

Issue	Proposed Regulation Section	Proposed Language	Commenting Parties	Comment
Definitions	807 KAR 5:0XX Section 1(1)	"Attachment" means any attachment by a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit to a pole owned or controlled by a utility.	Duke Energy	"Attachment" is overbroad as it includes both broadband internet providers and governmental unit which goes beyond the FCC, governmental unit is required access under the FCC standard
Definitions	807 KAR 5:0XX Section 1(1)	"Attachment" means any attachment by a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit to a pole owned or controlled by a utility.	Kentucky Power	"Kentucky Power supports the Commission's decision to specifically include attachments made by "broadband internet providers" within the proposed definition of "attachment."
Definitions	807 KAR 5:0XX Section 1(5)	"Existing attacher" means any person or entity with equipment lawfully on a utility pole. D	Duke Energy	"Existing Attacher" is overly broad through its incorporation of any "person or entity" and should be clarified. Company recommends that the proposed definition of "existing attacher" be amended to state, "any communication carrier or governmental unit with equipment lawfully on the pole."
Definitions	807 KAR 5:0XX Section 1	NA	Duke Energy LGE-KU Kentucky Power Eastern Kentucky Power Cooperative (EKPC) KAEC	The term "Pole" should be included as a defined term in Section 1 to limit it to poles used for distribution of electricity and communication service, excluding transmission poles and street lighting poles. Proposed language: "Pole" means a utility pole supporting electric supply facilities that operates at or below nominal maximum distribution voltage and does not include either (1) a pole that supports electric transmission facilities or (2) any pole, post, standard or other structure that is used primarily to support outdoor lighting.
Definitions	807 KAR 5:0XX Section 1(2)	"Broadband internet provider" means a person who owns, controls, operates, or manages any facility used or to be used to offer internet service to the public with download speeds of at least 25 megabytes per second and upload speeds of at least 3 megabytes per second.	Kentucky Power LGE-KU	Should be revised to specifically exclude incumbent local exchange carriers ("ILECs") from the definition because: <ol style="list-style-type: none"> 1. ILECs do not need mandatory access right because they already have access under existing joint use agreements 2. It would not make any sense for ILECs to have mandatory access rights to electric utility poles but not vice versa, thus disrupting the bargained for agreement between utilities and ILECs.

Definitions	807 KAR 5:0XX Section 1(10)	“Telecommunications carrier” means a person who owns, controls, operates, or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in air, or otherwise, any message by telephone or telegraph for the public, for compensation.	Kentucky Power LGE-KU	Should be revised to specifically exclude incumbent local exchange carriers (“ILECs”) from the definition because: <ol style="list-style-type: none"> 1. ILECs do not need mandatory access right because they already have access under existing joint use agreements 2. It would not make any sense for ILECs to have mandatory access rights to electric utility poles but not vice versa, thus disrupting the bargained for agreement between utilities and ILECs.
Definitions	807 KAR 5:0XX Section 1(3)	Communication space” means the lower usable space on a utility pole, which is typically reserved for low voltage communications equipment.	Kentucky Power	Revise the definition of “Communication Space” to more clearly define it. <ol style="list-style-type: none"> 1. Incorporate “no wireline attachments can lawfully be made below the minimum grade clearance” 2. Incorporate the required clearances between communications lines and electric supply facilities 3. These “bottom up” and “top down” boundary descriptions clarify the location and definition of the communication space on the poles
Definitions	807 KAR 5:0XX Section 1(4)	“Complex make-ready” means any make-ready that is not simple make-ready, such as the replacement of a utility pole; splicing of any communication attachment or relocation of existing wireless attachments, even within the communications space; and any transfers or work relating to the attachment of wireless facilities.	Kentucky Power LG&E-KU	The term “complex make-ready” should be limited to make-ready that is within the communication space, but which is not “simple make-ready.” This is how the FCC pole attachment rules define the term. This is important within the context of the Commission’s proposed self-help remedy, as the Commission should not extend the self-help remedy to make-ready above the communication space.
Definitions	807 KAR 5:0XX Section 1(11)	“Simple make-ready” means make-ready where existing attachments in the communications space of a pole could be transferred without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing communication attachment or relocation of an existing wireless attachment.	Kentucky Power	“Simple make-ready” should be revised to reference “rearrangements” instead of “transfers”, because “transfer” in the telecommunications industry is used to describe the process by which communications attachments are removed from an existing utility pole and re-attached to a newly-set utility pole, while “rearrange” is used to describe existing attachers shifting the position of their attachments on a pole during make-ready to accommodate new or modified attachments

