth of Kentucky has an unprecedented opportunity to address longstanding unserved and underserved broadband connectivity challenges. In total, there is approximately \$2 billion that is being or will be invested through the FCC RDOF program, state and local grant initiatives, BEAD and private sector funding to support high-speed broadband network deployment in Kentucky. This dramatic surge in construction is already presenting major challenges for certain pole owners, as evidenced by the significant (and growing) backlog of pole permit applications – and

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<sup>1</sup> The KBCA’s members are Access Cable, Armstrong, C&W Cable, Charter Communications, Comcast, Inter Mountain Cable, Lycom Communications, Mediacom, Suddenlink, and TVS Cable.

concomitant build-out delays. It is therefore imperative that Kentucky regulators take immediate action to address several key issues related to the pole attachment permit and access process that can alleviate this backlog and facilitate the timely deployment of broadband services in Kentucky. In particular, the Kentucky Public Services Commission should:

1. Increase the number of poles that can be submitted for small and large attachment orders, and prohibiting caps on the number of poles that can be submitted at any time, even if the number of poles exceeds the large order threshold. A pole owner must also be required to process the maximum number of poles (up to those in a large order) in a submission that exceeds a large order, as the Federal Communication Commission recently held in its December 15, 2023 Order.<sup>2</sup>

2. Require a single, reasonable, up-front flat fee for permit processing, pre-construction surveys, and engineering. Currently, the timelines are being delayed by pole owners requiring payment prior to performing work, in violation of the Commission's established access rules and applicable timeframes.

3. Require pole owners to provide a conditional license and allow attachers to install attachments on all poles and perform required make-ready, including pole replacements, if timelines are not met.

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<sup>2</sup> *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Fourth Reporter & Order, Declaratory Ruling, & Third Further Notice of Proposed Rulemaking, FCC 23-109, paras. 39 & 50 (2023), available at <https://docs.fcc.gov/public/attachments/FCC-23-109A1.pdf> ("FCC December 15, 2023, Order") (providing the "first 3,000 poles in an attachment application are subject to the processing timeline set forth in section 1.1411(g)(3)," the processing timeline for large orders).

4. Allow attachers to perform self-help for pole replacements if a utility fails to meet make-ready timelines, provided the attacher uses a contractor approved by the pole owner to complete the pole replacement.

5. Require utilities to notify attachers within fifteen (15) days of receiving a complete pole attachment application if the utility will be unable to meet survey or other access deadlines, including make ready deadlines, so that the attacher can elect self-help.

6. Expand the definition of “red tagged poles” to align with the FCC’s new definition, which includes any pole “that the utility has identified as needing replacement for any reason other than the pole’s lack of capacity.”<sup>3</sup> This definition encompasses the current Kentucky definition of “red tagged poles,” which includes any utility owned pole that “(a) is designated for replacement based on the pole’s non-compliance with an applicable safety standard; (b) is designated for replacement within two (2) years of the date of its actual replacement for any reason unrelated to a new attacher’s request for attachment; or (c) would have needed to be replaced at the time of replacement even if the new attachment were not made,”<sup>4</sup> but is broader and would include instances beyond the current definition in Kentucky.

7. Require utilities to “provide potential attachers with a copy of a utility’s easement before a utility may refuse to let the attacher share that easement or require the attacher to obtain its own easement,” as set forth in the FCC’s December 15, 2023, Order.<sup>5</sup>

8. Update Commission rules and regulations to ensure attachers benefit from the FCC’s most recent Order to expedite broadband deployment.

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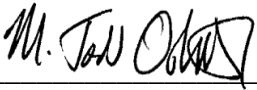
<sup>3</sup> FCC December 15, 2023, Order at paras. 39-40 & 42.

<sup>4</sup> 807 KAR 5:015(1)(10).

<sup>5</sup> FCC December 15, 2023, Order at para. 49.

Dated: December 21, 2023

Respectfully submitted,

/s/  \_\_\_\_\_

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