

July 31, 2024

Ms. Linda C. Bridwell, P.E.  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

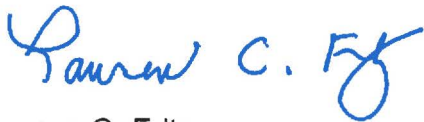
Re: Case No. 2023-00416

Dear Ms. Bridwell:

Please find enclosed for filing Fleming-Mason Energy's updated Pole Attachment tariff in the above-mentioned case.

If you have any questions, please contact the office.

Sincerely,



Lauren C. Fritz  
Chief Financial Officer

Enclosure

## POLE ATTACHMENT TARIFF – SCHEDULE PA

### ARTICLE I - OVERVIEW

#### Applicability

In all territory served by Fleming-Mason Energy Cooperative, Inc. (“FME”).

#### Availability

To cable television system operators, telecommunications carriers, broadband internet providers, and governmental units that proceed in compliance with this Schedule. No attachment(s) shall be made to FME’s Poles unless and until FME has approved such attachment(s) following receipt of an appropriate application and an acknowledgement of the applicability of this Schedule. Parties with joint use agreements with FME are excluded from this Schedule. Nothing in this Schedule is intended to expand the right to attach to FME’s Poles beyond those rights otherwise conveyed by law. FME reserves the right, on a non-discriminatory basis, to deny access to and exclude from use any of its Poles where there is insufficient capacity or for reasons of safety, reliability, or generally applicable engineering purposes.

#### Regulation

This Schedule includes FME’s rates, terms, and conditions governing attachments to FME’s Poles. It is intended to be (and should be interpreted) consistent with the requirements of 807 KAR 5:015 (the “Pole Attachment Regulation”) and KRS Chapter 278. Capitalized terms not defined herein shall have the meaning prescribed in the Pole Attachment Regulation.

#### Website

*Additional information regarding FME’s Pole Attachment services may be found at [www.fme.coop](http://www.fme.coop), including: (i) the Certification Form applicants must submit with each Application; (ii) the identity and contact information for contractors approved to conduct surveys and self-help Make-ready; (iii) construction standards for Attachments; and (iv) contact information for primary and alternate FME personnel responsible for invoicing, payment, Make-ready work, and escalation of disputes related to Pole Attachments.*

#### Appendices

This Schedule includes the following appendices:

- APPENDIX A – Application/Request to Attach
- APPENDIX B – Specifications for Attachments
- APPENDIX C – Bill of Sale (template)
- APPENDIX D – Performance Bond
- APPENDIX E – Fees and Charges

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**DATE OF ISSUE:** ~~January 25, 2023~~ July 31, 2024

**DATE EFFECTIVE:** ~~December 28, 2022~~ August 31, 2024

**ISSUED BY:** \_\_\_\_\_  
President and Chief Executive Officer

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### ARTICLE II – EXPLANATION OF TERMS

For the purpose of this Schedule, the following terms shall have the following meanings:

- A. **Actual Inventory** is a complete count of all Attachments on Poles to which the Licensee is attached.
- B. **Approved Contractor** is a contractor *identified on FME's website at [www.fme.coop](http://www.fme.coop)* as appropriately qualified *and approved* by FME to provide self-help surveys or Make-ready services.
- C. **Attached Pole** is a pole for which shared use is established or continued pursuant to the terms of this tariff.
- D. **Attachment** is any Licensee cable, wire, strand, circuit, service drop, permitted over-lashing, appurtenance, equipment, pedestal or apparatus of any type attached to FME's pole.
- E. **Certification Form** is the form an applicant is required to submit to FME with each Application: (i) certifying the person filing the Application has reviewed the Cooperative's requirements, Pole Attachment Tariff, and applicable law and that the Application meets all of the requirements to the best of the applicant's knowledge and ability; (ii) designating appropriate applicant personnel responsible for overseeing all Attachments with the Cooperative; and (iii) identifying appropriate applicant personnel associated with each Application who shall be responsible for coordinating with the Cooperative and ensuring that Attachment-related issues are addressed in a timely manner. A copy of the Cooperative's Certification Form may be found at [www.fme.coop](http://www.fme.coop).
- F. **Communication Space** is the lower usable portion on Poles typically reserved for low-voltage communications equipment and designated for the installation of Licensee facilities, the top of which is separated from the Supply Space by the Communication Worker Safety Zone.
- G. **Communication Worker Safety Zone** is the space on a Pole below the supply space, above the Communication Space. The amount of space of the Communication Worker Safety Zone is defined by the NESC.
- H. **Complex Make-Ready** means any Make-ready that is not Simple Make-ready, such as the replacement of a Pole; splicing of any Attachment or relocation of existing Wireless Facilities, even within the Communications Space; and any Transfers or work relating to the attachment of Wireless Facilities.
- I. **Cost in Place** is the cost of a bare Pole, labor to install the Pole and associated overheads, including engineering.
- J. **High Volume Orders** are requests which seek to attach to no more than ~~three one and five tenths~~ percent (34.5%) of FME's Poles in Kentucky or to no more than 34,000 Poles, whichever is less, and are not Lesser Volume Orders. FME may treat multiple requests from a single applicant as one request if the requests are submitted within ~~the same calendar month~~ ~~thirty (30) days of one another~~.
- K. **Licensee** means a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit seeking to attach or having attached new or upgraded facilities to a Pole.

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- L K.** **Lesser Volume Orders** are requests which seek to attach to no more than *zero and seventy-five hundredths five tenths* percent (0.75%) of FME's poles in Kentucky or to no more than 5300 Poles, whichever is less. FME may treat multiple requests from a single applicant as one request if the requests are submitted within *the same calendar month thirty (30) days of one another*.
- M L.** **Make-Ready** is all work necessary or appropriate to make space for or otherwise accommodate new or changed Attachments, including, if necessary or appropriate, Rearrangements, removal and replacement of the pole, Transfers and other work incident thereto.
- N M.** **Make-Ready Costs** are all costs necessary for FME to prepare its Poles for Licensee's Attachments, including the costs of materials, labor, engineering, applicable overhead charges and administrative costs. Included among Make-ready Costs are the costs of installing or changing out Poles, cost of installation and/or removal of guys, anchors, stub poles, materials and equipment, temporary construction and all other construction in accordance with applicable requirements. Make-ready Costs shall include costs needed to correct preexisting violations of applicable standards caused by Licensee; however, Make-ready Costs shall not include costs to bring poles, attachments, or third-party or utility equipment into compliance with current published safety, reliability, and pole-owner construction standards if the poles, attachments, or third-party or utility equipment were out of compliance because of work performed by a party other than the Licensee prior to the new attachment.
- O N.** **Outside Party** is any person or entity other than FME or Licensee but that is also attached to FME's Poles *consistent with law and this Schedule*.
- P Q.** **Over-lashing** means to place an additional wire or cable communications facility onto an existing Attachment or messenger already secure to the pole in order to accommodate additional wire or cable communications facility capacity. An Over-lash does not include a mid-span installation.
- Q P.** **Permit** means authorization from FME to the Licensee to attach an Attachment pursuant to this Schedule.
- R Q.** **Pole** means any pole owned or controlled by FME, excluding any pole that is used primarily to support outdoor lighting or transmission-level voltages (greater than or equal to 69 kV).
- S R.** **Rearrange** or **Rearrangement** is the moving of Attachments from one position to another on a Pole.
- T S.** **Service Drop** means a wire or line used to connect services to a single customer, building or location by means of any attachment to a Pole. A Service Drop shall run directly from a Pole to a specific customer, without the use of any other poles.
- U T.** **Simple Make-Ready** is a Make-ready in which existing Attachments in the Communications Space of a Pole could be rearranged without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing attachment or relocation of an existing Wireless Facility. Simple Make-ready does not include replacement of a Pole.
- V U.** **Space** is the linear portion of a pole parallel to its axis reserved for the exclusive use of one of the parties (subject only to the exceptions provided for in this Schedule).

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- W.** *Special Contract is a pole attachment agreement negotiated in good faith by FME and applicant: (i) when applicant’s request to attach exceeds the lesser of three thousand (3,000) Poles or three percent (3%) of FME’s Poles in Kentucky; or (ii) upon FME’s receipt of three (3) separate Applications averaging one thousand (1,000) Poles or one percent (1%) of FME’s Poles in Kentucky for any three (3) months over a five (5) month period. (This provision shall be inapplicable in the event that FME owns or controls fewer than five hundred (500) Poles in Kentucky.) At a minimum, the Special Contract shall include:*

  - 1. *An agreement for a prepaid account from applicant to cover the cost of the request;*
  - 2. *Direction from applicant regarding Make-ready work that FME can complete without further direction from applicant, including:*
    - i. *The maximum cost per Pole;*
    - ii. *The total cost for Make-ready work for each project or line of each project;*
  - 3. *Applicant’s prioritization of projects if the applicant has submitted multiple requests for attachment;*
  - 4. *Contact information, including phone numbers and email addresses, for all necessary FME and applicant personnel;*
  - 5. *The cadence, location, and necessary personnel for each project; and*
  - 6. *The timing of surveys and Make-ready.*
- X √.** **Standard Pole** is a pole which is tall enough to provide Supply Space, a Communication Worker Safety Zone and Communication Space, as herein defined, for FME and all Attachments and strong enough to meet the requirements of the specifications mentioned in ARTICLE III for FME’s facilities and Attachments ordinarily placed by the parties in their respective spaces.
- Y √.** **Supply Space** is the following described space:

  - 1. For FME, the uppermost six and a half (6 ½) feet measured from top of pole on thirty-five (35)-foot poles and the uppermost nine (9) feet measured from top of pole on forty (40)-foot poles. For all additional size poles, the Supply Space shall be specified by FME upon request.
  - 2. For Licensee, a Communication Space of One (1) foot on both thirty-five (35)-foot and forty (40)-foot poles below the Communication Worker Safety Zone. The Supply Space shall provide at all times the minimum clearance required by the specifications mentioned in ARTICLE III and at a sufficient height above ground to provide the proper vertical clearance above ground or track rails for the lowest horizontally run line wires or cables attached in such space. Licensee will make its initial Attachments at the lowest possible point within the Communication Space that provides such ground clearance and provides one foot of separation from the nearest attachment.
  - 3. In the event FME installs a pole larger than the Standard Pole solely in anticipation of its future requirements or additions, the Supply Space for FME, as defined above, for that pole shall be increased to include the additional above ground space provided by FME. For avoidance of doubt, in any case Licensee shall be responsible for attaching at a height to provide the minimum ground clearance required by the specifications mentioned in ARTICLE III.

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- Z X. **Transfer** is the removal of Attachments from one Pole and the placement of them or substantially identical Attachments upon another Pole.
- AA Y. **Wireless Facilities** are telecommunications or data transmission devices in which electromagnetic waves (rather than some form of wire or fiber) carry the signal over part or all of the communication path. Wireless Facilities include but are not limited to, antennas, distributed antenna systems, wireless transmitters, wireless gateways, mini-cells, wireless loops, wireless networks or devices transmitting in millimeter wavelength spectrum.

**ARTICLE III – ATTACHMENTS TO POLES**

- A. At its own expense, Licensee shall erect, install, and maintain its Attachments in safe condition and good repair in accordance with all applicable administrative and technical requirements and specifications, as described herein. Licensee’s use of the Poles shall at all times be in conformity with all applicable: (1) accepted published modern methods; (2) requirements and specifications of the National Electrical Safety Code and subsequent revisions thereof ("NESC"), the National Electrical Code ("NEC"), the Occupational Safety and Health Act ("OSHA") and Rural Utilities Service ("RUS"); (3) lawful requirements of public authorities; and (4) the non-discriminatory, reasonable requirements of FME, including those set forth in APPENDIX B (as each may be amended from time to time). The requirements of the NESC, NEC, OSHA, and RUS are minimum requirements and reasonable, additional requirements may be required, as determined by FME in its discretion. To the extent any requirements or specifications may conflict, the most stringent of them shall apply.
- B. FME reserves the right to amend APPENDIX B from time to time, in response to changing conditions in the local market, technological advances, business requirements, policy initiatives, or changes in federal, state, or local law. Any amendment to the APPENDIX B ("Amendment") shall apply prospectively only, except to the extent required by federal, state, or local law. Existing, permitted Attachments that become non-compliant based upon an Amendment shall be grandfathered and exempted from the requirements of the Amendment unless otherwise specified or required by law, and only until such time as the Attachment is modified, moved, upgraded, repaired, replaced, or over-lashed, at which point Licensee shall bring the Attachment into full compliance with the specifications of APPENDIX B then in effect.
- C. Each Licensee shall place, Transfer and Rearrange its own Attachments, and shall place guys and anchors to maintain all loads caused by its Attachments. Any guying or anchoring required to accommodate the Attachments of the Licensee shall be provided by and at the full expense of the Licensee and to the reasonable satisfaction of FME. Anchors and guys shall be in place and in effect prior to the installation of Attachments. Each applicant/Licensee shall, with due diligence, attempt at all times to execute work promptly and in such manner as not to interfere with the service of FME or an Outside Party.

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- D. Licensee shall exercise precautions to avoid damage to facilities of FME and Outside Parties, and Licensee assumes responsibility for any and all loss or damage caused by Licensee’s actions or failures to act, including those of its employees, agents, contractors, and subcontractors. Licensee shall make an immediate report to FME upon Licensee’s discovery of any loss or damage to facilities and, in addition to such other obligations as Licensee may have, hereby agrees to reimburse FME for the reasonable costs and expenses incurred by FME in addressing damage caused by Licensee.
- E. To further the goals of communication and cooperation with Licensee and Outside Parties, FME may conduct information meetings annually or more frequently as appropriate either online or in person. Licensee will make every effort to attend and participate.

**ARTICLE IV – ESTABLISHING ATTACHMENTS TO POLES**

- A. **APPLICATION.** Before any person or entity shall make use of any Pole, such person or entity shall comply with the requirements set forth herein, including the submission in writing of the complete information required under APPENDIX A in the method and form reasonably required by FME *along with a signed Certification Form* (the “Application”), and receive written authorization from FME authorizing the specific use requested. Failure to request and receive FME’s authorization as described herein will result in Unauthorized Attachments (as defined herein), which are subject to additional costs and other recourse available to FME.
  - 1. No application or payment is required for a Service Drop originating from a Pole and utilizing Communication Space already approved for use by a Licensee. Service Drops shall conform to Appendix B. The placement of one or more non-guyed Service Drops shall not create additional Communication Space.
  - 2. A party, without following the procedures outlined herein, may utilize vertical unused space below its specifically-authorized space for terminals, risers or other reasonable vertical Attachments if the existing use of the Pole is authorized, such use does not interfere with any Outside Party’s operations, and such use complies with the terms of this Schedule.
  - 3. If a person or entity expects to submit an Application (or series of Applications) seeking to attach to more than ~~zero and seventh-five hundredths~~ ~~five tenths~~ percent (0.75%) of FME’s Poles in Kentucky (or to more than 5300 Poles, whichever is less), then as soon as reasonably practicable (and in no event less than ~~ninety sixty~~ (960) days before submission of such Application(s)), the person or entity shall provide written notification to FME describing the details of the expected Application, including location and number of Poles to be impacted, relevant timelines, expected Make-ready, and similar information.
  - 4. For attachments involving only Simple Make-ready, an applicant may elect to proceed with the one-touch Make-ready (“OTMR”) process described in Section C, below. An applicant shall elect the OTMR process in writing in its Application and shall identify the Simple Make-ready that it will perform. It is the responsibility of the applicant to ensure it or its contractor accurately determines if the relevant Make-ready is Simple Make-ready or Complex Make-ready. Applications not electing the OTMR process shall proceed and be processed pursuant to Section B, below.

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**B. PROCEDURE.**

1. Review for Completeness.
  - i. FME will review each Application for completeness before reviewing it on its merits. *FME shall complete its review for completeness within ten (10) business days after receipt of an Application for five hundred (500) or fewer Poles. FME shall have an additional one (1) business day to complete its review for completeness for each additional 500-Pole increment in an Application.* An Application is considered complete only if it includes a signed Certification Form and provides FME the information necessary under this Schedule and Appendix A (or under a Special Contract, if applicable) to make an informed decision on the Application and is accompanied by the prepayment of estimated survey costs consistent with Appendix E. FME may treat multiple requests from a single applicant as one request if the requests are submitted within the same calendar month ~~thirty (30) days of one another.~~
  - ii. An Application will be considered complete unless, *the time frame prescribed above within ten (10) business days* after FME's receipt of same, FME notifies the applicant that the Application is incomplete and specifies all reason(s) for so finding including citations to this Tariff and the Pole Attachment Regulation.
2. Surveys.
  - i. *An applicant may submit a survey with an Application for five hundred (500) or fewer Poles, which Cooperative shall accept if the applicant used an Approved Contractor for surveys listed on Cooperative's website and the survey was conducted no more than thirty (30) days before submission of the Application. Cooperative shall conduct surveys for all Applications exceeding five hundred (500) Poles.*
  - ii. Following its receipt of a complete Application, FME will conduct a survey of the relevant Poles to determine if the proposed attachment(s) may be made and to identify any Make-ready to be completed to allow for the proposed attachment(s), *unless the applicant submitted a survey with the Application under subpart (i) above that meets all the requirements of this Tariff and the Pole Attachment Regulation.*
    - a. Except as otherwise provided herein, the following timeframes apply:
      - With respect to Lower Volume Orders, FME will complete the survey and review on the merits and either grant or deny the applicant access within forty-five (45) days of receipt of a complete Application.