Definitions	807 KAR 5:0XX Section 1	NA	LGE-KU	The Commission Should Include the Term “High Volume Request” in Section 1 of the Proposed Rules. Though relatively rare, large attachment requests present unique challenges that require tailored solutions. Proposed language: “High Volume Request” means a request for attachment to more than 300 poles or 0.5 percent of the utility’s poles in the state, whichever is fewer.
Definitions	807 KAR 5:0XX Section 1(1)	“Attachment” means any attachment by a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit to a pole owned or controlled by a utility.	AT&T Kentucky Broadband and Cable Association	The rule should be expanded through definitions section to include ducts, conduits, and rights of way. It should also be expanded to include attachments made by a pole owner.
Definitions	807 KAR 5:0XX Section 1(5)	“Existing attacher” means any person or entity with equipment lawfully on a utility pole.	AT&T	“Existing Attacher” should be expanded through definitions to include any person or entity with with equipment lawfully on a utility pole or <u>occupying ducts, conduits, and rights of way</u>
Definitions	807 KAR 5:0XX Section 1(9)	“New attacher” means a cable television system operator, telecommunications carrier, broadband internet service provider, or governmental unit requesting to attach new or upgraded facilities to a pole owned or controlled by a utility except that a new attacher shall not include a utility with an applicable joint use agreement with the utility that owns or controls the pole to which it is seeking to attach or a person seeking to attach macro cell facilities.	AT&T	The term should be modified to include any entity placing new or additional attachments with the expanded definition of “attachment”, meaning to include ducts, conduits, and rights of way
Definitions	807 KAR 5:0XX Section 1	NA	CTIA	Expand the definition of “Pole”: The Commission should apply its rules to all pole owners under its jurisdiction, including any electric cooperatives that the Commission has regulatory authority over.
Duty to provide access to utility poles and facilities	807 KAR 5:0XX Section 2(1)	A utility shall provide any cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.	Duke Energy	Subsection 1 is overbroad: requires utilities to provide pole access to “any cable television system operator, telecommunications carrier, broadband internet provider or governmental unit nondiscriminatory access to any pole, duct, conduit or right-of-way owned by it.” 1. This gives governmental units access to poles even outside its own boundaries and service territory.

				2. This regulation would require the utility to provide complete access to the entire right-of-way controlled by the utility, but Duke Energy Kentucky does not have absolute control over this right-of-way, and may require the utility to renegotiate the easements they have already negotiate
Duty to provide access to utility poles and facilities	807 KAR 5:0XX Section 2(3)	A request for access to a utility's poles, ducts, conduits or rights-of-way must be in writing, except that an application may be provided via email as permitted by a utility's tariff or a special contract between the utility and person requesting access.	Duke Energy	Subsection 3 should permit an electronic and automated access request process. As written Subsection 3 requires the utility to implement a written access request process for access to poles, conduit, and rights-of-way and permits the utility to provide the application by email. But Utilities should be allowed to have an electronic and automatic submittal process in its website
Pole Attachment Tariff Required	807 KAR 5:0XX Section 3	NA	Kentucky Power	Kentucky Power wants a subsection (4) added that grants a presumption that a rate, term or condition within a tariff in effect on the effective date of this administrative regulation is fair, just and reasonable to protect the terms of the existing tariff, because before any pole attachment tariff is approved by the Commission, it is subjected to rigorous regulatory scrutiny and scrutiny from interested parties
Pole Attachment Tariff Required	807 KAR 5:0XX Section 3	Section 3. Pole attachment tariff required.	AT&T	Seeking to change the section to "Attachment tariff required. Special Contracts permitted." The purpose is to expand attachments beyond merely to "poles", but to also include ducts, conduits, and rights of way
Pole Attachment Tariff Required	807 KAR 5:0XX Section 3(1)	A utility that owns or controls utility poles located in Kentucky shall maintain on file with the commission a tariff that includes rates, terms, and conditions governing pole attachments in Kentucky that are consistent with the requirements of this administrative regulation and KRS Chapter 278.	AT&T	Section 3(1) edited to include ducts and conduits. AT&T's proposed edits: A utility that owns or controls utility poles, ducts and conduit located in Kentucky shall maintain on file with the commission a tariff that includes rates, terms, and conditions governing pole attachments, and duct and conduit occupancy in Kentucky that are consistent with the requirements of this administrative regulation and KRS Chapter 278.
Pole Attachment Tariff Required	807 KAR 5:0XX Section 3(3)	The tariff may include terms that are fair, just, and reasonable subject to approval by the commission such as limitations on liability, indemnification, insurance requirements, and restrictions on access	AT&T	Section 3(3) edited to include ducts and conduits. AT&T's proposed edits: The tariff may include terms that are fair, just, and reasonable subject to approval by the commission such as limitations on liability, indemnification, insurance requirements, and restrictions

		to utility poles that are consistent with the requirements of this administrative regulation.		on access to utility poles, ducts, conduits or right of way that are consistent with the requirements of this administrative regulation.
Pole Attachment Tariff Required	807 KAR 5:0XX Section 3	NA	AT&T	<p>Seeks to add 6 new subsections to allow "Special Contracts to be permitted:</p> <ul style="list-style-type: none"> a. (4) Signed agreements based wholly on a utility's tariff need not be filed with commission. b. (5) This section does not prevent or limit the ability of a pole, duct, conduit or right of way owner and attaching entity to enter into voluntarily negotiated written agreement (special contract) regarding the rates, terms and conditions for pole, duct, conduit or right of way access if its terms and conditions are consistent with the requirements of this administrative regulation and KRS Chapter 278. c. (6) Sign and Sue Provision. In the absence of an agreed-to special contract, should one be sought by an existing or new attacher, such existing or new attacher may obtain attachments under tariff or an agreement wholly consistent with the utility tariff pending adjudication of any dispute between the utility and the attacher. d. (7) Notice of filed tariff or rate case including changes to Attachment Tariff. Any utility offering or providing attachments to existing attachers or known new attachers shall provide such attachers at least 60 days advance notice of the intent to make changes to its tariff and shall provide notice of any proposed changes made simultaneously with the filing of proposed changes at the commission, whether as a stand-alone proposal or as part of a general rate case. e. (8) Utilities may update attachment rates no more than once annually based on available current data. Such rate updates may occur in the context of a general rate case, streamlined rate case, or may be proposed as an independent annual tariff filing. Supporting documentation and computations must be provided promptly to existing or new attachers on request and may be provided subject to the execution of a non-disclosure agreement. f. (9) Existing tariffs must be conformed to the requirements of this administrative regulation within a reasonable time,

