

**THE BOARD OF THE KENTUCKY COMMUNICATIONS NETWORK
AUTHORITY**

MINUTES OF THE ELEVENTH MEETING

January 17, 2019

Call to Order and Roll Call

A meeting of the Board of the Kentucky Communications Network Authority (“Board” and “KCNA”) was held on Thursday, January 17, 2019, at 1:00 p.m. EDT in Room 110 of the Capitol. John Chilton, State Budget Director, serving as proxy for the Chair, called the meeting to order and the roll was called.

Present were:

Members: Sandy Dunahoo, Commissioner of the Department of Local Government; John Chilton, State Budget Director; Tom Kerr (designee), Justice and Public Safety Cabinet; Katie Smith (designee), Economic Development Cabinet; and Lonnie Lawson, President and CEO, The Center for Rural Development.

Guests:

Kevin Borland, Mulloy Borland; Randy Lutke, KCNA; Brenda Brown, KCNA; Liz Columbia, LRC; Nancy Ward, Solarity; Dana Case, KCNA; Phillip Brown, KCNA; Mike Hayden, KCNA; Martha Seagram, Seagram PSC.

Budget Director Chilton verified that a quorum was present and that the press had been notified of the meeting. Minutes of the previous meeting held on September 20, 2018 were distributed to the board members. Lonnie Lawson made a motion to approve the minutes. Commissioner Dunahoo seconded the motion. The minutes were approved by unanimous vote.

Update of KCNA Staffing

Phillip Brown, the Executive Director of KCNA, updated the Board regarding staff changes, which include two new employees and one retirement. Deck Decker, former executive director of the Office of Administrative and Technology Services at the Cabinet for Health and Family Services, has joined KCNA as Chief Administrative Officer, and will interface with the contractor for the project to identify any early potential Supervening Events (SEs) and to work to prevent or mitigate the SEs, among other leadership duties. Corey Krill joined KCNA from the Finance and Administration Cabinet as KCNA’s Program Director. Mr. Krill will work with local governments, assist with legislative meetings/requests and represent KCNA at public speaking engagements. Mr. Brown also announced the retirement of Debbie Rodgers, the executive assistant to KCNA.

Construction Update of the KentuckyWired's (KYW's) project.

Mr. Brown summarized the project to date, which includes construction progress that gives the Commonwealth confidence in the schedule and positions the project for success. Key points:

- In October, the contractor, NG-KIH DB LLC, Inc achieved more than 6000 Make Ready Construction (MRC) moves, far in excess of what is needed on a monthly basis. November's MRC numbers were also high. This is a dramatic improvement.
- Approximately 1039 fiber miles have been installed.
- Fiber installation in Ring 1A will soon be completed and functional testing will begin.
- Once all sites on the backbone in Ring 1A are connected, KCNA will be positioned to begin site migration. In response to a question, Mr. Brown stated Ring 1A is the Louisville, Lexington and Northern Kentucky triangle. This also includes the Commonwealth's data center located in Frankfort, which will provide the connection to state agencies.
- It is necessary for Ring 1A to be completed first as the internet drains for the network are located in Louisville and Northern Kentucky.

Settlement Agreement Status

Mr. Brown shared actions taken by KCNA while working toward the execution of a global settlement agreement with the project partners. The settlement agreement has been fully executed, with payments to be made to the contractor starting in December 2018.. (A copy of the executed agreement was provided to the Board members.) Key Points:

- Two hundred and seven (207) SEs were settled.
- The agreement includes a resolution for SE three (3), relating to easements on private property. For this SE, the vendor's claim was \$26 million; it was settled for \$5 million.
- The terms for Compensation Event Z (CEZ), a compensation event directly related to MRC, were changed in order to reduce risk to the Commonwealth from this SE moving forward. Now Rings 1A, 1B and most of Ring 2 (about 50% of the network) is not eligible for CEZ claims. The contractor cannot not make any claim under CEZ before June 1, 2019, and before making a claim, the contractor is required to give KCNA 90 days' notice. This gives KCNA time to work with the pole owners or attachers to secure moves before a CEZ becomes a supervening event.
- Mr. Brown then asked and recommended that the board formally ratify the actions taken by KCNA to accomplish the settlement and the executed settlement agreement. Mr. Brown also shared that Secretary Brinkman had been involved in the negotiations. In answer to a question from Budget Director Chilton regarding the nature of the 207 supervening events that were settled, Mr. Brown shared that many were associated with pole agreements or permission to hang wire on poles. Also included were weather related events and hazardous materials issues. In answer to Budget Director Chilton's next question regarding the parties involved in the agreement, Mr. Brown shared that the Commonwealth,

KentuckyWired Infrastructure Company, Inc., (KWIC), KentuckyWired Operations Company, LLC (KWOC), NG-KIH Design-Build, LLC and LTS Kentucky Managed Technical Services, LLC are all parties to the settlement. Budget Director Chilton's next question was in relationship to which of the entities listed as parties had already received financial settlements. Mr. Brown stated that all of the parties, with the exception of the service provider (LTS Kentucky Managed Services LLC), had. The service provider has not made any claims as its work on the project occurs after KentuckyWired rings are completed and sites are lit.

- The total cost of the settlement is \$93 million, for which an initial payment has been made. The remaining \$66 million will be paid monthly through October 2020, which is the remaining construction term. In answer to a question from Mr. Kerr, relating to the total cost, Mr. Brown confirmed that the \$93 million includes the \$5 million for SE3.

Mr. Lawson publicly acknowledged and thanked Secretary Brinkman, Mr. Brown, and the KCNA staff. Mr. Lawson made a motion for the board to ratify the settlement agreement. Budget Director Chilton seconded the motion.

Budget Director Chilton asked a follow-up question relating to the source of the money/funds to pay for the settlement. In response Mr. Brown shared that KCNA received borrowing authority from the General Assembly (Senate Bill 200), which passed in the last session. KCNA is in the process of utilizing the borrowing authority and has obtained the services of underwriters and financial advisors to assist in securing the financing so as to avoid unnecessary cost, while securing the best terms for the Commonwealth. A vote was called and the ratification of the settlement agreement passed unanimously.

There being no other business, Budget Director Chilton asked if there were a motion to adjourn. Chief of Staff Kerr made a motion to adjourn the meeting and Commissioner Smith seconded the motion. The motion passed unanimously and the meeting adjourned.

Respectfully submitted,


John Chilton, State Budget Director
Kentucky Communications Network Authority

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