

**KENTUCKY PUBLIC SERVICE COMMISSION**

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In the Matter of: )

) CASE NO. 2023-00416

ELECTRONIC INVESTIGATION OF POLE )

ATTACHMENTS )

) **KBCA LIST OF ISSUES TO BE**

) **DISCUSSED AT MARCH 1, 2024,**

) **CONFERENCE**

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Pursuant to the Kentucky Public Service Commission’s (“PSC’s” or “Commission’s”) January 22, 2024, Order, the Kentucky Broadband and Cable Association (“KBCA”)<sup>1</sup> submits this list of issues for discussion at the Commission’s March 1, 2024, informal conference.

KBCA requests permission to make a brief, 10-15 minute presentation at the beginning of the informal conference, in order to provide a high-level status update and summary data on pending pole application activity to explain the issues impacting KBCA’s members’ ability to get their applications submitted and processed in a timely manner. KBCA believes this presentation will assist the Commission in having a better understanding of challenges that are being experienced, and possible solutions to address them.

**1. Conditional Licenses.** The Commission should require pole owners to provide a conditional license and allow attachers to install attachments on poles where no make-ready work is required, if make-ready timelines are not met. These attachments would comply with the

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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.

NESC. Alternatively, if the pole owner misses a regulatory deadline, the attacher's application should be deemed approved.

**2. *Notification of Inability to Meet Deadlines.*** The Commission should require utilities to notify attachers within 15 days of receiving a complete pole attachment application if the utility will be unable to meet survey or other make ready deadlines. This will allow attachers to make use of self-help remedies in a timely manner.

**3. *Pole Attachment Applications.*** As KBCA noted previously, the Commission should increase the number of poles that can be submitted for small and large attachment orders consistent with what is allowed under the FCC rules, and prohibit caps on the number of poles that can be submitted at any time, even if the number of poles exceeds the large order threshold. The FCC classifies large orders as the lesser of 3,000 poles or 5% of the utility's poles in the state. 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> This will address concerns raised by certain pole owners prior to and at the prior hearings regarding visibility into the scope of attachers' builds, and allow pole owners to promptly raise concerns regarding their resources.

**4. *Process Efficiencies.*** As they currently exist, some pole owner processes for completing pre-construction surveys and engineering, and issuing invoices, are inefficient and are causing delays in broadband expansion throughout the Commonwealth. Broadband

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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).

providers have a significant backlog in their expansion projects as they wait for pole owners to perform these tasks.

Dated: February 16, 2024

Respectfully submitted,

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