				but no later than one year after its effective date. New and newly-renewed special contracts must conform to the requirements of this administrative regulation after the effective date of this administrative regulation. A new or newly-renewed pole attachment agreement is one entered into, renewed, or placed in evergreen status after the effective date of this administrative regulation.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4			
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(2)(a)(1)	A utility shall review a new attacher's pole attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within 10 business days after receipt of the new attacher's pole attachment application if the application is incomplete.	LGE-KU KAEC	The Commission Should Revise Section 4(2)(a)1 to Afford Utilities Additional Time to Review for Completeness Applications Involving High Volume Requests. LG&E-KU does not object to the 10-day deadline for regular sized applications, but does object to applying the same deadline to larger applications, i.e., those involving more than three hundred (300) poles.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(2)(b)(1)	A utility shall complete a survey of poles for which access has been requested within 45 days of receipt of a complete application to attach facilities to its utility poles (or within 60 days in the case of larger orders as described in subsection (7) of this section) for the purpose of determining whether the attachments may be made and identifying any make-ready to be completed to allow for the attachment.	LGE-KU KAEC	The Commission Should Revise Subsection (2)(b)1 to Accommodate the LG&E-KU's Existing Practice of Requiring New Attachers to Perform a Survey as Part of a Complete Application. Section 4(2)(b)1 as written requires utilities to "complete a survey of poles for which access has been requested within 45 days of receipt of a complete application. But LG&E-KU already require new attachers to perform a survey as part of a complete application, and this could be currently be read to require LG&E-KU to perform a redundant survey along with the attacher's application survey.

<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 4(2)(b)(2)a&b</p>	<p>Participation of attachers in surveys conducted by a utility. a. A utility shall permit the new attacher and any existing attachers on the affected poles to be present for any field inspection conducted as part of a utility's survey conducted pursuant paragraph (b)1 of this subsection. b. A utility shall use commercially reasonable efforts to provide the affected attachers with advance notice of not less than 5 business days of any field inspection as part of the survey and shall provide the date, time, and location of the inspection, and name of the contractor, if any, performing the inspection.</p>	<p>Kentucky Power</p>	<p>Subsection (2)(b)2 should be deleted in its entirety, because Subsection 2(b)2 would impose a burden on electric utilities to allow existing and new attachers to participate in field surveys during the application process. Because the field survey is primarily a data collection event of little value to existing or new attaching entities, attaching entities have generally declined to participate when given the opportunity. And it would slow down broadband deployment</p>
<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 4(2)(b)(4)</p>	<p>Based on the results of the applicable survey and other relevant information, a utility shall respond to the new attacher either by granting access or denying access within 45 days of receipt of a complete application to attach facilities to its utility poles (or within 60 days in the case of larger orders as described in subsection (7) of this section).</p>	<p>LGE-KU</p>	<p>The Commission Should Revise Section 4(2)(b)4 to Provide Utilities with Adequate Time to Review Completed Applications. a. The regulation gives LGE-KU 45 days, reducing its time to review by 25% as it has 60 days under its current pole attachment tariffs.</p>
<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 4(2)(b)(6)(b)</p>	<p>If a utility's tariff requires prepayment of survey costs, the utility shall send a new attacher whose application for access has been deemed to be complete, a detailed, itemized estimate in writing of charges to perform all necessary survey work within 14 days of providing the response required by subsection (2)(a)1 of this section indicating the application is complete.</p>	<p>Duke Energy</p>	<p>Duke Energy seeks to amend it to be "reasonably detailed, itemized estimate", allowing any differential between the actual final costs and the estimate be included in a final bill</p>

Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(3)(a)	A utility shall send a new attacher whose application for access has been granted a detailed, itemized estimate in writing, on a pole-by-pole basis where requested and reasonably calculable, of charges to perform all necessary make-ready within 14 days of providing a response granting access pursuant to subsection (2)(b)4 of this section.	LGE-KU Kentucky Power	The Commission Should Delete the Provisions in Section 4 (3)(a) that Require Utilities to Provide "Itemized" Estimates and Invoices on a "Pole-By-Pole Basis."
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(3)(a)	A utility shall send a new attacher whose application for access has been granted a detailed, itemized estimate in writing, on a pole-by-pole basis where requested and reasonably calculable, of charges to perform all necessary make-ready within 14 days of providing a response granting access pursuant to subsection (2)(b)4 of this section.	Duke Energy	Duke suggests that if this regulation comes to fruition, that the language be amended to include a "reasonably detailed, itemized estimate."
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(3)c&d	(c) A utility may withdraw an outstanding estimate of charges to perform make-ready work beginning 14 days after the estimate is presented. (d) A new attacher may accept a valid estimate and make payment any time after receipt of an estimate, except it may not accept after the estimate is withdrawn.	Kentucky Power	Subsections (3)(c) and (3)(d) should be replaced in their entirety, because Subsections (3)(c) and (3)(d) of the proposed rules would allow a new attacher to accept a make-ready estimate at any time before it is formally withdrawn by an electric utility. This would impose an unnecessary burden on electric utilities to match outstanding estimates with other distribution work orders.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(3)c&d	(c) A utility may withdraw an outstanding estimate of charges to perform make-ready work beginning 14 days after the estimate is presented.	Duke Energy	Subsection (3)(c) permits a utility to withdraw an outstanding estimate of charges to perform make-ready work beginning 14 days after the estimate is submitted, shortening the 30 day period, and Duke requests that the 30 day period and the flexibility it provides remain
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(4)a&b	(a) For attachments in the communications space, the notice shall:	Kentucky Power LGE-KU	Subsections (4)(a) and (4)(b) should be revised to clarify that the different requirements are based on where make-ready is to be performed, rather than where the new attachments are to be made.

