

# **INTERIM JOINT COMMITTEE ON TOURISM, SMALL BUSINESS, AND INFORMATION TECHNOLOGY**

## **Minutes of the 4th Meeting of the 2021 Interim**

**September 23, 2021**

### **Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, September 23, 2021, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Phillip Pratt, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representatives Kim King, Co-Chair, and Phillip Pratt, Co-Chair; Senators Rick Girdler, Christian McDaniel, Robby Mills, Adrienne Southworth, Brandon J. Storm, Reginald Thomas, Phillip Wheeler, Mike Wilson, and David Yates; Representatives Shane Baker, Lynn Bechler, Josh Branscum, George Brown Jr., Josh Calloway, Jeffery Donohue, Ryan Dotson, Daniel Fister, Deanna Frazier, Chris Freeland, Chris Fugate, Jim Gooch Jr., David Hale, Richard Heath, Thomas Huff, Norma Kirk-McCormick, William Lawrence, Charles Miller, Ruth Ann Palumbo, Brandon Reed, Rachel Roberts, Steve Sheldon, Cherlynn Stevenson, Ashley Tackett Laferty, Nancy Tate, Bill Wesley, and Richard White.

Guests: Deb McGrath, Executive Director, Epilepsy Foundation of Kentuckiana; Cyndi Crunk; Lyndsey Crunk; Representative Mark Hart; Tyler Campbell, Executive Director, Kentucky Telecom Association; Mark Iverson, General Manager, Bowling Green Municipal Utilities; Tony Thompson, Chairman, MuniNet Group; and Annette Depont-Ewing, Executive Director, Kentucky Municipal Utilities Association.

LRC Staff: Andrew Manno, Audrey Ernstberger, Kirk Smith, and Sasche Allen.

### **Approval of Minutes**

A motion to approve the minutes of the August 26, 2021, meeting was made by Representative Ryan Dotson, seconded by Senator Mike Wilson, and approved by voice vote.

### **Seizure Safe Workplaces**

The Seizure Safe Schools Act, known as the Lyndsey Crunk Act, was passed during the 2018 Regular Session, requiring teachers to be trained in seizure first aid. This prompted proposed legislation regarding seizure safety in the workplace. Deb McGrath,

the Executive Director of the Epilepsy Foundation of Kentuckiana, explained the need to be informed about seizure safety. The proposed bill requires signage be posted in workplaces illustrating the steps necessary to administer first aid to a seizing person until a first responder or medical professional arrives. The signage directs a person to stay with the seizing individual until he or she is awake and alert, keep the individual safe, and to turn the individual onto his or her side if not awake and aware. Cyndi and Lyndsey Crunk, epilepsy awareness advocates, testified about their experiences with epilepsy and the need for seizure education in the workplace.

Responding to Representative King, Ms. McGrath explained that the first aid instructions on the signage would apply to various types of seizures, including both petit mal and grand mal seizures.

Answering questions from Senator Southworth, Ms. McGrath stated the National Epilepsy Foundation offers training on seizure first aid and how to identify if someone is having a seizure. In response to a follow up, Ms. McGrath said that information could be added to the signage about how to identify a seizure.

Replying to comments made by Representative Kirk-McCormick, Ms. McGrath said she is not trained to treat drug overdoses and does not know how to distinguish between if a person was having a seizure or experiencing a drug overdose. Representative Hart added that one of the most important steps to follow on the signage is to call 911 because a first responder will be able to better assess the situation.

Addressing Representative Brown, Ms. McGrath explained that some employees do disclose to their employer that they have been prescribed seizure rescue medication but the best course of action would be to follow the steps on the signage if that information is unknown.

### **Concerns of the Kentucky Telecom Association with OpenFiberKY**

The Executive Director of the Kentucky Telecom Association (KTA), Tyler Campbell, voiced his association's concerns with KentuckyWired and OpenFiberKY, now called Acelecom. KTA is comprised of rural telecom cooperatives and small commercial telecom and broadband providers. Members of KTA collaborated with the Kentucky Communications Network Authority (KCNA) to build laterals needed to bring a point of presence into counties in the western and eastern portions of the state for the middle mile network. According to Mr. Campbell, KentuckyWired and OpenFiberKY have been using a state owned and constructed network to directly compete with KTA's companies, and Acelecom is now using the KentuckyWired network to cherry pick the easiest to serve customers. Acelecom is the wholesale arm of the original KentuckyWired contract with Macquarie Capital, and KCNA may receive revenue from sales through Acelecom. As Acelecom continues to bid on providing last mile broadband services, it remains a concern

of KTA that many of these projects do not fall in areas that have been deemed unserved or underserved.

