

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)	
AMERICAN WATER COMPANY TO AMEND)	CASE NO.
TARIFF TO REVISE QUALIFIED)	2021-00090
INFRASTRUCTURE PROGRAM CHARGE)	

NOTICE OF FILING

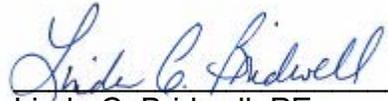
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on June 2, 2021 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on June 2, 2021 in this proceeding;
- A written log listing, *inter alia*, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on June 2, 2021.

A copy of this Notice, the certification of the digital video record, and hearing log have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at <https://www.youtube.com/watch?v=0-RU21h5D3w>.

Parties wishing an annotated digital video recording may submit a written request by electronic mail to pscfilings@ky.gov. A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 23rd day of June 2021.

A handwritten signature in blue ink that reads "Linda C. Bridwell". The signature is written in a cursive style and is positioned above a horizontal line.

Linda C. Bridwell, PE
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

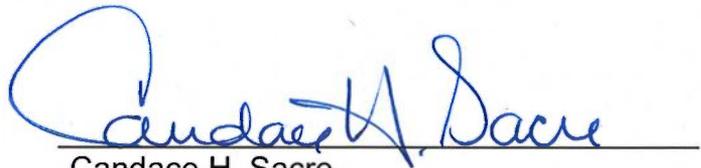
ELECTRONIC APPLICATION OF KENTUCKY-)	
AMERICAN WATER COMPANY TO AMEND)	CASE NO.
TARIFF TO REVISE QUALIFIED)	2021-00090
INFRASTRUCTURE PROGRAM CHARGE)	

CERTIFICATION

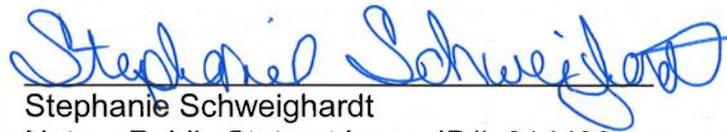
I, Candace H. Sacre, hereby certify that:

1. The attached flash drive contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on June 2, 2021. The Formal Hearing Log, Exhibits, and Exhibit List are included with the recording on June 2, 2021;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of June 2, 2021; and
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of June 2, 2021, and the time at which each occurred.

Signed this 23rd day of June, 2021.



Candace H. Sacre
Administrative Specialist III



Stephanie Schweighardt
Notary Public State at Large ID#: 614400
Commission Expires: January 14, 2023



Kentucky-American Water Company (Kentucky-American)

Date:	Type:	Location:	Department:
6/2/2021	Public Hearing\Public Comments	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: Krista Citron; Brent O'Neill; Nick Rowe; Todd Wright
 Judge: Kent Chandler; Talina Mathews; Michael Schmitt
 Clerk: Candace Sacre

Event Time	Log Event	
9:03:36 AM	Session Started	
9:04:02 AM	Chairman Schmitt Note: Sacre, Candace	On the record in Case No. 2021-00090, Electronic Application of Kentucky-American Water Company to Amend Tariff to Revise Qualified Infrastructure Program Charge.
9:04:19 AM	Chairman Schmitt Note: Sacre, Candace	My name is Michael Schmitt. I am Chairman of the Public Service Commission, and I will be presiding today. Joining me is Vice Chairman Kent Chandler. Dr. Talina Mathews will be late, and portion of hearing she misses will review on YouTube.
9:04:43 AM	Chairman Schmitt Note: Sacre, Candace	COVID and videoconferencing recommendations. (Click on link for further comments.)
9:06:36 AM	Chairman Schmitt Note: Sacre, Candace	Hearing today is for the purpose of taking evidence on Kentucky-American application for a qualified infrastructure program (QIP) change.
9:06:46 AM	Chairman Schmitt Note: Sacre, Candace	Counsel please identify himself along with witnesses.
9:07:07 AM	Atty Ingram Kentucky-American Note: Sacre, Candace	Lindsey Ingram, external counsel for Kentucky-American Water, and John Dillon, internal counsel for Kentucky-American Water, four witnesses today, Brent O'Neill, Krista Citron, Todd Wright, and Nick Rowe.
9:07:49 AM	Chairman Schmitt Note: Sacre, Candace	(Technical difficulties.)
9:07:58 AM	Chairman Schmitt Note: Sacre, Candace	For Staff?
9:08:01 AM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Nancy Vinsel and Jesse Fries.
9:08:07 AM	Chairman Schmitt Note: Sacre, Candace	Public notice filed and given. (Click on link for further comments.)
9:08:28 AM	Chairman Schmitt Note: Sacre, Candace	Any outstanding motions? (Click on link for further comments.)
9:09:04 AM	Chairman Schmitt Note: Sacre, Candace	Check to see what issue is?
9:11:35 AM	Chairman Schmitt Note: Sacre, Candace	Public notice has been given.
9:11:38 AM	Chairman Schmitt Note: Sacre, Candace	Outstanding motions at this time? (Click on link for further comments.)

9:11:45 AM	Chairman Schmitt Note: Sacre, Candace	Public comments. (Click on link for further comments.)
9:12:31 AM	Chairman Schmitt Note: Sacre, Candace	Witnesses O'Neill and Citron are sworn.
9:15:30 AM	Chairman Schmitt Note: Sacre, Candace	Due to technical difficulties, witness O'Neill is sworn again.
9:15:48 AM	Atty Ingram Kentucky-American - witness O'Neill Note: Sacre, Candace	Direct Examination. Adopt testimony Stafford?
9:16:02 AM	Atty Ingram Kentucky-American - witness O'Neill Note: Sacre, Candace	Adopt data responses of Stafford?
9:16:11 AM	Atty Ingram Kentucky-American - witness O'Neill Note: Sacre, Candace	Identified witness several data responses Kentucky-American filed?
9:16:20 AM	Atty Ingram Kentucky-American - witness O'Neill Note: Sacre, Candace	Corrections?
9:16:55 AM	Atty Ingram Kentucky-American - witness O'Neill Note: Sacre, Candace	Reference to attachment not included, reference to Exhibit 1 of Stafford testimony?
9:17:14 AM	Atty Ingram Kentucky-American - witness Citron Note: Sacre, Candace	Direct Examination. Also adopt Stafford testimony?
9:17:22 AM	Atty Ingram Kentucky-American - witness Citron Note: Sacre, Candace	Adopt some data responses Stafford submitted?
9:17:29 AM	Atty Ingram Kentucky-American - witness Citron Note: Sacre, Candace	Identified witness other data responses Kentucky-American filed?
9:17:37 AM	Atty Ingram Kentucky-American - witness O'Neill Note: Sacre, Candace	Corrections?
9:18:00 AM	Asst Gen Counsel Vinsel PSC - witnesses O'Neill and Citron Note: Sacre, Candace	Cross Examination. In addition this case, two previous cases incorporated into record, references, 2018-00358, like to refer to that as last rate case, and first QIP 2020-00027, QIP 1, acceptable?
9:19:17 AM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	Read direct testimony and data requests?
9:19:34 AM	Asst Gen Counsel Vinsel PSC - witness Citron Note: Sacre, Candace	Read direct and data responses?
9:19:46 AM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	Play role repairing application this case?
9:20:44 AM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	DRs that you sponsored?
9:20:50 AM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	Play role in application for QIP 1?
9:21:05 AM	Asst Gen Counsel Vinsel PSC - witness Citron Note: Sacre, Candace	Play role in this case?
9:21:18 AM	Asst Gen Counsel Vinsel PSC - witness Citron Note: Sacre, Candace	What role was, what data assisted him with?
9:21:44 AM	Asst Gen Counsel Vinsel PSC - witness Citron Note: Sacre, Candace	QIP 1 assist Stafford?
9:22:01 AM	Asst Gen Counsel Vinsel PSC - witness Citron Note: Sacre, Candace	Similar role?
9:22:11 AM	Asst Gen Counsel Vinsel PSC - witness Citron Note: Sacre, Candace	Play role preparation last rate case regards proposed QIP?
9:22:34 AM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	Purpose of QIP program proposed in rate case target cast iron main and galvanized main?
9:23:06 AM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	Purpose reduce occurrence of main breaks?

9:23:45 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Because was aging and led towards main breaks/water loss?

9:24:12 AM Asst Gen Counsel Vinsel PSC - witness O'Neil
Note: Sacre, Candace Kentucky-American Response, Staff Second Request, Item 3, Main Replacement Criteria Development, Attachment B, page 12, filed in rate case and refiled in this case, read second paragraph.

9:25:47 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Systematic process 2013, describe how developed prioritization model?

9:26:17 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace What described next paragraph, Kentucky-American systematic plan main replacement and what tools were?

9:28:01 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Developed software used evaluate and weigh different programs?

9:28:42 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Process developed list of aging mains by project?

9:29:23 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Paving schedule, referencing LFUCG paving schedule?

9:29:49 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Consider KYDOT?

9:30:02 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Several paving schedules to manage?

9:30:10 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Response to Second Request, Item 3, Attachment B, Data Response this case, filed in rate case but also refiled this case, PDF pg 32, document pg 24, includes projected projects included in QIP years one through five, correct depiction?

9:31:39 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Year 1, anticipated total \$6.5 million?

9:37:24 AM Chairman Schmitt
Note: Sacre, Candace Recess until 10 minutes until 10 o'clock.

9:37:35 AM Session Paused

10:34:51 AM Session Resumed

10:35:15 AM Chairman Schmitt
Note: Sacre, Candace Back on record, recess, unable to fix audio problems. (Click on link for further comments.)

10:36:30 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Cross Examination (cont'd). Testimony Kentucky-American rate case and this case, main replacement program report and a few other attachments, maps and list form first five years, copy in front of you?

10:37:39 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Move along, in exhibit, years one through five, projects for each year?

10:39:35 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Thirty-year cycle, meant to illustrate?

10:40:05 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace \$150 per linear foot?

10:40:29 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Response, this case, Third Data Request, Response 1, PSC 3-1, scroll down next page, Kentucky-American asked provide miles different types of mains, in this table, project miles for years one through five, years three through five, no data, second paragraph, why no data years three through five?

10:42:22 AM Camera Lock Video Conference Activated

10:42:25 AM Camera Lock Deactivated

10:43:53 AM Asst Gen Counsel Vinsel PSC - witnesses Citron and O'Neill
Note: Sacre, Candace Correct Kentucky-American sense mains need to be replaced, what projects need to be conducted?

10:45:24 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Response to Staff Second Request, Item 3, Attachment C, third attachment O'Neill previous data request, walk through what depicts?

10:47:10 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Correct weighted scores run between 145 and 285?

10:47:27 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace List of all projects or limited list?

10:48:19 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Master list of potential projects?

10:48:38 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Same model run every year?