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- b. With respect to High Volume Orders, FME will complete the survey *and review on the merits* and either grant or deny the applicant access within *up to one hundred five ~~sixty~~ (105~~60~~)* days of receipt of a complete Application to be calculated as follows: *FME shall have an additional fifteen (15) days to complete the survey and review on the merits and grant or deny access for each 500-Pole increment over the first five hundred (500) Poles in an Application up to the lesser of three thousand (3,000) Poles or three percent (3%) of FME's Poles in Kentucky.*
- c. The parties shall negotiate in good faith a *Special Contract for the timing* of all requests for attachment which exceed *the lesser of 34,000 Poles or three ~~one and five tenths~~ percent (3~~4.5~~%)* of FME's poles in Kentucky, *unless FME owns or controls fewer than five hundred (500) poles in Kentucky.*
- iv. Each applicant shall be responsible for the costs of surveys made to review its Application, even if the Application is ultimately denied or the applicant decides not to go forward with the attachments.
- iv. Applicant and relevant Outside Parties may be present for any field inspection conducted as part of FME's survey. FME will use commercially reasonable efforts to provide these parties with advance notice of not less than five (5) business days of any field inspection and provide the date, time, and location of the inspection, and name of the contractor, if any, performing the inspection.
3. **Make-Ready Estimates.**
- i. Within fourteen (14) days of providing a response granting access to an applicant following a survey, FME will provide the applicant a detailed, written estimate (on a pole-by-pole basis if requested and reasonably calculable) describing the charges to perform all necessary Make-ready ("Make-ready Estimate"). FME will provide documentation that is sufficient to determine the basis of its estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.
- ii. FME's Make-ready Estimates shall be valid for fourteen (14) days after presentation. Thereafter, all Make-ready Estimates shall be automatically withdrawn and an applicant must request a new estimate.
- iii. *Upon acceptance of the Make-Ready Estimate by applicant, Cooperative shall invoice applicant for the Make-Ready Estimate. Invoices for Make-ready Estimates shall clearly identify the Application or project for which payment is requested.*
- iv. *Invoices for Make-Ready Estimates shall be payable in accordance with the payment terms in Appendix E of the Tariff. Payment for Make-ready Estimates shall clearly identify the Application or project for which payment is made.*

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4. Make-Ready.
- i. Within seven (7) days (or sooner, if practical) of FME’s receipt of payment for survey costs and the Make-ready Estimate, FME will attempt to notify all known entities with existing attachments that could be affected by the Make-ready.
    - a. For Make-ready in the Communications Space, the notice will be written and:
      - i. State where and what Make-ready will be performed;
      - ii. State a date completion of Make-ready (which date will be no more than ~~forty-five thirty (4530)~~ days after the notification is sent in the case of Lower Volume Orders, *or up to and no more than seventy-five one hundred five (10575)* days after the notification is sent in the case of High Volume Orders);
      - iii. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified Make-ready before the date established for completion;
      - iv. State that, if Make-ready is not completed by the completion date established by FME, the applicant may complete the Make-ready; and
      - v. State the name, telephone number, and email address of a person to contact for more information about the Make-ready procedure.
    - b. For Make-ready above the Communications Space, the notice will be written and:
      - i. State where and what Make-ready will be performed;
      - ii. State a date for completion of Make-ready (which date will be no more than ninety (90) days after the notification is sent in the case of Lower Volume Orders, and no more than one-hundred thirty-five (135) days after the notification is sent in the case of High Volume Orders);
      - iii. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified Make-ready before the date established for completion;
      - iv. State that FME may assert its right to up to fifteen (15) additional days to complete Make-ready, consistent with the Pole Attachment Regulation;
      - v. State that if Make-ready is not completed by the completion date established by FME, the applicant may complete the Make-ready; and
      - vi. State the name, telephone number, and email address of a person to contact for more information about the Make-ready procedure.

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- ii. FME will provide the applicant a copy of the notice(s) and the existing attachers' contact information and address where FME sent the notices. The applicant shall be responsible for coordinating with existing attachers to encourage completion of Make-ready by the dates established by FME.
  - iii. FME will complete its own Make-Ready consistent with the dates established in the relevant notice(s).
5. Final Invoice.
- i. Within a reasonable period, not to exceed one-hundred twenty (120) days after FME completes its Make-ready, FME shall provide:
    - a. 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 or if no estimate was previously paid; and
    - b. A detailed, itemized final invoice, on a pole-by-pole basis if requested and reasonably calculable, of the actual Make-ready Costs to accommodate Attachments if the final Make-ready Costs differ from the estimate provided and previously paid by the applicant.
    - c. *Final invoices shall clearly identify the Application or project for which payment is requested.*
    - d. *Payment for final invoices shall clearly identify the Application or project for which payment is made.*
  - ii. Upon receipt of payment for the final invoice, FME shall grant to the applicant authorization (a Permit) to use the relevant Poles and to make Attachments in accordance with the terms of this Schedule. The Licensee shall have 180 days from the date FME has issued a Permit to complete attachment of Licensee's Attachment. If the Attachment has not been completed within the 180-day period, the Permit shall automatically terminate without further notice to Licensee as to any Pole or Poles covered by the Permit to which Licensee has not attached its Attachment. In the event that the Permit to attach is terminated as set forth herein, Licensee shall not be reimbursed any fees or charges associated with any surveys or Make-ready.
  - iii. Licensee shall notify FME within fifteen (15) *business days following completion of all Attachments within an Application in accordance with the notice provision in the Tariff of completion of an Attachment to a particular Pole.* The notice shall provide FME at least ninety (90) days from receipt in which to inspect the Attachment. FME shall have fourteen (14) days after completion of its inspection to notify the over-lashing party of any damage or code violations caused by the Attachment. If FME discovers damage or code violations caused by the Attachment, then FME will inform Licensee and provide adequate documentation of the damage or code violations. FME may either complete any necessary remedial work and bill Licensee for the reasonable costs related to fixing the damage or code violations or require Licensee to fix the damage or code violations at its expense within fourteen (14) days following notice from FME.

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Licensee shall also be responsible for reasonable engineering, survey and inspection costs incurred by FME in connection with this activity. Nothing herein shall limit or impact Licensee’s obligations with respect to maintenance of Attachments beyond their initial attachment, nor shall it limit or impact FME’s rights and remedies with respect to enforcement of Licensee’s obligations beyond initial attachment.

- 6. Deviations from Make-Ready Timeline
  - i. FME may deviate from the time limits specified in this Schedule before offering an estimate of charges if the applicant failed to satisfy a condition in this Schedule.
  - ii. FME may deviate from the time limits established in this Schedule during performance of Make-ready for good and sufficient cause that renders it infeasible for FME to complete make-ready within the time limits established. If FME deviates it will immediately notify, in writing, the applicant and affected Outside Parties and shall identify the affected Poles and include a detailed explanation of the reason for the deviation and a new completion date. FME shall deviate from the time limits established for a period no longer than necessary to complete and shall resume Make-ready without discrimination once it returns to routine operations.
  - iii. FME or an Outside Party may deviate from the time limits established in this section during performance of complex Make-ready for reasons of safety or service interruption that renders it infeasible to complete complex Make-ready within the time limits established in this section. The applicant and other affected existing attachers shall be notified in writing of any such deviation, which notice shall identify the affected Poles, include a detailed explanation of the basis for the deviation, and include a new completion date, which new completion date shall not extend beyond sixty (60) days from the completion date provided in the case of Lower Volume Orders or one-hundred and five (105) days in the case of High Volume Orders. No deviation will extend for a period for longer than necessary to complete Make-ready on the affected Poles.
- 7. Self-Help Remedy
  - i. Should FME or an Outside Party decline or fail to complete its prescribed steps within the time limits established in this Schedule, then an applicant may elect to hire an Approved Contractor to complete the step as specified in this subsection.
  - ii. An applicant shall allow FME and any Outside Party to be present for any work conducted as part of the self-help remedy.
  - iii. An applicant shall use commercially reasonable efforts to provide FME and Outside Parties with advance notice of not less than five (5) business days of a field inspection, or seven (7) days of impending Make-ready, as part of any self-help remedy it may conduct. The notice shall include the date and time of the work, a description of the work involved, and the name of the Approved Contractor being used by the applicant.
  - iv. *Any self-help help remedy shall be performed in compliance with the terms of this Tariff, the Pole Attachment Regulation, and the Cooperative’s construction standards listed on its website at [www.fme.coop](http://www.fme.coop).*
  - iv. Self-help shall not be available for pole replacements. Only FME or its designee may conduct pole replacements.

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## POLE ATTACHMENT TARIFF – SCHEDULE PA

### C. PROCEDURE (OTMR)

1. Review for Completeness.
  - i. FME will review each Application for completeness before reviewing it on its merits. An Application is considered complete only if it provides FME the information necessary under this Schedule and Appendix A to make an informed decision on the application. FME may treat multiple requests from a single applicant as one request if the requests are submitted within thirty (30) days of one another.
  - ii. An Application will be considered complete unless, within ten (10) business days after FME's receipt of same, FME notifies the applicant that the Application is incomplete and specifies all reason(s) for so finding.
2. Surveys.
  - i. An applicant shall be responsible for all surveys required as part of the OTMR process. An applicant shall use FME or an Approved Contractor to conduct any survey pursuant to the OTMR process.
  - ii. An applicant shall allow FME and any affected Outside Party to be present for any field inspection conducted as part of its survey.
  - iii. An applicant shall use commercially reasonable efforts to provide FME and affected Outside Parties with advance notice of not less than five (5) business days of a field inspection as part of any survey and shall provide the date, time, and location of the inspection, and name of the contractor performing the inspection.
3. Application Review on Merits.
  - i. FME will review a complete Application requesting OTMR and respond either granting or denying same within fifteen (15) days of receipt in the case of Lower Volume Orders, within thirty (30) days of receipt in the case of High Volume Orders, or within a time negotiated in good faith for requests exceeding High Volume Orders.
    - a. During the applicable timeframe for review following FME's receipt of a complete Application, FME or an Outside Party may object to the designation by the applicant that certain Make-ready is Simple Make-ready, as opposed to Complex Make-ready. Any objection shall be specific and in writing, include all relevant evidence and information supporting the objection, be made in good faith, and explain how the evidence and information relate to determination that the Make-ready is not simple; if such an objection is made, the Make-ready shall be deemed to be Complex Make-ready, and the applicant may not proceed with the affected proposed OTMR process.
  - ii. If FME denies an Application on its merits, then FME's decision shall be specific, shall include all relevant evidence and information supporting its decision, and shall explain how the evidence and information relate to a denial of access.

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4. Make-Ready.
  - i. If an Application is approved by FME and if the applicant has provided to FME and relevant Outside Parties at least fifteen (15) days prior written notice of the necessary or appropriate Make-ready, the applicant may proceed with Make-ready. An applicant shall use FME or an Approved Contractor to perform the Make-ready.
  - ii. The prior written notice shall include the date and time of the Make-ready, a description of the work involved, and the name of the contractor or party being used, and provide FME and Outside Parties a reasonable opportunity to be present for any Make-ready.
  - iii. An applicant/Licensee shall immediately notify FME and any affected Outside Party if Make-ready damages the equipment of FME or an Outside Party or causes an outage that is reasonably likely to interrupt the service of FME or an Outside Party.
  - iv. If an applicant/Licensee or FME determines that Make-ready classified as Simple Make-ready is in fact Complex Make-ready, then all Make-ready on the impacted Poles shall be halted and the determining party shall provide immediate notice to the other party of its determination and the impacted Poles. All remaining Make-ready on the impacted Poles shall then be governed by section B, above, and FME shall provide the notices and estimates required as soon as reasonably practicable.
5. Post Make-Ready Timeline.
  - i. Licensee shall notify FME and affected Outside Parties within fifteen (15) days after completion of Make-ready pursuant to the OTMR process.
  - ii. Licensee shall notify FME within fifteen (15) days of completion of an Attachment to a particular Pole. The notice shall provide FME at least ninety (90) days from receipt in which to inspect the Attachment. FME shall have fourteen (14) days after completion of its inspection to notify the over-lashing party of any damage or code violations caused by the Attachment. If FME discovers damage or code violations caused by the Attachment, then FME will inform Licensee and provide adequate documentation of the damage or code violations. FME may either complete any necessary remedial work and bill Licensee for the reasonable costs related to fixing the damage or code violations or require Licensee to fix the damage or code violations at its expense within fourteen (14) days following notice from FME. Licensee shall also be responsible for reasonable engineering, survey and inspection costs incurred by FME in connection with this activity. Nothing herein shall limit or impact Licensee's obligations with respect to maintenance of Attachments beyond their initial attachment, nor shall it limit or impact FME's rights and remedies with respect to enforcement of those obligations beyond initial attachment.

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**D. OVER-LASHING**

1. Any person or entity seeking to over-lash existing facilities attached to FME’s Poles shall provide advance written notice to FME describing the proposed activity along with submission of the complete information required under APPENDIX A, excluding a pole-loading analysis certified by a professional engineer licensed in Kentucky, in the method and form reasonably required by FME. The notice shall be provided to FME not less than thirty (30) days prior to the proposed activity. Failure to provide advance notice as described herein will result in Unauthorized Attachments (as defined herein), which are subject to additional costs and other recourse available to FME.
2. Following receipt of the notice described in the preceding subsection, FME may determine the proposed over-lashing will create a capacity, safety, reliability, or engineering issue; in such an event, FME will provide specific documentation of the issue to the party seeking to over-lash within the 30-day advance notice period. In such event, the party seeking to over-lash must address any identified issues before proceeding, either by modifying its proposal or explaining why, in the party’s view, a modification is unnecessary.
3. Any party that engages in over-lashing is responsible for its own costs, equipment and personnel, and it shall ensure that it complies with applicable safety, reliability, and engineering practices. If damage to FME property or other existing attachments results from over-lashing, or if over-lashing work causes safety or engineering standard violations, then the over-lashing party shall be fully responsible at its expense for any necessary repairs.
4. An over-lashing party shall notify FME within fifteen (15) days of completion of the over-lash on a particular pole. The notice shall provide FME at least ninety (90) days from receipt in which to inspect the over-lash. FME shall have fourteen (14) days after completion of its inspection to notify the over-lashing party of any damage or code violations caused by the over-lash. If FME discovers damage or code violations caused by the over-lash on equipment belonging to FME, then FME will inform the over-lashing party and provide adequate documentation of the damage or code violations. FME may either complete any necessary remedial work and bill the over-lashing party for the reasonable costs related to fixing the damage or code violations or require the over-lashing party to fix the damage or code violations at its expense within fourteen (14) days following notice from FME. Over-lashing parties shall also be responsible for reasonable engineering, survey and inspection costs incurred by FME in connection with over-lashing activity. Nothing herein shall limit or impact Licensee’s obligations with respect to maintenance of over-lashed facilities beyond their initial attachment, nor shall it limit or impact FME’s rights and remedies with respect to enforcement of those obligations beyond initial attachment.

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**POLE ATTACHMENT TARIFF – SCHEDULE PA****ARTICLE V – RIGHT OF WAY FOR LICENSEE’S ATTACHMENTS**

FME does not warrant or assure to Licensee any right-of-way privileges or easements on, over or across streets, alleys and public thoroughfares, and private or publicly owned property, and FME has no obligation to secure any right-of-way, easement, license, franchise, or permit required for the installation or maintenance of Licensee’s Attachments. If the Licensee shall at any time be prevented from placing or maintaining its Attachments on FME’s Poles, no liability on account thereof shall attach to FME. If requested by FME, Licensee shall submit satisfactory evidence of its rights to place its attachments upon a property. Licensee shall indemnify, defend, and hold harmless FME from any and all claims, damages, or other losses arising out of Licensee’s failure to obtain a necessary right-of-way, easement, license, franchise, or permit. If at any time after Licensee has attached its Attachment to FME’s Poles, FME is informed or has reason to believe that such Attachment is not authorized by any governmental authority or private property owner, then Licensee shall remove its Attachment from any of FME’s Poles immediately after receiving notice from FME of such circumstance and the Permit covering such Poles shall automatically terminate, provided, however, if Licensee is in the process of disputing such lack of authority and has received permission to remain on the Pole pending the outcome of the dispute, Licensee may maintain its Attachment if it provides proof of the permission and indemnifies FME with respect to any losses incurred related to the Attachment.

Right-of-way clearing necessary for the operation of FME’s distribution system shall be performed by FME as it determines in the exercise of its sole judgment and discretion. Any right-of-way clearing necessary or requested for the installation or maintenance of Licensee’s Attachment(s) will be the financial and operational responsibility solely of the Licensee, and Licensee must obtain FME’s permission prior to conducting any such clearing activity near FME’s Poles or other facilities. In the event that right-of-way work is required due to a fallen tree or similar situation whereby the condition of Licensee’s cable and/or facilities are creating undue strain on the facilities of FME or an Outside Party, Licensee agrees to remedy the situation as soon as possible at its own expense. If Licensee is not willing or able to remedy the situation within a timeframe suitable to FME, as determined in its sole discretion, FME may perform the necessary clearing and invoice the Licensee for the costs and expenses associated therewith.

**ARTICLE VI – MAINTENANCE OF POLES AND ATTACHMENTS; CONTRACTORS**

- A. Licensee shall, at all times and at its sole expense, make and maintain all of its Attachments in accordance with the specifications mentioned in ARTICLE III and shall keep them in safe condition and in thorough repair. Any guying or anchoring required to accommodate the Attachments of the Licensee shall be provided by and at the full expense of the Licensee and to the reasonable satisfaction of FME.
- B. Licensee shall require all of its employees, agents, contractors, and subcontractors that install, transfer, remove, relocate, maintain or otherwise work on or near the Attachments to be appropriately qualified and trained to work on and in the vicinity of an electric distribution system, including but not limited to the Poles.

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- C. CONTRACTORS (COMPLEX). FME shall make available and keep up-to-date a list of contractors FME has authorized to perform self-help surveys and Complex Make-ready. In accordance with the Pole Attachment Regulation, Licensee must use FME or a contractor from FME's list to perform self-help work that is Complex or above the Communications Space. A Licensee may request (and FME may not unreasonably deny) the addition to the list of any contractor that meets the following minimum qualifications:
1. The contractor has agreed to follow published safety and operational guidelines of FME;
  2. The contractor has acknowledged that it knows how to read and follow licensed-engineered pole designed for Make-ready;
  3. The contractor has agreed to follow all local, state, and federal laws and regulations including the rules regarding Qualified and Competent Persons under the requirements of the Occupational and Safety Health Administration (OSHA) rules;
  4. The contractor has agreed to meet or exceed any uniformly applied and reasonable safety and reliability thresholds established by FME, as made available; and
  5. The contractor is adequately insured or has established an adequate performance bond for the Make-ready the contractor will perform, including work the contractor will perform on facilities owned by Outside Parties.
- D. CONTRACTORS (SIMPLE). FME may keep up-to-date a list of contractors the utility authorizes to perform surveys and Simple Make-ready. If FME provides this list, then Licensee shall choose FME or a contractor from the list to perform the relevant work. A Licensee may request the addition to the list of any contractor that meets the minimum qualifications in the preceding section.
1. If FME does not provide a list of Approved Contractors for surveys or Simple Make-ready or no Approved Contractor is available within a reasonable time period, then the Licensee may choose its own qualified contractor. The applicant's chosen contractor shall meet the minimum requirements delineated in the above section C, as certified by the applicant consistent with the Pole Attachment Regulation.
    - i. FME may disqualify any contractor chosen by an applicant that is not on FME's list, but a disqualification shall be based on reasonable safety or reliability concerns related to the contractor's failure to meet any of the minimum qualifications established above or to meet FME's publicly available and commercially reasonable safety or reliability standards. FME will provide notice of its objection to the contractor consistent with the Pole Attachment Regulation.
- E. Licensee shall require its agents, contractors and subcontractors to comply with the specifications required under this Schedule and the obligations of this Schedule (including but not limited to the insurance and indemnification obligations under this Schedule) as if each such agent, contractor and subcontractor were the Licensee for purposes of this Schedule. Licensee shall ensure that FME is an intended third party beneficiary of such requirements with enforceable rights against each such agent, contractor and subcontractor and that such rights are enforceable against each such agent, contractor and subcontractor in the same manner and to the same extent as FME has such rights against Licensee under this Schedule. Licensee shall indemnify FME for all liabilities, claims, demands and costs (including, without limitation, any legal fees and/or costs) arising from its failure to comply with the requirements of this provision.

