

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF POLE) Case No.
ATTACHMENTS) 2023-00416

AT&T'S COMMENTS IN RESPONSE TO COMMISSION ORDER OF APRIL 11, 2024

AT&T Kentucky (AT&T) hereby submits its comments in response to the Kentucky Public Service Commission's April 11, 2024 Order in this case seeking proposed amendments to its existing pole attachment rules 807 KAR 5:015 with the intended purpose of facilitating deployment of broadband internet service to unserved and underserved citizens of the Commonwealth. As discussed below, AT&T suggests that limited and targeted changes in the existing rules will address the intent of the legislature as expressed in Senate Joint Resolution No. 175.

Survey and Make-Ready Timelines for Larger Orders

Section 4(7) of 807 KAR 5:015 presently lays out a series of timelines and modifications to survey and make-ready timelines dependent upon the number of poles in requests from a single attacher. In its Commission-approved compliance tariff, AT&T voluntarily implemented a more liberal approach to the 807 KAR 5:015 timelines and we suggest that modifications to the rule, consistent with AT&T's tariff Section 8.10 Timelines, would be beneficial. The red-line below would implement the terms of AT&T's tariff.

- (7) For the purposes of compliance with the time periods in this section:
- (a) A utility shall apply the timeline as established in subsections (2) through (4) of this section to all requests for attachment up to the lesser of 300 poles or zero and five tenths (0.5) percent of the utility's poles in the state;
 - (b) A utility may add up to fifteen (15) days to the survey period established in subsection (4) of this section to larger orders up to the lesser of ~~3,000~~ 4,000 poles or ~~5~~ 1.50 percent of the utility's poles in Kentucky;
 - (c) A utility may add up to forty-five (45) days to the make-ready periods established in subsection (4) of this section to larger orders up to the lesser of ~~3,000~~ 4,000 poles or ~~5~~ 1.50 percent of the utility's poles in Kentucky;
 - (d) A utility shall negotiate in good faith the timing of all requests for attachment larger than the lesser of ~~3,000~~ 4,000 poles or ~~5~~ 1.50 percent of the utility's poles in Kentucky;

- (e) A utility may treat multiple requests from a single new attacher as one (1) request if the requests are submitted within thirty (30) days of one another; and
- (f) As soon as reasonably practicable, but no less than sixty (60) days before the new attacher expects to submit an application in which the number of requests exceed the lesser of the amounts identified in paragraph (a) of this subsection, a new attacher shall provide written notice to a utility in the manner and form stated in the utility's tariff that the new attacher expects to submit a high volume request.

Entities Eligible to Benefit from the Access and Attachment Rules

The Commission could also enhance access to poles by all broadband internet providers, all new attachers, and all communications carriers by dropping the discriminatory exclusion from coverage by these rules for utilities with joint use agreements. This can be accomplished by making simple deletions in three definitions in the rules as shown below.

Section 1. Definitions.

(2) "Broadband internet provider":

- (a) 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 twenty-five (25) megabits per second and upload speeds of at least three (3) megabits per second; and

~~(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.~~

(9) "New attacher" means a cable television system operator, telecommunications carrier, broadband internet 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 does 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.

(11) "Telecommunications carrier":


- (a) 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; and

~~(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.~~

AT&T encourages the Commission to consider these proposed changes to its rules and AT&T is prepared to participate in the scheduled Informal Conference on April 26, 2024.

Dated: April 19, 2024

Respectfully submitted,



John T. Tyler