		<p>1. Specify where and what make-ready will be performed.</p> <p>2. Set a date for completion of make-ready in the communications space that is no later than 30 days after notification is sent (or up to 75 days in the case of larger orders as described in subsection (7) of this section).</p> <p>3. State that any entity with an existing attachment may modify the attachment consistent with the specified make-ready before the date set for completion.</p> <p>4. State that if make-ready is not completed by the completion date set by the utility in subparagraph 2 of this paragraph, the new attacher may complete the make-ready specified pursuant to subparagraph 1 of this paragraph.</p> <p>5. State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.</p> <p>(b) For attachments above the communications space, the notice shall:</p> <p>1. Specify where and what make-ready will be performed.</p> <p>2. Set a date for completion of make-ready that is no later than 90 days after notification is sent (or 135 days in the case of larger orders, as described in subsection (7) of this section).</p>		
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Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(4)(a)(5)	State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.	Duke Energy	A name/ direct contact is not necessary; the utility should be given flexibility to allow its department to handle the inquiries without assigning a specific person for each individual attacher.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(4)(b)(2)	Set a date for completion of make-ready that is no later than 90 days after notification is sent (or 135 days in the case of larger orders, as described in subsection (7) of this section).	Kentucky Power Duke Energy KAEC	Subsection (4)(b)2 should be deleted in its entirety, because it requires a utility to identify at the outset a certain "date for completion." Doesn't allow for delays and it is unreasonable
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(4)(b)(5)	State that if make-ready is not completed by the completion date set by the utility in subparagraph 2 in this paragraph (or, if the utility has asserted its 15-day right of control, 15 days later), the new attacher may complete the make-ready specified	Kentucky Power LGE-KU KAEC	<p>The Commission should not mandate that new attachers have the right to perform self-help in the electric supply space.</p> <ol style="list-style-type: none"> 1. Kentucky Power recommends that the subsection be revised to include a 90 day period for completion of make-ready work and to reference the Commission's complaint

		pursuant to subparagraph 1 of this paragraph.		procedures, rather than the self-help remedy currently included
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(4)(c)	Once a utility provides the notices described in this section, it then must provide the new attacher with a copy of the notices and the existing attachers' contact information and address where the utility sent the notices. The new attacher shall be responsible for coordinating with existing attachers to encourage their completion of make-ready by the dates set forth by the utility in paragraph (a)2 of this subsection for communications space attachments or paragraph (b)2 of this subsection for attachments above the communications space.	Duke Energy KAEC	The Company should not be required to provide the contact information and all notices sent to existing attachers. Duke Energy Kentucky recommends that proposed requirement be eliminated. Duke currently uses an electronic notification system to notify current attachers to provide the new attacher info and proposal number so they can cross reference it.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(4)	(4)a-c see above	Kentucky Power	Subsection (4) should be revised as follows to place the burden of issuing make-ready notices on the new attacher rather than the utility. Accordingly, Rather than the utility, the attacher should be required to notify in writing all the known entities with existing attachments that may be affected by the make-ready.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(6)(a)1-2	<p>Within a reasonable period after a utility completes its make-ready, the utility shall provide the new attacher:</p> <ol style="list-style-type: none"> 1. A detailed, itemized final invoice of the actual survey charges incurred if the final survey costs for an application differ from any estimate previously paid for the survey work; and 2. A detailed, itemized final invoice, on a pole-by-pole basis where requested and reasonably calculable, of the actual make ready costs to accommodate attachments if the final make ready costs differ from the estimate provided pursuant to subsection (3)(d) of this section. 	Kentucky Power Duke Energy	<p>Subsection (6)(a) should make the final invoice permissive, and only required if the make-ready costs exceed the make-ready estimate.</p> <p>And should be revised to omit the requirements of providing information on an "itemized" and "pole-by-pole" basis, replacing "detailed, itemization" with "reasonably detailed" as the standard for the final invoice, arguing that as long as the estimate of the make ready work is under a reasonable threshold as determined by each utility, a final invoice that trues-up survey and make ready work costs would not be necessary.</p>