10:48:44 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace As projects fall off others added?

10:48:57 AM Asst Gen Counsel Vinsel PSC - witnesses Citron and O'Neill
Note: Sacre, Candace When rerun every year, also include external drivers, paving schedules?

10:50:09 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Rough time line annual basis how QIP projects decided?

10:51:24 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Same page time line, look at year three, design, when would April-May-June, already taken place?

10:51:51 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace October-November-December looking at four?

10:52:09 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace When Kentucky-American finalize projects to be included?

10:52:54 AM Asst Gen Counsel Vinsel PSC - witnesses Citron and O'Neill
Note: Sacre, Candace How Kentucky-American determine cost, how cap cost for QIP, methodology?

10:55:39 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Version of flow chart and advance deducting?

10:56:41 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Model, some numbers where weighting is higher, also some main older than others, why focus not on age or to degree can replace oldest main first?

10:59:12 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Still taken 57 years looking at cast iron and galvanized, sound correct?

11:00:22 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Still beyond expected life?

11:00:42 AM Asst Gen Counsel Vinsel PSC - witnesses Citron and O'Neill
Note: Sacre, Candace Only tail end of year one, impact yet on water loss rates on breakage in most problematic mains?

11:01:37 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Rough estimate expect start seeing progress?

11:02:54 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Construction cost and construction concept, QIP year one projects slow start, COVID, labor issues, supply issues, all QIP year one projects completed by June 30?

11:05:39 AM Asst Gen Counsel Vinsel PSC - witnesses O'Neill and Citron
Note: Sacre, Candace Construction cost, explain how Kentucky-American developed cost estimates for construction projects, particularly QIP?

11:08:30 AM Asst Gen Counsel Vinsel PSC
Note: Sacre, Candace \$150 linear foot, Response, Staff First Request, Item 18, comparing estimated cost in QIP 2 back to main replacement program report exhibit, cost depicted in rate case exhibit 20-year replacement cycle \$9.5 million to \$12.5 compared to here \$9.7 million, Stafford said increase from \$150 linear foot to \$250, agree that is what it depicts.

11:10:21 AM Camera Lock Wireless Mic Cam Activated

11:10:24 AM Camera Lock Comm Staff Activated

11:10:28 AM Camera Lock Video Conference Activated

11:10:31 AM Camera Lock Deactivated

11:11:16 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Second page of Response, numbers are very different, main replacements, originally proposed \$150 linear foot, artificially low?

11:15:06 AM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Examination. Anticipated for 10-15 years pipes 70 years and older, why made assumption they be in newer, easier parts of Lexington?

11:15:14 AM Camera Lock Comm Wide Activated

11:15:51 AM Camera Lock Deactivated

11:16:10 AM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Fair to say not apples to apples comparison?

11:16:33 AM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Had done apples to apples, not \$150, closer to \$250?

11:16:58 AM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace What project \$56 linear foot?

11:17:12 AM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Not identified tens or hundreds miles of pipe beyond useful life cast iron 16 and 61 percent total miles and percentage of main breaks?

11:17:31 AM Camera Lock Comm Wide Activated

11:17:41 AM Camera Lock Deactivated

11:17:41 AM Vice Chairman Chandler - witness Citron
Note: Sacre, Candace Not in easy to get to areas?

11:18:01 AM Vice Chairman Chandler - witness Citron
Note: Sacre, Candace What years '70s and '80s pipes replaced?

11:18:09 AM Vice Chairman Chandler - witness Citron
Note: Sacre, Candace Replacing 40- and 50-year-old pipe when have 80-, 90-, and 100-year old pipe still in ground exact same category, age still significant priority factor?

11:18:18 AM Camera Lock Comm Wide Activated

11:18:32 AM Camera Lock Deactivated

11:19:12 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Cross Examination (cont'd). Seeing now, more realistic number \$272 per linear foot originally proposed?

11:20:14 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Had to generalize now average cost for QIP projects per linear foot?

11:21:07 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Understand can't give to penny, what to expect over next few years, costs have grown?

11:21:45 AM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Examination. Range for 25 years, \$130 to \$180 for 25-year plan, would that surprise you?

11:22:16 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Cross Examination (cont'd). Contractor bids on project, using per foot cost?

11:23:17 AM Asst Gen Counsel Vinsel PSC - witnesses Citron and O'Neill
Note: Sacre, Candace Not necessarily per foot cost, inclusive of everything?

11:24:24 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Asked prequalification process, responded names of 12 contractors, do not all do same things, or all same basic tasks they can do?

11:25:15 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace All 12 prequalified contractors bid on QI projects?

11:25:56 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace QIP year two, limit number bids sent out?

11:26:41 AM Chairman Schmitt - witness Citron
Note: Sacre, Candace Examination. Actually have competitive bidding or price lists and you discuss, make decision?

11:27:27 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Cross Examination (cont'd). Smaller group of contractors, how small is that, three or four?

11:27:50 AM Asst Gen Counsel Vinsel PSC
Note: Sacre, Candace Post-hearing data request in writing, which of contractors do more complex work.

11:28:18 AM POST-HEARING DATA REQUEST
Note: Sacre, Candace ASST GEN COUNSEL VINSEL PSC - WITNESS CITRON
Note: Sacre, Candace CONTRACTORS DOING MORE COMPLEX WORK

11:28:57 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Contractors developing additional resources in order to do the work?

11:30:14 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Pavement restoration costs, background, three rounds of data requests, two exhibits to introduce, PSC Exhibit 1 and PSC Exhibit 2, ordinances, LFUCG offices, downloaded from digital copies, Ordinance No. 18-2019 passed March 21, 2019, published March 28, 2019, effective April 13, 2019, purpose two-fold, pavement right of way, pavement restoration, Town Branch Common aesthetics, agree pavement restoration costs not driven by this ordinance?

11:34:40 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Second issue, action in 2017, Kentucky-American minutes Utility Coordination Committee Minutes, new ordinances, PSC Exhibit 2, Ordinance 144-2017, passed October 12, 2017, published October 19, 2017, three purposes tied to permitting, encourage anyone surface cuts have permits and timely permits?

11:36:21 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Large part of that was to make sure surface cuts square, impact on asphalt?

11:37:03 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace In cases two patches close by not two patches, replace entire?

11:37:45 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Fair assessment, one result bike lanes, might have to do longer restoration as opposed to before?

11:38:23 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Time line of enforcement, change in March 2019, ordinance enforced beginning in fall of 2017?

11:39:27 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Some change in enforcement in 2019?

11:39:45 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Just a misstatement of dates?

11:39:57 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Increase in costs, record clear?

11:40:49 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Spoken to LFUCG financial impact from ordinance?

11:41:52 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace In negotiations now?

11:42:52 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Splitting of restoration costs drive down costs?

11:43:06 AM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Significantly?

11:43:42 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Recurring capital projects/investment projects, Third Request, Items 5 and 6, 7 budget project expenditures, difference recurring project and investment project?

11:46:05 AM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Data Request, Item 7, budget project expenditures, investment?

11:46:26 AM Asst Gen Counsel Vinsel PSC - witness Citron and O'Neill
Note: Sacre, Candace QIP recurring projects?

11:46:40 AM Atty Ingram Kentucky-American
Note: Sacre, Candace Question goes to QIP at what time? (Click on link for further comments.)

11:50:29 AM Asst Gen Counsel Vinsel PSC
Note: Sacre, Candace Post-hearing data request pipe that was replaced, by age and type.

11:50:30 AM POST-HEARING DATA REQUEST
Note: Sacre, Candace ASST GEN COUNSEL VINSEL PSC - WITNESSES CITRON AND O'NEILL
Note: Sacre, Candace PIPE REPLACED CATEGORIZED BY AGE AND TYPE

11:53:03 AM Chairman Schmitt
Note: Sacre, Candace Recess for lunch until 1 pm.

11:53:23 AM Session Paused

1:08:53 PM Session Resumed

1:09:00 PM Chairman Schmitt
Note: Sacre, Candace Back on the record. Ms. Vinsel?

1:09:15 PM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace Cross Examination (cont'd). Service line replacement, budget line H, planned projects or unscheduled, as needed?

1:10:10 PM Asst Gen Counsel Vinsel PSC - witness O'Neill
Note: Sacre, Candace General prices of projects, rate case and last QIP case, Kentucky-American looking at QIP projects between several numbers \$6-10 million, \$6-12 million, this year's QIP significantly higher, Response, Staff Second Request, Item 60, PDF 66, understanding \$6 to \$10 million incremental QIP projects, 2023 projected \$19.5 million QIP eligible projects, \$6 to \$10 million accelerated incremental of projected, \$19.5 million consists two buckets, \$6-10 million for QIP, rest other pipeline replacement projects?

1:13:49 PM Camera Lock PTZ Activated

1:13:55 PM Camera Lock Deactivated

1:14:10 PM Camera Lock PTZ Activated

1:15:23 PM Camera Lock Deactivated

1:16:29 PM Atty Ingram Kentucky-American
Note: Sacre, Candace Just to be clear, talking about AG Request 1-59, in rate case, also Exhibit 1 to Stafford testimony in this case.

1:18:12 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Examination. B category in rate case \$12-14 million, B in this case \$19-20 million?

1:18:40 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	B significantly different in this case than Ingram referring to?
1:18:55 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	B is aging mains?
1:19:02 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	All replacement of infrastructure?
1:19:20 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	B replaced/restored?
1:19:31 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Infrastructure primarily discussed in Exhibit 2 in 2018 rate case?
1:20:25 PM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	Cross Examination (cont'd). Accelerated replacement cycle from 25 years to 20 years and accelerated amount of spend attributed Final Order in 2027 QIP 1, have copy?
1:21:26 PM	Asst Gen Counsel Vinsel PSC - witness O'Neill Note: Sacre, Candace	Response, Third Data Request, based on feedback hearing in 2020-00027, interpreted needed accelerate spend and increase replacement cycle, some of testimony from 2020-00027, then VC primary concern QIP program 60% aging main and 40% other projects, look over Order in 2020-00027 show where Commission directed increase replacement cycle 25 years to 20 years and where directed increase amount of spend on aging main?
1:23:22 PM	Chairman Schmitt Note: Sacre, Candace	Short recess until 25 minutes till 1:35
1:23:36 PM	Session Paused	
1:28:13 PM	Session Resumed	
1:28:22 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	Procedural question, video, intent to play hearing from last year's QIP?
1:28:37 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Audio problems, not intent now.
1:28:52 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	I have video here. (Click on link for further comment.)
1:29:37 PM	Commissioner Mathews Note: Sacre, Candace	Language at page 15?
1:29:45 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	Reading, paraphrasing. (Click on link for further comments.)
1:33:01 PM	Vice Chairman Chandler Note: Sacre, Candace	Please don't take any of my questions as a direction. (Click on link for further comments.)
1:33:12 PM	Camera Lock Comm Center Activated	
1:33:20 PM	Camera Lock Comm Wide Activated	
1:33:29 PM	Camera Lock Deactivated	
1:33:32 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	Words from this bench are taken seriously. (Click on link for further comments.)
1:33:58 PM	Commissioner Mathews Note: Sacre, Candace	At Commission 29 years ago yesterday, strongest influence from the gentleman for whom this room named. Orders. (Click on link for further comments.)
1:34:56 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	Just short of being directives from the Vice Chairman. (Click on link for further comments.)

