



1. The volume of pole attachment applications has increased significantly as a result of government funded/subsidized broadband eligible programs (i.e., Rural Digital Opportunity Fund, American Rescue Plan Act – State & Local Government Funds and Capital Project Funds, NTIA Grants, ReConnect Grants, etc.);
2. Pole Attachment Applications and the Make-Ready work are not being completed within the current statutory timeframes;
3. Pole Owners state that lack of communication, advance notice and incomplete applications are complicating their ability to process applications and complete make-ready work;
4. Interested parties acknowledge that the situation will only worsen as the \$1 billion in BEAD funding begins to be awarded/distributed in unserved and underserved areas of the Commonwealth;
5. It was very clear from the comments made by all parties at the informal conference that there are resource issues to handle the current and future volume of work;
6. altafiber believes that the current timelines in the administrative rules for pole attachment requests are appropriate to fulfill the necessary functions, however, there need to be sufficient resources to handle the work volume;
7. altafiber is convinced that the same process can be used but both the served areas and unserved/underserved areas need adequate resources either in the form of pole owners scaling up resources to accommodate the volumes for both and/or allowing self-help using approved vendors. Flexibility is necessary to allow movement of resources between the two paths to ensure meeting statutory timelines.

Based on the foregoing, altafiber makes the following suggestions for the Commission's consideration to improve the existing administrative rules governing pole attachments:

1. The Commission should add a definition of a "complete application" in the regulations.
  - o Using different requirements for different pole owners leads to incomplete applications, inconsistencies and inefficiencies for all parties;
2. Advance Notification
  - o Require attachers to provide at least 90 days' advance notification to the pole owner to identify the scope and timeline for the project.
  - o Provide contact information for the attacher's company.

### 3. Make-ready payment fund

- Require all pole owners to establish ACH payment mechanisms to support electronic payments. This will avoid managing a fund account while eliminating delays in payment.
- Allow attachers to send a copy of the completed transaction details to the pole owner as proof of payment.

### 4. Surveys

- Allow attachers to submit survey information to streamline the timeline. If the survey information provided is found to be inaccurate or false a penalty fee could be assessed.

### 5. Resources

- Require each pole owner to specify in their tariff that additional resources to support survey and make-ready construction will be added within 90 days of the advanced notification.
- Allow pole owners to provide conditional approval for attachments if approved contractors are unable to complete make-ready work according to timelines, provided the attacher pays for make-ready work (in this case maybe having a fund to draw payments from would be beneficial to ensure payments are made)

### 6. Large Orders

- Large order proposals should be submitted in waves that progressively increase in size. This approach would provide the pole owner with advance notice allowing them to ramp the contractor resources needed to complete site surveys without creating an immediate backlog by applying for 3000 poles at one time. For example, the attacher would provide advance notice on April 1st, submit an application for 500 poles on July 1st, 500 poles on August 1st, 500 poles on September 1st, 1000 poles per month October thru December, 2000 poles per month January thru March, etc. The benefit to this phased approach is to give the pole owner three months to ramp up a contractor and another three months to ensure they can handle the increase in volume. This also allows for the same phased approach with ramping up construction teams.

altafiber is both a pole owner and pole attacher and therefore sees a need for a balanced approach to resolving the current issues facing the pole attachment process. In Attachment 1, altafiber provides pros and cons it sees regarding the proposals of several parties that have suggested changes to the administrative rules. altafiber is more than willing to discuss its

observations and suggested rules changes in more detail should the Public Service Commission wish.