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**ARTICLE VII – INVENTORY (AUDIT) AND INSPECTIONS**

- A. **ACTUAL INVENTORY.** FME reserves the right to conduct an Actual Inventory of Attachments (sometimes referred to as a Pole Attachment Audit or Pole Audit) no more frequently than once every five (5) years; provided, however, the inventory may be done on a rolling basis on subsets of Poles, such that each subset is inventoried no more than once every five (5) years. Licensee and all Outside Parties shall cooperate and participate in the Actual Inventory. Licensee and all Outside Parties shall reimburse FME for their respective pro-rata shares of the total cost of the Actual Inventory, based on the number of each attaching entity's total attachments on Poles, as determined by the Actual Inventory. For the purpose of such Actual Inventory, any pole used by the Licensee for the purpose of attaching wires or cables thereto shall be considered a Pole. Each Outside Party shall pay a prorated share of the cost of performing the Actual Inventory, based on the number of poles to which each Licensee has Attachments on FME's poles.
- B. **RESERVED.**
- C. **LICENSEE-SPECIFIC INSPECTION.** If FME has reasonable suspicion of a significant number of violations with respect to a particular Licensee, FME may perform an inspection specific to Licensee's Attachments. In the event such inspection finds a discrepancy rate higher than five percent (5%) (calculated as the number of Unauthorized or Non-Compliant Licensee Attachments ÷ total number of Licensee Attachments), Licensee shall reimburse FME for all costs and expenses associated with the inspection. At least three (3) months prior to any such safety inspection, FME shall provide notice of the safety inspection to the Licensee, which shall describe the scope of the inspection and provide Licensee with notice of the anticipated date of the inspection.
- D. **CORRECTIONS.** If any of Licensee's Attachments fail to conform with the technical requirements and specifications of this Schedule, Licensee shall, upon notice by FME, correct such nonconformance within thirty (30) days of notification of such nonconformance, provided however, that FME may specify a shorter timeframe, with which Licensee shall comply, if in the exercise of FME's sole judgment and discretion, safety considerations require Licensee to take corrective action within such shorter period. Further, in the event the parties agree, such agreement not to be unreasonably withheld, that such nonconformance is of a nature that it cannot be reasonably corrected within thirty (30) days, the parties shall mutually agree on an additional time period in which Licensee shall complete the required corrections. Should Licensee fail to timely take all steps necessary to comply with this requirement, or if safety considerations so require, FME may elect to do such work itself, and Licensee shall reimburse FME for all actual costs and expenses incurred in connection therewith. FME shall not be liable for any loss or damage to Licensee's facilities which may result to any facilities or property, except to the extent of FME's gross negligence or misconduct. Failure by FME to inspect Licensee's conformance to the technical requirements and specifications listed in ARTICLE III or to take action on its own to bring such Attachments into compliance shall not cause FME to be liable for any loss or injury resulting from such failure of conformance and shall not relieve Licensee of its obligations of indemnification hereunder. In all circumstances, all of the parties on a Pole shall work together to maximize safety while minimizing the cost of correcting any such deficiencies, but the Licensee shall be responsible for the full cost of any necessary or appropriate corrective measures associated with violations caused by Licensee, including removal and replacement of a Pole and all Transfers or other work incident thereto. Licensee shall ensure that its

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employees, agents, or contractors, which Licensee causes to work on or around Poles, will be notified of pending, unresolved issues requiring corrective actions, prior to activities on such poles, and Licensee shall not allow unqualified or improperly equipped personnel to work on poles. If causation cannot be established, the cost to correct the violation will be split equally among all parties on the Pole.

- E. **PENALTIES.** FME may impose a penalty in the amount of one hundred dollars (\$100) for any violation caused by Licensee that is not corrected in accordance with the timelines listed in ARTICLE VII SECTION D – CORRECTIONS, and an additional one hundred dollars (\$100) every ninetieth (90th) day thereafter until Licensee addresses the violation(s) to FME’s reasonable satisfaction. The foregoing notwithstanding, in no event may FME impose a penalty unless the Licensee fails to correct a violation within thirty (30) days of notification of nonconformance from FME.
- F. **SAFETY VIOLATIONS.** For avoidance of doubt, Licensee shall be required to correct any safety violations as provided herein whether or not such are observed or noticed.

### ARTICLE VIII – DIVISION OF COSTS

#### A. **DIVISION OF COSTS FOR POLES**

1. Licensee shall pay all of the necessary Make-ready cost of attaching to a new pole, including any costs associated with replacing or Transferring Licensee’s Attachments or any Outside Parties Attachments, except when the pole has been red-tagged for replacement by FME consistent with the Pole Attachment Regulation.
2. Where an existing pole is replaced for maintenance purposes, FME shall erect a pole adequate for the existing Attachments and additional Attachments for which Applications have been delivered, unless such Application is denied in accordance herewith, and FME will pay all the costs of installing the replacement pole. The Licensee will pay to replace its existing Attachments. The replaced pole shall be removed and retained by FME.
3. Any payments for poles made by the Licensee under any provisions of this Article shall not entitle the Licensee to the ownership of any part of the poles for which it has contributed in whole or in part.
4. Each party shall place, maintain, rearrange, Transfer and remove its own Attachments at its own expense except as otherwise expressly provided herein.
5. In the event FME installs a pole larger than is initially required for Electric Utility’s and Licensee’s use in anticipation of FME’s future requirements or additions, the additional space provided by Electric Utility shall be reserved for FME’s sole use. Licensee may request documentation to validate the need for future space.
6. If one party installs Attachments that encroach or needs to install Attachments that would encroach upon the other party’s use of its own Space (sometimes known as "building down"), the party installing or needing to install such Attachments must pay the Make-ready costs necessary to permit the other party to use its own Space.
7. Except as otherwise provided, FME shall not be obligated to pay Make-Ready costs for any initial or additional Licensee Attachment for which an APPENDIX A is not required.

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**B. DIVISION OF COSTS FOR VIOLATIONS**

1. If any Attachment is found to be in violation of the terms of this Schedule, Licensee shall be responsible for the full cost of any necessary or appropriate corrective measures, including removal and replacement of the pole(s) and all Transfers or other work incident thereto.
2. If any of Licensee's Attachments fail to conform with the technical requirements and specifications of this Agreement, Licensee shall, upon notice by FME, correct such nonconformance within thirty (30) days of notification of such nonconformance, provided however, that FME may specify a shorter timeframe, with which Licensee shall comply, if in the exercise of FME's sole judgment and discretion, safety considerations require Licensee to take corrective action within such shorter period. Further, in the event the parties agree, such agreement not to be unreasonably withheld, that such nonconformance is of a nature that it cannot be reasonably corrected within thirty (30) days, the parties shall mutually agree on an additional time period in which Licensee shall complete the required corrections.
3. Should Licensee fail to timely take all steps necessary to comply with this requirement, or if safety considerations so require, FME may elect to do such work itself, and Licensee shall reimburse FME for all actual costs and expenses incurred in connection therewith. FME shall not be liable for any loss or damage to Licensee's facilities which may result, except to the extent of FME's gross negligence or misconduct on any third-party's facilities or property.
4. Failure by FME to inspect Licensee's conformance to the technical requirements and specifications listed in ARTICLE III or to take action on its own to bring such Attachments into compliance shall not cause FME to be liable for any loss or injury resulting from such failure of conformance and shall not relieve Licensee of its obligations of indemnification hereunder. Licensee will not be responsible for the costs associated with violations caused by FME or Outside Parties.
5. In all circumstances, all of the parties on the pole will work together to maximize safety while minimizing the cost of correcting any such deficiencies, but the Licensee shall be responsible for the full cost of any necessary or appropriate corrective measures associated with violations caused by Licensee, including removal and replacement of the pole and all Transfers or other work incident thereto. Licensee shall ensure that its employees, agents, or contractors, which Licensee causes to work on or around Joint Poles, will be notified of pending, unresolved issues requiring corrective actions, prior to activities on such poles, and Licensee shall not allow unqualified or improperly equipped personnel to work on poles. If causation cannot be established, the cost to correct the violation will be split equally among all parties on the pole.

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- 6. If one or more Outside Party Licensee(s) caused the violation, then such Outside Party Licensee(s) will pay the corrective costs incurred by all who have Attachments on the pole, including for the Licensee, FME and any other Licensees; and FME will make reasonable effort to cause the Outside Party to make such payment.
- 7. If one party installs Attachments that encroach or needs to install Attachments that would encroach upon the other party's use of its own Space (sometimes known as "building down"), the party installing or needing to install such Attachments must pay the Make-ready costs necessary to permit the other party to use its own Space.
- 8. FME shall not be obligated to pay Make-Ready costs for any initial or additional Licensee Attachment for which an APPENDIX A is not required.

**ARTICLE IX – UNAUTHORIZED ATTACHMENTS**

- A. If any Attachment is made without complying with this Schedule and is identified by FME or self-reported by the Licensee ("Unauthorized Attachment"), then, without prejudice to its other rights or remedies under this Schedule or at law, FME shall require Licensee to submit a notification (via the designated electronic means, if any) within fifteen (15) business days to verify or deny the Unauthorized Attachment. Within sixty (60) days of the Licensee's verification, the Licensee shall submit an Appendix A, along with supporting engineering design data for each Unauthorized Attachment. If, upon review of Appendix A:
  - 1. an Unauthorized Attachment exists with no violations, then the Licensee shall pay to FME a one-time fee of five (5) times the current annual rental fee found in Appendix E and the Licensee will be granted a Permit for the attachment.
  - 2. an Unauthorized Attachments exist with violations, then the Licensee shall correct all violations within 90 days or by a mutually agreed upon time. All Make-Ready Costs being borne by the Licensee. Once all corrections are made, the Licensee shall pay to FME a one-time fee of five (5) times the current annual rental fee found in Appendix E and the Licensee will be granted a Permit for the attachment.
- B. If Licensee has failed to provide Appendix A, as appropriate, or has not removed such Unauthorized Attachments within the 90-day timeframe, then FME may remove such Attachments at the Licensee's expense and with no liability to FME, in which event the Licensee shall reimburse FME upon demand for the cost incurred in making such removal and shall indemnify and hold FME harmless from and against all loss, liability, or expense (including but not limited to claims of third parties) resulting from the removal of such Unauthorized Attachment, except in cases of gross negligence or intentional misconduct. Nothing herein shall relieve Licensee of its obligation to maintain Attachments at all times in conformity with FME's Specifications.

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## POLE ATTACHMENT TARIFF – SCHEDULE PA

### ARTICLE X – ABANDONMENT OF POLES, TRANSFER OF ATTACHMENTS

- A. If FME desires at any time to abandon any Pole or to direct Licensee to Transfer one or more attachments for any reason, FME will, except as otherwise provided, give the Licensee notice to that effect at least sixty (60) days prior to the date on which the Transfer shall be completed. If, at the expiration of said time period, Licensee has not removed its Attachments or pursued a deviation from the relevant time period consistent with the Pole Attachment Regulation, FME may:
1. Transfer the attachment(s) at Licensee's expense (in which case FME expressly disclaims and shall have no responsibility or liability related thereto, except in the case of FME's gross negligence or willful misconduct); and/or
  2. Transfer the relevant Pole such that it becomes the property of the Licensee, as is, and the Licensee shall save, defend and hold harmless FME from all obligation, liability, damages, cost, expenses or charges incurred thereafter, and not arising out of anything theretofore occurring because of or arising out of the presence or condition of such Pole or of any Attachments thereon; and shall pay FME the then depreciated value in place of the Pole to FME. FME may further evidence transfer of title to the pole by completing APPENDIX C – BILL OF SALE. Credit shall be allowed for any payments which the Licensee may have made under the provisions of ARTICLE VII, when the Pole was originally set, provided the Licensee furnishes proof of such payment. However, if FME is putting its facilities underground, the Pole will not be sold to the Licensee, and the Licensee shall comply with the undergrounding of the facilities or remove its facilities.
- B. If, for safety or reliability purposes, it is necessary for FME to Transfer, Rearrange, remove, manipulate, or otherwise impact a Licensee's attachment on an expedited basis, FME may not provide Licensee with notice of its actions but may recover from Licensee the costs reasonably incurred by FME in performing such work.
- C. Licensee shall comply with reasonable and nondiscriminatory requirements that prohibit installation of structures on or above ground in an area designated solely for underground or buried cable and utility facilities.

### ARTICLE XI – ADJUSTMENT PAYMENTS

- A. For a year in which there is no Actual Inventory, the number of Poles used in calculating the adjustment payments provided for herein shall be based on the applications and any identified unauthorized attachments.
- B. For a year for which there is an Actual Inventory, the following adjustment shall be made:
1. The difference between the number of Poles found by the Actual Inventory for the year in question and the number of Poles currently being billed, whenever conducted, shall be prorated evenly based on the assumption that such Poles were added evenly over the years between the Actual Inventories in order to calculate, on the basis of such proration, a prorated number of poles for each year between the year of the previous Actual Inventory and the year of the present Actual Inventory.

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- 2. If the adjustment payment so calculated pursuant to this section is greater than the payment that was actually made for that billing period, the difference shall constitute an additional amount owed by the Licensee to FME; if less, the difference shall constitute an amount owed by FME or a credit to the Licensee.

**ARTICLE XII – RIGHTS OF OTHER PARTIES, LICENSEE**

- A. If FME, prior to affording a Licensee any rights pursuant to this Schedule, conferred upon Outside Parties, by contract or otherwise, rights or privileges to attach to any of its Poles covered by this Schedule, nothing herein contained shall be construed as affecting said rights or privileges with respect to attachments of such Outside Parties. FME shall have the right to continue and extend such rights and privileges to such Outside Parties and to others, as the Attachment privileges herein granted are non-exclusive.
- B. No use, however extended, of FME’s Poles and other facilities shall create or vest in Licensee any ownership or property rights in said Poles and other facilities except as specifically set forth herein. FME may maintain its Poles and facilities as it sees fit in light of its own service requirements, and Licensee’s rights in FME’s facilities shall be and remain a mere Permit for as long as authorized under the terms and conditions of this Schedule.

**ARTICLE XIII – WAIVER OF TERMS OR CONDITIONS**

The failure or decision of FME to enforce or insist upon compliance with any of the terms or conditions of this Schedule shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

**ARTICLE XIV – PAYMENT OF TAXES**

Each party shall pay all taxes and assessments lawfully levied on its own property and services, but any tax, fee, or charge levied on FME’s poles solely because of their use by the Licensee shall be paid by the Licensee.

**ARTICLE XV – DESIGNATED CONTACT PERSON(S), NOTICES**

- A. Licensee shall establish and maintain a designated contact person(s) (“Designated Contact Person(s)”) for ordinary maintenance requests, relocation requests, and notices from FME who shall be reasonably available during normal business hours. Licensee shall also establish and maintain a Designated Contact Person(s) for emergency maintenance and relocation requests who shall be reasonably available 24 hours per day, 7 days a week. Licensee shall provide FME with written contact information for each Designated Contact Person and ensure such written contact information remains current by providing FME appropriate written notice of any change. Each Designated Contact Person shall be capable of providing (or acquiring) substantive, timely responses to FME’s inquiries or issues.

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**DATE OF ISSUE:** January 25, 2023

**DATE EFFECTIVE:** December 28, 2022

**ISSUED BY:** \_\_\_\_\_  
Brandon Hunt,  
President and Chief Executive Officer

**POLE ATTACHMENT TARIFF – SCHEDULE PA**

- B. Unless otherwise specifically provided herein, all notices, requests, consents, demands, designations, approvals or statements required to be made under this Schedule shall be in writing and shall be delivered via personal delivery, generally recognized overnight delivery service, certified U.S. mail return receipt requested, facsimile, electronic mail, or designated electronic platform. Notices to Licensee shall be sent to its Designated Contact Person(s) for notices.
- C. Licensee agrees to join, utilize or acquire any notification or similar system or platform identified and utilized by FME to facilitate communication and the delivery of required notices and efforts related to this Schedule, including but not limited to, any notices relating to new Attachments, Transfers, relocation, abandonment or maintenance work. Notices sent through FME’s system or platform shall be satisfactory notice under this Schedule.

**ARTICLE XVI – REMEDIES**

- A. Licensee may at any time terminate any right to attach an Attachment to any Pole by removing its Attachment from such pole and notifying FME of such removal. Such notice shall fully identify, by pole number and location, the Pole(s) from which such Attachments are being removed; absent such notice, Licensee shall continue to be responsible for rental payments. The Permit covering such Pole shall terminate upon receipt of such notice by FME. No refund of any pole rental rate or other charge will be due on account of such removal. FME may, in addition to seeking any other remedy available to it, suspend Licensee’s rights under this Schedule (including access to FME’s poles) or terminate the Contract or any Permit issued under this Schedule if Licensee fails to comply with any of the provisions of the Schedule and fails within thirty (30) days (or such longer, mutually- agreeable period if a 30 day cure period is not reasonably possible) after written notice from FME to correct such noncompliance. In the event a governmental entity at any time requires FME to remove one or more of its Poles, any Permit issued to Licensee for such Pole(s) shall automatically terminate, in which event FME shall refund to Licensee any unearned rental payments made pursuant to this Schedule. Except as otherwise provided in this Schedule, the Licensee shall have 60 days within which to remove its Attachments from FME’s Pole(s) upon termination of a Permit issued under this Schedule. If the Licensee fails to remove its Attachments from FME’s Pole(s), FME shall have the right (but not the obligation) to remove the Licensee’s Attachments, without notice or liability of any kind to the Licensee, in which event the Licensee shall reimburse FME upon demand for the cost FME incurred in making such removal. Attachments of Licensee which remain after the 60-day period following termination may also be assessed pole rental rates at the rates applicable to Unauthorized Attachments, until such time as such Attachments are removed and notice given thereof. The Licensee shall indemnify and hold FME harmless from and against all loss, liability, or expense resulting such removal, including but not limited to claims of third parties.

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**ISSUED BY:** \_\_\_\_\_  
President and Chief Executive Officer



**POLE ATTACHMENT TARIFF – SCHEDULE PA**

**ARTICLE XVII – REPRESENTATIONS AND WARRANTIES**

- A. In order to obtain service under this Schedule, Licensee shall: (i) be a legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was formed; (ii) enjoy full authority to enter into and perform its obligations pursuant to this Schedule, recognizing it is a party bound by this Schedule, which is fully enforceable in accordance with its terms; and (iii) confirm its execution and delivery of its obligations under this Schedule will not conflict with or violate or constitute a breach or default under its formation documents and will not violate any law, rule or regulation applicable to it.
- B. Licensee shall comply with all federal, state, and local rules and ordinances. Licensee shall comply with all technical requirements and specifications applicable to Licensee’s affixation of Attachments to FME’s Poles as authorized herein. Licensee shall comply with FME’s practices and rules including requirements for installing, transferring, relocating, removing or maintaining Attachments. Licensee shall take all steps necessary to protect persons and property against injury or damage that may result from the presence, installation, use, maintenance or operation of Licensee’s Attachments, and Licensee shall take all steps necessary to avoid any interference with FME’s safe and efficient operation of its electric distribution system, including but not limited to its poles, and the rights of Outside Parties.
- C. **THERE ARE NO WARRANTIES UNDER THIS SCHEDULE EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH HEREIN. THE PARTIES SPECIFICALLY DISCLAIM AND EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FME SPECIFICALLY DISCLAIMS ANY WARRANTY OR REPRESENTATION REGARDING THE CONDITION AND SAFETY OF FME’S POLES AND RELATED PROPERTY AND FACILITIES.**

**ARTICLE XVIII – INDEMNIFICATIONS AND LIMITATIONS ON LIABILITY**

- A. Licensee agrees to indemnify, defend and hold harmless FME, its affiliates, directors, officers, member-owners, representatives and employees (collectively “Indemnified Persons”) from and against any and all claims, liabilities, losses, damages, costs, discovery requests, demands, judgments, actions, causes of action, disbursements and expenses in connection therewith (including, without limitation, the reimbursement of all such costs, fees, expenses and disbursements, including reasonable attorneys’ fees, as and when incurred, of investigating, preparing for, responding to or defending against any action, suit, proceeding, investigation, subpoena or other inquiry (whether or not FME is a party to the proceedings or litigation at issue) in connection with actual or threatened actions) (“Losses”) relating to or arising out of Licensee’s activities under this Schedule, its presence on or near FME’s property, or any action or inaction by Licensee, its employees, agents, contractors, subcontractors, or representatives related to the construction, installation, operation, maintenance, presence, replacement, upgrade, use, replacement,

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

abandonment or removal of any attachment. Licensee's liability for Losses shall include, but not be limited to, claims alleging damage to or loss of property; injury to or death of persons (including payments made under any workers' compensation law or under any plan for employees' disability and death benefits); power or communications outage, interruption or degradation; environmental damage; and violations of law, regulations, orders, or other applicable rules or requirements; provided, however that Licensee will not be liable under this indemnity to the extent any of the foregoing Losses are determined, in a final judgment by a court of competent jurisdiction, not subject to further appeal, to have resulted from the sole gross negligence or willful misconduct of any Indemnified Person.