1:35:43 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Page 17, third paragraph, reading from Order. (Click on link for further comments.) In this case, hydrants and service lines, stressed in this, what VC said, QIP for aging main and ancillary only to extent moving main and aging service lines, point out other part of order when read in totality, misalignment of view.
1:38:49 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	Not disagree with reasonableness of interpretation. As said in data response, wiith all due respect, think Commission when limited asset classes got it wrong. (Click on link for further comments.)
1:39:17 PM	Chairman Schmitt Note: Sacre, Candace	Entitled to ask to reconsider, move on.
1:39:37 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Examination. 1-59 \$18-21 million total QIP projects, \$12-14 million category B, rest \$6-7-8 million other categories?
1:40:29 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill \$7 million, fair, outer years '21, '22, '23, 1-59, non-B categories, total recurring projects, see that?
1:41:02 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill 2022 \$18.57 million, pg 2 of 2?
1:41:25 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Difference \$4.5 million, pumps, etc. \$2.2 million, just call it \$7 million, total amount net of B?
1:41:56 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Company investing other \$6.8 million other categories?
1:42:07 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Recovering through QIP, rate base?
1:42:24 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Utility plant in service 2021 include QIP \$22 million?
1:42:40 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Plus additional \$6.8 million 2022 net of these are?
1:43:32 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill All of investment in addition to investment company intended to make from 2018 not recovered from QIP?
1:44:29 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Company testimony overall capital plan not changed, still approximately \$30 million a year?
1:44:52 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Annual reports, 2013, end of year utility plant in service \$614 million, each year additions, average 2013-2018 of \$26.2 million?
1:45:52 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Average over six time periods, should balance out?
1:46:07 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill \$26 million increase plant in service, investment in capital \$30 million going forward, where \$6-10 million dollar incremental amount coming from?
1:48:41 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill Utility plant in service additions year to year \$26.2 million, capital spend overall \$30 million, where missing \$6-10 million main replacement? Company not spending as much on ancillary non-main investments, where am I missing different \$6-10 million incremental over previous years?
1:50:41 PM	Vice Chairman Chandler - witness Note: Sacre, Candace	O'Neill AG 1-59 2018 rate case, this case proposed \$19.5 for B category?

1:51:11 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Attributable to both increases in costs concerns and acceleration from 25 to 20 years?
1:52:10 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Exhibit in 2018 rate case, do you have that exhibit, Exhibit 2, page 16?
1:52:58 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	This exhibit primary basis of support for proposed QIP?
1:53:43 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Laid out needs, for company and customers?
1:53:56 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Proposed for replacement plan?
1:54:05 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Possible replacement rates for cast iron 15, 20, 25, and 30?
1:54:13 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Miles replaced per year, cost per year in millions?
1:54:21 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	All about mains?
1:54:29 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Category B mains?
1:54:38 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Discuss below different year periods?
1:54:52 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Second paragraph, reading. (Click on link for further comments.) Long way of saying concern about cost?
1:55:53 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	May be case, but not what report discusses?
1:56:17 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Appreciate context not provided at all in this document?
1:56:30 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Cost concern, rate concern accelerated replacement of mains?
1:57:08 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	What has changed in terms of being careful about that if capital spending identical whether Category B included in QIP?
1:58:14 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Next sentence, reading. (Click on link for further comments.) Realized not a concern, or alleviated in other ways?
1:59:06 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Lot of context not here at all as relates to aging mains and accelerated replacement of those?
1:59:51 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Appreciate not just company's concerns but Commission's concerns?
2:00:22 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Ms. Vinsel asked about section follows section discussing right after conclusion and appendix, maps and lists for one through five, said illustrative, you agree with that?
2:02:10 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Interested additional context how first five years relate section titled proposed accelerated replacement plan, were those first five years at that that point?
2:03:08 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Maps did, first five years, had indication areas of Lexington projects completed?

2:03:35 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	How not play into your calculation of expected costs per linear foot knowing fairly detailed where in Lexington would be, how not know more expensive to replace?
2:04:55 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Created report in 2018, discussion earlier representative projects \$220 per linear foot?
2:06:19 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	Projects account for \$222.84 linear foot average representative projects expected over next few years in QIP?
2:06:56 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	Stafford answer 2018 rate case, created in '17 and '18, representative projects, KAW currently pricing \$250 linear foot when factors taken into account, '18 and '19 well over \$300?
2:08:22 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Want to make sure not playing catch-up and using outdated numbers, did that in 2018 case where \$150 basis, now it's \$250, but really \$222, over last '18-19 period now \$341.82, what basis depend upon that \$250 actually representative and not linear cost over \$250?
2:10:26 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Who talk to how accounting taken care of annual updates, return that you're discussing?
2:10:56 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	Commission approved for QIP in rate case and reflected in tariff reconciliation.
2:11:25 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	Response brings me to issue with Lexington, who having discussions with LFUCG on paving issue required after construction, timing, working with them reduce cost of fixing areas after replacement?
2:12:54 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Understand interest Lexington has in the rates of Kentucky-American water over the last several years?
2:13:56 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Lexington, as a city, interest in KAW rates, participate and intervene in rate cases, significant driver of costs, understand level and discussions occurring, majority recovered from consumers?
2:14:52 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	Why use smaller pool of contractors for QIP 1?
2:15:42 PM	Vice Chairman Chandler - witness O'Neill Note: Sacre, Candace	Half-year QIP in rate case?
2:15:56 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	Had cases in test year, end of test year QIP starts, three contractors?
2:16:10 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	QIP 2 12 contractors?
2:16:17 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	How many individual organizations sent RFPs for specific projects?
2:16:47 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	Why not?
2:17:08 PM	Vice Chairman Chandler - witness Citron Note: Sacre, Candace	Reverse economic withholding, have contractors may or may not have resources, but not asking can do QIP and something else, only sending out to selected people?

2:17:47 PM Vice Chairman Chandler - witness Citron
Note: Sacre, Candace What basis only sending to four contractors?

2:18:19 PM Vice Chairman Chandler - witness Citron
Note: Sacre, Candace How you know at capacity?

2:18:33 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Said put out bids to maybe four contractors, why four and not 12?

2:19:47 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Master service agreement require respond?

2:19:59 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace If too busy, why would they respond?

2:21:22 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Where Kentucky-American thinks has knowledge/part of expectation pick and choose contractors based on benefit of contractors?

2:22:07 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Costs going \$150 to \$220 to \$341, is that successful?

2:22:52 PM Commissioner Mathews - witness O'Neill
Note: Sacre, Candace Examination. Some knowledge of who successful, who is not, scoring process, people submit bids, use in scoring criteria, not closing door?

2:23:38 PM Commissioner Mathews - witness O'Neill
Note: Sacre, Candace Had sent 12, get six back, other way only got four, more competition drives down costs?

2:25:05 PM Commissioner Mathews - witness Citron
Note: Sacre, Candace Response to 3-3, who invited to utility coordination meetings, who actually attended from Kentucky-American?

2:25:36 PM Vice Chairman Chandler - witness Citron
Note: Sacre, Candace Examination. Post-hearing data request, years invited, folks from KAW actually attended.

2:25:38 PM POST-HEARING DATA REQUEST
Note: Sacre, Candace VICE CHAIRMAN CHANDLER - WITNESS CITRON
Note: Sacre, Candace KAW STAFF INVITED/ATTENDING MEETINGS WITH LFUCG

2:25:50 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Examination. Questions how capital allocated in budget to Kentucky-American from American Water, question for Mr. Rowe?

2:27:24 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Proposing accelerated replacement 25 to 20 years, all categories still anticipated, where additional capital come from?

2:28:20 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace \$6 million in addition to the \$23-24 or \$30?

2:28:30 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Doesn't add up. \$30 anticipated in proposal in 2018 rate case?

2:28:40 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Increased B category from \$14 to \$20, additional \$6 million dollars, still at \$30 or now at \$36?

2:29:32 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Increase in Category B other projects displaced?

2:29:54 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace Not plan in 2018?

2:30:10 PM Vice Chairman Chandler - witness O'Neill
Note: Sacre, Candace What \$6 million moved, deferred, done earlier, done later, how propose additional \$6 million in B and what changed to believe possible?

2:31:12 PM POST-HEARING DATA REQUEST
Note: Sacre, Candace VICE CHAIRMAN CHANDLER - WITNESS O'NEILL

Note: Sacre, Candace FROM WHEN QIP PROPOSED FOR CAPITAL SPENDING TO NOW,
HOW ACCELERATION AFFECTS CAPITAL SPENDING

2:31:47 PM Chairman Schmitt
Note: Sacre, Candace Mr. Ingram?

2:31:59 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Redirect Examination. Page 24, Direct Testimony, rate case, single question, asset categories QIP?

2:32:42 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace List side variety of categories?

2:32:48 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Not limited to just mains?

2:32:54 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Focused on one of exhibits, QIP went well beyond mains?

2:33:16 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Reviewed Tariff Sheets 48 and 49 reviewed?

2:33:26 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Specifically dedicated to QIP?

2:33:33 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Describe assets approved by Commission?

2:33:43 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Consistent with answer here?

2:33:50 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace AG opposed QIP on a number of bases?

2:33:54 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace One of arguments against QIP asset classes too broad?

2:34:12 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Commission reject in rate case order on pg 81?

2:34:35 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace In May 2020, first QIP case?

2:34:43 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace First time KAW understanding Commission having second thoughts how broad classes ought to be in QIP program?

2:35:02 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Stafford Exhibit 1 in this case, correct?

2:35:49 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Total QIP Investment, 2021 proposed \$18 million?

2:36:03 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace For 2022 \$20.8 million?

2:36:08 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace For 2023 \$19.5 million?

2:36:12 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace All line items above totals include recurring projects and investment projects?

2:36:21 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Recurring B through O and investment projects?

2:36:34 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Segment for investment projects?

2:36:38 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Are these budget line items, also referred to asset classes?

2:36:57 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Same asset classes approved in rate case and in tariff?

2:37:16 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace QIP 1 case, Commission scaled back on asset classes approved for QIP?