Respectfully submitted,

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## ATTACHMENT 1

### **KBCA:**

- Incomplete applications
  - Pro - Provide a timeline for reviewing the corrected application.
- Default to approved application
  - Con - Proposed failure to respond to an application within 10 days would automatically default to an approved application.
    - Impossible to review a pole application with 3k poles within 10 days without advanced notice that a large order request is forthcoming.
    - The failure of one company to approve an application could incorrectly grant approval to attach to another company's pole if request submitted to wrong owner (e.g. submit request to Ky Utilities that unknowingly includes AT&T's poles).
- Expediting surveys
  - Pro - Attacher to provide survey information as part of the application to expedite review of the application.
  - Con - Need all pole owners to agree on requirements in order for the application to be complete, e.g., pictures, how many and what details, etc.
  - Con - need to define a “complete” application
  - Con - providing a survey is not the same as completing a pole loading analysis to ensure the integrity of the pole
- Limiting number of requests
  - Pro - agree that pole owner should not limit the number of attachments submitted within a specified period.
  - Con – does not stipulate advance notice being given to the pole owner to allow increased staffing to handling the large request
  - Con - if 1k poles takes 45 days for survey why would an additional 2k poles be completed in 15 days (i.e. add 15 days to survey for 3k poles)
  - Pro - Introduces the concept of prioritizing poles if 3k submitted at one.
  - Pro - Obligates the commission to adapt rules introduced by the FCC within 30 days.
- Resource constraints

- Pro/Con - Obligates a pole owner to secure additional resources within 30 days of receiving a completed application. 30 days is not a sufficient timeframe to ramp up resources.
- Pro - provide conditional attachment approval if the pole owner can not adhere to the timeline.
- Pro/Con - Allows use of self-help with another contractor but does not stipulate if this is for make-ready work in communication or electric space nor the impact to other attachers. Might meet safety standards but have poor workmanship.

**Electric cooperatives:**

- Applications
  - Pro - Requires an attacher to provide an attachment coordinator to help ensure questions and concerns are addressed in a timely manner.
  - Con - Adds a letter certifying that an application is complete. The submission of the application already serves as a representation that the attacher believes the application is complete.
- Large orders
  - Pro - Requires advanced notification of an attacher's intent to submit a large order to help with staffing to support the request.
  - Con - Removes any concept or additional time for large orders
- Make-ready estimates prepaid funds
  - Pro - Allows pole owner to proceed with work upon attacher's approval versus tracking payments.
  - Con - Requires management of the fund without knowing how much make-ready will be required.
  - Con - Balance is refunded to the attacher when the project is closed but doesn't define the timeline for closing the project.

**LG&E/KU:**

- Advance Notification
  - Pro- Agree with the 90-day advanced notification to the pole owner.
- Simple vs Complex make-ready
  - Con - This obligates the attacher to perform all make-ready work in the communication space.

- Another attacher should not be allowed to manipulate someone else's facilities.
    - Asserts the reason an attacher does not use self-help is due to complex make-ready, but often it is because a pole replacement is required that the attacher cannot complete.
  - Con - This proposal removes the distinction between complex and simple make-ready.
    - The definition of complex make-ready is that it requires splicing and/or service outages.
- Exception to first-in first-out process
  - Pro/Con- specifying a project as broadband gives preference to those projects but other projects may suffer. Need additional language to prevent backlog for non-broadband projects.
- Make-ready estimates prepaid funds
  - Pro - Allows pole owner to proceed with work upon attacher's approval versus tracking payments.
  - Con - Requires management of the fund without knowing how much make-ready will be required.
  - Con - Balance is refunded to the attacher when the project is closed but does not define the timeline for closing the project.

**Duke:**

- Advance Notification
  - Con - Agree with the advanced notification to the pole owner but 90 days as proposed by LG&E is more reasonable than 180 days as proposed by Duke.

**AT&T:**

- Large Orders
  - Con - if 1k poles take 45 days for survey why would an additional 2k poles be completed in 15 days (i.e. add 15 days to survey for 3k poles)
- Joint Use agreements
  - Pro/Con - Allows an attacher to seek the benefits of the new timelines without having to renegotiate the joint use agreement; however, the joint use agreement gives the attacher a different advantage with the pole owner, likely regarding pricing for make-ready since the costs are reciprocal for pole replacements.