- B. The obligations of this Article shall survive the conclusion of the parties' relationship under this Schedule, shall be enforced to the fullest extent permitted by applicable law and the obligations of this Article shall be construed liberally in favor of indemnification of FME.
- C. The indemnification obligations of Licensee under this Article and under other provisions of this Schedule are cumulative and not exclusive. FME's request for indemnification under one or more Articles shall not preclude or in any way waive or limit its ability to seek indemnification under other provisions of this Schedule.
- D. FME shall not be liable to Licensee for any property damage, injury or death to persons (including payments made under any Worker's Compensation Law or under any plan for employee disability and death benefits), interruption to service of Licensee, or for interference (however caused) with the operation of the cables, wires, appliances and facilities of Licensee, arising in any manner out of the use of FME's poles and other facilities hereunder, including any effects undesirable to Licensee which the presence, breakdown, operation, maintenance, alterations of, or additions to, the lines and other facilities of FME or Outside Parties may have upon the Attachments or the service or equipment of Licensee, except to the extent attributable to the gross negligence or willful misconduct on the part of FME or its agents.
- E. Licensee expressly assumes responsibility for determining the condition of all poles and equipment to be accessed or otherwise worked on or near by its employees, agents, contractors, subcontractors or invitees, and to the fullest extent permitted by law, assumes all risks (except for risks arising from FME's gross negligence or misconduct) related to the construction, operation and maintenance of Licensee's Attachments on or about FME's poles.
- F. Notwithstanding anything to the contrary set forth elsewhere in this Schedule, IN NO EVENT WILL FME OR ANY OF ITS REPRESENTATIVES OR RELATED PARTIES BE LIABLE TO LICENSEE OR ANY OF ITS REPRESENTATIVES OR RELATED PARTIES FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE, LOSS OF SERVICES, LOSS OF CUSTOMERS OR CLIENTS, LOSS OF GOODWILL OR LOSS OF PROFITS RELATING TO OR ARISING IN ANY MANNER FROM OR IN CONNECTION WITH THIS SCHEDULE OR THE PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS HEREUNDER, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR EXPECTED AND REGARDLESS OF THE THEORY UNDER WHICH THE DAMAGES ARE CLAIMED (WHETHER EQUITABLE, LEGAL, IN CONTRACT, TORT, OR OTHERWISE).

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**ISSUED BY:** \_\_\_\_\_  
President and Chief Executive Officer

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## POLE ATTACHMENT TARIFF – SCHEDULE PA

### **ARTICLE XIX – CONSTRUCTION**

The headings in this Schedule are for purposes of reference only and shall not be construed to limit or enlarge the substantive terms hereof.

### **ARTICLE XX – ASSIGNMENTS OF RIGHTS**

Licensee shall not assign or otherwise dispose of any of its rights or interests hereunder, or the Attachments or rights-of-way covered by this Schedule, to any firm, corporation or individual, without the written consent of FME, which consent shall not be unreasonably withheld.

### **ARTICLE XXI – INSURANCE**

- A. Policies Required. At all times, Licensee shall keep in force and effect all insurance policies as described below. Licensee shall ensure FME is informed, no less than thirty (30) days in advance, of the cancellation or termination of any policy hereunder. Licensee shall name FME as an additional insured on all such policies, except workers compensation.
1. Workers Compensation and Employers' Liability Insurance. Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than that required by Kentucky law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of FME. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.
  2. Commercial General Liability Insurance. Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with limits of liability not less than \$5,000,000 general aggregate, \$2,000,000 products/completed operations aggregate, \$2,000,000 personal injury, \$2,000,000 each occurrence.
  3. Automobile Liability Insurance. Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.
  4. Umbrella Liability Insurance. Coverage is to be in excess of the sum of the employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$5,000,000 each occurrence, \$5,000,000 aggregate.
  5. Property Insurance. Licensee will be responsible for maintaining property insurance on its own facilities, buildings, and other improvements, including all equipment, fixtures, and structures, fencing, or support systems that may be placed on, within, or around facilities to protect fully against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as extended coverage insurance or self-insure for such exposures.

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President and Chief Executive Officer

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

6. Performance Bond. Prior to making any Attachments under this Schedule, Licensee shall provide to FME a performance bond in an amount corresponding with the requirements of Appendix D. The bond shall be executed with a proper surety through a company licensed and qualified to operate in the State of Kentucky and listed with the U.S. Department of the Treasury as published in the Federal Register. In addition, the bond shall not be for an amount greater than the surety's approved limit as referenced in the current Federal Register and shall be accompanied by a certified power-of-attorney document, all still subject to the final approval of FME. The purpose of the bond is to ensure Licensee's performance of all of its obligations under this Schedule and for the payment by the Licensee of any damages, claims, liens, taxes, liquidated damages, penalties, or fees due to FME which arise by reason of the construction, installation, operation, maintenance, transfer, relocation, or removal of Licensee's Attachments or Communications Facilities on or about FME's Poles. This shall include claims for damages to FME Facilities caused by Licensee, or its contractors and agents. FME shall have the right to draw funds from the bond to recover damages to FME Facilities caused by Licensee, its contractors, or agents. Provision shall be made to permit FME to draw against the bond. Licensee shall not use such bond for other purposes and shall not assign, pledge or otherwise use the bond as security for any other purpose.
- B. Qualification; Priority; Contractors' Coverage. The insurer must be authorized to do business under the laws of the state of Kentucky and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry in full force and effect, workers' compensation and employers' liability, comprehensive general liability, and automobile liability insurance coverages of the type that Licensee is required to obtain under this Article with the same limits.
- C. Certificate of Insurance; Other Requirements. Prior to the execution of a Contract under this Schedule and prior to each insurance policy expiration date during the term of this Schedule, the Licensee will furnish FME with a certificate of insurance ("Certificate") and, upon request, certified copies of the required insurance policies. The Certificate shall reference this Schedule and workers' compensation and property insurance waivers of subrogation required by this Schedule. FME shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of insurance during the terms of this Schedule. FME, its board members, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, other than workers' compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed \$100,000, or such greater amount as expressly allowed in writing by FME. Licensee shall defend, indemnify and hold harmless FME and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. Licensee shall obtain Certificates from its agents, contractors, and their subcontractors and provide a copy of such Certificates to FME upon request.

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## POLE ATTACHMENT TARIFF – SCHEDULE PA

- D. Limits. The limits of liability set out in this Article may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or laws that would materially increase or decrease FME's or Licensee's exposure to risk.
- E. Prohibited Exclusions. No policies of insurance required to be obtained by Licensee or its contractors or subcontractors shall contain provisions that: (1) exclude coverage of liability assumed by this Schedule with FME except as to infringement of patents or copyrights or for libel and slander in program material, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to FME's employees or agents, or (4) exclude coverage of liability for injuries or damages caused by Licensee's contractors or the contractors' employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.
- F. Deductible/Self-insurance Retention Amounts. Licensee may meet all or a portion of the insurance requirements of this Article by self-insurance. To the extent the Licensee self-insures, the Licensee is not required to name additional insureds as required by this Article. The Licensee must provide to FME such evidence as required by FME demonstrating, to FME's satisfaction, the Licensee's financial ability to meet the requirements of this Article requiring insurance coverage by self-insurance. In the event the Licensee fails to meet the Licensee's insurance requirements to FME's satisfaction, Licensee shall provide the insurance coverage and the additional insured endorsements in accordance with this Article.
- G. Additional Insurance. FME shall have the right at any time to require public liability insurance and property damage liability insurance in greater amounts than those required in this Article. In any such event, the additional premium or premiums payable solely as the result of such additional insurance coverage shall be payable by FME within thirty (30) days of the Licensee providing proof of such additional premium to FME and requesting payment therefor.

### **ARTICLE XXII – FORCE MAJEURE**

Except as may be expressly provided otherwise, neither FME nor Licensee shall be liable to the other for any failure of performance hereunder due to causes beyond its reasonable and actual control, including but not limited to: (a) acts of God, fire, explosion, vandalism, storm, or other similar occurrences; (b) national or state emergencies, insurrections, epidemics, pandemics, riots, acts of terrorism, or wars; or (c) strikes, lockouts, work stoppage, or other labor difficulties. To the extent practicable, the parties shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as any force majeure event causing a failure or delay has ceased. Each party shall promptly notify the other party of any delay in performance under this section and its impact on performance required under this Schedule.

### **ARTICLE XXIII – SEVERABILITY**

The provisions (or parts thereof) of this Schedule shall be severable. In the event that any provision (or part thereof) of this Schedule is determined to be illegal, invalid, or otherwise unenforceable, then such illegality, invalidity or unenforceability shall not affect or impair the remainder of this Schedule.

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President and Chief Executive Officer

**POLE ATTACHMENT TARIFF – SCHEDULE PA**

**APPENDIX A – APPLICATION/REQUEST TO ATTACH**

Licensee Job # \_\_\_\_\_ (to be completed by Licensee)  
 Cooperative Work Order # \_\_\_\_\_ (to be completed by Cooperative)

**SECTION 1 - REQUEST FOR APPROVAL TO PLACE ATTACHMENTS ON A POLE (to be completed by Licensee)**

Company		Poles with Attachments (specify quantity)	Added	
Project			Removed	
Request Date			Overlashed	
Name			Modified	
Title		Estimated Construction Dates	Start	
Phone			Completion	
Email		Fees Submitted:	Application	
Signature:			Other	
One Touch Make-Ready? (Yes or No)			If yes, please attach section 3 (OTMR addendum)	
Make Ready Anticipated? (Yes or No)				

Location of Attachment Request (Street Address and Coordinates (Lat, Long)):

**Checklist of Attached Documents (Containing Licensee Job #):**

- Appendix A- OTMR Addendum selected contractors (if applicable)
- Detailed construction plans, drawings, and maps consistent with Appendix B
- Spreadsheet, containing the following:
  - Poles that we wish to use (number, Lat, Long)
  - Point of attachment (proposed height) on each pole
  - Number and type of attachments to be placed on each pole (including anchor type and distance from
  - Relocations or replacements of poles
  - Rearrangements of fixtures and equipment necessary
  - Additional poles required

*The included information represents our proposed facilities. Any changes will be submitted to Cooperative for approval prior to construction. The Licensee will obtain all authorizations, permits, and approvals from all Municipal, State, and Federal authorities for the Licensee's proposed service and all easements, licenses, rights-of-way and permits necessary for the proposed use of these poles.*

**SECTION 2 - APPROVAL/DENIAL OF REQUEST (to be completed by Cooperative)**

Response Date		Utility Make Ready Construction Required?	
Name		Total Estimated Cost to Licensee	
Title		(Detailed invoice to be provided)	
Phone		Permit #	
Email			
Request	Approve		If denied, reason
Response	Deny		for denial:
Signature:			

*Owner hereby grants License to Licensee to make Attachments as described above, subject to the terms and conditions of the Tariff.*

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 ISSUED BY: \_\_\_\_\_  
 President and Chief Executive Officer

(N)

**POLE ATTACHMENT TARIFF – SCHEDULE PA**

**APPENDIX A - REQUEST TO ATTACH - OTMR Addendum**

To be submitted along with sections 1 and 2 of the Request to Attach

Licensee Job # \_\_\_\_\_ (to be completed by Licensee)

Cooperative Work Order # \_\_\_\_\_ (to be completed by Cooperative)

**SECTION 3 - OTMR Contractor Information**

OTMR Survey Contractor		OTMR Make Ready Contractor	
Company		Same as survey contractor	
Survey Date		Company	
Point of Contact Name		Point of Contact Name	
Title		Title	
Phone		Phone	
Email		Email	

**Existing Attacher Information**

Note: It is still the responsibility of the applicant to notify existing attachers of One-Touch Make-Ready.

Attacher	Point of Contact	Phone or Email

**OTMR Transfer Work Information**

Field Supervisor		Additional Comments:
Title		
Phone		
Email		
Estimated Crew Size		

By submitting this application, I fully and completely understand the One-Touch Make-Ready process, and agree to abide by all of the pole owning utility's rules and regulations regarding joint use attachments. I further agree to accept all liability incurred as a result of my One-Touch Make-Ready construction.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

**APPENDIX B – SPECIFICATIONS FOR ATTACHMENTS**

Licensee, when making Attachments to FME Poles, will adhere to the following engineering and construction practices:

- A. All Attachments shall be made in accordance with ARTICLE III *and FME’s construction standards posted on its website at www.fme.coop.*
- B. Clearances
  - 1. Attachments and Cable Clearances: Licensee's Attachments on FME's Poles, including metal attachment clamps and bolts, metal cross-arm supports, bolts and other equipment, must be attached so as to maintain the minimum separation specified in the most updated version National Electrical Safety Code ("NESC").
  - 2. Service Drop Clearance: From the pole to the home/building the parallel minimum separation between FME’s service drops and Licensee’s service drops shall conform to the NESC.
  - 3. Other Drop Clearances: All other drop clearances at the mid-span must conform to the NESC.
    - i. Sag and Mid-Span Clearances: Licensee will be particularly careful to leave proper sag in its lines and cables and shall observe the established sag of power line conductors and other cables so that minimum clearances are: (a) achieved at poles located on both ends of the span; and (b) retained throughout the span. At mid-span, the minimum separation must be maintained between all telecommunication cables that meet NESC rules (includes common phone, CATV, and fiber optic cables lashed to an effectively grounded messenger strand or self-supporting cables).
  - 4. Vertical Risers: All risers, including those providing 120/240 volt powers for Licensee's equipment enclosure, shall be placed on the quarter faces of the pole and must be installed in conduit with weatherhead (if possible). A two- (2) inch clearance in any direction from cable, bolts, clamps, metal supports, and other equipment shall be maintained.
  - 5. Climbing Space: A clear climbing space must be maintained at all times on the face of the pole. All Attachments must be placed so as to allow and maintain a clear and proper climbing space on the face of FME’s pole. Licensee's cable/wire Attachments shall be placed on the same side of the pole as those of other Attaching Entities. In general, all other Attachments and risers should be placed on pole quarter faces.
  - 6. Pedestals and Enclosures: Every effort should be made to install pedestals, vaults and/or enclosures at a minimum of four (4) feet from poles or other FME facilities, or the distance specified by FME, whichever is greater.
- C. Anchors and Guys
  - 1. Licensee shall be responsible for procuring and installing all anchors and guy wires to support the additional stress placed on FME’s poles by Licensee's Attachments. Anchors must be guyed adequately.
  - 2. Anchors and guy wires must be installed on each FME pole where an angle or a dead-end occurs. Licensee shall make guy attachments to poles at or below its cable attachment. Per RUS requirements, no proposed anchor can be within five (5) feet of an existing anchor.

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### POLE ATTACHMENT TARIFF – SCHEDULE PA

3. Licensee may not attach guy wires to the anchors of FME or third-party user without the anchor FME's specific prior written consent.
  4. No Attachment may be installed on an FME pole until all required guys and anchors are installed. No Attachment may be modified, added to, or relocated in such a way as will materially increase the stress or loading on FME poles until all required guys and anchors are installed.
  5. Licensee's down guys, if needed, shall be bonded, to the vertical ground wires of FME's pole, in accordance to NESC rules. If there is no vertical ground present at the pole, Licensee shall notify FME and a ground will be added to pole at FME's expense for Licensee to bond to.
- D. Certification of Licensee's Design
1. Licensee's Attachment Permit application must be signed and sealed by a professional engineer, registered in the State of Kentucky, certifying that Licensee's aerial cable design fully complies with the NESC and FME's Construction Standards and any other applicable federal, state or local codes and/or requirements, or Licensee will pay FME for actual costs for necessary engineering and post-construction inspection and to ensure Licensee's design fully complies with the NESC and Electric Utility's Construction Standards and any other applicable federal, state or local codes and/or requirements.
  2. This certification shall include the confirmation that the design is in accordance with pole strength requirements of the NESC, taking into account the effects of FME's facilities and other Attaching Entities' facilities that exist on the poles without regard to the condition of the existing facilities.
- E. Miscellaneous Requirements
1. Attachments. All Attachments will be made on the street side of the pole unless otherwise approved by FME.
  2. Cable Bonding. Licensee's conductive messenger cables shall be bonded at every pole with a vertical ground. If no ground exists on a pole to be bonded, Licensee shall notify FME and a ground will be added to pole at FME's expense for Licensee to bond to.
  3. Customer Premises. Licensee's service drop into customer premises shall be protected as required by the most current edition of the NEC.
  4. Communication Cables. All communications cables/wires not owned by FME shall be attached within the communications space that is located below the Communication Worker Safety Zone.
  5. Riser Installations: All Licensee's riser installations shall be in FME-approved conduit materials. Ground wires may be attached directly to pole.
  6. Tagging. On every pole to which the Licensee is attached, Licensee's facilities shall be identified with a band-type communications cable tag or other identification acceptable to FME within twelve (12) inches of the pole. The communications tag shall be consistent with communication industry standards and shall include at least the following: Licensee name and emergency contact number. Licensee shall be responsible for periodically inspecting its Attachments to ensure that they are tagged with permanent identification markers.

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President and Chief Executive Officer

### POLE ATTACHMENT TARIFF – SCHEDULE PA

Should FME encounter any Attachments without required permanent identification markers, FME shall notify Licensee of such Attachments and Licensee shall install permanent identification markers within thirty (30) days. In the event Attachments are not tagged in accordance herewith, FME reserves the right to charge all Licensee for all costs and expenses incurred by FME to identify the untagged Attachments.

7. Mid-Span Taps: All mid-span communication taps, other than service drops, are subject to the same installation and maintenance requirements as an Attachment under this Tariff. Additionally, any newly proposed mid-span taps must receive prior approval under Article IV of this Tariff.

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President and Chief Executive Officer

**POLE ATTACHMENT TARIFF – SCHEDULE PA**

**APPENDIX C – BILL OF SALE (template)**

**BILL OF SALE**

Agreement made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between, a company/corporation with a principal office in \_\_\_\_\_, hereinafter called Buyer, and \_\_\_\_\_, a company/corporation, with a principal office in \_\_\_\_\_, authorized to do and doing business in, \_\_\_\_\_, hereinafter called Seller.