2:37:29 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Commission Order, QIP 1 case, Pg 15, critical of Kentucky-American proposed spend, 60 percent on mains and 40 percent on asset classes other than mains?

2:37:50 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Total spend in this case consistent with QIP budget numbers described in rate case?

2:38:09 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Kentucky-American following VC comments to focus more on mains?

2:38:47 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace PSC 1-10, this case

2:39:14 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Question asked for how projects identified in prioritization model?

2:39:30 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Complicated Excel file prioritization?

2:39:41 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Attaching to data response very simple?

2:39:52 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Eight criteria KAW uses to rank projects?

2:40:09 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Criteria provided in this docket in this case but created prior?

2:40:21 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Chart shows weight given to eight criteria in KAW model?

2:40:33 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace LFUCG restoration costs, participation in KAW rate cases?

2:40:53 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace LFUCG interest in making sure roads well paved?

2:41:05 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Keeping rates down?

2:41:09 PM Atty Ingram Kentucky-American - witness O'Neill
Note: Sacre, Candace Two interests, exist at same time?

2:41:30 PM Atty Ingram Kentucky-American - witness Citron?
Note: Sacre, Candace Redirect Examination. QIP projects stand?

2:41:47 PM Atty Ingram Kentucky-American - witness Citron
Note: Sacre, Candace Spend on QIP 1?

2:42:00 PM Atty Ingram Kentucky-American - witness Citron
Note: Sacre, Candace How much spent to date?

2:42:25 PM Atty Ingram Kentucky-American - witness Citron
Note: Sacre, Candace \$8.3 million QIP 1 how much placed in service end of year?

2:42:46 PM Atty Ingram Kentucky-American - witness Citron
Note: Sacre, Candace Time lag spends and time placed in service?

2:43:02 PM Atty Ingram Kentucky-American - witness Citron
Note: Sacre, Candace Factors?

2:43:31 PM Atty Ingram Kentucky-American - witness Citron
Note: Sacre, Candace All seven QIP projects in service and useful end of year?

2:44:17 PM Asst Gen Counsel Vinsel PSC
Note: Sacre, Candace Move admission of PSC Exhibits 1 and 2.

2:44:21 PM Asst Gen Counsel Vinsel PSC - witness Citron
Note: Sacre, Candace Recross Examination. Pavement restoration not bid separately, part of bids for each project?

2:44:21 PM Chairman Schmitt
Note: Sacre, Candace Sustained.

2:44:24 PM PSC EXHIBIT 1
Note: Sacre, Candace ASST GEN COUNSEL VINSEL PSC - WITNESS O'NEILL

2:44:33 PM	Note: Sacre, Candace PSC EXHIBIT 2	LFUCG ORDINANCE NO. 18-2019
	Note: Sacre, Candace	ASST GEN COUNSEL VINSEL PSC - WITNESS O'NEILL
	Note: Sacre, Candace	LFUCG ORDINANCE NO. 144-2017
2:45:18 PM	Chairman Schmitt - witness Citron	
	Note: Sacre, Candace	Examination. Who pays Lexington?
2:45:53 PM	Vice Chairman Chandler - witness Citron	
	Note: Sacre, Candace	Examination. Is Lexington aware and to what degree that restoration efforts are driving cost increases?
2:46:11 PM	Atty Ingram Kentucky-American	
	Note: Sacre, Candace	Not objecting as long as witnesses understand asking them to speak as to what LFUCG understanding is.
2:46:20 PM	Vice Chairman Chandler - witness Citron	
	Note: Sacre, Candace	What discussions aware that KAW conveyed to Lexington, what information conveyed purported impact direct result of restoration costs?
2:47:46 PM	Vice Chairman Chandler - witness O'Neill	
	Note: Sacre, Candace	Working on reducing expenses, Kentucky-American this is what restoration costs anticipated to be?
2:48:47 PM	Vice Chairman Chandler - witness Citron	
	Note: Sacre, Candace	Want to make sure information being conveyed to City of Lexington?
2:49:11 PM	Chairman Schmitt - witness Citron	
	Note: Sacre, Candace	Examination. Contractor bear risk in increase to restore pavement?
2:49:41 PM	Chairman Schmitt - witness Citron	
	Note: Sacre, Candace	Usually granted?
2:49:50 PM	Chairman Schmitt	
	Note: Sacre, Candace	Witnesses excused.
2:50:03 PM	Chairman Schmitt	
	Note: Sacre, Candace	Break until 3 pm.
2:50:11 PM	Session Paused	
3:06:02 PM	Session Resumed	
3:06:09 PM	Chairman Schmitt	
	Note: Sacre, Candace	Back on record. Another witness?
3:06:18 PM	Atty Ingram Kentucky-American	
	Note: Sacre, Candace	Todd Wright.
3:06:24 PM	Chairman Schmitt	
	Note: Sacre, Candace	Witness is sworn.
3:06:35 PM	Atty Ingram Kentucky-American - witness Wright	
	Note: Sacre, Candace	Direct Examination. Not originally file testimony?
3:06:49 PM	Atty Ingram Kentucky-American - witness Wright	
	Note: Sacre, Candace	Adopted testimony filed by Chambers?
3:06:57 PM	Atty Ingram Kentucky-American - witness Wright	
	Note: Sacre, Candace	Adopted data responses sponsored by Chambers?
3:07:14 PM	Atty Ingram Kentucky-American - witness Wright	
	Note: Sacre, Candace	Identified as witnesses after Chambers filed?
3:07:21 PM	Atty Ingram Kentucky-American - witness Wright	
	Note: Sacre, Candace	Corrections?
3:07:41 PM	Asst Gen Counsel Vinsel PSC - witness Wright	
	Note: Sacre, Candace	Cross Examination. Delay in completing QIP 1 projects, KAW still earning return all QIP projects as if placed in service day one QIP 1 year June 1, 2020?
3:08:24 PM	Asst Gen Counsel Vinsel PSC - witness Wright	
	Note: Sacre, Candace	Explain why not more appropriate base QIP rider charge on 13-month average rather than end of year project cost?

3:09:50 PM	Asst Gen Counsel Vinsel PSC - witness Wright Note: Sacre, Candace	Mentioned certain costs not being recovered, QIP related costs not being recovered now?
3:10:26 PM	Asst Gen Counsel Vinsel PSC - witness Wright Note: Sacre, Candace	QIP plant?
3:10:32 PM	Asst Gen Counsel Vinsel PSC - witness Wright Note: Sacre, Candace	How much would be QIP plant?
3:10:48 PM	Asst Gen Counsel Vinsel PSC - witness Wright Note: Sacre, Candace	Plant included in QIP 1 projects approved in 2020-00027, not recovering costs for these projects?
3:11:30 PM	Asst Gen Counsel Vinsel PSC - witness Wright Note: Sacre, Candace	Not projects part of QIP 1?
3:11:36 PM	Asst Gen Counsel Vinsel PSC - witness Wright Note: Sacre, Candace	All QIP project costs being recovered in QIP?
3:12:02 PM	Asst Gen Counsel Vinsel PSC - witness Wright Note: Sacre, Candace	What be impact if Commission determine 13-month average than end of year?
3:12:48 PM	Asst Gen Counsel Vinsel PSC Note: Sacre, Candace	Post-hearing data request impact on QIP 2 13-month average than end-of-year project cost.
3:12:50 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST GEN COUNSEL VINSEL PSC - WITNESS WRIGHT IMPACT ON QIP 2 13-MONTH AVERAGE RATHER THAN END-OF-YEAR PROJECT COST
3:13:08 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	Examination. What about using 13-month average causes company not earn authorized return?
3:13:38 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	What about using 13-month average in lieu of ending balance has that affect?
3:14:10 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	Able earn authorized return using 13-month average in QIP?
3:14:42 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	Not purpose of QIP?
3:14:47 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	What saying using ending balance over-earn approved ROE helpful in offset of costs not accounted for in base rates?
3:15:05 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	Does QIP use CWIP or AFUDC in calculation of rates?
3:15:31 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	If QIP approved for \$10 million and only \$5 million invested in given year, reconciliation end of year, amount under spent or over spent, \$5 million not invested returned for reconciliation?
3:16:25 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	If accumulate AFUDC on \$10 million expectation any balance and only invested \$5, acculated too much AFUDC during time period?
3:17:04 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	Already accounted for in base rates?
3:17:16 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	New investment would accumulate own in QIP?
3:17:34 PM	Vice Chairman Chandler - witness Wright Note: Sacre, Candace	Appropriate earn return on investment company never actually makes?
3:17:49 PM	Chairman Schmitt Note: Sacre, Candace	Witness excused.

3:17:58 PM	Chairman Schmitt Note: Sacre, Candace	Mr. Ingram?
3:18:07 PM	Atty Ingram Kentucky-American Note: Sacre, Candace	Nick Rowe.
3:18:10 PM	Chairman Schmitt Note: Sacre, Candace	Witness is sworn.
3:18:15 PM	Atty Ingram Kentucky-American - witness Rowe Note: Sacre, Candace	Direct Examination. Not filed testimony?
3:18:23 PM	Atty Ingram Kentucky-American - witness Rowe Note: Sacre, Candace	Not been sponsoring witness on data responses?
3:18:32 PM	Atty Ingram Kentucky-American - witness Rowe Note: Sacre, Candace	Commission asked you to be here?
3:18:40 PM	Staff Atty Fries PSC - witness Rowe Note: Sacre, Candace	Cross Examination. Contractor process, how long Kentucky-American worked with preapproved list of contractors?
3:19:29 PM	Staff Atty Fries PSC - witness Rowe Note: Sacre, Candace	Company Reponse to DR 2 Response 14, Kentucky-American feels decision in 2020-00027 too narrow, rejected ancillary classes of assets, point to where in application Kentucky-American requests revisit decision?
3:23:12 PM	Staff Atty Fries PSC - witness Rowe Note: Sacre, Candace	Order did not preclude asking in future for recovery of items?
3:24:44 PM	Staff Atty Fries PSC - witness Rowe Note: Sacre, Candace	Generallly, what improvements system reliability Kentucky-American expect to see projects proposed in QIP 2?
3:26:27 PM	Staff Atty Fries PSC - witness Rowe Note: Sacre, Candace	Any conversations about general idea of water loss reduction in line breaks?
3:26:55 PM	Staff Atty Fries PSC - witness Rowe Note: Sacre, Candace	Benefits stakeholders receive from having authorized QIP?
3:28:26 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Examination. \$24 million capital investment, neighborhood \$30 million moving forward?
3:29:04 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Note addition of QIP anticipate spending additional \$6-10 million, primary portion seeing O'Neill's accelerated replacement of aging mains?
3:29:17 PM	Camera Lock Comm Wide Activated	
3:29:29 PM	Camera Lock Deactivated	
3:29:38 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	2022 estimated numbers, of \$21 million proposed QIP spending, \$14 million on Category B?
3:30:23 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Capital attraction, capital allocation, seems proposal for capital planning aggregate level has not changed, business as usual, at level planned to be, of that seems bigger portion going from \$14 to \$20 million now to Category Bs, things pulled forward or pulled back, deferred, how able increase investment in mains by \$6 million?
3:33:40 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Confusing part, give and take is tough to understand, dynamic issue, projects \$20 million in 2022, meters, laterals, boosters, needed in 2022?