<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 4(6)(b)</p>	<p>A utility may not charge a new attacher to bring poles, attachments, or third-party equipment into compliance with current published safety, reliability, and pole owner construction standards guidelines if such poles, attachments, or third-party equipment were out of compliance because of work performed by a party other than the new attacher prior to the new attachment.</p>	<p>LGE-KU</p>	<p>The Commission Should Revise Section 4(6)(b) of the Proposed Rules to Make Clear that Electric Utilities Are Not Responsible for the Costs of Preexisting Violations Caused by Attaching Entities.</p>
<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 4(7)</p>	<p>For the purposes of compliance with the time periods in this section:</p> <p>(a) A utility shall apply the timeline described in subsection (2) through (4) of this section to all requests for attachment up to the lesser of 300 poles or 0.5 percent of the utility's poles in the state.</p> <p>(b) A utility may add 15 days to the survey period described in subsection (4) of this section to larger orders up to the lesser of 3000 poles or 5 percent of the utility's poles in the state.</p> <p>(c) A utility may add 45 days to the make-ready periods described in subsection (4) of this section to larger orders up to the lesser of 3000 poles or 5 percent of the utility's poles in the state.</p> <p>(d) A utility shall negotiate in good faith the timing of all requests for attachment larger than the lesser of 3000 poles or 5 percent of the utility's poles in a state.</p> <p>(e) A utility may treat multiple requests from a single new attacher as one request</p>	<p>Kentucky Power LGE-KU KAEC</p>	<p>Subsection (7) should be revised to omit the timelines applicable to attachment requests in excess of 300 poles, arguing the incremental timeline extensions proposed in subsections (7)(b) and (7)(c) for much larger attachment requests (over 300 poles) are unrealistic and impractical.</p> <p>a. LGE-KU specifically requests that the Proposed Rules be edited to incorporate the High Volume Request Framework Discussed Above, which Was Recently Approved by the Commission in LGE-KU's Pole Attachment Tariffs.</p>

		when the requests are filed within 30 days of one another.		
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(9)(a)	<p>Surveys. If a utility fails to complete a survey as specified in subsection (2)(b) of this section, then a new attacher may conduct the survey in place of the utility by hiring a contractor to complete a survey as specified in Section 5 of this administrative regulation.</p> <p>1. A new attacher shall permit the affected utility and existing attachers to be present for any field inspection conducted as part of the new attacher's survey.</p> <p>2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than 5 business days of a field inspection as part of any survey it conducts.</p> <p>3. The notice shall include the date and time of the survey, a description of the work involved, and the name of the contractor being used by the new attacher.</p>	Kentucky Power	Subsection (9)(a) should be revised to require new attachers to retain approved contractors, where required by a utility, to perform self-help surveys. The section already appears to say this but Kentucky Power wants greater clarity
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(9)(b)	<p>Make-ready. If make-ready is not complete by the applicable date specified in subsection (4) of this section, then a new attacher may conduct the make-ready in place of the utility and existing attachers by hiring a contractor to complete the make-ready as specified in Section 5 of this administrative regulation.</p> <p>1. A new attacher shall permit the affected utility and existing attachers to be present for any make-ready.</p>	Kentucky Power LGE-KU	The Commission Should Revise Section 4(9) of the Proposed Rules to Limit the Self-Help Remedy to the Communications Space Only.

		<p>2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than 7 days of the impending make-ready.</p> <p>3. The notice shall include the date and time of the make-ready, a description of the work involved, and the name of the contractor being used by the new attacher.</p>		
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(10)	One-touch make-ready option. For attachments involving simple make-ready, new attachers may elect to proceed with the process described in this subsection in lieu of the attachment process described in subsections (2) through (6) and (9) of this section.	Kentucky Power	Kentucky Power fully supports the Commission's interest in expediting make-ready work within the communications space, as it eliminates the impediment of disinterested or anti-competitive impulses of existing attachers that leads to delays.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(9) and 4(10)	Subsection 4(9) seen above and 4(10)	LGE-KU KAEC	The Commission Should Revise the Self-Help Remedy (Section 4(9)) and One Touch-Make-Ready (Section 4(10)) Rules to Incorporate an Objective Framework for Resolving Damage and Violations Caused by the Installation of New Attachers' Facilities.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(9) and 4(10)	One-touch make-ready option. For attachments involving simple make-ready, new attachers may elect to proceed with the process described in this subsection in lieu of the attachment process described in subsections (2) through (6) and (9) of this section.	LGE-KU	The Commission Should Revise Section 4(10) to Provide Utilities with Sufficient Time to Review Applications for One-Touch-Make-Ready.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(2)(a)(1)	A utility shall review a new attacher's pole attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within 10 business days after receipt of the new attacher's pole attachment application if the application is incomplete.	Kentucky Broadband CTIA	The Rules Should Shorten And Clarify The Timeframe To Review And Process Pole Attachment Applications. Kentucky Broadband specifically want to amend the rules to give a utility 5 business days to determine whether a new attacher's pole application is complete. The current proposed rule give utilities 10 business days.

Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(2)(a)(3)	NA as it is a proposed addition to the subsection	AT&T	Requests an additional subsection (Section 4(2)(a)(3)): <u>If the utility fails to notify the new attacher in writing that an application is incomplete, providing specificity as to the deficiencies, within 10 business days of receipt, the application shall be deemed complete.</u>
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(2)(b)(1)	A utility shall complete a survey of poles for which access has been requested within 45 days of receipt of a complete application to attach facilities to its utility poles (or within 60 days in the case of larger orders as described in subsection (7) of this section) for the purpose of determining whether the attachments may be made and identifying any make-ready to be completed to allow for the attachment.	Kentucky Broadband	The Commission should clarify that this 45-day period to complete a survey of poles to which a new attacher has requested access runs from the receipt of the application and therefore includes any initial time it takes the utility to determine whether the application is complete—that is, a utility should have a total of 45-days to both determine whether an application is complete and to complete a survey. Additionally the Commission should: <ol style="list-style-type: none"> 1. clarify that this time period does not restart in the event a pole owner identifies minor or technical deficiencies with an application 2. shorten the 45-day period to 15 days when the attacher is require to complete the survey
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(2)(b)(6)(a)	Notwithstanding any other provision of this administrative regulation, a utility's tariff may require prepayment of the costs of surveys made to review a pole attachment application, or some other reasonable security or assurance of credit worthiness, before a utility is obligated to conduct surveys pursuant to this section.	Kentucky Broadband	The Commission Should Not Require An Attacher To Pay For Surveys In Advance. The Commission should codify the current custom in the proposed regulations, as utilities now only require reimbursement and not upfront payments for pre-construction surveys.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(2)(b)(6)(b)	If a utility's tariff requires prepayment of survey costs, the utility shall send a new attacher whose application for access has been deemed to be complete, a detailed, itemized estimate in writing of charges to perform all necessary survey work within 14 days of providing the response required by subsection (2)(a)1 of this section indicating the application is complete.	AT&T	AT&T requests the Commission add language to the proposed subsection (added language is underlined): If a utility's tariff requires prepayment of survey costs, the utility shall send a new attacher whose application for access has been deemed to be complete, a detailed, itemized estimate, <u>or assertion that the per pole estimate amount reflects the utility's average historical cost per pole to perform such surveys,</u> in writing of charges to perform all necessary survey work within 14 days of providing the response required by subsection (2)(a)1 of this section indicating the application is complete.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(3)(a)	A utility shall send a new attacher whose application for access has been granted a detailed, itemized estimate in writing, on a	Kentucky Broadband AT&T	Kentucky Broadband recommends adopting the language as written.

		pole-by-pole basis where requested and reasonably calculable, of charges to perform all necessary make-ready within 14 days of providing a response granting access pursuant to subsection (2)(b)4 of this section.		AT&T agrees with the language but submitted an edited version of the subsection: 4(3)(a) edited language: Within 14 days of providing a response granting access pursuant to subsection (2)(b)4 of this section, a utility shall send a new attacher a detailed, itemized estimate in writing, on a pole-by-pole basis where requested and reasonably calculable, of charges to perform all necessary make-ready.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(3)(c)	A utility may withdraw an outstanding estimate of charges to perform make-ready work beginning 14 days after the estimate is presented.	AT&T	AT&T slightly edited the language slightly removing “work” from “make-ready work”
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(6)(a)	Within a reasonable period after a utility completes its make-ready, the utility shall provide the new attacher: 1. A detailed, itemized final invoice of the actual survey charges incurred if the final survey costs for an application differ from any estimate previously paid for the survey work; and 2. A detailed, itemized final invoice, on a pole-by-pole basis where requested and reasonably calculable, of the actual make ready costs to accommodate attachments if the final make ready costs differ from the estimate provided pursuant to subsection (3)(d) of this section.	Kentucky Broadband	The Commission should further require utilities to provide final invoices on a timely basis, within 45 days of the completion of make-ready work
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(6)(b)	A utility may not charge a new attacher to bring poles, attachments, or third-party equipment into compliance with current published safety, reliability, and pole owner construction standards guidelines if such poles, attachments, or third-party equipment were out of compliance because of work performed by a party other than the new attacher prior to the new attachment.	Kentucky Broadband	The subsection should be amended to: 1. Adopt the rule stating that attachers are no responsible for making repairs for damage to poles from other attachers, but expand the rule to include language stating attachers should not be required to pay to fix non-compliance issues caused by the pole owner itself. The proposed rule should do this by including attachments made by pole owners in the definition of “attachments” 2. The proposed rule should expressly provide that when make-ready is required to accommodate a new attachment

				<p>request, the new attacher is responsible <i>only</i> for paying make ready costs caused solely by the attachment request, and not for costs caused by other parties, such as existing issues with the pole, non-compliant third-party attachments, or the utility's own upgrade and betterment of its facilities in connection with a pole replacement</p> <ol style="list-style-type: none"> a. Requiring the attacher to repair damage or replace the pole entirely is a windfall for the pole owner b. The attaching entity should be responsible for (1) the utility's stranded investment in the pole that must be replaced, <i>i.e.</i>, the remaining depreciated value of the old pole being prematurely retired, and (2) any difference in cost between the replacement pole and the replacement pole the utility <i>would</i> have installed if not for the attachment.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(10)(a)(2)(d)	NA, seeking to add a new subsection	Kentucky Broadband	The Commission should not allow a utility to deviate from established time limits "if the new attacher failed to satisfy a condition in the utility's tariff" or contract.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(8)(a)	A utility may deviate from the time limits specified in this section before offering an estimate of charges if the new attacher failed to satisfy a condition in the utility's tariff, approved by the commission, or in a special contract between the utility and the new attacher.	Kentucky Broadband	AT&T edited the subsection to add the underlined language: A new attacher electing the one-touch make-ready process must elect the one-touch make-ready process in writing in its attachment application and must identify the simple make-ready that it will perform. It is the responsibility of the new attacher to ensure that its contractor determines whether the make-ready requested in an attachment application is simple. <u>Applications shall not combine simple and complex make-ready. When complex make-ready is required, the entirety of the project shall be subject to subsections (2) through (6) and (9) of this section.</u>
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(10)(a)(2)(d)	NA, seeking to add a new subsection	AT&T	4(10)(a)(2) edited to add a subsection: " <u>If the utility fails to notify the new attacher in writing that an application is incomplete, providing specificity as to the deficiencies, within 10 business days of receipt, the application shall be deemed complete.</u> "
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(10)(a)(3)(b)	Within the 15-day application review period (or within 30 days in the case of larger orders as described in subsection (7)(b) of this section or within a time negotiated in good faith for requests equal to or larger than those described in	Kentucky Broadband	Existing attachers should be able to determine whether make ready work that affects their existing attachments is simple or complex in the OTMR Process, not the pole owner or the new attacher. Under the proposed regulations, the utility gets the final say

