

KMUA

KENTUCKY MUNICIPAL UTILITIES ASSOCIATION

KMUA 2012 KENTUCKY LEGISLATIVE SESSION AGENDA



Formed in 1975, the Kentucky Municipal Utilities Association (KMUA) represents 47 city-owned utilities that provide the essential services of electric power, water, wastewater, natural gas and telecommunications services. KMUA takes pride in providing low-cost, efficient and reliable service to customers in cities throughout the Commonwealth of Kentucky. KMUA represents locally owned and operated utilities that are governed by city officials or independent utility boards appointed by city officials. Our member managers live and work in their communities, providing service and employment to the citizens of Kentucky.

PROTECTING LOCAL CONTROL

There have been movements in the past to move city-owned utilities under Public Service Commission or state control and regulation. City owned utilities are locally controlled and operated - through your vote. Municipal utilities are governed by the city officials that are elected or through independent utility boards that are appointed by city officials. City utilities are locally owned and operated and provide jobs to local citizens. Local control works for Kentucky!

To force city utilities under state regulation would mean double regulation - once locally and again at the state level. City utilities are different from investor owned utilities in that they report directly to the citizens, while privately owned companies report to shareholders. City utilities are subject to open records and open meetings laws. KMUA will continue to support local control during the session.

TELECOMMUNICATIONS TAX

In 2005, the Kentucky state legislature passed a statewide telecommunications tax that replaced local public service property taxes and local franchise fees on cable and telephone companies. The legislation is intended to provide a more uniform and simple tax structure for telecommunications providers and to provide parity in taxation for satellite and cable service providers. Unfortunately, the removal of local authority over the revenue streams has shortchanged cities approximately \$17 million since January 2006 because an insufficient "hold harmless" amount was written into law. This causes a 15 percent shortfall in annual revenues for each city when compared to previous city collections.

KMUA and the KLC have worked together for six years to correct the shortfall through the legislature. Legislation has been filed in the General Assembly six times to add approximately \$7.5 million to the annual hold harmless fund to accurately account for the total revenues local governments were receiving prior to the passage of the telecommunications excise tax law in 2005. BR 121 (which will likely be House Bill 33) is a similar measure that has been prefiled for the 2012 session. Unfortunately, the state's own budget problems and anti-tax sentiments have prevented successful passage of such legislation, despite bipartisan support.

KMUA has 14 members that provide telecommunications services in the Commonwealth. Five cities filed a suit seeking a declaratory judgment that the state telecommunications tax is unconstitutional. A favorable judgment would allow cities to go back to collecting revenue from fees negotiated in franchise agreements with telecommunications companies, including cable providers. The lawsuit was filed in the Franklin Circuit Court on the basis that the telecommunications tax impairs the rights of Kentucky's cities to levy franchise fees. The levy of franchise fees is a right expressly granted to the cities under Sections 163 and 164 of the Kentucky Constitution.

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MAINTAINING THE MUNICIPAL EXEMPTION FOR POLE ATTACHMENT FEES

KMUA represents Kentucky's 27 publicly-owned power utilities. All own and operate poles, ducts, conduits, and rights of way (ROW). Municipal utilities often allow other service providers like cable or telephone companies to attach to their utility poles for a fee. City-owned utilities are exempt by federal and state pole attachment regulations. KMUA is concerned, however, that the telecommunications industry might ask the Kentucky legislature to remove the statutory exemptions for municipally-owned utilities.

So, why is this important? The Exemption exists for two reasons: 1) decisions about costs for municipal utility owned poles are

best handled locally and negotiated with the communications companies; and 2) unlike the case with investor owned utilities (IOUs), which are responsible only to the demands of their private executives and shareholders, the rates for municipal utility attachments are subject to the ultimate safeguard against excessive rates - the local people - who are both utility and communications service subscribers - and they want low rates and good service.

Cities have been at the forefront of providing or fostering the provision of high-capacity broadband and other communications services to their communities.

Fourteen KMUA members currently provide such services to their residents, more than in any other state. Cities have long employed practices that encourage entry by communications service providers while at the same time protecting electric ratepayers from being forced to subsidize communications attachments.

There is no justification for regulating Municipal Pole Attachment Rates. Lowering pole attachment rates will not increase broadband or internet deployment or affect the costs. KMUA will oppose any regulation of pole attachment fees.

COPPER THEFT

Each year people lose their lives attempting to steal copper from utilities, commercial and residential buildings. Barbourville Utility Commission had a substation theft that nearly destroyed a 69,000 volt transformer and could have cost someone their life. These damages are born by the customers. So are the extra costs associated with increased lighting, removing vegetation, and

adding security systems to monitor substations. In a remote section of Knox County, a man was killed, while stealing copper from a KU substation just a few weeks ago. KMUA's building had the copper downspouts ripped off the office building two weeks ago. Also, municipal utilities find that when a residence, normally rental property, sits vacant for a few days or weeks, the copper wiring is stolen from inside

the residence. Often times in stealing the wiring, the electric meter base is damaged and unprotected which sometimes gives children access to live wires. KMUA supports the current legislation to toughen laws for copper theft and to toughen the requirements for those buying scrap metals. (BR141)

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CHANGES TO WATER AND WASTEWATER PLANNING DOCUMENTS

Each city is required to provide a long-term plan for future growth and service in the provision of wastewater services. KMUA has seen draft legislation that will create a power shift away from the Kentucky Division of Water, which holds not only the technical expertise for these issues, but also the permit for our utilities. KMUA will oppose any legislation proposed by the Area Development District or the Kentucky Infrastructure Authority to amend or change the cities' planning documents for future service to areas

within the city or outside. Cities have invested millions of dollars in infrastructure cost which the citizens have paid for through the issuance of bonds and other means. Changing or amending long-term service/territory plans can stifle city-service growth. If a city utility becomes an island with no room to grow then it is left with in-fill and infrastructure replacements only. This is detrimental to the economic health and vitality of city services and is therefore bad for Kentucky.

EPA REGULATIONS

KMUA wants to thank our state and federal legislators for their work to address regulations from Washington, D.C. that unnecessarily drive up costs for customers. Kentucky coal, natural gas, and the provision of electricity, water and wastewater services continues to be impacted by regulations that sometimes have a negative effect on energy development and jobs. KMUA supports striking the right balance between protecting the environment, energy production and job creation. Neither of these factors are mutually exclusive.

*Our sincere Thanks
to our breakfast co-hosts*

Josh Callihan, P.E., General Manager, Barbourville Utility Commission

Ronald W. Herd, P.E., General Manager, City Utilities Commission of Corbin

Randy Bingham, Superintendent, London Utilities Commission



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