3:35:30 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	By definition, overall amount being invested not changing, money putting in mains, some projects somewhere being displaced?
3:36:30 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Ask in data request, displaced, pulled forward, not invested during that calendar year, these can wait three more years, aggregate amount not increase, just allocated differently?
3:36:31 PM	Camera Lock Comm Wide Activated	
3:37:00 PM	Camera Lock PTZ Activated	
3:37:03 PM	Camera Lock Deactivated	
3:37:11 PM	Camera Lock PTZ Activated	
3:37:15 PM	Camera Lock Deactivated	
3:37:16 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	VICE CHAIRMAN CHANDLER - WITNESS ROWE PROJECTS NOT INVESTED BUT ALLOCATED DIFFERENTLY
3:37:22 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	More being proposed put in mains, some related movement from 25 - to 20-year period, ask in post-hearing data request aggregate amount in capital expend estimated \$30 million, what happened other projects needed previously?
3:37:23 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	VICE CHAIRMAN CHANDLER - WITNESS ROWE STATUS OF OTHER PROJECTS NEEDED PREVIOUSLY
3:37:55 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	At time 2018 rate case, indicated to you with QIP have expectation of additional \$6-10 million in allocated capital speeding up replacing of aging mains?
3:39:34 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	O'Neill referring to proposed budgets, operating companies identify needs, sent on to see through those budgets?
3:41:23 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Send needs up when send total amount, internally driven list of needs, send number up?
3:41:28 PM	Camera Lock Comm Wide Activated	
3:41:43 PM	Camera Lock Deactivated	
3:42:28 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	After American Water makes decision, revised list of needs or a number and start prioritizing to see what you can do for that money?
3:43:09 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Identification of needs tangible document we can ask for how company looking at needs and requesting from American Water?
3:43:50 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	List of identified needs Stafford/O'Neill prepared not a specific document?
3:44:12 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Reply back, email or formal response?
3:44:24 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Since QIP come up, any intermediate identification additional capital discussed with you?
3:45:04 PM	Vice Chairman Chandler - witness Rowe Note: Sacre, Candace	Know have gotten additional off-budget allocations of capital?
3:45:59 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace	VICE CHAIRMAN CHANDLER - WITNESS ROWE

	Note: Sacre, Candace	IDENTIFICATION OF NEEDS/RESPONSE BACK/ADDITIONAL ALLOCATION
3:46:31 PM	Atty Ingram Kentucky-American - witness Rowe	
	Note: Sacre, Candace	Redirect Examination. Reviewed/familiar data responses in this case, able to pullup Data Response to 2-14?
3:47:27 PM	Atty Ingram Kentucky-American - witness Rowe	
	Note: Sacre, Candace	Asset classes proposed in this case, where in application in this case Kentucky-American asking for two asset classes excluded, answered where KAW believes appropriate to revisit, identified where Stafford asset classes proposed and why, pages 2-4, pg 8, and pgs 13-15, Asset Class F and H, sound consistent with your memory?
3:49:55 PM	Staff Atty Fries PSC - witness Rowe	
	Note: Sacre, Candace	Recross Examination. How much proposals Line F and H related to Line B and C proposals?
3:50:24 PM	Atty Ingram Kentucky-American	
	Note: Sacre, Candace	That's in a data response.
3:50:37 PM	Commissioner Mathews - witness Rowe	
	Note: Sacre, Candace	Examination. Better alignment between Commissioners and staff?
3:51:20 PM	Chairman Schmitt	
	Note: Sacre, Candace	Witness excused.
3:52:01 PM	Chairman Schmitt	
	Note: Sacre, Candace	Last witness?
3:52:03 PM	Atty Ingram Kentucky-American	
	Note: Sacre, Candace	Yes.
3:52:05 PM	Chairman Schmitt	
	Note: Sacre, Candace	Procedural and scheduling discussions. (Click on link for further comments.)
3:53:04 PM	Chairman Schmitt	
	Note: Sacre, Candace	Anything else?
3:53:11 PM	Chairman Schmitt	
	Note: Sacre, Candace	Hearing adjourned.
3:53:22 PM	Session Ended	



Exhibit List Report

2021-00090 02Jun2021

**Kentucky-American Water
Company (Kentucky-American)**

Name:	Description:
PSC Hearing Exhibit 1	LFUCG Ordinance No. 18-2019
PSC Hearing Exhibit 2	LFUCG Ordinance No. 144-2017

ORDINANCE NO. 18 -2019

AN ORDINANCE AMENDING SECTION 17C-3 OF THE CODE OF ORDINANCES TO AMEND THE DEFINITION OF "ANNUAL GENERAL PERMIT" AND "FACILITIES" AND INCLUDE DEFINITIONS FOR "COMMUNICATIONS FACILITY", "POLE", "SMALL WIRELESS FACILITIES", "SUPPORT STRUCTURE", "TOWER", "TOWN BRANCH COMMONS", "WIRELESS FACILITIES", AND "WIRELESS SERVICES"; AMENDING SECTION 17C-7(C) TO INCLUDE TOWERS AND SUPPORT STRUCTURES; AMENDING SECTION 17C-19(E) TO INCLUDE ADHERENCE TO THE DEVELOPMENT PLAN FOR TOWN BRANCH COMMONS AND AESTHETIC STANDARDS IN THE CRITERIA FOR OBTAINING INSTALLATION PERMITS; CREATING SECTION 17C-19.2 TO PROVIDE SAID AESTHETIC STANDARDS; AMENDING SECTION 17C-20 TO CHANGE THE TITLE AND INCLUDE TOWERS AND SUPPORT STRUCTURES; AMENDING SECTION 17C-21(1) TO INCLUDE TOWERS AND SUPPORT STRUCTURES; AMENDING SECTION 17C-22(B) TO LIMIT ANNUAL GENERAL PERMIT FEES FOR SMALL WIRELESS FACILITIES; AND CREATING SECTION 17C-29 TO INCLUDE THE STANDARDS FOR UNDERGROUND FACILITIES, ABOVEGROUND FACILITIES, CONSTRUCTION, AND RESTORATION IN THE TOWN BRANCH COMMONS.

WHEREAS, United States Code, Title 47, Section 332, provides that a local government may exercise control regarding the placement, construction, and modification of personal wireless service facilities, provided the local government does not unreasonably discriminate among providers of functionally equivalent services, and does not effectively prohibit the provision of personal wireless services;

WHEREAS, Urban County Governments may enact regulations for the health, education, safety, welfare and convenience of the inhabitants of the county;

WHEREAS, new personal wireless technology, including 5G, require substantial access to the public right-of-way;

WHEREAS, the Federal Communications Commission requires local governments to publish aesthetic standards for wireless services by or about April 13, 2019;

WHEREAS, to comply with the Federal Communications Commission's Order and to safely allow the roll-out of new wireless technologies for the enjoyment of residents and visitors of Lexington-Fayette County in such a way as to protect the public health and safety and to prevent visual blight in the public right-of-way, the Lexington-Fayette Urban County Government seeks to enact changes to Chapter 17C of the Code of Ordinances, including the implementation of aesthetic standards for all installations in the right-of-way;

WHEREAS, the Town Branch Commons will be, in part, an extensive trail project containing bioswales and water features that runs from Third Street &

Midland Avenue to Rupp Arena and is funded entirely through public resources;
and

WHEREAS, to provide a safe trail for residents and visitors to bicycle or walk in the downtown corridor; to protect the public's resources and the environmental landscape elements contained in Town Branch Commons; and to prevent visual blight in this special design area, the Lexington-Fayette Urban County Government seeks to enact an addition to Chapter 17C of the Code of Ordinances to include additional requirements and restrictions for above-ground and below-ground facilities, maintenance work, and restoration and maintenance in the right-of-way within Town Branch Commons.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 17C-3 of the Code of Ordinances, Definitions, be
and hereby is amended to read as follows:

The following definitions apply to this chapter. References herein to "sections" are, unless otherwise specified, references to sections of this chapter.

Annual general permit means a permit issued annually by the division to perform the following types of activities within the right-of-way in locations other than high density utility areas:

- (1) Installation or replacement of wiring on existing poles, towers, and support structures;
- (2) Repair, replacement or maintenance of existing above-ground facilities, including poles, towers, and support structures, in the same location with no street, curb, apron, or sidewalk cuts, provided any replacement facilities are not more than twenty (20) percent larger in size than the existing facilities;
- (3) Excavations of existing facilities of up to twenty-five (25) square feet with no street, curb, apron or sidewalk cuts, with the exception of subsections (4) and (5) immediately following;
- (4) Installation of new underground lines in trenches of less than two hundred fifty (250) linear feet with a width of six (6) inches or less and with no street, curb, apron or sidewalk cuts;
- (5) Installation of new underground lines in trenches of less than fifty (50) linear feet with a width of twenty-four (24) inches or less and with no street, curb, apron or sidewalk cuts;
- (6) Any underground boring, except borings larger than three (3) inches in diameter which are performed in locations under a street, curb, apron or sidewalk; or

(7) Any work performed inside existing conduits.

The annual general permit does not cover the installation of any facility that is not listed above. The permittee shall be required to provide daily notifications to the division as further provided in subsection 17C-21(a). Any activity with respect to facilities in the right-of-way that is not listed above or otherwise exempted under this chapter shall require that either an installation permit or surface cut permit, as appropriate, be obtained prior to performing the activity.

Communications Facility means, collectively, the equipment at a fixed location or locations within the public right-of-way that enables communication between user equipment and a communications network, including:

(1) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and

(2) all other equipment associated with the foregoing. The term does not include the pole, tower, or support structure to which the equipment is attached.

Council means the legislative body of the Lexington-Fayette Urban County Government.

Degradation means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

Director means the director of the government's division of engineering, or his designee, unless otherwise specified.

Division means the Lexington-Fayette Urban County Government's division of engineering.

Emergency means a situation when placement or maintenance of facilities is needed to be undertaken immediately because of a danger to human life or health or of significant damage to property, including but not limited to, unanticipated leaks interruptions or reductions in existing services, or other situations defined as being emergency or dangerous conditions pursuant to federal, state or local law. The installation of facilities that only serve to expand existing service or provide new service shall not be considered an emergency.

Excavate or excavation means to dig into or in any way remove or physically cut, disturb or penetrate any part of a right-of-way.