Responding to a question from Senator McDaniel, Mr. Campbell stated he could not comment on Macquarie Capital acquiring Cincinnati Bell.

Answering a question from Representative Tackett Laferty, Mr. Campbell explained that the Federal Trade Commission defines high-speed broadband as download speeds of up to 25 megabits per second and upload speeds of up to 3 megabits per second (25/3 Mbps). An unserved area in Kentucky is considered to be 10 megabits per second download speed and 1 megabits per second upload speed, and an underserved area is considered to be anything less than 25/3 Mbps.

Replying to comments made by Representative Bechler, Mr. Campbell stated KTA members are striving to upgrade their systems and equipment through state and federal grants to better serve unserved and underserved areas of the state.

Addressing a question from Representative Sheldon, Mr. Campbell said that companies received a contractual right of first refusal from the Commonwealth as part of the partnership agreement between KTA's members and KCNA.

Representative Hale commended KTA and its members for providing excellent service in his area of the state.

Representative Dotson made comments about alternative options to fiber optic internet service.

In response to Representative Pratt, Mr. Campbell stated KTA members submitted comments and questions during the Kentucky Infrastructure Authority's open RFP process for statewide broadband services.

Senator Thomas made remarks about the initial approval of the KentuckyWired project by the General Assembly and acknowledged that several changes have been made over the course of several administrations which ultimately delayed the completion.

Answering a question from Senator Girdler, Mr. Campbell clarified that the KTA is in ongoing dialogue with Accelecom.

### **Impact of KentuckyWired on City Utility Broadband**

Mark Iverson, General Manager of Bowling Green Municipal Utilities (BGMU), presented concerns that BGMU and the Kentucky Municipal Utilities Association (KMUA) have with the direct competition it is facing due to the KentuckyWired project.

BGMU is a municipally-owned and operated utility of the City of Bowling Green and is one of 45 member systems of the KMUA. KMUA members have met with KentuckyWired officials to specifically address at least four major concerns: (1) overbuilding municipal networks, (2) KentuckyWired competing for customers of KMUA members, (3) the excess capacity built into KentuckyWired's network, and (4) the potential marketing of that excess capacity. Contrarily, KentuckyWired, an affiliate of Macquarie Capital, now has a contractual agreement with OpenFiberKY, or Accelecom, for exclusive rights to use the excess capacity of the network. Mr. Iverson noted that the following percentages of shared revenue is generated from marketing excess capacity and reverts back to the Commonwealth: 90 percent of gross revenues from core dark fiber leases, 80 percent of net revenues from ancillary dark fiber arrangements, and 75 percent of net revenues from lit fiber services. Accelecom's target markets include agriculture, banking, private colleges, community and county offices, schools, healthcare facilities, and other small businesses, which covers a large portion of BGMU's business portfolio. In addition, KentuckyWired's network routing almost directly aligns with the network routing of BGMU and other members of KMUA.

Senator Wilson expressed concerns about KentuckyWired competing with BGMU and other utility companies after the General Assembly was told that this type of competition would not occur.

In response to a question from Representative Sheldon, Mr. Iverson confirmed that BGMU would cooperate with KentuckyWired and assist with pole attachments if KentuckyWired agreed to focus solely on the underserved and unserved service areas across the state instead of existing customers of BGMU and other utility companies.

Representative Donohue commented that he believes a compromise could be reached that would be beneficial to all parties involved.

Answering a question from Senator Mills, Mr. Iverson stated he was not aware of language in the contract between KentuckyWired and Accelecom that explicitly addresses unserved or underserved service areas.

Representative Pratt made remarks about the initial intentions of KentuckyWired and the usage of the excess network capacity.

Replying to a question from Senator Southworth, Mr. Iverson said the contract between KentuckyWired and Accelecom is a public document.

Representative Fugate pointed out that while KentuckyWired is overbuilding in adequately served portions of the state, there are large portions of Eastern Kentucky that remain unserved.

There being no further business before the committee, the meeting adjourned at 2:32 p.m.