For and in consideration of the sum of \$\_\_\_\_\_ to it in hand paid and other valuable considerations, payable to Seller in immediately available funds, the receipt of all of which is hereby acknowledged, Seller by these presents does hereby bargain, sell, demise, release and forever quitclaim to Buyer, its successors and assigns, all of the rights, title, interest and claim the Seller now has or may have had in the following "Pole(s)" located in, \_\_\_\_\_, County \_\_\_\_\_, (State) \_\_\_\_\_.

Quantity	Description	Location (address, lat/long, etc.)

Additional locations on attached.

This sale is subject to the following terms and conditions:

1. Buyer is purchasing the equipment described above in reliance upon its personal inspection and in an "as is" and "where is" condition, with all faults.
2. Seller makes no warranties, express or implied, of any kind or nature except that (a) Buyer will acquire by the terms of this bill of sale good title to the equipment and (b) Seller has the right to sell the equipment. Without limiting the generality of the foregoing, SELLER MAKES NO WARRANTIES WITH RESPECT TO THE QUALITY, CONTENT, CONDITION, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE TELECOMMUNICATIONS FACILITIES.
3. BUYER UNDERSTANDS THAT THE SELLER'S FACILITIES MAY CONTAIN PRESERVATIVES OR OTHER HAZARDOUS MATERIALS. BUYER REPRESENTS AND WARRANTS THAT IT WILL HANDLE AND TREAT SUCH FACILITIES, INCLUDING BUT NOT LIMITED TO, THE FACILITIES CONTAINING LEAD, IN COMPLIANCE WITH ALL ENVIRONMENTAL LAWS, INCLUDING, BUT NOT LIMITED TO, PROCURING ALL REQUIRED PERMITS AND CERTIFICATES.

**DATE OF ISSUE:** July 31, 2024 ~~January 25, 2023~~  
**DATE EFFECTIVE:** August 31, 2024 ~~December 28, 2022~~  
**ISSUED BY:** \_\_\_\_\_  
 President and Chief Executive Officer

**POLE ATTACHMENT TARIFF – SCHEDULE PA**

4. As used herein, "Environmental Laws" shall mean all Federal, State or local laws, regulations or ordinances having to do with the protection of health, welfare, the environment or workers, including, without limitation, the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Emergency Planning and Community Right-To-Know Act, the Hazardous Materials Transportation Act, the Occupational Safety and Health Act, and any similar state or local laws, regulations or ordinances.
  
5. On the effective date hereof, Buyer releases Seller of all liability for, and Buyer assumes all liability for, and will defend, indemnify and hold harmless Seller from and against all losses, damages, expenses (including attorneys' fees and costs), claims, suits and liabilities, whether based in contract or tort (including strict liability), the extent arising out of, resulting from or in connection with (a) Buyer's negligent or intentional acts or omissions, or those of persons furnished by it, (b) the failure of Buyer or its agents to fully comply with the terms and conditions of this Agreement, including those concerning compliance with Environmental Laws or (c) assertions under Worker's Compensation or similar laws made by persons furnished by Buyer. Seller shall promptly notify Buyer of any written claim, loss or demand for which Buyer is responsible under this Clause.
  
6. If, for any reason, Buyer removes, modifies or disposes of the Telecommunication Facilities, then it will do so safely and in accordance with all Environmental Laws and standards, and will do no damage to other property or Telecommunication Facilities owned by Seller or third parties.  
  
BUYER EXPRESSLY ASSUMES ALL LIABILITIES THAT MAY ARISE FROM THE HANDLING, PROCESSING, REMOVAL OR OTHER USE OF THE TELECOMMUNICATION FACILITIES, INCLUDING THOSE ARISING UNDER THE ENVIRONMENTAL LAWS.
  
7. This Agreement does not transfer any rights, licenses or other interests in any easement, right of way, license or other property right or interest associated with the Telecommunications Facilities and Seller expressly retains all such rights, licenses and interests.

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President and Chief Executive Officer

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**APPENDIX D – PERFORMANCE BONDS**

A performance bond in the amount of \$10,000 or \$50 per Attachment, whichever is greater, is required for all intended attachers operating or seeking to operate facilities which deliver service to the public.

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**APPENDIX E – FEES AND CHARGES**

Licensee shall pay to FME the fees and charges and shall comply with the terms and conditions specified in the Schedule. Unless otherwise expressly provided, Licensee shall pay any invoice it receives from FME pursuant to this Schedule within 30 (thirty) calendar days after Licensee is presented with the invoice. Any balance that remains unpaid after its due date shall bear interest at the rate of one and five-tenths percent (1.5%) per month until paid, or if one and five-tenths percent (1.5%) exceeds the maximum rate allowed by law, then at the maximum rate allowed by law.

The estimated cost of a survey conducted by FME under this Schedule, on a per-pole basis, is \$17.37 per pole. Actual survey costs may differ from this estimate and will be the responsibility of the Licensee, consistent with the terms of this Schedule.

FME will invoice Licensee in arrears with respect to amounts owed annually for each of Licensee’s Attachments, at the following rates for each full or partial year:

Two-Party Pole Attachment	\$4.23 per year
Three-Party Pole Attachment	\$3.68 per year
Two-Party Anchor	\$6.38 per year
Three-Party Anchor	\$4.21 per year
Two-Party Ground	\$0.26 per year
Three-Party Ground	\$0.16 per year

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

**ARTICLE I - OVERVIEW**

Applicability

In all territory served by Fleming-Mason Energy Cooperative, Inc. ("FME").

Availability

To cable television system operators, telecommunications carriers, broadband internet providers, and governmental units that proceed in compliance with this Schedule. No attachment(s) shall be made to FME's Poles unless and until FME has approved such attachment(s) following receipt of an appropriate application and an acknowledgement of the applicability of this Schedule. Parties with joint use agreements with FME are excluded from this Schedule. Nothing in this Schedule is intended to expand the right to attach to FME's Poles beyond those rights otherwise conveyed by law. FME reserves the right, on a non-discriminatory basis, to deny access to and exclude from use any of its Poles where there is insufficient capacity or for reasons of safety, reliability, or generally applicable engineering purposes.

Regulation

This Schedule includes FME's rates, terms, and conditions governing attachments to FME's Poles. It is intended to be (and should be interpreted) consistent with the requirements of 807 KAR 5:015 (the "Pole Attachment Regulation") and KRS Chapter 278. Capitalized terms not defined herein shall have the meaning prescribed in the Pole Attachment Regulation.

Website

Additional information regarding FME's Pole Attachment services may be found at [www.fme.coop](http://www.fme.coop), including: (i) the Certification Form applicants must submit with each Application; (ii) the identity and contact information for contractors approved to conduct surveys and self-help Make-ready; (iii) construction standards for Attachments; and (iv) contact information for primary and alternate FME personnel responsible for invoicing, payment, Make-ready work, and escalation of disputes related to Pole Attachments.

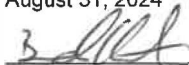
Appendices

This Schedule includes the following appendices:

- APPENDIX A – Application/Request to Attach
- APPENDIX B – Specifications for Attachments
- APPENDIX C – Bill of Sale (template)
- APPENDIX D – Performance Bond
- APPENDIX E – Fees and Charges

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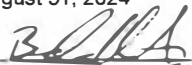
**POLE ATTACHMENT TARIFF – SCHEDULE PA**

**ARTICLE II – EXPLANATION OF TERMS**

For the purpose of this Schedule, the following terms shall have the following meanings:

- A. **Actual Inventory** is a complete count of all Attachments on Poles to which the Licensee is attached.
- B. **Approved Contractor** is a contractor identified on FME’s website at [www.fme.coop](http://www.fme.coop) as appropriately qualified and approved by FME to provide self-help surveys or Make-ready services. (T)
- C. **Attached Pole** is a pole for which shared use is established or continued pursuant to the terms of this tariff.
- D. **Attachment** is any Licensee cable, wire, strand, circuit, service drop, permitted over-lashing, appurtenance, equipment, pedestal or apparatus of any type attached to FME’s pole.
- E. **Certification Form** is the form an applicant is required to submit to FME with each Application: (i) certifying the person filing the Application has reviewed the Cooperative’s requirements, Pole Attachment Tariff, and applicable law and that the Application meets all of the requirements to the best of the applicant’s knowledge and ability; (ii) designating appropriate applicant personnel responsible for overseeing all Attachments with the Cooperative; and (iii) identifying appropriate applicant personnel associated with each Application who shall be responsible for coordinating with the Cooperative and ensuring that Attachment-related issues are addressed in a timely manner. A copy of the Cooperative’s Certification Form may be found at [www.fme.coop](http://www.fme.coop). (N)
- F. **Communication Space** is the lower usable portion on Poles typically reserved for low-voltage communications equipment and designated for the installation of Licensee facilities, the top of which is separated from the Supply Space by the Communication Worker Safety Zone.
- G. **Communication Worker Safety Zone** is the space on a Pole below the supply space, above the Communication Space. The amount of space of the Communication Worker Safety Zone is defined by the NESC.
- H. **Complex Make-ready** means any Make-ready that is not Simple Make-ready, such as the replacement of a Pole; splicing of any Attachment or relocation of existing Wireless Facilities, even within the Communications Space; and any Transfers or work relating to the attachment of Wireless Facilities.
- I. **Cost in Place** is the cost of a bare Pole, labor to install the Pole and associated overheads, including engineering.
- J. **High Volume Orders** are requests which seek to attach to no more than three percent (3%) of FME’s Poles in Kentucky or to no more than 3,000 Poles, whichever is less, and are not Lesser Volume Orders. FME may treat multiple requests from a single applicant as one request if the requests are submitted within the same calendar month. (T)
- K. **Licensee** means a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit seeking to attach or having attached new or upgraded facilities to a Pole. (T)

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- L. **Lesser Volume Orders** are requests which seek to attach to no more than zero and seventy-five hundredths' percent (0.75%) of FME's poles in Kentucky or to no more than 500 Poles, whichever is less. FME may treat multiple requests from a single applicant as one request if the requests are submitted within the same calendar month. (T)
- M. **Make-ready** is all work necessary or appropriate to make space for or otherwise accommodate new or changed Attachments, including, if necessary or appropriate, Rearrangements, removal and replacement of the pole, Transfers and other work incident thereto. (T)
- N. **Make-ready Costs** are all costs necessary for FME to prepare its Poles for Licensee's Attachments, including the costs of materials, labor, engineering, applicable overhead charges and administrative costs. Included among Make-ready Costs are the costs of installing or changing out Poles, cost of installation and/or removal of guys, anchors, stub poles, materials and equipment, temporary construction and all other construction in accordance with applicable requirements. Make-ready Costs shall include costs needed to correct preexisting violations of applicable standards caused by Licensee; however, Make-ready Costs shall not include costs to bring poles, attachments, or third-party or utility equipment into compliance with current published safety, reliability, and pole-owner construction standards if the poles, attachments, or third-party or utility equipment were out of compliance because of work performed by a party other than the Licensee prior to the new attachment.
- O. **Outside Party** is any person or entity other than FME or Licensee but that is also attached to FME's Poles consistent with law and this Schedule. (T)
- P. **Over-lashing** means to place an additional wire or cable communications facility onto an existing Attachment or messenger already secure to the pole in order to accommodate additional wire or cable communications facility capacity. An Over-lash does not include a mid-span installation.
- Q. **Permit** means authorization from FME to the Licensee to attach an Attachment pursuant to this Schedule.
- R. **Pole** means any pole owned or controlled by FME, excluding any pole that is used primarily to support outdoor lighting or transmission-level voltages (greater than or equal to 69 kV).
- S. **Rearrange** or **Rearrangement** is the moving of Attachments from one position to another on a Pole.
- T. **Service Drop** means a wire or line used to connect services to a single customer, building or location by means of any attachment to a Pole. A Service Drop shall run directly from a Pole to a specific customer, without the use of any other poles.
- U. **Simple Make-ready** is a Make-ready in which existing Attachments in the Communications Space of a Pole could be rearranged without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing attachment or relocation of an existing Wireless Facility. Simple Make-ready does not include replacement of a Pole.
- V. **Space** is the linear portion of a pole parallel to its axis reserved for the exclusive use of one of the parties (subject only to the exceptions provided for in this Schedule).

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

- W. **Special Contract** is a pole attachment agreement negotiated in good faith by FME and applicant: (i) when applicant's request to attach exceeds the lesser of three thousand (3,000) Poles or three percent (3%) of FME's Poles in Kentucky; or (ii) upon FME's receipt of three (3) separate Applications averaging one thousand (1,000) Poles or one percent (1%) of FME's Poles in Kentucky for any three (3) months over a five (5) month period. (This provision shall be inapplicable in the event that FME owns or controls fewer than five hundred (500) Poles in Kentucky.) At a minimum, the Special Contract shall include:
1. An agreement for a prepaid account from applicant to cover the cost of the request;
  2. Direction from applicant regarding Make-ready work that FME can complete without further direction from applicant, including:
    - i. The maximum cost per Pole;
    - ii. The total cost for Make-ready work for each project or line of each project;
  3. Applicant's prioritization of projects if the applicant has submitted multiple requests for attachment;
  4. Contact information, including phone numbers and email addresses, for all necessary FME and applicant personnel;
  5. The cadence, location, and necessary personnel for each project; and
  6. The timing of surveys and Make-ready.
- X. **Standard Pole** is a pole which is tall enough to provide Supply Space, a Communication Worker Safety Zone and Communication Space, as herein defined, for FME and all Attachments and strong enough to meet the requirements of the specifications mentioned in ARTICLE III for FME's facilities and Attachments ordinarily placed by the parties in their respective spaces.
- Y. **Supply Space** is the following described space:
1. For FME, the uppermost six and a half (6 ½) feet measured from top of pole on thirty-five (35)-foot poles and the uppermost nine (9) feet measured from top of pole on forty (40)-foot poles. For all additional size poles, the Supply Space shall be specified by FME upon request.
  2. For Licensee, a Communication Space of One (1) foot on both thirty-five (35)-foot and forty (40)-foot poles below the Communication Worker Safety Zone. The Supply Space shall provide at all times the minimum clearance required by the specifications mentioned in ARTICLE III and at a sufficient height above ground to provide the proper vertical clearance above ground or track rails for the lowest horizontally run line wires or cables attached in such space. Licensee will make its initial Attachments at the lowest possible point within the Communication Space that provides such ground clearance and provides one foot of separation from the nearest attachment.
  3. In the event FME installs a pole larger than the Standard Pole solely in anticipation of its future requirements or additions, the Supply Space for FME, as defined above, for that pole shall be increased to include the additional above ground space provided by FME. For avoidance of doubt, in any case Licensee shall be responsible for attaching at a height to provide the minimum ground clearance required by the specifications mentioned in ARTICLE III.

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- Z. **Transfer** is the removal of Attachments from one Pole and the placement of them or substantially identical Attachments upon another Pole.
- AA. **Wireless Facilities** are telecommunications or data transmission devices in which electromagnetic waves (rather than some form of wire or fiber) carry the signal over part or all of the communication path. Wireless Facilities include but are not limited to, antennas, distributed antenna systems, wireless transmitters, wireless gateways, mini-cells, wireless loops, wireless networks or devices transmitting in millimeter wavelength spectrum.

**ARTICLE III – ATTACHMENTS TO POLES**

- A. At its own expense, Licensee shall erect, install, and maintain its Attachments in safe condition and good repair in accordance with all applicable administrative and technical requirements and specifications, as described herein. Licensee’s use of the Poles shall at all times be in conformity with all applicable: (1) accepted published modern methods; (2) requirements and specifications of the National Electrical Safety Code and subsequent revisions thereof (“NESC”), the National Electrical Code (“NEC”), the Occupational Safety and Health Act (“OSHA”) and Rural Utilities Service (“RUS”); (3) lawful requirements of public authorities; and (4) the non-discriminatory, reasonable requirements of FME, including those set forth in APPENDIX B (as each may be amended from time to time). The requirements of the NESC, NEC, OSHA, and RUS are minimum requirements and reasonable, additional requirements may be required, as determined by FME in its discretion. To the extent any requirements or specifications may conflict, the most stringent of them shall apply.
- B. FME reserves the right to amend APPENDIX B from time to time, in response to changing conditions in the local market, technological advances, business requirements, policy initiatives, or changes in federal, state, or local law. Any amendment to the APPENDIX B (“Amendment”) shall apply prospectively only, except to the extent required by federal, state, or local law. Existing, permitted Attachments that become non-compliant based upon an Amendment shall be grandfathered and exempted from the requirements of the Amendment unless otherwise specified or required by law, and only until such time as the Attachment is modified, moved, upgraded, repaired, replaced, or over-lashed, at which point Licensee shall bring the Attachment into full compliance with the specifications of APPENDIX B then in effect.
- C. Each Licensee shall place, Transfer and Rearrange its own Attachments, and shall place guys and anchors to maintain all loads caused by its Attachments. Any guying or anchoring required to accommodate the Attachments of the Licensee shall be provided by and at the full expense of the Licensee and to the reasonable satisfaction of FME. Anchors and guys shall be in place and in effect prior to the installation of Attachments. Each applicant/Licensee shall, with due diligence, attempt at all times to execute work promptly and in such manner as not to interfere with the service of FME or an Outside Party.

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President and Chief Executive Officer

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- D. Licensee shall exercise precautions to avoid damage to facilities of FME and Outside Parties, and Licensee assumes responsibility for any and all loss or damage caused by Licensee's actions or failures to act, including those of its employees, agents, contractors, and subcontractors. Licensee shall make an immediate report to FME upon Licensee's discovery of any loss or damage to facilities and, in addition to such other obligations as Licensee may have, hereby agrees to reimburse FME for the reasonable costs and expenses incurred by FME in addressing damage caused by Licensee.
- E. To further the goals of communication and cooperation with Licensee and Outside Parties, FME may conduct information meetings annually or more frequently as appropriate either online or in person. Licensee will make every effort to attend and participate.

**ARTICLE IV – ESTABLISHING ATTACHMENTS TO POLES**

- A. **APPLICATION.** Before any person or entity shall make use of any Pole, such person or entity shall comply with the requirements set forth herein, including the submission in writing of the complete information required under APPENDIX A in the method and form reasonably required by FME along with a signed Certification Form (the "Application"), and receive written authorization from FME authorizing the specific use requested. Failure to request and receive FME's authorization as described herein will result in Unauthorized Attachments (as defined herein), which are subject to additional costs and other recourse available to FME.
  - 1. No application or payment is required for a Service Drop originating from a Pole and utilizing Communication Space already approved for use by a Licensee. Service Drops shall conform to Appendix B. The placement of one or more non-guyed Service Drops shall not create additional Communication Space.
  - 2. A party, without following the procedures outlined herein, may utilize vertical unused space below its specifically authorized space for terminals, risers or other reasonable vertical Attachments if the existing use of the Pole is authorized, such use does not interfere with any Outside Party's operations, and such use complies with the terms of this Schedule.
  - 3. If a person or entity expects to submit an Application (or series of Applications) seeking to attach to more than zero and seventh-five hundredths percent (0.75%) of FME's Poles in Kentucky (or to more than 500 Poles, whichever is less), then as soon as reasonably practicable (and in no event less than ninety (90) days before submission of such Application(s)), the person or entity shall provide written notification to FME describing the details of the expected Application, including location and number of Poles to be impacted, relevant timelines, expected Make-ready, and similar information.
  - 4. For attachments involving only Simple Make-ready, an applicant may elect to proceed with the one-touch Make-ready ("OTMR") process described in Section C, below. An applicant shall elect the OTMR process in writing in its Application and shall identify the Simple Make-ready that it will perform. It is the responsibility of the applicant to ensure it or its contractor accurately determines if the relevant Make-ready is Simple Make-ready or Complex Make-ready. Applications not electing the OTMR process shall proceed and be processed pursuant to Section B, below.