		(7)(d)), a utility may object to the designation by the new attacher's contractor that certain make-ready is simple. If the utility objects to the contractor's determination that make-ready is simple, then it is deemed complex. The utility's objection is final and determinative so long as it is specific and in writing, includes all relevant evidence and information supporting its decision, made in good faith, and explains how such evidence and information relate to a determination that the make-ready is not simple.		
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(10)(c)	Make-ready. If the new attacher's attachment application is approved and if it has provided 15 days prior written notice of the make-ready to the affected utility and existing attachers, the new attacher may proceed with make-ready using a contractor in the manner specified for simple make-ready in Section 5(2) of this administrative regulation.	Kentucky Broadband	Existing Attachers Should Have 30 Days To Complete Make-Ready Before New Attachers Exercise The OTMR Option.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 4(10)(c)(3)	In performing make-ready, if the new attacher or the utility determines that make-ready classified as simple is complex, then that specific make-ready must be halted and the determining party must provide immediate notice to the other party of its determination and the impacted poles. The affected make-ready shall then be governed by subsections (2) through (9) of this section and the utility shall provide the notices and estimates required by subsections (2) (a), (3) and (4) of this section as soon as reasonably practicable.	AT&T	4(10)(c)(3) edited to apply to all make-ready and have the entire application governed by subsection(2) through (9), opposed to just the "make-ready". The edited language with the added terms underlined: In performing make-ready, if the new attacher or the utility determines that make-ready classified as simple is complex, then <u>all</u> make-ready must be halted and the determining party must provide immediate notice to the other party of its determination and the impacted poles. The <u>application</u> shall then be governed by subsections (2) through (9) of this section and the utility shall provide the notices and estimates required by subsections (2)(a), (3) and (4) of this section as soon as reasonably practicable.

<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 4(10)(d)</p>	<p>Post-make-ready timeline. A new attacher shall notify the affected utility and existing attachers within 15 days after completion of make-ready on a particular pole.</p>	<p>AT&T Kentucky Broadband</p>	<p>AT&T: 4(10)(d) edited language with added language underlined: Post-make-ready timeline. A new attacher shall notify the affected utility and existing attachers within 15 days after completion of make-ready on a <u>one-touch make-ready application</u></p> <p>Kentucky Broadband requests additional language arguing that The Commission should incorporate inspection procedures following any make-ready performed by a third party, giving Existing Attachers 90 Days to Inspect Third Party Make-Ready Work and ensure its plant has not been placed in violation or damaged.</p>
<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 5</p>	<p>5(1): Contractors for self-help complex and above the communications space make-ready. A utility shall make available and keep up-to-date a reasonably sufficient list of contractors it authorizes to perform self-help surveys and make-ready that is complex and self-help surveys and make-ready that is above the communications space on its poles. The new attacher must use a contractor from this list to perform self-help work that is complex or above the communications space. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility may not unreasonably withhold its consent.</p>	<p>LGE-KU Kentucky Power</p>	<p>Kentucky Power: Subsection (1) should be deleted in its entirety and language should be added to limit self-help and make-ready to the communication space.</p> <p>LGE-KU: The Commission should delete references to self-help above the communication space</p>
<p>Procedure for new attachers to request utility pole attachments.</p>	<p>807 KAR 5:0XX Section 5(1)</p>	<p>Contractors for self-help complex and above the communications space make-ready. A utility shall make available and keep up-to-date a reasonably sufficient list of contractors it authorizes to perform self-help surveys and make-ready that is complex and self-help surveys and make-ready that is above the communications space on its poles. The new attacher must use a contractor from this list to</p>	<p>Duke Energy</p>	<p>Section 5(1) as drafted permits new and existing attachers to request the addition of “any contractor” be added to the utility’s list of authorized contractors to perform work on its poles. It is Duke Energy’s positions that the utilities should have final say whether a proposed contractor is authorized to perform work on the utility’s poles. Duke contends that it should go beyond a minimum standard established by the regulation, as Duke currently does a thorough examination of the qualifications and should be allowed to continue</p>

