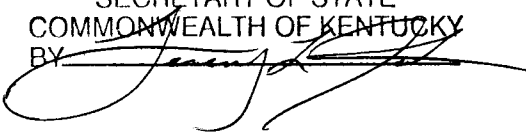




STEVEN L. BESHEAR
GOVERNOR

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY 

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2015-574
August 17, 2015

**RELATING TO THE CREATION OF THE KENTUCKY
COMMUNICATIONS NETWORK AUTHORITY
AND THE BOARD OF THE KENTUCKY COMMUNICATIONS
NETWORK AUTHORITY**

WHEREAS, the Commonwealth of Kentucky promotes effective and efficient management of state government operations; and

WHEREAS, pursuant to KRS Chapter 45A.605, the Finance and Administration Cabinet has authority to enter into contracts for an information highway for state agencies; and

WHEREAS, the 2014 Kentucky General Assembly enacted House Bill 235 (the 2014-2016 Executive branch budget) which established the Next Generation Kentucky Information Highway Fund and the Next Generation Kentucky Information Highway line-item capital project within the Finance and Administration Cabinet; and

WHEREAS, the Commonwealth of Kentucky is ranked at or near the bottom in the nation for access and adoption of high speed broadband, stifling improvements in education, healthcare and economic development; and

WHEREAS, technology improvements are advancing at a speed that requires the Commonwealth to expedite its efforts to make a significant improvement in the availability of high speed broadband to its citizens, businesses and communities; and

WHEREAS, after study and review of the existing state of Internet access networks in use across the executive, legislative, judicial and local government agencies, and by other consumers in the Commonwealth, it has been determined that the Commonwealth will greatly benefit by transitioning from the traditional method of providing Internet services to a statewide public-private partnership (P3) model; and



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GOVERNOR

EXECUTIVE ORDER

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2015-574
August 17, 2015

WHEREAS, the adoption of a P3 model will establish financing for the rapid construction of an open-access broadband network and enable the Commonwealth to own and pay for the network through a long term contract; and

WHEREAS, the Commonwealth can leverage existing funding for Internet access from public agencies through a P3 model to create affordable access to high speed broadband for many citizens, businesses and communities that currently do not have such services available; and

WHEREAS, the provisioning of a statewide high-speed, high-capacity fiber network by a P3 will yield significant improvements in economic growth, global competitiveness, government efficiency, education, healthcare, public safety and a better way of life for residents and businesses in the Commonwealth upon full implementation; and

WHEREAS, the availability of a statewide high-speed, high-capacity fiber network may increase the availability and access to improved cell phone coverage and service levels in under-served areas of the Commonwealth; and

WHEREAS, the establishment of an Authority is necessary to govern and manage the Commonwealth's open-access broadband network:

NOW THEREFORE, I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by the Constitution of Kentucky and KRS 12.028 do hereby **ORDER** and **DIRECT** the following organizational changes within the General Government Cabinet:

- I. The Kentucky Communications Network Authority ("Authority") is hereby established and shall be headed by an executive director, hired and appointed by the Board, with the approval of the Governor. The Authority shall be attached to the Office of the Governor.



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

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- A. The duties of the Authority shall be to:
1. Oversee and maintain the Commonwealth's open-access, broadband network known as KentuckyWired, a fiber optic backbone infrastructure which will extend into every county in the Commonwealth;
 2. Manage the Master Agreement with the Commonwealth's public-private partnership partner to design, engineer, build, operate, maintain and refresh the network, efficiently and cost effectively;
 3. Provide network connectivity to public agencies statewide;
 4. Offer access to those eligible to utilize excess capacity on the network;
 5. Govern the Kentucky Communications Network Authority program through the executive director, board of directors and stakeholder advisory groups;
 6. Promulgate administrative regulations necessary to advance the duties and responsibilities of the Authority.
 7. Enter into contracts with appropriate public and private entities to the extent necessary to carry out its duties and responsibilities;
 8. Provide program management services for the financial viability of the Master Agreement and related contract agreements, including grant administration, contract compliance and oversight, community planning support, and constituent services;
 9. Pursue available funding for the KentuckyWired network project; and
 10. Create an advisory group, that includes major stakeholders, to provide input and feedback on issues which are important to the user community and to the long term sustainability of the project and the network. The advisory group shall include, but not be limited to the following:
 - a. Kentucky Department of Education
 - b. Kentucky Council on Postsecondary Education
 - c. Cabinet for Economic Development



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2015-574
August 17, 2015

- d. Cabinet for Health and Family Services
- e. Kentucky Transportation Cabinet
- f. Justice and Public Safety Cabinet
- g. Finance and Administration Cabinet
- h. Administrative Office of the Courts
- i. Legislative Research Commission
- j. Institutions of Higher Education
- k. Local Governments
- l. Libraries
- m. Public Health Care
- n. Kentucky Educational Television
- o. Others whose input or participation on the advisory group will benefit the network.

B. The Executive Director may appoint the personnel necessary for the proper functioning of the Authority, fix their salaries and prescribe their duties. The Executive Director and any persons employed by the Authority shall not be subject to the provisions of KRS Chapter 18A.

II. The Board of the Kentucky Communications Network Authority (“Board”) is hereby established. The Board shall be attached to the Office of the Governor.

A. The Board of the Kentucky Communications Network Authority shall consist of:

1. The secretary of the Governor’s Executive Cabinet or designee, who shall serve as Chair of the Board;
2. The state budget director or designee;
3. The executive director of the Kentucky Public Service Commission or designee;
4. The chief information officer or designee; and
5. A representative from the Center for Rural Development.

