

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 6th Meeting of the 2020 Interim

November 18, 2020

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Wednesday, November 18, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Robby Mills, Reginald Thomas, Robin L. Webb, and Phillip Wheeler; Representatives John Blanton, Charles Booker, Adam Bowling, Terri Branham Clark, Randy Bridges, Myron Dossett, Jim DuPlessis, Daniel Elliott, Chris Fugate, Cluster Howard, Derek Lewis, Suzanne Miles, Melinda Gibbons Prunty, Josie Raymond, Cherlynn Stevenson, Jim Stewart III, Richard White, and Rob Wiederstein.

Guests: Representative Sal Santoro; Leigh Ann Thacker, Kentucky Association of Master Contractors (KAMC); Brian Tharpe, KAMC; Patrick Keal, Duke Energy Corporation; and Tyler Campbell, Kentucky Telecom Association.

LRC Staff: Stefan Kasacavage, Janine Coy, Tanya Monsanto, and Rachel Hartley.

Proposed Legislative Changes to the Underground Facility Damage Prevention Act

Representative Sal Santoro stated there are over 30 organizations that have discussed the proposed changes to the Underground Facility Damage Prevention Act.

Patrick Keal explained that those 30 organizations include: the Public Service Commission, regulators, excavators, utilities, and businesses. The priorities of the working group are safety and to minimize damage. The first year that damages were tracked, there were over 1,000 incidents involving natural gas. The proposed changes include: a positive response system that alerts contractors when a locator has marked a locate request for safe excavation, expanded time frames to locate underground facilities, and harmonizing the law with other states.

Leigh Ann Thacker stated the proposed bill will not include mandatory membership. The Kentucky Association of Master Contractors worked with home builders and general contractors to propose reforms including: call center uniformity within Kentucky and the removal of liability for the excavator if the excavator has met all statutory requirements.

Mr. Keal stated in 2013, legislation went into effect that required utilities to be able to locate underground facilities from the surface; however, from 2000-2010, approximately \$1 billion was invested in new water systems in Kentucky that were not required to be located from the surface.

In response to Representative Gooch, Ms. Thacker stated a statute requires county clerks to keep a list of nonmembers, but she is unsure if any county clerks keep a record of nonmembers. The proposed law does not change this requirement, and there is uncertainty of who should be the repository for the record of nonmembers. It will be helpful for the call centers to have a record of the nonmembers, but mandatory membership would be the ideal solution.

In response to Representative Howard, Mr. Keal stated the Public Service Commission has authority regarding hazardous liquids and natural gas.

Tyler Campbell stated the new proposed definition for untenable facilities will increase locate request times to five days for small projects and eight days for large projects. All of Kentucky's surrounding states require locate requests to be completed within three working days. If the time frame for locate requests is extended, then there should be an accuracy requirement. Without an accuracy requirement, operators will have more time to locate their underground facilities, and many will still not be able to accurately locate underground facilities under current law.

The demand for broadband deployment in Kentucky is very high and rural providers are continually working to expand broadband in rural communities. The additional delays in locate request times in rural areas will result in delays to future fiber construction projects and will increase the cost of broadband deployment.

In response to Senator Thomas, Mr. Campbell stated the Federal Communications Commission (FCC) has created the Rural Digital Opportunity Fund (RDOF) to invest billions of dollars in the construction of rural broadband networks. The United States Department of Agriculture started the ReConnect Program, which will facilitate broadband deployment in rural communities in the form of loans and grants. Mr. Campbell stated he believes the United States Congress will include broadband in infrastructure legislation.

In response to Representative Gooch, Mr. Campbell stated the topography of an area will dictate if the project is underground or aerial.

In response to Representative Miles, Mr. Campbell stated the FCC certified which census blocks are eligible for funding for RODF and there is a map on their website with data.

There being no further business, the meeting was adjourned.