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**B. PROCEDURE.**

1. Review for Completeness.

i. FME will review each Application for completeness before reviewing it on its merits. FME shall complete its review for completeness within ten (10) business days after receipt of an Application for five hundred (500) or fewer Poles. FME shall have an additional one (1) business day to complete its review for completeness for each additional 500-Pole increment in an Application. An Application is considered complete only if it includes a signed Certification Form and provides FME the information necessary under this Schedule and Appendix A (or under a Special Contract, if applicable) to make an informed decision on the Application and is accompanied by the prepayment of estimated survey costs consistent with Appendix E. FME may treat multiple requests from a single applicant as one request if the requests are submitted within the same calendar month.

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ii. An Application will be considered complete unless, within the time prescribed above after FME's receipt of same, FME notifies the applicant that the Application is incomplete and specifies all reason(s) for so finding including citations to this Tariff and the Pole Attachment Regulation.

iii. If an applicant submits an Application for review while a previous Application submitted by the same applicant is still under review, the applicant may prioritize the order in which Cooperative reviews the Applications for completeness. Prioritizing a new Application resets the respective review time period of the applicant's deprioritized Applications under review by Cooperative.

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2. Surveys.

i. An applicant may submit a survey with an Application for five hundred (500) or fewer Poles, which Cooperative shall accept if the applicant used an Approved Contractor for surveys listed on Cooperative's website and the survey was conducted no more than thirty (30) days before submission of the Application. Cooperative shall conduct surveys for all Applications exceeding five hundred (500) Poles.

ii. Following its receipt of a complete Application, FME will conduct a survey of the relevant Poles to determine if the proposed attachment(s) may be made and to identify any Make-ready to be completed to allow for the proposed attachment(s), unless the applicant submitted a survey with the Application under subpart (i) above that meets all the requirements of this Tariff and the Pole Attachment Regulation.

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iii. Except as otherwise provided herein, the following timeframes apply:

a. With respect to Lesser Volume Orders, FME will complete the survey and review on the merits and either grant or deny the applicant access within forty-five (45) days of receipt of a complete Application.

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- b. With respect to High Volume Orders, FME will complete the survey and reviews on the merits and either grant or deny the applicant access within up to one hundred five (105) days of receipt of a complete Application to be calculated as follows: FME shall have an additional fifteen (15) days to complete the survey and review on the merits and grant or deny access for each 500-Pole increment over the first five hundred (500) Poles in an Application up to the lesser of three thousand (3,000) Poles or three percent (3%) of FME’s Poles in Kentucky.
- c. The parties shall negotiate in good faith a Special Contract for all requests for attachment which exceed the lesser of three thousand (3,000) Poles or three percent (3%) of FME’s poles in Kentucky, unless FME owns or controls fewer than five hundred (500) poles in Kentucky.
- iv. Each applicant shall be responsible for the costs of surveys made to review its Application, even if the Application is ultimately denied or the applicant decides not to go forward with the attachments.
- v. Applicant and relevant Outside Parties may be present for any field inspection conducted as part of FME’s survey. FME will use commercially reasonable efforts to provide these parties with advance notice of not less than five (5) business days of any field inspection and provide the date, time, and location of the inspection, and name of the contractor, if any, performing the inspection.
- 3. Make-Ready Estimates.
  - i. Within fourteen (14) days of providing a response granting access to an applicant following a survey, FME will provide the applicant a detailed, written estimate (on a pole-by-pole basis if requested and reasonably calculable) describing the charges to perform all necessary Make-ready (“Make-ready Estimate”). FME will provide documentation that is sufficient to determine the basis of its estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.
  - ii. FME’s Make-ready Estimates shall be valid for fourteen (14) days after presentation. Thereafter, all Make-ready Estimates shall be automatically withdrawn, and an applicant must request a new estimate.
  - iii. Upon acceptance of the Make-Ready Estimate by applicant, Cooperative shall invoice applicant for the Make-Ready Estimate. Invoices for Make-ready Estimates shall clearly identify the Application or project for which payment is requested.
  - iv. Invoices for Make-Ready Estimates shall be payable in accordance with the payment terms in Appendix E of the Tariff. Payment for Make-ready Estimates shall clearly identify the Application or project for which payment is made.

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- 4. Make-Ready.
  - i. Within seven (7) days (or sooner, if practical) of FME's receipt of payment for survey costs and the Make-ready Estimate, FME will attempt to notify all known entities with existing attachments that could be affected by the Make-ready.
    - a. For Make-ready in the Communications Space, the notice will be written and:
      - i. State where and what Make-ready will be performed;
      - ii. State a date completion of Make-ready (which date will be no more than forty-five (45) days after the notification is sent in the case of Lesser Volume Orders, or up to one hundred five (105) days after the notification is sent in the case of High Volume Orders);
      - iii. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified Make-ready before the date established for completion;
      - iv. State that, if Make-ready is not completed by the completion date established by FME, the applicant may complete the Make-ready; and
      - v. State the name, telephone number, and email address of a person to contact for more information about the Make-ready procedure.
    - b. For Make-ready above the Communications Space, the notice will be written and:
      - i. State where and what Make-ready will be performed;
      - ii. State a date for completion of Make-ready (which date will be no more than ninety (90) days after the notification is sent in the case of Lesser Volume Orders, and no more than one-hundred thirty-five (135) days after the notification is sent in the case of High Volume Orders);
      - iii. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified Make-ready before the date established for completion;
      - iv. State that FME may assert its right to up to fifteen (15) additional days to complete Make-ready, consistent with the Pole Attachment Regulation;
      - v. State that if Make-ready is not completed by the completion date established by FME, the applicant may complete the Make-ready; and
      - vi. State the name, telephone number, and email address of a person to contact for more information about the Make-ready procedure.

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 ISSUED BY: B. Smith  
 President and Chief Executive Officer

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- ii. FME will provide the applicant a copy of the notice(s) and the existing attachers' contact information and address where FME sent the notices. The applicant shall be responsible for coordinating with existing attachers to encourage completion of Make-ready by the dates established by FME.
  - iii. FME will complete its own Make-Ready consistent with the dates established in the relevant notice(s).
5. Final Invoice.
- i. Within a reasonable period, not to exceed one-hundred twenty (120) days after FME completes its Make-ready, FME shall provide:
    - a. 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 or if no estimate was previously paid; and
    - b. A detailed, itemized final invoice, on a pole-by-pole basis if requested and reasonably calculable, of the actual Make-ready Costs to accommodate Attachments if the final Make-ready Costs differ from the estimate provided and previously paid by the applicant.
    - c. Final invoices shall clearly identify the Application or project for which payment is requested.
    - d. Payment for final invoices shall clearly identify the Application or project for which payment is made.
  - ii. Upon receipt of payment for the final invoice, FME shall grant to the applicant authorization (a Permit) to use the relevant Poles and to make Attachments in accordance with the terms of this Schedule. The Licensee shall have 180 days from the date FME has issued a Permit to complete attachment of Licensee's Attachment. If the Attachment has not been completed within the 180-day period, the Permit shall automatically terminate without further notice to Licensee as to any Pole or Poles covered by the Permit to which Licensee has not attached its Attachment. In the event that the Permit to attach is terminated as set forth herein, Licensee shall not be reimbursed any fees or charges associated with any surveys or Make-ready.
  - iii. Licensee shall notify FME within fifteen (15) business days following completion of all Attachments within an Application in accordance with the notice provision in the Tariff. The notice shall provide FME at least ninety (90) days from receipt in which to inspect the Attachment. FME shall have fourteen (14) days after completion of its inspection to notify the over-lashing party of any damage or code violations caused by the Attachment. If FME discovers damage or code violations caused by the Attachment, then FME will inform Licensee and provide adequate documentation of the damage or code violations. FME may either complete any necessary remedial work and bill Licensee for the reasonable costs related to fixing the damage or code violations or require Licensee to fix the damage or code violations at its expense within fourteen (14) days following notice from FME.

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Licensee shall also be responsible for reasonable engineering, survey and inspection costs incurred by FME in connection with this activity. Nothing herein shall limit or impact Licensee's obligations with respect to maintenance of attachments beyond their initial attachment, nor shall it limit or impact FME's rights and remedies with respect to enforcement of Licensee's obligations beyond initial attachment.

6. Deviations from Make-Ready Timeline

i. FME may deviate from the time limits specified in this Schedule before offering an estimate or charges if the applicant failed to satisfy a condition in this Schedule.

ii. FME may deviate from the time limits established in this Schedule during performance of Make-Ready for good and sufficient cause that renders it infeasible for FME to complete make-ready within the time limits established. If FME deviates it will immediately notify, in writing, the applicant and affected Outside Parties and shall identify the affected Poles and include a detailed explanation of the reason for the deviation and a new completion date. FME shall deviate from the time limits established for a period no longer than necessary to complete and shall resume Make-Ready without discrimination once it returns to routine operations.

iii. FME or an Outside Party may deviate from the time limits established in this section during performance of complex Make-Ready for reasons of safety or service interruption that renders it infeasible to complete complex Make-Ready within the time limits established in this section. The applicant and other affected existing attachers shall be notified in writing of any such deviation, which notice shall identify the affected Poles, include a detailed explanation of the basis for the deviation, and include a new completion date, which new completion date shall not extend beyond sixty (60) days from the completion date provided in the case of Lesser Volume Orders or one-hundred and five (105) days in the case of High Volume Orders. No deviation will extend for a period for longer than necessary to complete Make-Ready on the affected Poles.

7. Self-Help Remedy

i. Should FME or an Outside Party decline or fail to complete its prescribed steps within the time limits established in this Schedule, then an applicant may elect to hire an Approved Contractor to complete the step as specified in this subsection. An applicant shall allow FME and any Outside Party to be present for any work conducted as part of the self-help remedy.

ii. An applicant shall use commercially reasonable efforts to provide FME and Outside Parties with advance notice of not less than five (5) business days of a field inspection, or seven (7) days of impending Make-Ready, as part of any self-help remedy it may conduct. The notice shall include the date and time of the work, a description of the work involved, and the name of the Approved Contractor being used by the applicant.

iv. Any self-help remedy shall be performed in compliance with the terms of this Tariff, the Pole Attachment Regulation, and the Cooperative's construction standards listed on its website at [www.fme.com](http://www.fme.com).

v. Self-help shall not be available for pole replacements. Only FME or its designee may conduct pole replacements.

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**C. PROCEDURE (OTMR)**

1. Review for Completeness.
  - i. FME will review each Application for completeness before reviewing it on its merits. An Application is considered complete only if it provides FME the information necessary under this Schedule and Appendix A to make an informed decision on the application. FME may treat multiple requests from a single applicant as one request if the requests are submitted within thirty (30) days of one another.
  - ii. An Application will be considered complete unless, within ten (10) business days after FME's receipt of same, FME notifies the applicant that the Application is incomplete and specifies all reason(s) for so finding.
2. Surveys.
  - i. An applicant shall be responsible for all surveys required as part of the OTMR process. An applicant shall use FME or an Approved Contractor to conduct any survey pursuant to the OTMR process.
  - ii. An applicant shall allow FME and any affected Outside Party to be present for any field inspection conducted as part of its survey.
  - iii. An applicant shall use commercially reasonable efforts to provide FME and affected Outside Parties with advance notice of not less than five (5) business days of a field inspection as part of any survey and shall provide the date, time, and location of the inspection, and name of the contractor performing the inspection.
3. Application Review on Merits.
  - i. FME will review a complete Application requesting OTMR and respond either granting or denying same within fifteen (15) days of receipt in the case of Lesser Volume Orders, within thirty (30) days of receipt in the case of High Volume Orders, or within a time negotiated in good faith for requests exceeding High Volume Orders.
    - a. During the applicable timeframe for review following FME's receipt of a complete Application, FME or an Outside Party may object to the designation by the applicant that certain Make-ready is Simple Make-ready, as opposed to Complex Make-ready. Any objection shall be specific and in writing, include all relevant evidence and information supporting the objection, be made in good faith, and explain how the evidence and information relate to determination that the Make-ready is not simple; if such an objection is made, the Make-ready shall be deemed to be Complex Make-ready, and the applicant may not proceed with the affected proposed OTMR process.
  - ii. If FME denies an Application on its merits, then FME's decision shall be specific, shall include all relevant evidence and information supporting its decision, and shall explain how the evidence and information relate to a denial of access.

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4. Make-Ready.
  - i. If an Application is approved by FME and if the applicant has provided to FME and relevant Outside Parties at least fifteen (15) days prior written notice of the necessary or appropriate Make-ready, the applicant may proceed with Make-ready. An applicant shall use FME or an Approved Contractor to perform the Make-ready.
  - ii. The prior written notice shall include the date and time of the Make-ready, a description of the work involved, and the name of the contractor or party being used, and provide FME and Outside Parties a reasonable opportunity to be present for any Make-ready.
  - iii. An applicant/Licensee shall immediately notify FME and any affected Outside Party if Make-ready damages the equipment of FME or an Outside Party or causes an outage that is reasonably likely to interrupt the service of FME or an Outside Party.
  - iv. If an applicant/Licensee or FME determines that Make-ready classified as Simple Make-ready is in fact Complex Make-ready, then all Make-ready on the impacted Poles shall be halted and the determining party shall provide immediate notice to the other party of its determination and the impacted Poles. All remaining Make-ready on the impacted Poles shall then be governed by section B, above, and FME shall provide the notices and estimates required as soon as reasonably practicable.
5. Post Make-Ready Timeline.
  - i. Licensee shall notify FME and affected Outside Parties within fifteen (15) days after completion of Make-ready pursuant to the OTMR process.
  - ii. Licensee shall notify FME within fifteen (15) days of completion of an Attachment to a particular Pole. The notice shall provide FME at least ninety (90) days from receipt in which to inspect the Attachment. FME shall have fourteen (14) days after completion of its inspection to notify the over-lashing party of any damage or code violations caused by the Attachment. If FME discovers damage or code violations caused by the Attachment, then FME will inform Licensee and provide adequate documentation of the damage or code violations. FME may either complete any necessary remedial work and bill Licensee for the reasonable costs related to fixing the damage or code violations or require Licensee to fix the damage or code violations at its expense within fourteen (14) days following notice from FME. Licensee shall also be responsible for reasonable engineering, survey and inspection costs incurred by FME in connection with this activity. Nothing herein shall limit or impact Licensee's obligations with respect to maintenance of Attachments beyond their initial attachment, nor shall it limit or impact FME's rights and remedies with respect to enforcement of those obligations beyond initial attachment.

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**D. OVER-LASHING**

1. Any person or entity seeking to over-lash existing facilities attached to FME's Poles shall provide advance written notice to FME describing the proposed activity along with submission of the complete information required under APPENDIX A, excluding a pole-loading analysis certified by a professional engineer licensed in Kentucky, in the method and form reasonably required by FME. The notice shall be provided to FME not less than thirty (30) days prior to the proposed activity. Failure to provide advance notice as described herein will result in Unauthorized Attachments (as defined herein), which are subject to additional costs and other recourse available to FME.
2. Following receipt of the notice described in the preceding subsection, FME may determine the proposed over-lashing will create a capacity, safety, reliability, or engineering issue; in such an event, FME will provide specific documentation of the issue to the party seeking to over-lash within the 30-day advance notice period. In such event, the party seeking to over-lash must address any identified issues before proceeding, either by modifying its proposal or explaining why, in the party's view, a modification is unnecessary.
3. Any party that engages in over-lashing is responsible for its own costs, equipment and personnel, and it shall ensure that it complies with applicable safety, reliability, and engineering practices. If damage to FME property or other existing attachments results from over-lashing, or if over-lashing work causes safety or engineering standard violations, then the over-lashing party shall be fully responsible at its expense for any necessary repairs.
4. An over-lashing party shall notify FME within fifteen (15) days of completion of the over-lash on a particular pole. The notice shall provide FME at least ninety (90) days from receipt in which to inspect the over-lash. FME shall have fourteen (14) days after completion of its inspection to notify the over-lashing party of any damage or code violations caused by the over-lash. If FME discovers damage or code violations caused by the over-lash on equipment belonging to FME, then FME will inform the over-lashing party and provide adequate documentation of the damage or code violations. FME may either complete any necessary remedial work and bill the over-lashing party for the reasonable costs related to fixing the damage or code violations or require the over-lashing party to fix the damage or code violations at its expense within fourteen (14) days following notice from FME. Over-lashing parties shall also be responsible for reasonable engineering, survey and inspection costs incurred by FME in connection with over-lashing activity. Nothing herein shall limit or impact Licensee's obligations with respect to maintenance of over-lashed facilities beyond their initial attachment, nor shall it limit or impact FME's rights and remedies with respect to enforcement of those obligations beyond initial attachment.

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**ARTICLE V – RIGHT OF WAY FOR LICENSEE’S ATTACHMENTS**

FME does not warrant or assure to Licensee any right-of-way privileges or easements on, over or across streets, alleys and public thoroughfares, and private or publicly owned property, and FME has no obligation to secure any right-of-way, easement, license, franchise, or permit required for the installation or maintenance of Licensee’s Attachments. If the Licensee shall at any time be prevented from placing or maintaining its Attachments on FME’s Poles, no liability on account thereof shall attach to FME. If requested by FME, Licensee shall submit satisfactory evidence of its rights to place its attachments upon a property. Licensee shall indemnify, defend, and hold harmless FME from any and all claims, damages, or other losses arising out of Licensee’s failure to obtain a necessary right-of-way, easement, license, franchise, or permit. If at any time after Licensee has attached its Attachment to FME’s Poles, FME is informed or has reason to believe that such Attachment is not authorized by any governmental authority or private property owner, then Licensee shall remove its Attachment from any of FME’s Poles immediately after receiving notice from FME of such circumstance and the Permit covering such Poles shall automatically terminate, provided, however, if Licensee is in the process of disputing such lack of authority and has received permission to remain on the Pole pending the outcome of the dispute, Licensee may maintain its Attachment if it provides proof of the permission and indemnifies FME with respect to any losses incurred related to the Attachment.

Right-of-way clearing necessary for the operation of FME’s distribution system shall be performed by FME as it determines in the exercise of its sole judgment and discretion. Any right-of-way clearing necessary or requested for the installation or maintenance of Licensee’s Attachment(s) will be the financial and operational responsibility solely of the Licensee, and Licensee must obtain FME’s permission prior to conducting any such clearing activity near FME’s Poles or other facilities. In the event that right-of-way work is required due to a fallen tree or similar situation whereby the condition of Licensee’s cable and/or facilities are creating undue strain on the facilities of FME or an Outside Party, Licensee agrees to remedy the situation as soon as possible at its own expense. If Licensee is not willing or able to remedy the situation within a timeframe suitable to FME, as determined in its sole discretion, FME may perform the necessary clearing and invoice the Licensee for the costs and expenses associated therewith.