B. The duties of the Board of the Kentucky Communications Network Authority shall be to:

1. Develop a strategic plan for, and provide policy direction to, the Kentucky Communications Network Authority;



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2015-574
August 17, 2015

2. Review performance reports from the public-private partnership partner regarding deployment, operations, and administration of the KentuckyWired network to meet service level agreements with the Commonwealth and to refresh the technology appropriately;
 3. Monitor efforts of the public-private partnership's wholesale organization to drive new revenues and expand the network through marketing and awareness programs;
 4. Approve fiscal planning for the Kentucky Communications Network Authority including budget development, state appropriations management, grant administration, cost recovery schedules, and billing services; and
 5. Establish rates for services offered through the KentuckyWired network and establish methods for customer account management and billing.
- C. The Board shall meet at least semi-annually and at other times upon the call of the chair.
- D. The Board may form committees, work groups or advisory councils to accomplish its duties and functions.
- E. The Board may elect other officers it considers necessary and shall employ an executive director to manage the Kentucky Communications Network Authority.
- III. All funds, records, files, and equipment associated with the subject matter of this Order are hereby assigned to the Kentucky Communications Network Authority within the Office of the Governor.
- IV. The Finance and Administration Cabinet, the Office of State Budget Director, the Personnel Cabinet, and other affected state agencies shall take all necessary actions to effectuate this Order.



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GOVERNOR

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2015-574
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This Order shall be effective August 16, 2015.


STEVEN L. BESHEAR, GOVERNOR
Commonwealth of Kentucky


ALISON LUNDERGAN GRIMES
Secretary of State

REORGANIZATION PLAN

INTRODUCTION

It is the policy of the Beshear Administration to gain efficiencies in state government to best serve the citizens of the Commonwealth. In keeping with this policy, it is necessary to establish a new state agency to manage and oversee the KentuckyWired network, the Commonwealth's open-access broadband network. The provisioning of a statewide high-speed, high-capacity fiber network through a public-private partnership (P3) will yield significant improvements in economic growth, global competitiveness, government efficiency, education, healthcare, public safety and a better way of life for citizens and businesses in the Commonwealth upon full implementation. This Executive Order will create a state government environment that better supports Governor Beshear's initiatives.

SUMMARY OF PLAN

This executive order establishes the Kentucky Communications Network Authority (Authority) and the Board of the Kentucky Communications Network Authority (Board). The stated entities will manage and oversee the KentuckyWired network, the Commonwealth's open-access broadband network.

KentuckyWired is a Commonwealth public infrastructure project that will be built to provide broadband service using a modern, high-capacity fiber infrastructure. Its primary purpose will be to provide broadband services to all of the Commonwealth's agencies and its public postsecondary education institutions. It is designed to have the capacity and ability to serve other public sector organizations, like public libraries and public school districts. The first links in the network will be operational in 2016, and it will significantly improve Kentucky's dismal connectivity and slow speeds and offer some of the fastest capacity in the U.S. The network will be comprised of more than 3,000 miles of high-speed Internet connectivity throughout Kentucky's 120 counties with completion set for 2018.

A public-private partnership with Macquarie Capital has been established to design, build, operate, and maintain the network for 30 years. The public-private partnership leverages private sector funding for most of the construction cost of the project. The Commonwealth will shift its resources from payments for its current service to pay for the new and substantially faster state-owned network. The private sector partners bear the construction and operational performance risks of the project; the Commonwealth retains ownership of the network.

KentuckyWired is unique in that it will be an "open access" network. This means cities, partnerships, private companies or other groups may acquire access to these "middle-

mile” lines, but the network will not be providing “last mile” services, or the lines that run to individual homes or businesses.

The Authority will be created within the General Government Cabinet, and will be administratively attached to the Office of the Governor. The Board is made up of the primary stakeholders in the network including the Secretary of the Governor’s Executive Cabinet, who shall serve as Chair of the Board, the State Budget Director, the President of the Counsel on Postsecondary Education, the Commonwealth’s Chief Information Officer, and a representative from the Center for Rural Development.

The Board will develop a strategic plan, provide policy direction to the Authority, establish rates for services, and oversee performance of the public-private partnership regarding deployment, operations, and administration of the KentuckyWired network, as well as overseeing compliance with all applicable laws and requirements.

The primary benefits of this reorganization are: significantly improved broadband services, strategic positioning for the future, and a network operating environment sufficient to carry out this critical function for the Commonwealth. This consolidation will significantly reduce the Commonwealth’s risks associated with system failure and privacy or security breaches. The consolidation will position the Commonwealth to take full advantage of emerging technologies and sourcing alternative in the future, and will result in the delivery of improved IT infrastructure services to state agencies.

FISCAL / PERSONNEL IMPACT

Fiscal Impact: The Kentucky Communications Network Authority will manage the Next Generation Kentucky Information Highway line-item capital project and the Next Generation Kentucky Information Highway Fund, both of which were authorized by House Bill 235 from the 2014 Regular Session of the General Assembly under the Finance Cabinet General Administration appropriation unit. The project consists of \$30 million in state bond funds and \$20 million in Federal Funds. The remainder of the project will be funded with private investment. Operating funds for the Authority shall be transferred from the Commonwealth Office of Technology’s Computer Services Fund.

Personnel Impact: The Center will consist of ten to fourteen employees, including an Executive Director. All employees of the of the Kentucky Communications Network Authority, including the Executive Director, shall not be subject to the provisions of KRS Chapter 18A.