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Members of the Senate Natural Resources and Energy Committee,

The ACLU of Kentucky is greatly appreciative of the significant changes made to HB 44, an act relating to key infrastructure assets, but we remain opposed to the bill.

The fight for freedom of speech has been a bedrock of the ACLU's mission since our organization was founded in 1920, driven by the need to protect the constitutional rights of conscientious objectors and anti-war protesters. Over the years, the ACLU has represented or defended individuals engaged in some truly offensive speech. We have defended the speech rights of communists, Nazis, Ku Klux Klan members, accused terrorists, pornographers, anti-LGBT activists, and flag burners. I mention these examples to show just how important we believe our first amendment is - our commitment to freedom of speech remains as strong as ever and that is what compels us to urge you to vote on no on HB 44.

Despite the changes made to HB 44, we remain concerned that the bill will continue to stifle speech. The bill still expands the scope of criminal mischief in the first degree, which is a felony offense. The threat of a felony or other legal actions against protestors engaged in First Amendment protected activity could easily result in chilled speech. This is especially concerning when considering the recent action taken by coal miners who protested after they were not paid by their employers. We should not be targeting Kentuckians engaged in First Amendment activity for any crimes let alone felonies.

Not only do we believe that individuals engaging in First Amendment protected activities could run afoul of this broadened definition of criminal mischief, we remain concerned with the civil liability provision. Again, we are very appreciative of the changes made to that provision but remained concerned that it would infringe upon constitutionally protected freedom to associate. No individual or organization should face liability merely because other individuals who may be associated with those protected activities chooses to violate the law.

I urge you to vote no on HB 44.

Sincerely,  
Kate Miller  
Advocacy Director, ACLU of Kentucky