**ARTICLE VI – MAINTENANCE OF POLES AND ATTACHMENTS; CONTRACTORS**

- A. Licensee shall, at all times and at its sole expense, make and maintain all of its Attachments in accordance with the specifications mentioned in ARTICLE III and shall keep them in safe condition and in thorough repair. Any guying or anchoring required to accommodate the Attachments of the Licensee shall be provided by and at the full expense of the Licensee and to the reasonable satisfaction of FME.
- B. Licensee shall require all of its employees, agents, contractors, and subcontractors that install, transfer, remove, relocate, maintain or otherwise work on or near the Attachments to be appropriately qualified and trained to work on and in the vicinity of an electric distribution system, including but not limited to the Poles.

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- C. CONTRACTORS (COMPLEX). FME shall make available and keep up-to-date a list of contractors FME has authorized to perform self-help surveys and Complex Make-ready. In accordance with the Pole Attachment Regulation, Licensee must use FME or a contractor from FME's list to perform self-help work that is Complex or above the Communications Space. A Licensee may request (and FME may not unreasonably deny) the addition to the list of any contractor that meets the following minimum qualifications:
  - 1. The contractor has agreed to follow published safety and operational guidelines of FME;
  - 2. The contractor has acknowledged that it knows how to read and follow licensed-engineered pole designed for Make-ready;
  - 3. The contractor has agreed to follow all local, state, and federal laws and regulations including the rules regarding Qualified and Competent Persons under the requirements of the Occupational and Safety Health Administration (OSHA) rules;
  - 4. The contractor has agreed to meet or exceed any uniformly applied and reasonable safety and reliability thresholds established by FME, as made available; and
  - 5. The contractor is adequately insured or has established an adequate performance bond for the Make-ready the contractor will perform, including work the contractor will perform on facilities owned by Outside Parties.
- D. CONTRACTORS (SIMPLE). FME may keep up-to-date a list of contractors the utility authorizes to perform surveys and Simple Make-ready. If FME provides this list, then Licensee shall choose FME or a contractor from the list to perform the relevant work. A Licensee may request the addition to the list of any contractor that meets the minimum qualifications in the preceding section.
  - 1. If FME does not provide a list of Approved Contractors for surveys or Simple Make-ready or no Approved Contractor is available within a reasonable time period, then the Licensee may choose its own qualified contractor. The applicant's chosen contractor shall meet the minimum requirements delineated in the above section C, as certified by the applicant consistent with the Pole Attachment Regulation.
    - i. FME may disqualify any contractor chosen by an applicant that is not on FME's list, but a disqualification shall be based on reasonable safety or reliability concerns related to the contractor's failure to meet any of the minimum qualifications established above or to meet FME's publicly available and commercially reasonable safety or reliability standards. FME will provide notice of its objection to the contractor consistent with the Pole Attachment Regulation.
- E. Licensee shall require its agents, contractors and subcontractors to comply with the specifications required under this Schedule and the obligations of this Schedule (including but not limited to the insurance and indemnification obligations under this Schedule) as if each such agent, contractor and subcontractor were the Licensee for purposes of this Schedule. Licensee shall ensure that FME is an intended third party beneficiary of such requirements with enforceable rights against each such agent, contractor and subcontractor and that such rights are enforceable against each such agent, contractor and subcontractor in the same manner and to the same extent as FME has such rights against Licensee under this Schedule. Licensee shall indemnify FME for all liabilities, claims, demands and costs (including, without limitation, any legal fees and/or costs) arising from its failure to comply with the requirements of this provision.

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**POLE ATTACHMENT TARIFF – SCHEDULE PA****ARTICLE VII – INVENTORY (AUDIT) AND INSPECTIONS**

- A. **ACTUAL INVENTORY.** FME reserves the right to conduct an Actual Inventory of Attachments (sometimes referred to as a Pole Attachment Audit or Pole Audit) no more frequently than once every five (5) years; provided, however, the inventory may be done on a rolling basis on subsets of Poles, such that each subset is inventoried no more than once every five (5) years. Licensee and all Outside Parties shall cooperate and participate in the Actual Inventory. Licensee and all Outside Parties shall reimburse FME for their respective pro-rata shares of the total cost of the Actual Inventory, based on the number of each attaching entity's total attachments on Poles, as determined by the Actual Inventory. For the purpose of such Actual Inventory, any pole used by the Licensee for the purpose of attaching wires or cables thereto shall be considered a Pole. Each Outside Party shall pay a prorated share of the cost of performing the Actual Inventory, based on the number of poles to which each Licensee has Attachments on FME's poles.
- B. **RESERVED.**
- C. **LICENSEE-SPECIFIC INSPECTION.** If FME has reasonable suspicion of a significant number of violations with respect to a particular Licensee, FME may perform an inspection specific to Licensee's Attachments. In the event such inspection finds a discrepancy rate higher than five percent (5%) (calculated as the number of Unauthorized or Non-Compliant Licensee Attachments ÷ total number of Licensee Attachments), Licensee shall reimburse FME for all costs and expenses associated with the inspection. At least three (3) months prior to any such safety inspection, FME shall provide notice of the safety inspection to the Licensee, which shall describe the scope of the inspection and provide Licensee with notice of the anticipated date of the inspection.
- D. **CORRECTIONS.** If any of Licensee's Attachments fail to conform with the technical requirements and specifications of this Schedule, Licensee shall, upon notice by FME, correct such nonconformance within thirty (30) days of notification of such nonconformance, provided however, that FME may specify a shorter timeframe, with which Licensee shall comply, if in the exercise of FME's sole judgment and discretion, safety considerations require Licensee to take corrective action within such shorter period. Further, in the event the parties agree, such agreement not to be unreasonably withheld, that such nonconformance is of a nature that it cannot be reasonably corrected within thirty (30) days, the parties shall mutually agree on an additional time period in which Licensee shall complete the required corrections. Should Licensee fail to timely take all steps necessary to comply with this requirement, or if safety considerations so require, FME may elect to do such work itself, and Licensee shall reimburse FME for all actual costs and expenses incurred in connection therewith. FME shall not be liable for any loss or damage to Licensee's facilities which may result to any facilities or property, except to the extent of FME's gross negligence or misconduct. Failure by FME to inspect Licensee's conformance to the technical requirements and specifications listed in ARTICLE III or to take action on its own to bring such Attachments into compliance shall not cause FME to be liable for any loss or injury resulting from such failure of conformance and shall not relieve Licensee of its obligations of indemnification hereunder. In all circumstances, all of the parties on a Pole shall work together to maximize safety while minimizing the cost of correcting any such deficiencies, but the Licensee shall be responsible for the full cost of any necessary or appropriate corrective measures associated with violations caused by Licensee, including removal and replacement of a Pole and all Transfers or other work incident thereto. Licensee shall ensure that its

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employees, agents, or contractors, which Licensee causes to work on or around Poles, will be notified of pending, unresolved issues requiring corrective actions, prior to activities on such poles, and Licensee shall not allow unqualified or improperly equipped personnel to work on poles. If causation cannot be established, the cost to correct the violation will be split equally among all parties on the Pole.

- E. **PENALTIES.** FME may impose a penalty in the amount of one hundred dollars (\$100) for any violation caused by Licensee that is not corrected in accordance with the timelines listed in ARTICLE VII SECTION D – CORRECTIONS, and an additional one hundred dollars (\$100) every ninetieth (90th) day thereafter until Licensee addresses the violation(s) to FME’s reasonable satisfaction. The foregoing notwithstanding, in no event may FME impose a penalty unless the Licensee fails to correct a violation within thirty (30) days of notification of nonconformance from FME.
- F. **SAFETY VIOLATIONS.** For avoidance of doubt, Licensee shall be required to correct any safety violations as provided herein whether or not such are observed or noticed.

**ARTICLE VIII – DIVISION OF COSTS**

**A. DIVISION OF COSTS FOR POLES**

- 1. Licensee shall pay all of the necessary Make-ready cost of attaching to a new pole, including any costs associated with replacing or Transferring Licensee's Attachments or any Outside Parties Attachments, except when the pole has been red-tagged for replacement by FME consistent with the Pole Attachment Regulation.
- 2. Where an existing pole is replaced for maintenance purposes, FME shall erect a pole adequate for the existing Attachments and additional Attachments for which Applications have been delivered, unless such Application is denied in accordance herewith, and FME will pay all the costs of installing the replacement pole. The Licensee will pay to replace its existing Attachments. The replaced pole shall be removed and retained by FME.
- 3. Any payments for poles made by the Licensee under any provisions of this Article shall not entitle the Licensee to the ownership of any part of the poles for which it has contributed in whole or in part.
- 4. Each party shall place, maintain, rearrange, Transfer and remove its own Attachments at its own expense except as otherwise expressly provided herein.
- 5. In the event FME installs a pole larger than is initially required for Electric Utility's and Licensee's use in anticipation of FME's future requirements or additions, the additional space provided by Electric Utility shall be reserved for FME's sole use. Licensee may request documentation to validate the need for future space.
- 6. If one party installs Attachments that encroach or needs to install Attachments that would encroach upon the other party's use of its own Space (sometimes known as "building down"), the party installing or needing to install such Attachments must pay the Make-ready costs necessary to permit the other party to use its own Space.
- 7. Except as otherwise provided, FME shall not be obligated to pay Make-Ready costs for any initial or additional Licensee Attachment for which an APPENDIX A is not required.

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**B. DIVISION OF COSTS FOR VIOLATIONS**

1. If any Attachment is found to be in violation of the terms of this Schedule, Licensee shall be responsible for the full cost of any necessary or appropriate corrective measures, including removal and replacement of the pole(s) and all Transfers or other work incident thereto.
2. If any of Licensee's Attachments fail to conform with the technical requirements and specifications of this Agreement, Licensee shall, upon notice by FME, correct such nonconformance within thirty (30) days of notification of such nonconformance, provided however, that FME may specify a shorter timeframe, with which Licensee shall comply, if in the exercise of FME's sole judgment and discretion, safety considerations require Licensee to take corrective action within such shorter period. Further, in the event the parties agree, such agreement not to be unreasonably withheld, that such nonconformance is of a nature that it cannot be reasonably corrected within thirty (30) days, the parties shall mutually agree on an additional time period in which Licensee shall complete the required corrections.
3. Should Licensee fail to timely take all steps necessary to comply with this requirement, or if safety considerations so require, FME may elect to do such work itself, and Licensee shall reimburse FME for all actual costs and expenses incurred in connection therewith. FME shall not be liable for any loss or damage to Licensee's facilities which may result, except to the extent of FME's gross negligence or misconduct on any third-party's facilities or property.
4. Failure by FME to inspect Licensee's conformance to the technical requirements and specifications listed in ARTICLE III or to take action on its own to bring such Attachments into compliance shall not cause FME to be liable for any loss or injury resulting from such failure of conformance and shall not relieve Licensee of its obligations of indemnification hereunder. Licensee will not be responsible for the costs associated with violations caused by FME or Outside Parties.
5. In all circumstances, all of the parties on the pole will work together to maximize safety while minimizing the cost of correcting any such deficiencies, but the Licensee shall be responsible for the full cost of any necessary or appropriate corrective measures associated with violations caused by Licensee, including removal and replacement of the pole and all Transfers or other work incident thereto. Licensee shall ensure that its employees, agents, or contractors, which Licensee causes to work on or around Joint Poles, will be notified of pending, unresolved issues requiring corrective actions, prior to activities on such poles, and Licensee shall not allow unqualified or improperly equipped personnel to work on poles. If causation cannot be established, the cost to correct the violation will be split equally among all parties on the pole.

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- 6. If one or more Outside Party Licensee(s) caused the violation, then such Outside Party Licensee(s) will pay the corrective costs incurred by all who have Attachments on the pole, including for the Licensee, FME and any other Licensees; and FME will make reasonable effort to cause the Outside Party to make such payment.
- 7. If one party installs Attachments that encroach or needs to install Attachments that would encroach upon the other party's use of its own Space (sometimes known as "building down"), the party installing or needing to install such Attachments must pay the Make-ready costs necessary to permit the other party to use its own Space.
- 8. FME shall not be obligated to pay Make-Ready costs for any initial or additional Licensee Attachment for which an APPENDIX A is not required.

**ARTICLE IX – UNAUTHORIZED ATTACHMENTS**

- A. If any Attachment is made without complying with this Schedule and is identified by FME or self-reported by the Licensee ("Unauthorized Attachment"), then, without prejudice to its other rights or remedies under this Schedule or at law, FME shall require Licensee to submit a notification (via the designated electronic means, if any) within fifteen (15) business days to verify or deny the Unauthorized Attachment. Within sixty (60) days of the Licensee's verification, the Licensee shall submit an Appendix A, along with supporting engineering design data for each Unauthorized Attachment. If, upon review of Appendix A:
  - 1. an Unauthorized Attachment exists with no violations, then the Licensee shall pay to FME a one-time fee of five (5) times the current annual rental fee found in Appendix E and the Licensee will be granted a Permit for the attachment.
  - 2. an Unauthorized Attachments exist with violations, then the Licensee shall correct all violations within 90 days or by a mutually agreed upon time. All Make-Ready Costs being borne by the Licensee. Once all corrections are made, the Licensee shall pay to FME a one-time fee of five (5) times the current annual rental fee found in Appendix E and the Licensee will be granted a Permit for the attachment.
- B. If Licensee has failed to provide Appendix A, as appropriate, or has not removed such Unauthorized Attachments within the 90-day timeframe, then FME may remove such Attachments at the Licensee's expense and with no liability to FME, in which event the Licensee shall reimburse FME upon demand for the cost incurred in making such removal and shall indemnify and hold FME harmless from and against all loss, liability, or expense (including but not limited to claims of third parties) resulting from the removal of such Unauthorized Attachment, except in cases of gross negligence or intentional misconduct. Nothing herein shall relieve Licensee of its obligation to maintain Attachments at all times in conformity with FME's Specifications.

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**ARTICLE X – ABANDONMENT OF POLES, TRANSFER OF ATTACHMENTS**

- A. If FME desires at any time to abandon any Pole or to direct Licensee to Transfer one or more attachments for any reason, FME will, except as otherwise provided, give the Licensee notice to that effect at least sixty (60) days prior to the date on which the Transfer shall be completed. If, at the expiration of said time period, Licensee has not removed its Attachments or pursued a deviation from the relevant time period consistent with the Pole Attachment Regulation, FME may:
  - 1. Transfer the attachment(s) at Licensee’s expense (in which case FME expressly disclaims and shall have no responsibility or liability related thereto, except in the case of FME’s gross negligence or willful misconduct); and/or
  - 2. Transfer the relevant Pole such that it becomes the property of the Licensee, as is, and the Licensee shall save, defend and hold harmless FME from all obligation, liability, damages, cost, expenses or charges incurred thereafter, and not arising out of anything theretofore occurring because of or arising out of the presence or condition of such Pole or of any Attachments thereon; and shall pay FME the then depreciated value in place of the Pole to FME. FME may further evidence transfer of title to the pole by completing APPENDIX C – BILL OF SALE. Credit shall be allowed for any payments which the Licensee may have made under the provisions of ARTICLE VII, when the Pole was originally set, provided the Licensee furnishes proof of such payment. However, if FME is putting its facilities underground, the Pole will not be sold to the Licensee, and the Licensee shall comply with the undergrounding of the facilities or remove its facilities.
- B. If, for safety or reliability purposes, it is necessary for FME to Transfer, Rearrange, remove, manipulate, or otherwise impact a Licensee’s attachment on an expedited basis, FME may not provide Licensee with notice of its actions but may recover from Licensee the costs reasonably incurred by FME in performing such work.
- C. Licensee shall comply with reasonable and nondiscriminatory requirements that prohibit installation of structures on or above ground in an area designated solely for underground or buried cable and utility facilities.

**ARTICLE XI – ADJUSTMENT PAYMENTS**

- A. For a year in which there is no Actual Inventory, the number of Poles used in calculating the adjustment payments provided for herein shall be based on the applications and any identified unauthorized attachments.
- B. For a year for which there is an Actual Inventory, the following adjustment shall be made:
  - 1. The difference between the number of Poles found by the Actual Inventory for the year in question and the number of Poles currently being billed, whenever conducted, shall be prorated evenly based on the assumption that such Poles were added evenly over the years between the Actual Inventories in order to calculate, on the basis of such proration, a prorated number of poles for each year between the year of the previous Actual Inventory and the year of the present Actual Inventory.

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- 2. If the adjustment payment so calculated pursuant to this section is greater than the payment that was actually made for that billing period, the difference shall constitute an additional amount owed by the Licensee to FME; if less, the difference shall constitute an amount owed by FME or a credit to the Licensee.

**ARTICLE XII – RIGHTS OF OTHER PARTIES, LICENSEE**

- A. If FME, prior to affording a Licensee any rights pursuant to this Schedule, conferred upon Outside Parties, by contract or otherwise, rights or privileges to attach to any of its Poles covered by this Schedule, nothing herein contained shall be construed as affecting said rights or privileges with respect to attachments of such Outside Parties. FME shall have the right to continue and extend such rights and privileges to such Outside Parties and to others, as the Attachment privileges herein granted are non-exclusive.
- B. No use, however extended, of FME’s Poles and other facilities shall create or vest in Licensee any ownership or property rights in said Poles and other facilities except as specifically set forth herein. FME may maintain its Poles and facilities as it sees fit in light of its own service requirements, and Licensee’s rights in FME’s facilities shall be and remain a mere Permit for as long as authorized under the terms and conditions of this Schedule.

**ARTICLE XIII – WAIVER OF TERMS OR CONDITIONS**

The failure or decision of FME to enforce or insist upon compliance with any of the terms or conditions of this Schedule shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

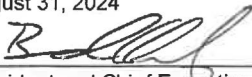
**ARTICLE XIV – PAYMENT OF TAXES**

Each party shall pay all taxes and assessments lawfully levied on its own property and services, but any tax, fee, or charge levied on FME’s poles solely because of their use by the Licensee shall be paid by the Licensee.

**ARTICLE XV – DESIGNATED CONTACT PERSON(S), NOTICES**

- A. Licensee shall establish and maintain a designated contact person(s) (“Designated Contact Person(s)”) for ordinary maintenance requests, relocation requests, and notices from FME who shall be reasonably available during normal business hours. Licensee shall also establish and maintain a Designated Contact Person(s) for emergency maintenance and relocation requests who shall be reasonably available 24 hours per day, 7 days a week. Licensee shall provide FME with written contact information for each Designated Contact Person and ensure such written contact information remains current by providing FME appropriate written notice of any change. Each Designated Contact Person shall be capable of providing (or acquiring) substantive, timely responses to FME’s inquiries or issues.

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- B. Unless otherwise specifically provided herein, all notices, requests, consents, demands, designations, approvals or statements required to be made under this Schedule shall be in writing and shall be delivered via personal delivery, generally recognized overnight delivery service, certified U.S. mail return receipt requested, facsimile, electronic mail, or designated electronic platform. Notices to Licensee shall be sent to its Designated Contact Person(s) for notices.
- C. Licensee agrees to join, utilize or acquire any notification or similar system or platform identified and utilized by FME to facilitate communication and the delivery of required notices and efforts related to this Schedule, including but not limited to, any notices relating to new Attachments, Transfers, relocation, abandonment or maintenance work. Notices sent through FME’s system or platform shall be satisfactory notice under this Schedule.