Facility or facilities means any tangible asset in the right-of-way, including but not limited to equipment and apparatus such as pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, pole, tower, or support structure, or ducts, required, necessary, used or useful in the provision of utility or other services.

Government means the Lexington-Fayette Urban County Government, an urban county government and political subdivision of the Commonwealth of Kentucky created pursuant to Chapter 67A of the Kentucky Revised Statutes.

Greenway means any area designated as a greenway in the comprehensive plan, as amended.

High density utility areas means geographic areas in which significant issues exist with respect to the location of facilities because of space or density issues in the right-of-way. The following geographic areas are currently identified as high density utility areas:

- (1) The area located inside and abutting to Third Street on the northeast, Midland Avenue and Rose Street on the south, Maxwell Street on the southwest and Cox Street and Newtown Pike on the northwest;
- (2) The area abutting Corporate Drive;

The council, through the adoption of a resolution or ordinance, may add or delete geographic areas that constitute high density utility areas upon the recommendation of the director. Prior to the consideration of change in the scope of the high density utility areas by the council, all registrants shall be notified by the government, and an attempt to reach a consensus on the scope of the change shall be made.

Installation permit means a permit issued by the division to perform any construction, installation, repair, replacement or maintenance of facilities in the right-of-way that is not covered by an annual general permit or a surface cut permit.

Lessee means a person who provides services within Fayette County solely by leasing facilities and who has no control over what or where or how any facilities are erected, installed, maintained, operated, repaired, removed, restored, or otherwise used.

Party or person means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

Pole means a utility, lighting, or similar pole made of wood, concrete, metal, or other material, located or to be located within a public right-of-way. The term does not include a Tower or Support Structure.

Public utility or utility means a party that is defined in KRS ch. 278 as a utility and (i) is subject to the jurisdiction of the Kentucky Public Service Commission, the FCC, or the Federal Energy Regulatory Commission, or (ii) is required to obtain a franchise from the government to use and occupy the right-of-way pursuant to Sections 163 and 164 of the Kentucky Constitution.

Registrant means any party filing a registration statement required by this chapter.

Reseller service provider means person who provides services within Fayette County solely by reselling services and who has no control over what, where or how any facilities are erected, installed, maintained, operated, repaired, removed, restored or otherwise used.

Right-of-way means the surface of and the space above and below a public roadway, highway, street, freeway, lane, path, sidewalk, alley, court, boulevard, avenue, parkway, cartway, bicycle lane or path, public sidewalk, or easement held by the government for the purpose of public travel and shall include rights-of-way as shall be now held or hereafter held by the government. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service. The right-of-way shall not include greenways, and the ability to install facilities in a greenway shall require separate approval pursuant to the appropriate governmental legislation or regulation.

Small Wireless Facilities are Wireless Facilities that meet each of the following conditions:

- (1) The facilities are mounted on poles, towers, or support structures fifty-five (55) feet or less in height including their antennas;

- (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any associated equipment on the structure, including collations, is no more than fifteen (15) cubic feet in volume, cumulatively. The following types of associated, ancillary equipment are not included in the calculation of equipment volume: electric meter, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for connection of power and other services;
- (4) The facilities do not require antenna structure registration under federal law;
- (5) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards provided in federal law; and
- (6) Small Wireless Facilities do not include poles, towers, or support structures.

Support Structure means a structure in the public right-of-way other than a Pole or a Tower to which a Wireless Facility is attached at the time of the application for an installation permit.

Surface cut permit means a permit issued by the division to excavate, dig or cut into and through a paved street surface within the rights-of-way or to bore, dig or tunnel under such a paved street surface except as authorized by an annual general permit.

Tariff means the internal regulations or guidelines of the utility industry as promulgated or adopted by the Kentucky Public Service Commission or the Federal Communications Commission.

Tower means any structure in the public right-of-way built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

Town Branch Commons includes:

- (1) The portion of multi-use path that runs from West Main Street (US 25) at Tucker Street to the slip lane at the northwest corner of Triangle Park, via the southern side of West Vine Street.
- (2) The bicycle facility and pedestrian path from the southern side of West Main Street (US 25) at the northwest corner of Triangle Park via the southern side of West Vine Street, crossing to the north side of West and East Vine Street (US 25) at Broadway for the full length of Vine Street until Vine Street intersects with Main Street.
- (3) The multi-use path from the northwest corner of Main Street and Vine Street to the corner of East Third Street, via the western side of Midland Avenue (US 60).

Wireless Facility means a Communications Facility that enables Wireless Services, but does not include: (i) the Support Structure, Tower, or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one example of a Wireless Facility.

Wireless Services means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Section 2 – That Section 17C-7(c) of the Code of Ordinances be and hereby is amended to read as follows:

(c) Duty to maintain all property in right-of-way. All parties subject to this chapter must maintain all of their facilities located in the right-of-way in a manner that promotes the public safety. By way of example, but not limitation, all facilities, including but not limited to poles, towers, support structures, and manholes, must be maintained in a safe condition at all times. In the event any facility in the right-of-way is endangering the public safety, the party responsible for such facility shall take steps to rectify the situation immediately upon notification and in accordance with section 17C-15.

Section 3 – That Section 17C-19(e) of the Code of Ordinances be and hereby is amended to read as follows:

(e) *Installation.*

(1) *Definition.* For purposes of this section, the term "install", "installed" or "installation" shall mean placement of new facilities within the rights-of-way, including the replacement of existing facilities not covered under an annual general permit and the installation and collocation of Small Wireless Facilities. An installation requires the issuance of an installation permit or surface cut permit.

(2) *Procedure.* The director shall notify the applicant if the director determines that a facility may not be installed as requested by the applicant. Upon determining that a facility may not be installed as requested, the director shall provide written notice to the applicant as early as practicable and in conformity with any specific applicable notice requirement. The notice shall contain a description of the area affected as well as the reason for the director's determination. The director may issue a permit that is contingent upon certain condition(s) being fulfilled with respect to the criteria contained below.

(3) *Criteria.* A decision by the government to deny an installation permit or surface cut permit application must be based on at least one (1) of the following criteria:

a. It significantly conflicts with the location of existing facilities or facilities that are planned or permitted for installation, or government improvements or facilities that are planned in that area;

b. It significantly conflicts with the timing of other ongoing activity taking place in the same area of the right-of-way, or with a previously scheduled activity;

c. It conflicts with the planned grading, re-grading, construction, reconstruction, widening or altering of any right-of-way or the construction, reconstruction, repair, maintenance or alteration of a public improvement, including, but not limited to, storm sewers, sanitary sewers and street lights;

- d. It conflicts with an approved development plan in that geographic area that requires all or certain types of facilities to be located in certain locations, areas, or parts of the rights-of-way, including in the Town Branch Commons corridor, or is located in a high density utility area;
- e. It is an above-ground facility other than a fire hydrant or other government-owned facility, that because of its size presents significant public safety concerns or violates guidelines or procedures pertaining to aesthetics found in section 17C-19.2 or as otherwise duly authorized by Council or the Director.
- f. It fails to take reasonable measures to disguise or cover the facility as required by the government pursuant to guidelines or procedures pertaining to aesthetics found in section 17C-19.2 or as otherwise duly authorized by Council or the Director.
- g. It conflicts with a requirement contained in the applicant's franchise agreement;
- h. It is located in a type of right-of-way, such as a bicycle lane or path, in which the government has made a determination that facilities are not to be installed;
- i. It would threaten public health, safety, or welfare or otherwise constitute a violation of the provisions of this chapter; or
- j. The applicant is not otherwise in material compliance with the provisions of this chapter.

(4) *Reservation of rights.* Notwithstanding any other provision in this chapter, the government specifically reserves the right to order the removal or relocation of any facility installed after the effective date of this chapter, at no cost to the government, for which an installation permit or surface cut permit was not obtained.

(5) *Preclusion on cutting newly paved surfaces.* If any street is about to be resurfaced by the government, on advance written notice from the director pursuant to section 17C-18(c), the registrant shall make any extensions, changes, or installations of or to its facilities ahead of such activity. Registrant shall notify director by July 15 of its desire to perform such extensions, changes, or installations, and may be allowed up to ninety (90) additional days to complete the work. If any street is about to be constructed, reconstructed, widened, altered, or paved by the government, upon receipt of final plans from the director, the registrant shall make any extensions, changes, or installations of or to its facilities ahead of such activity. Depending on the amount of such extensions, changes, or installations to be performed, the registrant may be allowed up to one hundred twenty (120) days to complete the work. If the registrant fails to do such extensions, changes, or installations, it shall be precluded for a period of one (1) year from disturbing such paving without the express permission of the director. The director shall only grant such permission upon a sufficient showing by the registrant that undue hardship would be caused if the registrant were not allowed to disturb the pavement and that it shall satisfactorily comply with all other relevant provisions of this chapter, including the requirements contained in section 17C-24(a) pertaining to resurfacing.

Section 4 – That Section 17C-19.2, Aesthetic Standards, be and hereby is created to read as follows:

Unless otherwise approved by the Lexington-Fayette Urban County Government in order to prevent an effective prohibition of service in accordance with federal regulations, as applicable, no person shall locate or maintain a Facility, Pole, Tower, or Support Structure, except in accordance with the following design standards:

1. All Facilities shall be located and designed so as to minimize visual impact on surrounding properties and from public rights-of-way.

2. All new or replacement Poles, Towers, or Support Structures placed in the right-of-way shall be the same color, shape, material, and general height as those existing Poles or Towers adjacent to the location of the new or replacement Pole, Tower, or Support Structure.

3. All coaxial, fiber-optic, or other cabling and wires shall be contained inside any new or replacement Tower, Pole, or other Support Structure. On existing Poles or Support Structures, or new wooden Poles, where it is impossible to place wiring inside the Pole or Support Structure, all coaxial, fiber-optic, or other cabling and wires shall be flush-mounted and covered with a metal, plastic, or similar material matching the color of the Pole or Support Structure. All coaxial, fiber-optic, or other cabling and wires shall be contained inside any new Tower or Pole placed in the right-of-way.

4. No Tower shall be placed in the right-of-way within two hundred fifty (250) feet on the same street of an existing Tower. Replacing an existing Tower with a Tower, or a lighted pole with another lighted Pole housing Wireless Facilities, in the same location shall not violate this provision.

5. All new Towers and Poles should be located on the same side of the street as existing Towers, Poles, or Support Structures. However, this does not preclude an applicant from locating its wireless facilities on existing lighted Poles under a decommissioning agreement in which the applicant takes ownership of the lighted Pole.

6. The centerline of any new Pole or Tower shall be aligned with the centerline of adjacent Poles or Trees, unless the new structure's height conflicts with overhead power utility lines. Replacing an existing Pole, Support Structure, or Tower with another Pole, Support Structure, or Tower in the same location shall not violate this provision.