		perform self-help work that is complex or above the communications space. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility may not unreasonably withhold its consent.		
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 5(1)	Contractors for self-help complex and above the communications space make-ready. A utility shall make available and keep up-to-date a reasonably sufficient list of contractors it authorizes to perform self-help surveys and make-ready that is complex and self-help surveys and make-ready that is above the communications space on its poles. The new attacher must use a contractor from this list to perform self-help work that is complex or above the communications space. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility may not unreasonably withhold its consent.	AT&T	Subsections 1 should be modified to apply to both surveys and complex, opposed to just complex make-ready as currently written. Edited language underlined: Contractors for self-help <u>surveys</u> , complex <u>make-ready</u> and above the communications space make-ready. A utility shall make available and keep up-to-date a reasonably sufficient list of contractors it authorizes to perform self-help surveys and make-ready that is complex or above the communications space on its poles. The new attacher must use a contractor from this list to perform self-help <u>surveys or make-ready</u> that is complex or above the communications space. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility may not unreasonably withhold its consent.
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 5(2)	Contractors for simple work. A utility may, but is not required to, keep up-to-date a reasonably sufficient list of contractors it authorizes to perform surveys and simple make-ready. If a utility provides such a list, then the new attacher must choose a contractor from the list to perform the work. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility may not unreasonably withhold its consent.	AT&T	Subsections 2 should be modified to apply only to simple make-ready for one-touch make-ready applications Edited language underlined: Contractors for simple <u>make-ready</u> . A utility may, but is not required to, keep up to date a reasonably sufficient list of contractors it authorizes to perform simple make-ready. If a utility provides such a list, then the new attacher must choose a contractor from the list to perform <u>simple make-ready for one-touch make-ready applications</u> . New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility may not unreasonably withhold its consent.

Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 5(4)	A consulting representative of an electric utility may make final determinations, on a nondiscriminatory basis, where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.	AT&T	Subsections 4 should be modified to recognize Contractors for survey and make-ready may be constrained by collective bargaining contracts. ATT seeks to replace the current subsection with the following language: <u>A utility with a collective bargaining agreement existing as of March 1, 2020, requiring the engineering or make-ready on its poles or attachments be performed by its own employees shall not be subject to the self-help remedies or one-touch make-ready described in subsections 9 and 10 of Section 4 of these administrative regulations.</u>
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 6(1)	Unless otherwise provided in a joint use agreement or special contract, a utility shall provide an existing attacher no less than 60 days written notice prior to:....	Kentucky Power	Subsection (1) should be revised to honor advance notice requirements contained within existing pole attachment tariffs (underlined language is the recommended addition): Unless otherwise provided in <u>an existing pole attachment tariff</u> , joint use agreement or special contract, a utility shall provide an existing attacher no less than 60 days written notice prior to:....
Procedure for new attachers to request utility pole attachments.	807 KAR 5:0XX Section 6(3)	NA	LGE-KU Kentucky Power KAEC	Section 6 should be revised to include a new subsection 6(3) governing transfers of attachments to replaced poles: <u>(3) Transfer of Attachments.</u> <u>(a) Unless an applicable tariff or special contract establishes a different timeframe, existing attachers shall transfer their attachments within 60 days of receiving written notice from the utility pole owner.</u> <u>(b) For good cause, a utility pole owner can deviate from the 60-day notice period required in subsection (3)(a) of this section where circumstances warrant an expedited transfer.</u> <u>(c) If an existing attacher fails to transfer its attachments within the applicable timeframe, a utility pole owner may transfer such attachments at the existing attacher's expense.</u> *This language is designed to prevent the "double wood" problem, where redundant poles are created because existing attachers delay in transferring to replacement poles.
Complaints	807 KAR 5:0XX Section 7	(1) A complaint alleging a violation of this administrative regulation shall be made pursuant to 807 KAR 5:001, Section 17. (2) The commission shall take final action on a complaint alleging that a person or	AT&T CTIA Kentucky Broadband	Seeks to renumber the Section to Section 8 after adding a new Section 7 governing Rates. Specifically seek to edit subsection 7(2) to shorten the 360 day deadline for the Commission to take final action on a complaint to 180 days, but to allow it to be tolled by an agreement between the

		entity was unlawfully denied access to a utility's pole, duct, conduit, or right-of-way within 360 days for the complaint being filed.		<p>disputing parties or good cause. AT&T recommended language is provided below (added or edited language underlined):</p> <p>The commission shall take final action on a complaint alleging that a person or entity was unlawfully denied access to a utility's pole, duct, conduit, or right-of-way within <u>180 days from</u> the complaint being filed. <u>Such final action may be tolled by agreement of the disputing parties or for good cause as specified by a duly authorized officer of the commission.</u></p> <p>* Kentucky Broadband wants the Commission to go further and adopt an expedited, 90-day timeframe</p>
Rates	807 KAR 5:0XX Proposed New Section 7	NA	AT&T CTIA	<p>AT&T seeks a new section governing rates that adopts Federal Communications Commission rules as amended or interpreted by FCC or bureau order or by a court of competent jurisdiction:</p> <p><u>Section 7. Rates</u> <u>(1) Rates for access to utility poles, ducts, conduits and rights-of-way shall be developed in accordance with rate rules promulgated by the Federal Communications Commission in 47 CFR Chapter I, Subchapter A, Part 1, Subpart J inclusive of future changes as those regulations may be amended or interpreted by FCC or bureau order or a court of competent jurisdiction.</u> <u>(2) Changes in applicable Federal Communications Commission regulations shall be deemed to take effect under this administrative regulation 90 days later.</u></p> <p>CTIA argues the Proposed Rule should explicitly affirm the right of attachers to attach pole tops at the same rate as any other part of the pole.</p> <ol style="list-style-type: none"> a. The amended rule should explicitly affirm attachers of pole tops the same rights as attachers to any other part of the pole. b. During this explicit affirmation they should set rates for pole top attachers at the same rate as other attachers

