

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE	)	
PROPOSED POLE ATTACHMENT TARIFFS OF	)	CASE NO.
INCUMBENT LOCAL EXCHANGE CARRIERS	)	2022-00108

ORDER

On February 28, 2022, incumbent local exchange carriers (ILECs) BellSouth Telecommunications, LLC d/b/a AT&T Kentucky (AT&T Kentucky) and Cincinnati Bell Telephone Company, LLC d/b/a Altafiber (Altafiber), filed amendments to their respective pole attachment tariffs pursuant to 807 KAR 5:015 with proposed effective dates on March 31, 2022. On March 22, 2022, Windstream Kentucky East, LLC, (Windstream Kentucky East) and Windstream Kentucky West, LLC (Windstream Kentucky West) (collectively Windstream Kentucky), both ILECs, filed amendments to their respective pole attachment tariffs pursuant to 807 KAR 5:015.

KRS 278.030 provides that a utility may collect fair, just and reasonable rates and that the service it provides must be adequate, efficient, and reasonable. Having reviewed the proposed tariffs and being otherwise sufficiently advised, the Commission finds that an investigation is necessary to determine the reasonableness of the proposed tariffs and that such investigation cannot be completed by March 31, 2022.<sup>1</sup> Pursuant to KRS

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<sup>1</sup> Because Windstream Kentucky did not comply with the tariff filing provisions in 807 KAR 5:015, and, pursuant to 278.180, the earliest Windstream Kentucky's tariffs could go into effect is April 22, 2022. The Commission, for the sake of administrative efficiency, will suspend Windstream Kentucky's tariffs through August 31, 2022, but may extend that suspension period until September 22, 2022, if additional time is necessary.

278.190(2), the Commission will, therefore, suspend the effective date of the proposed tariffs for five months, up to and including August 31, 2022.<sup>2</sup>

The Commission, in Case No. 2022-00064,<sup>3</sup> established a procedure to receive comments and objections concerning the ILECs' proposed individual tariffs. The Kentucky Broadband and Cable Association (KBCA) filed objections to the proposed tariffs of AT&T Kentucky and Altafiber.<sup>4</sup> The Commission finds that, for the sake of administrative efficiency, KBCA shall be made a party to this proceeding, and its respective comments shall be incorporated by reference into the record of this proceeding.

The Commission directs all parties to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>5</sup> in which the Commission mandated the use of electronic filing procedures listed in 807 KAR 5:001, Section 8. The Commission finds that electronic filing procedures shall be used, consistent with the filing procedures set forth in Case No. 2020-00085.

The Commission further finds that a procedural schedule shall be established to review the reasonableness of the proposed tariffs. The procedural schedule is attached as an Appendix to this Order and is incorporated herein.

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<sup>3</sup> Case No. 2022-00064, *Electronic Review of Pole Attachment Tariffs Filed Pursuant to 807 KAR 5:015, Section 3* (Ky. PSC Mar. 3, 2022).

<sup>4</sup> The KBCA did not file objections to the Windstream Kentucky tariffs likely because those were filed after the deadline for filing comments on tariffs.

<sup>5</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of the proposed tariffs.
2. The proposed tariffs of AT&T Kentucky, Altafiber, Windstream Kentucky East, and Windstream Kentucky West (collectively ILECs) are suspended for five months from March 31, 2022 up to and including August 31, 2022.
3. KBCA is made a party to this proceeding.
4. KBCA's objections and comments filed in Case No. 2022-00064 are incorporated by reference into the records of this proceeding.
5. All parties shall, by counsel, enter an appearance in this proceeding within seven days of the date of entry of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.
6. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.
7. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, all parties shall file by electronic means a written statement that it waives any right to service of Commission Orders by United States mail and that it or its authorized agent possess the facilities to receive electronic submissions.
8. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of entry of an Order of the Commission, granting intervention, file with the Commission a written statement that:

(1) It or its authorized agent possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

9. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

10. The procedural schedule set forth in the Appendix to this Order shall be followed.

11. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding, which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rate or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore,

any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

12. The ILECs shall give notice of any hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, [psc.ky.gov](http://psc.ky.gov)." At the time publication is requested, the ILECs shall forward a duplicate of the notice and request to the Commission.

13. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

14. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

15. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of times with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

16. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION

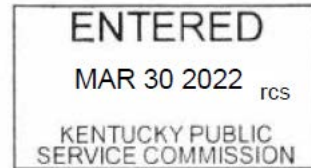


Chairman



Vice-Chairman

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Commissioner



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2022-00108 DATED MAR 30 2022

- Requests for intervention shall be filed no later than ..... 04/07/2022
- The ILECs' responses to  
KBCA's objections shall be filed no later than ..... 04/14/2022
- Initial requests for information to the ILECs  
shall be filed no later than ..... 04/21/2022
- The ILECs shall file responses to  
initial requests for information no later than ..... 05/05/2022
- All supplemental requests for information to the ILECs  
shall be filed no later than ..... 05/19/2022
- The ILECs shall file responses to supplemental requests  
for information no later than ..... 06/02/2022
- Intervenor Testimony, if any, in verified prepared  
form shall be filed no later than.... 06/09/2022
- All requests for information to Intervenors shall  
be filed no later than..... 06/23/2022
- Intervenors shall file responses to requests for  
information no later than..... 07/07/2022
- The ILECs shall file, in verified form, their respective rebuttal  
testimony no later than.....07/11/2022
- Any party or any Intervenor shall request either a  
hearing or that the case be submitted for decision  
based on the record no later than.....07/18/2022



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