7. All new Poles, Towers, or Facilities proposed to be fronting a dwelling shall be placed on property lines, unless it would obstruct sight distance at driveways or other accesses to roadways. In those instances where placement of a new Pole or Tower, or Facilities on the property line would obstruct sight distance, the Pole or Tower, or Facilities shall be placed in such a location as to prevent the obstruction of sight distance at driveways or other accesses to roadways. Replacing an existing Pole, Support Structure, Tower or Facility with a Pole, Support Structure, Tower, or Facility in the same location shall not violate this provision.

8. New Poles, Towers, or Facilities shall not be placed in front of store front windows, walkways, entrances or exits, or in such a way that would impede deliveries. Replacing an existing Pole, Support Structure, Tower, or Facility with a Pole, Support Structure, Tower, or Facility in the same location shall not violate this provision.

9. No new Poles or Towers shall be placed in front of driveways, entrances, or walkways. Replacing an existing Pole, Support Structure, or Tower with a Pole, Support Structure, or Tower in the same location shall not violate this provision.

10. No applicant shall locate or maintain a Pole, Support Structure, Tower, or equipment associated with a Wireless Facility, as to interfere with the health of a tree.

11. In areas where the undergrounding of utilities has occurred but lighted Poles are present, the applicant shall locate its Wireless Facilities on existing lighted poles or seek to decommission the lighted Pole to replace it with a lighted Pole to house its Wireless Facilities.

12. If the applicant elects to decommission an existing lighted Pole in order to install a Wireless Facility in its location, the applicant shall comply with chapter 17C, including these aesthetic standards, and any decommissioning agreement between the applicant, the Lexington-Fayette Urban County Government, and Kentucky Utilities, or its equivalent.

13. In those locations where the undergrounding of utilities has occurred, all Facilities shall be placed underground.

14. No equipment associated with any facility shall impede, obstruct, or hinder ADA access, or pedestrian or vehicular access, or block driveways, entrances, or walkways. The installation of new ground furniture is prohibited.

15. To protect the health and safety of the public from the harms of noise pollution, all facilities shall have a low noise profile.

16. Within twenty-one (21) calendar days from the date the operator receives notice thereof, operator shall remove all graffiti on any of its facilities located in the right-of-way.

17. All Facilities, Poles, Towers, and Support Structures shall comply with such additional design standards as may be set forth in any written policies or guidelines issued by the Lexington-Fayette Urban County Division of Engineering.

Section 5 – That Section 17C-20, Utility poles, be and hereby is retitled as “Poles, Towers, and Support Structures” and amended to read as follows:

(a) To the extent possible, registrants shall use existing poles, towers, support structures, and conduit existing at the time of permitting in installing their facilities.

(b) All poles, towers, support structures, or wire holding structures are subject to any applicable, duly adopted regulations regarding location, height, type, or other pertinent aspect, including those found in 17C-19.2.

(c) All transmission and distribution structures, poles, towers, support structures, and other lines and equipment installed or erected by registrant under this chapter shall be located so as to minimize any interference with the proper use of the right-of-way with the rights and reasonable convenience of property owners whose property adjoins or abuts any affected right-of-way. Subject to applicable codes, overhead drops shall be as close as possible to other utility drops in order to concentrate the drops in as small an area as

possible to minimize visual clutter and interference with the use of private property.

Section 6 – That Section 17C-21(1) of the Code of Ordinances be and hereby is amended to read as follows:

(1) An annual general permit shall be obtained at the time of the submission of the registration statement or immediately upon the registrant or the division determining that the registrant is performing activity within the right-of-way that requires the issuance of such a permit. Each time that a registrant is performing any of the activities listed below, it shall provide the government notification via the government's website. Any work performed without proper notification shall constitute work being done without a permit, and as such subject to the levy of fines.

- a. Installation or replacement of wiring on existing towers, support structures, or poles when the work (a) necessitates presence in the right-of-way for more than one (1) day or (b) involves more than one thousand (1,000) line feet of cable or wire;
- b. Replacement of existing towers, support structures, or poles when the work (a) necessitates presence in the right-of-way for more than two (2) days or (b) involves more than one thousand (1,000) line feet of cable or wire;
- c. Excavations of existing facilities from ten (10) to twenty-five (25) square feet with no street or sidewalk cuts;
- d. Installation of new underground lines in trenches of less than two hundred fifty (250) linear feet with a width of six (6) inches or less and with no street, curb, apron or sidewalk cuts;
- e. Installation of new underground lines in trenches of fifty (50) linear feet or less with a width of twenty-four (24) inches or less and with no street, curb, apron or sidewalk cuts;
- f. An underground boring larger than three (3) inches in diameter; or
- g. Any underground boring located under a paved street.

Any other activity performed pursuant to an annual general permit need not be reported to the government unless otherwise required under this chapter. The notification shall consist of, at a minimum, the name of the registrant, a general description of the location (by address(es) or street(s)) and the nature or type of the activity performed (e.g. installation of wiring, boring, tower/support structure/pole replacement, etc). In the event that the notification cannot be provided to the government's website said notification may be provided in writing via e-mail or facsimile transmission.

Section 7 - That Section 17C-22(b) of the Code of Ordinances be and hereby is amended to read as follows:

(b) *Annual general permit.* Unless otherwise prohibited by law, or otherwise exempted, each registrant that occupies the right-of-way shall obtain an annual general permit. The type of annual general permit that the registrant shall be required to obtain shall be based upon the level of both documented and undocumented maintenance and repair activities the registrant would be anticipated to perform within the rights-of-way; and, as a corollary for such, the

extent to which the registrant's facilities occupied the rights-of-way as it existed at the end of the preceding calendar year. The extent of occupation of the registrant's facilities shall be determined by measuring the enclosed surface of the registrant's existing service area as defined by mapping provided annually by the registrant. Registrants with facilities occupying eighteen thousand two hundred seventy-six and three-tenths (18,276.30) acres, the equivalent of ten (10) percent of the area of Fayette County, or less shall pay an annual fee of three thousand dollars (\$3,000.00) in order to obtain a Type I annual general permit. Registrants with facilities occupying more than eighteen thousand two hundred seventy-six and three-tenths (18,276.30) acres, the equivalent of more than ten (10) percent of the area of Fayette County, shall pay an annual fee of fifteen thousand dollars (\$15,000.00) in order to obtain a Type II annual general permit. Any registrant, as determined by the government, with facilities occupying less than one hundred eighty-two and seventy-six one hundredths (182.76) acres, the equivalent of less than one tenth of one (0.10) percent of the area of Fayette County, shall be, if so requested, exempt from obtaining an annual general permit and shall only be required to pay a registration fee annually. Any registrant exempted from obtaining an annual general permit shall be required to obtain either a surface cut permit or an installation permit for each and every occupation of the right-of-way regardless of the scope of the occupation. Facility installation by a non-registrant for a property owner pursuant to a contractual agreement shall not require possession of an annual general permit by either the non-registrant contractor or the property owner.

It is the intent of the government that its permit fees shall be in compliance with the applicable federal law or regulation as it may be amended from time to time. The annual fee for the annual general permit shall be no greater than the annual fees presumed reasonable by the Federal Communications Commission, per Small Wireless Facility installed during the applicable calendar year. The Government reserves the right to require payment of the full amount if the results of a cost study, or similar administrative review, show that the additional cost is necessary to recoup the costs of maintaining the ROW, maintaining the structures within the ROW, and the administrative costs associated with the issuance and regulation of annual general permits and the activities allowed by the permits, or the federal regulations relating to the "reasonable" governmental fees for small wireless facilities are amended by the federal government or invalidated by a valid Court order.

Section 8 – That Section 17C-29, Town Branch Commons, be and hereby is created to read as follows

(a) Intent

(1) The intent of this section is to support the following three major policies as it applies to any installation, construction, maintenance or other work in the right-of-way, recognizing that Town Branch Commons is a distinct park and trail system, and as such has a unique identity and an established set of design standards that must be maintained.

(b) Incorporation by Reference

(1) The Town Branch Commons Masterplan & Design Standards, as amended now or in the future, is incorporated herein by reference. All references to the Town Branch Commons Masterplan & Design Standards are to have the same effect as if the documents were reproduced verbatim herein, and all such documents automatically include any and all subsequent amendments thereto as long as the parties that will be effected by such amendments have the ability to meaningfully participate in the process that is utilized to amend such document, or unless expressly indicated otherwise by a provision of this

chapter. This provision shall not be interpreted to require that work performed prior to the adoption or amendment of such a document be subject to any newly created standard.

(c) Additional Definitions

In addition to the definitions that apply for this chapter, the following definitions also apply to this section:

Bicycle Facility or *Bicycle Path* shall mean the path used exclusively for bicycles that runs from West Main Street (US 25) at Tucker Street via the southern side of West Vine Street, crossing to the north side of West and East Vine Street (US 25) at Broadway for the full length of Vine Street until it intersects with Main Street. The Bicycle Facility or Bicycle Path is located closer to the street than the Pedestrian Path.

Bioswale shall mean landscape elements designed to concentrate or remove debris and pollution out of surface runoff water. Bioswales consist of a swaled drainage course with sloped sides and filled with vegetation. Bioswales are referenced in the Town Branch Commons Masterplan & Design Standards as the Karst Streambed, Karst Cascade, and Karst Embankment.

Multi-use Path shall mean 1) the path used for both bicycles and pedestrians that runs from West Main Street (US 25) at Tucker Street to the slip lane at the northwest corner of Triangle Park, via the southern side of West Vine Street; and 2) the path used for both bicycles and pedestrians that begins at the northwest corner of Main Street and Vine Street and runs along the western side of Midland Avenue in its entirety, to the corner of Third Street.

Pedestrian Path shall mean the path used for the exclusive use of pedestrians that runs from West Main Street (US 25) at Tucker Street via the southern side of West Vine Street, crossing to the north side of West and East Vine Street (US 25) at Broadway for the full length of Vine Street until it intersects with Main Street.

(d) Limits on New Underground Facilities

(1) New underground facilities shall be placed directly under the pedestrian paths, bicycle paths, or multi-use paths, at least eighteen (18) inches below the subbase, wall foundation, or soil cell (whichever is deeper).

(2) Utility and construction work shall be prohibited from the bioswale portions of the Town Branch Commons. These areas are referenced in the Town Branch Commons Masterplan & Design Standards. If boring is required under plant beds, trees, bioswales, or similar feature, there shall be a minimum of eighteen (18) inch clearance below the underdrain or soil media (whichever is deeper) or as otherwise required by the Director.

(3) Existing utilities located directly beneath a bioswale shall provide justification as to why it cannot be accessed elsewhere, as well as a construction and restoration plan. Any such plan must be created in conjunction with a Licensed Professional Engineer and a Registered Landscape Architect to ensure the functionality of the storm water system is retained per the Town Branch Commons Masterplan & Design Standards.

