



House Energy, Utilities and Telecommunications Committee
Testimony on HB 2237
February 16, 2023
Neutral – Megan Bottenberg, Director of Government Affairs

Chairman and Members of the Committee:

My name is Megan Bottenberg; I'm the Director of Government Affairs for Cox Communications in Kansas. Today, I'm also representing the Kansas Cable Telecommunications Association (KCTA) and our members across the state.

Cox Communications is the largest privately held telecommunications company in the nation, and the largest broadband provider in Kansas. We contribute more than \$732.8 million to the Kansas economy each year, pay more than \$8.6 million a year in franchise fees in Kansas, and collect more than \$22 million in sales tax for state and local units of governments from customers. Cox is in over 100 franchise communities in Kansas—including cities and counties—through the state video authorization certificate process and right of way agreements. These municipalities are both large and small, rural and urban.

While Cox has been in Kansas for over 40 years, there are many new entrants in the Kansas market providing broadband services. Some of these new entrants have different agreements, obligations, and fees with the units of government than do other incumbent or legacy providers. Cox agrees with the intent of this legislation: Each provider in the right of way, whether it is a city or a county right of way, should be treated fairly and equally as any other entrant in the right of way based on this statute, KSA 17-1902. This statute makes clear both municipalities' and Kansas providers' consistent obligations throughout the state.

On behalf of the KCTA, we would ask you to add an amendment that maintains level and equal treatment of providers operating in the right of way between incumbent providers and new entrants who may seek or be given more favorable terms for accessing the public right of way. Cox and the other KCTA members welcome competition but each provider should be treated by the government in a non-discriminatory and competitively neutral way. Additionally, the proposed language ensures any disputes are managed in an expedited manner by allowing a court of competent jurisdiction be a path a party may go to seek relief.

Thank you for your time and consideration.

Proposed Amendment:

A municipality shall impose in a nondiscriminatory and competitively neutral manner all locally required permitting and right of way access requirements. Any municipality that executes an agreement, franchise or any other arrangement with any provider seeking to access the right of way for any purpose, shall make such agreement, franchise or other arrangement available to any other provider seeking to access the right of way in a nondiscriminatory and competitively neutral manner.

A municipality shall assess any taxation or fees imposed on providers in a cost-based, nondiscriminatory and competitively neutral manner.

A municipality or provider may bring an enforcement action in any court of competent jurisdiction.

