

278.5464 Provision of broadband service to unserved and underserved households and businesses -- Facilitation by distribution cooperative.

- (1) The General Assembly recognizes and declares:
 - (a) The provision of broadband service to residential, commercial, and industrial customers is critical to securing a sound economy and promoting the general welfare of the Commonwealth; and
 - (b) Distribution cooperatives are able to access and leverage federal funding to extend and enhance the availability of broadband service to Kentucky residents who are currently unserved or underserved.
- (2) As used in this section:
 - (a) "Underserved area" has the same meaning as in KRS 224A.011; and
 - (b) "Unserved area" has the same meaning as in KRS 224A.011.
- (3) Notwithstanding any other statute to the contrary, a distribution cooperative may facilitate the operation of an affiliate engaged exclusively in the provision of broadband service to unserved or underserved households and businesses by:
 - (a) Constructing and leasing excess capacity on any fiber optic cable for broadband service which shall not require a certificate of public convenience and necessity under KRS 278.020; however, the construction of fiber optic cable used to support the distribution cooperative's electric distribution system shall require a certificate of public convenience and necessity under KRS 278.020;
 - (b) Issuing securities or evidences of indebtedness in an amount not to exceed twenty-five percent (25%) of the net book value of its assets, the proceeds of which shall be used for the exclusive purpose of capitalizing the affiliate; or
 - (c) Pledging up to twenty-five percent (25%) of the net book value of its assets as collateral for a loan entered into by the affiliate for the purpose of providing broadband services.
- (4) A distribution cooperative shall comply with the cost allocation requirements of:
 - (a) KRS 278.2201, 278.2203, 278.2205, 278.2207, 278.2209, and 278.2211; and
 - (b) Only KRS 278.2213(1) and (3) with regard to any costs associated with its facilitation of an affiliate's provision of broadband services.
- (5) The commission shall promulgate administrative regulations regarding pole attachments under the commission's jurisdiction, including those necessary for the provision of broadband service.
- (6) Before broadband services may be offered under this section, a distribution cooperative shall, by resolution of the board of directors and spread upon its minutes, have an economic feasibility study conducted. The feasibility study shall be provided to the commission and made available to distribution cooperative members upon request.
- (7) A distribution cooperative shall not allow the installation or operation of a broadband system on its electric delivery system by an affiliate or other broadband operator to diminish the reliability of the electric delivery system.

- (8) A distribution cooperative shall not require any person to purchase broadband services from an affiliate or other broadband operator as a condition of receiving or continuing to receive electric energy from the distribution cooperative.
- (9) A distribution cooperative shall not disconnect or threaten to disconnect its electric service to any customer due to the customer's failure to pay for broadband services provided to the customer by an affiliate or other broadband operator.
- (10) Every distribution cooperative shall conduct an annual audit of compliance with this section, which shall be provided to the commission and made available to distribution cooperative members upon request.
- (11) The commission shall have no jurisdiction over the creation or operation of an distribution cooperative's broadband affiliate, except as referred to in subsection (4) of this section.

Effective: April 14, 2022

History: Amended 2022 Ky. Acts ch. 202, sec. 7, effective April 14, 2022. -- Created 2021 Ky. Acts ch. 171, sec. 1, effective June 29, 2021; and amended ch. 196, sec. 4, effective April 7, 2021.

Legislative Research Commission Note (6/29/2021). This statute was created by 2021 Ky. Acts ch. 171, sec. 1, which was effective June 29, 2021, but its provisions were then amended during the same session by 2021 Ky. Acts ch. 196, sec. 4, which was effective April 7, 2021. Since the statute technically could not be amended April 7, 2021, when Chapter 196 took effect, since its creation was not effective until June 29, 2021, pursuant to Chapter 171, the amendment will be given effect on June 29, 2021, when the created statute is effective.