(e) Limits on Aboveground Facilities

(1) New aboveground facilities shall be prohibited from portions of Town Branch Commons that contain bioswales. However, overhead

utility lines that pass at least thirty-five (35) feet overhead are acceptable.

(2) Existing facilities located directly on or above a bioswale shall provide justification as to why it cannot be accessed elsewhere, as well as a construction and restoration plan. Any such plan must be created in conjunction with a Licensed Professional Engineer and a Registered Landscape Architect to ensure the functionality of the storm water system is retained per the Town Branch Commons Masterplan & Design Standards.

(3) Aesthetics

(a) Any installation of new facilities, including poles and street lights, that are visible to the public must be an approved detail from, or meet the aesthetic standards of the Town Branch Commons Masterplan & Design Standards and Chapter 17C.

(b) New facilities may be integrated within existing street lights. However, the quantity of communication facilities allowed on a street light shall be limited to the quantity the street light was designed to hold.

(c) A clear vertical zone of 8.3 feet above ground must remain clear of all obstructions, including, but not limited to overhead signs, banners, etc. on all pedestrian paths, bicycle paths, or multi-use paths, per the AASHTO Bike Guide.

(d) Nothing in this section shall limit the installation of new facilities on those sides of the affected streets not containing Town Branch Commons.

(f) Construction

(1) All bicycle facilities and paths, pedestrian paths, and multi-use paths shall remain clear and passable during any construction, excavation, installation, operation, maintenance, or repair within Town Branch Commons. If a partial or complete closure is required, plans must be submitted and approved for rerouting pedestrian and bicycle traffic in a safe manner prior to construction.

(2) Any right-of-way or public property that is disturbed or damaged during the construction, excavation, installation, operation, maintenance, or repair of a facility shall be repaired within twenty-one (21) calendar days of the completion of those activities that caused the disturbance or damage.

(g) Restoration and Maintenance

(1) All projects occurring within the Town Branch Commons corridor must comply with the applicable restoration and maintenance standards found in the Town Branch Commons Masterplan & Design Standards.

(2) In addition, any disturbance to any of the following areas of Town Branch Commons shall be returned to its previous and intended condition as outlined below:

(a) Multi-Use Paths, Pedestrian Paths, Bicycle Facilities, and intersections with specialty paving shall be restored in accordance with the Town Branch Commons Masterplan & Design Standards.

(b) Landscaping: The landscaped areas of Town Branch Commons shall be restored in accordance with the Town Branch Commons Masterplan & Design Standards. Any vegetation damaged during construction must be replaced with the same plant species. The removal or trimming of existing trees in the right-of-way shall comply with the government's street tree ordinance, tree protection ordinance, the provisions of article 6-10, or subdivision regulations concerning street trees, as applicable. All trees must be replaced by a minimum of 4" caliper.

(c) Bioswales: Bioswales located within Town Branch Commons shall be restored in accordance with the Town Branch Commons Masterplan & Design Standards. Any vegetation damaged during construction must be replaced with the same plant species. The removal or trimming of existing trees in the right-of-way shall comply with the government's street tree ordinance, tree protection ordinance, the provisions of article 6-10, or subdivision regulations concerning street trees, as applicable. All trees must be replaced by a minimum of 4" caliper. Due to the performative nature of the bioswale system, a construction and restoration plan must be created and submitted for approval by the Director. The plan must be created in conjunction with a Licensed Professional Engineer and Registered Landscape Architect to ensure the functionality of the bioswale system is retained per the Town Branch Commons Masterplan & Design Standards. After restoration of the affected bioswale(s) is complete, a Licensed Professional Engineer and Registered Landscape Architect shall sign off on the condition of the bioswale(s) to ensure the restoration was performed properly on this sensitive feature.

(3) *Guarantees.* Each party performing work required by this subsection guarantees its work conforms to the requirements of the Town Branch Commons Masterplan & Design Standards and shall maintain it for two (2) years following its completion. During this period it shall, upon notification from the director, correct all restoration work to the extent necessary, using the method required by the director.

Section 9 - That if any provision of this Ordinance, or the application of such provision, should be rendered or declared invalid by any court of jurisdiction or be found in conflict with state and/or federal laws or by reason of any existing or subsequently enacted legislation, the remaining portions or parts of this Ordinance shall remain in full force and effect.

Section 10 – This Ordinance shall become effective on April 13, 2019, to provide an opportunity for the Lexington-Fayette Urban County Government Division of Engineering to educate utilities on new requirements of this Ordinance.

PASSED URBAN COUNTY COUNCIL: March 21, 2019


MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL
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PUBLISHED: March 28, 2019-1t

ORDINANCE NO. 144 - 2017

AN ORDINANCE AMENDING CHAPTER 17C OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT TO REFLECT A REVISED RIGHT-OF-WAY PERMIT RENEWAL FEE STRUCTURE FOR UTILITIES AND THEIR CONTRACTORS, AND TO IMPOSE ADDITIONAL FEES FOR THE COMMENCEMENT OF NON-EMERGENCY WORK WITHIN THE PUBLIC RIGHTS-OF-WAY WITHOUT THE PROPER PERMIT(S) BY AMENDING SUBSECTION 17C-7(B)(4) TO PROVIDE THAT THE FAILURE TO COMPLETE ALL RESTORATION WORK DUE UNDER A SURFACE CUT PERMIT IN A TIMELY MANNER WILL RESULT IN ADDITIONAL FEE(S) PAYABLE TO THE GOVERNMENT AT THE TIME OF PERMIT RENEWAL, AMENDING SUBSECTION 17C-9(A) TO PROVIDE THAT ANY PERSON WHO INSTALLS, OPERATES, CONSTRUCTS, OR MAINTAINS FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY WITHOUT FIRST REGISTERING SUCH FACILITIES OR OBTAINING THE NECESSARY PERMITS, CERTIFICATES, LETTERS, OR OTHER DOCUMENTATION WILL BE SUBJECT TO AN ADDITIONAL FEE PAYABLE TO THE GOVERNMENT, AND AMENDING SUBSECTIONS 17C-22(C) AND (D) TO CONFORM WITH THESE CHANGES.

WHEREAS, the intent of Chapter 17C of the Code of Ordinances of the Lexington-Fayette Urban County Government ("Public Right-of-Way (ROW) Ordinance") is to encourage and establish policies and regulations that promote the conservation of the ROW; and

WHEREAS, it is also the intent of 17C to provide for the payment of fair and reasonable fees to the government to ensure that this Chapter is properly administered and enforced; and

WHEREAS, it is also the intent of 17C to minimize street cuts, damages to persons or property, and hardship to the general public; and

WHEREAS, the lack of utility coordination regarding street cuts has resulted in increased stress and damage to streets, substantial disruption to the citizens of Lexington-Fayette County, and has impaired the public's safe and convenient use and enjoyment of the ROW; and

WHEREAS, the Urban County Engineer, or his designee, is the principal government official responsible for the administration and enforcement of this Chapter, and may adopt procedures consistent with this Chapter that are necessary for its administration or enforcement; and

WHEREAS, Chapter 17C should be amended to reflect a revised right-of-way permit renewal structure for utilities and their contractors, to impose additional fees for commencement of work within the public rights-of-way without

the proper permit(s), and to impose additional fees for the failure to restore the condition of the public rights-of-way within a reasonable time.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the above recitals are incorporated herein as if fully stated.

Section 2 – That Subsection 17C-7(b)(4) of the Code of Ordinances be and hereby is amended to read as follows:

Any right-of-way or public property that is disturbed or damaged during the construction, excavation, installation, operation, maintenance or repair of a facility shall be repaired within twenty-one (21) calendar days of the completion of those activities which caused the disturbance or damage by the party that disturbed or damaged the rights-of-way or public property. This time may be extended by the urban county engineer or his representative upon demonstration of reasonable cause by the subject party. A party's failure to take reasonable steps to complete all restoration work due under a surface cut permit within the time period stated above will result in the cost of the permit fee required pursuant to Subsection 17C-22(d) being re-assessed as an additional fee each time there is a failure to meet the time limit. Any additional fee(s) shall be assessed at the time of inspection or re-inspection and payable to the Director upon permit renewal pursuant to Subsection 17C-22(e) in addition to the amount of the original fee(s) provided for in Subsections 17C-22(c) and 17C-22(d) of this Chapter.

Section 3 – That Subsection 17C-9(a) of the Code of Ordinances be and hereby is amended to read as follows:

(a) *Requirement to register and pay fees.* Unless otherwise excepted by this chapter, it shall be unlawful for any party to install, operate, construct or maintain any facilities within the rights-of-way unless such facilities are registered with the government by filing the registration statement required herein and all applicable registration, annual general permit and franchise fees are paid to the government. Any person who installs, operates, constructs, or maintains any facilities within the rights-of-way before registering such facilities or obtaining the necessary permits, certificates, letters, or other documentation required pursuant to this Chapter shall not only be required to pay the initial installation permit fee or surface cut permit fee required pursuant to Subsection 17C-22, but shall also be subject to a re-assessment of the installation permit fee or surface cut permit fee upon discovery that such work has commenced.

Section 4 – That subsection 17C-22(c) of the Code of Ordinances be and hereby is amended to read as follows:

(c) *Installation Permit.* Unless otherwise prohibited by law, every party obtaining an installation permit shall pay a fee of one hundred dollars (\$100.00) for each installation permit. Any immediately adjoining real property owner cited to replace, repair, restore, or otherwise maintain any sidewalk, curb, apron, or utility strip for which that real property owner is legally responsible shall be exempt from paying and fees for obtaining an installation permit for these

activities. This fee shall be re-assessed in the event that at any work commences without approval as provided in Subsection 17C-9(a).

Section 5 – That subsection 17C-22(d) of the Code of Ordinances be and hereby is amended to read as follows:

(d) Surface Cut Permit. Unless otherwise prohibited by law, every party obtaining a surface cut permit shall pay a fee of two hundred fifty dollars (\$250.00) for each surface cut permit. This fee shall be re-assessed each time a party fails to comply with Subsection 17C-7(b)(4), or in the event that any work commences without approval as provided in Subsection 17C-9(a).

Section 6 – If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

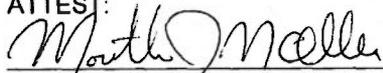
Section 7 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: October 12, 2017



MAYOR

ATTEST:



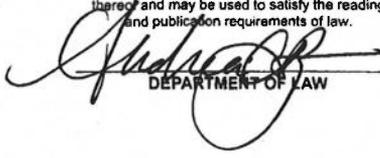
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: October 19, 2017-1t

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CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the reading and publication requirements of law.


DEPARTMENT OF LAW

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