**ARTICLE XVI – REMEDIES**

- A. Licensee may at any time terminate any right to attach an Attachment to any Pole by removing its Attachment from such pole and notifying FME of such removal. Such notice shall fully identify, by pole number and location, the Pole(s) from which such Attachments are being removed; absent such notice, Licensee shall continue to be responsible for rental payments. The Permit covering such Pole shall terminate upon receipt of such notice by FME. No refund of any pole rental rate or other charge will be due on account of such removal. FME may, in addition to seeking any other remedy available to it, suspend Licensee’s rights under this Schedule (including access to FME’s poles) or terminate the Contract or any Permit issued under this Schedule if Licensee fails to comply with any of the provisions of the Schedule and fails within thirty (30) days (or such longer, mutually- agreeable period if a 30 day cure period is not reasonably possible) after written notice from FME to correct such noncompliance. In the event a governmental entity at any time requires FME to remove one or more of its Poles, any Permit issued to Licensee for such Pole(s) shall automatically terminate, in which event FME shall refund to Licensee any unearned rental payments made pursuant to this Schedule. Except as otherwise provided in this Schedule, the Licensee shall have 60 days within which to remove its Attachments from FME’s Pole(s) upon termination of a Permit issued under this Schedule. If the Licensee fails to remove its Attachments from FME’s Pole(s), FME shall have the right (but not the obligation) to remove the Licensee’s Attachments, without notice or liability of any kind to the Licensee, in which event the Licensee shall reimburse FME upon demand for the cost FME incurred in making such removal. Attachments of Licensee which remain after the 60-day period following termination may also be assessed pole rental rates at the rates applicable to Unauthorized Attachments, until such time as such Attachments are removed and notice given thereof. The Licensee shall indemnify and hold FME harmless from and against all loss, liability, or expense resulting such removal, including but not limited to claims of third parties.

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**ARTICLE XVII – REPRESENTATIONS AND WARRANTIES**

- A. In order to obtain service under this Schedule, Licensee shall: (i) be a legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was formed; (ii) enjoy full authority to enter into and perform its obligations pursuant to this Schedule, recognizing it is a party bound by this Schedule, which is fully enforceable in accordance with its terms; and (iii) confirm its execution and delivery of its obligations under this Schedule will not conflict with or violate or constitute a breach or default under its formation documents and will not violate any law, rule or regulation applicable to it.
- B. Licensee shall comply with all federal, state, and local rules and ordinances. Licensee shall comply with all technical requirements and specifications applicable to Licensee’s affixation of Attachments to FME’s Poles as authorized herein. Licensee shall comply with FME’s practices and rules including requirements for installing, transferring, relocating, removing or maintaining Attachments. Licensee shall take all steps necessary to protect persons and property against injury or damage that may result from the presence, installation, use, maintenance or operation of Licensee’s Attachments, and Licensee shall take all steps necessary to avoid any interference with FME’s safe and efficient operation of its electric distribution system, including but not limited to its poles, and the rights of Outside Parties.
- C. **THERE ARE NO WARRANTIES UNDER THIS SCHEDULE EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH HEREIN. THE PARTIES SPECIFICALLY DISCLAIM AND EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FME SPECIFICALLY DISCLAIMS ANY WARRANTY OR REPRESENTATION REGARDING THE CONDITION AND SAFETY OF FME’S POLES AND RELATED PROPERTY AND FACILITIES.**

**ARTICLE XVIII – INDEMNIFICATIONS AND LIMITATIONS ON LIABILITY**

- A. Licensee agrees to indemnify, defend and hold harmless FME, its affiliates, directors, officers, member-owners, representatives and employees (collectively “Indemnified Persons”) from and against any and all claims, liabilities, losses, damages, costs, discovery requests, demands, judgments, actions, causes of action, disbursements and expenses in connection therewith (including, without limitation, the reimbursement of all such costs, fees, expenses and disbursements, including reasonable attorneys’ fees, as and when incurred, of investigating, preparing for, responding to or defending against any action, suit, proceeding, investigation, subpoena or other inquiry (whether or not FME is a party to the proceedings or litigation at issue) in connection with actual or threatened actions) (“Losses”) relating to or arising out of Licensee’s activities under this Schedule, its presence on or near FME’s property, or any action or inaction by Licensee, its employees, agents, contractors, subcontractors, or representatives related to the construction, installation, operation, maintenance, presence, replacement, upgrade, use, replacement,

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

abandonment or removal of any attachment. Licensee’s liability for Losses shall include, but not be limited to, claims alleging damage to or loss of property; injury to or death of persons (including payments made under any workers’ compensation law or under any plan for employees’ disability and death benefits); power or communications outage, interruption or degradation; environmental damage; and violations of law, regulations, orders, or other applicable rules or requirements; provided, however that Licensee will not be liable under this indemnity to the extent any of the foregoing Losses are determined, in a final judgment by a court of competent jurisdiction, not subject to further appeal, to have resulted from the sole gross negligence or willful misconduct of any Indemnified Person.

- B. The obligations of this Article shall survive the conclusion of the parties’ relationship under this Schedule, shall be enforced to the fullest extent permitted by applicable law and the obligations of this Article shall be construed liberally in favor of indemnification of FME.
- C. The indemnification obligations of Licensee under this Article and under other provisions of this Schedule are cumulative and not exclusive. FME’s request for indemnification under one or more Articles shall not preclude or in any way waive or limit its ability to seek indemnification under other provisions of this Schedule.
- D. FME shall not be liable to Licensee for any property damage, injury or death to persons (including payments made under any Worker’s Compensation Law or under any plan for employee disability and death benefits), interruption to service of Licensee, or for interference (however caused) with the operation of the cables, wires, appliances and facilities of Licensee, arising in any manner out of the use of FME’s poles and other facilities hereunder, including any effects undesirable to Licensee which the presence, breakdown, operation, maintenance, alterations of, or additions to, the lines and other facilities of FME or Outside Parties may have upon the Attachments or the service or equipment of Licensee, except to the extent attributable to the gross negligence or willful misconduct on the part of FME or its agents.
- E. Licensee expressly assumes responsibility for determining the condition of all poles and equipment to be accessed or otherwise worked on or near by its employees, agents, contractors, subcontractors or invitees, and to the fullest extent permitted by law, assumes all risks (except for risks arising from FME’s gross negligence or misconduct) related to the construction, operation and maintenance of Licensee’s Attachments on or about FME’s poles.
- F. Notwithstanding anything to the contrary set forth elsewhere in this Schedule, IN NO EVENT WILL FME OR ANY OF ITS REPRESENTATIVES OR RELATED PARTIES BE LIABLE TO LICENSEE OR ANY OF ITS REPRESENTATIVES OR RELATED PARTIES FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE, LOSS OF SERVICES, LOSS OF CUSTOMERS OR CLIENTS, LOSS OF GOODWILL OR LOSS OF PROFITS RELATING TO OR ARISING IN ANY MANNER FROM OR IN CONNECTION WITH THIS SCHEDULE OR THE PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS HEREUNDER, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR EXPECTED AND REGARDLESS OF THE THEORY UNDER WHICH THE DAMAGES ARE CLAIMED (WHETHER EQUITABLE, LEGAL, IN CONTRACT, TORT, OR OTHERWISE).

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**ARTICLE XIX – CONSTRUCTION**

The headings in this Schedule are for purposes of reference only and shall not be construed to limit or enlarge the substantive terms hereof.

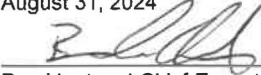
**ARTICLE XX – ASSIGNMENTS OF RIGHTS**

Licensee shall not assign or otherwise dispose of any of its rights or interests hereunder, or the Attachments or rights-of-way covered by this Schedule, to any firm, corporation or individual, without the written consent of FME, which consent shall not be unreasonably withheld.

**ARTICLE XXI – INSURANCE**

- A. Policies Required. At all times, Licensee shall keep in force and effect all insurance policies as described below. Licensee shall ensure FME is informed, no less than thirty (30) days in advance, of the cancellation or termination of any policy hereunder. Licensee shall name FME as an additional insured on all such policies, except workers compensation.
  - 1. Workers Compensation and Employers' Liability Insurance. Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than that required by Kentucky law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of FME. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.
  - 2. Commercial General Liability Insurance. Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with limits of liability not less than \$5,000,000 general aggregate, \$2,000,000 products/completed operations aggregate, \$2,000,000 personal injury, \$2,000,000 each occurrence.
  - 3. Automobile Liability Insurance. Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.
  - 4. Umbrella Liability Insurance. Coverage is to be in excess of the sum of the employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$5,000,000 each occurrence, \$5,000,000 aggregate.
  - 5. Property Insurance. Licensee will be responsible for maintaining property insurance on its own facilities, buildings, and other improvements, including all equipment, fixtures, and structures, fencing, or support systems that may be placed on, within, or around facilities to protect fully against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as extended coverage insurance or self-insure for such exposures.

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6. Performance Bond. Prior to making any Attachments under this Schedule, Licensee shall provide to FME a performance bond in an amount corresponding with the requirements of Appendix D. The bond shall be executed with a proper surety through a company licensed and qualified to operate in the State of Kentucky and listed with the U.S. Department of the Treasury as published in the Federal Register. In addition, the bond shall not be for an amount greater than the surety's approved limit as referenced in the current Federal Register and shall be accompanied by a certified power-of-attorney document, all still subject to the final approval of FME. The purpose of the bond is to ensure Licensee's performance of all of its obligations under this Schedule and for the payment by the Licensee of any damages, claims, liens, taxes, liquidated damages, penalties, or fees due to FME which arise by reason of the construction, installation, operation, maintenance, transfer, relocation, or removal of Licensee's Attachments or Communications Facilities on or about FME's Poles. This shall include claims for damages to FME Facilities caused by Licensee, or its contractors and agents. FME shall have the right to draw funds from the bond to recover damages to FME Facilities caused by Licensee, its contractors, or agents. Provision shall be made to permit FME to draw against the bond. Licensee shall not use such bond for other purposes and shall not assign, pledge or otherwise use the bond as security for any other purpose.
- B. Qualification; Priority; Contractors' Coverage. The insurer must be authorized to do business under the laws of the state of Kentucky and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry in full force and effect, workers' compensation and employers' liability, comprehensive general liability, and automobile liability insurance coverages of the type that Licensee is required to obtain under this Article with the same limits.
- C. Certificate of Insurance; Other Requirements. Prior to the execution of a Contract under this Schedule and prior to each insurance policy expiration date during the term of this Schedule, the Licensee will furnish FME with a certificate of insurance ("Certificate") and, upon request, certified copies of the required insurance policies. The Certificate shall reference this Schedule and workers' compensation and property insurance waivers of subrogation required by this Schedule. FME shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of insurance during the terms of this Schedule. FME, its board members, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, other than workers' compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed \$100,000, or such greater amount as expressly allowed in writing by FME. Licensee shall defend, indemnify and hold harmless FME and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. Licensee shall obtain Certificates from its agents, contractors, and their subcontractors and provide a copy of such Certificates to FME upon request.

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\_\_\_\_\_  
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- D. Limits. The limits of liability set out in this Article may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or laws that would materially increase or decrease FME's or Licensee's exposure to risk.
- E. Prohibited Exclusions. No policies of insurance required to be obtained by Licensee or its contractors or subcontractors shall contain provisions that: (1) exclude coverage of liability assumed by this Schedule with FME except as to infringement of patents or copyrights or for libel and slander in program material, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to FME's employees or agents, or (4) exclude coverage of liability for injuries or damages caused by Licensee's contractors or the contractors' employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.
- F. Deductible/Self-insurance Retention Amounts. Licensee may meet all or a portion of the insurance requirements of this Article by self-insurance. To the extent the Licensee self-insures, the Licensee is not required to name additional insureds as required by this Article. The Licensee must provide to FME such evidence as required by FME demonstrating, to FME's satisfaction, the Licensee's financial ability to meet the requirements of this Article requiring insurance coverage by self-insurance. In the event the Licensee fails to meet the Licensee's insurance requirements to FME's satisfaction, Licensee shall provide the insurance coverage and the additional insured endorsements in accordance with this Article.
- G. Additional Insurance. FME shall have the right at any time to require public liability insurance and property damage liability insurance in greater amounts than those required in this Article. In any such event, the additional premium or premiums payable solely as the result of such additional insurance coverage shall be payable by FME within thirty (30) days of the Licensee providing proof of such additional premium to FME and requesting payment therefor.

**ARTICLE XXII – FORCE MAJEURE**

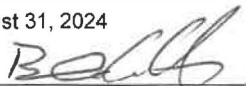
Except as may be expressly provided otherwise, neither FME nor Licensee shall be liable to the other for any failure of performance hereunder due to causes beyond its reasonable and actual control, including but not limited to: (a) acts of God, fire, explosion, vandalism, storm, or other similar occurrences; (b) national or state emergencies, insurrections, epidemics, pandemics, riots, acts of terrorism, or wars; or (c) strikes, lockouts, work stoppage, or other labor difficulties. To the extent practicable, the parties shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as any force majeure event causing a failure or delay has ceased. Each party shall promptly notify the other party of any delay in performance under this section and its impact on performance required under this Schedule.

**ARTICLE XXIII – SEVERABILITY**

The provisions (or parts thereof) of this Schedule shall be severable. In the event that any provision (or part thereof) of this Schedule is determined to be illegal, invalid, or otherwise unenforceable, then such illegality, invalidity or unenforceability shall not affect or impair the remainder of this Schedule.

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

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<b>APPENDIX A - REQUEST TO ATTACH/MODIFY ATTACHMENTS TO POLES</b>			
Licensee Job # _____		(to be completed by Licensee)	
Cooperative Work Order # _____		(to be completed by Cooperative)	
<b>SECTION 1 - REQUEST FOR APPROVAL TO PLACE ATTACHMENTS ON A POLE (to be completed by Licensee)</b>			
Company		Poles with Attachments (specify quantity)	Added
Project			Removed
Request Date			Overlashed
Name		Estimated	Modified
Title		Construction Dates	Start
Phone		Fees Submitted:	Completion
Email			Application
Signature: _____			Other
One Touch Make-Ready? (Yes or No)			<i>If yes, please attach section 3(DTMR addend)</i>
Make Ready Anticipated? (Yes or No)			
Location of Attachment Request (Street Address and Coordinates (Lat, Long)):			
_____			
<b>Checklist of Attached Documents (Containing Licensee Job #):</b>			
<input type="checkbox"/> Appendix A- DTMR Addendum selected contractors (if app)			
<input type="checkbox"/> Permit Submittal Certification Form			
<input type="checkbox"/> Detailed construction plans, drawings, and maps consistent with Appendix B			
<input type="checkbox"/> Spreadsheet, containing the following:			
<input type="checkbox"/> Poles that we wish to use (number, Lat, Long)		<input type="checkbox"/> Relocations or replacements of poles	
<input type="checkbox"/> Point of attachment (proposed height) on each pole		<input type="checkbox"/> Rearrangements of fixtures and equipment necessary	
<input type="checkbox"/> Number and type of attachments to be placed on each pole (including anchor type and		<input type="checkbox"/> Additional poles required	
<i>The included information represents our proposed facilities. Any changes will be submitted to Cooperative for approval prior to construction. The Licensee will obtain all authorizations, permits, and approvals from all Municipal, State, and Federal authorities for the Licensee's proposed service and all easements, licenses, rights-of-way and permits necessary for the proposed use of these poles.</i>			
<b>SECTION 2 - APPROVAL/DENIAL OF REQUEST (to be completed by Cooperative)</b>			
Response Date		Utility Make Ready Construction Required?	
Name		Total Estimated Cost to Licensee	
Title		(Detailed invoice to be provided)	
Phone		Permit #	
Email			
Request	Approve		If denied,
Response	Deny		reason for
Signature: _____			
_____			
<i>Cooperative hereby grants License to Licensee to make Attachments as described above, subject to the terms and conditions of the Tariff.</i>			

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**APPENDIX A - REQUEST TO ATTACH - OTMR Addendum**

To be submitted along with sections 1 and 2 of the Request to Attach

Licensee Job # \_\_\_\_\_ (to be completed by Licensee)

Cooperative Work Order # \_\_\_\_\_ (to be completed by Cooperative)

**SECTION 3 - OTMR Contractor Information**

OTMR Survey Contractor		OTMR Make Ready Contractor	
Company		Same as survey contractor	
Survey Date		Company	
Point of Contact Name		Point of Contact Name	
Title		Title	
Phone		Phone	
Email		Email	

**Existing Attacher Information**

*Note: It is still the responsibility of the applicant to notify existing attachers of One-Touch Make-Ready.*

Attacher	Point of Contact	Phone or Email

**OTMR Transfer Work Information**

Field Supervisor		Additional Comments:
Title		
Phone		
Email		
Estimated Crew Size		

By submitting this application, I fully and completely understand the One-Touch Make-Ready process, and agree to abide by all of the pole owning utility's rules and regulations regarding joint use attachments. I further agree to accept all liability incurred as a result of my One-Touch Make-Ready construction.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**APPENDIX B – SPECIFICATIONS FOR ATTACHMENTS**

Licensee, when making Attachments to FME Poles, will adhere to the following engineering and construction practices:

- A. All Attachments shall be made in accordance with ARTICLE III and FME’s construction standard posted on its website at [www.fme.coop](http://www.fme.coop).
- B. Clearances
  - 1. Attachments and Cable Clearances: Licensee's Attachments on FME's Poles, including metal attachment clamps and bolts, metal cross-arm supports, bolts and other equipment, must be attached so as to maintain the minimum separation specified in the most updated version National Electrical Safety Code ("NESC").
  - 2. Service Drop Clearance: From the pole to the home/building the parallel minimum separation between FME’s service drops and Licensee’s service drops shall conform to the NESC.
  - 3. Other Drop Clearances: All other drop clearances at the mid-span must conform to the NESC.
    - i. Sag and Mid-Span Clearances: Licensee will be particularly careful to leave proper sag in its lines and cables and shall observe the established sag of power line conductors and other cables so that minimum clearances are: (a) achieved at poles located on both ends of the span; and (b) retained throughout the span. At mid-span, the minimum separation must be maintained between all telecommunication cables that meet NESC rules (includes common phone, CATV, and fiber optic cables lashed to an effectively grounded messenger strand or self-supporting cables).
  - 4. Vertical Risers: All risers, including those providing 120/240 volt powers for Licensee's equipment enclosure, shall be placed on the quarter faces of the pole and must be installed in conduit with weatherhead (if possible). A two- (2) inch clearance in any direction from cable, bolts, clamps, metal supports, and other equipment shall be maintained.
  - 5. Climbing Space: A clear climbing space must be maintained at all times on the face of the pole. All Attachments must be placed so as to allow and maintain a clear and proper climbing space on the face of FME’s pole. Licensee's cable/wire Attachments shall be placed on the same side of the pole as those of other Attaching Entities. In general, all other Attachments and risers should be placed on pole quarter faces.
  - 6. Pedestals and Enclosures: Every effort should be made to install pedestals, vaults and/or enclosures at a minimum of four (4) feet from poles or other FME facilities, or the distance specified by FME, whichever is greater.
- C. Anchors and Guys
  - 1. Licensee shall be responsible for procuring and installing all anchors and guy wires to support the additional stress placed on FME’s poles by Licensee's Attachments. Anchors must be guyed adequately.
  - 2. Anchors and guy wires must be installed on each FME pole where an angle or a dead-end occurs. Licensee shall make guy attachments to poles at or below its cable attachment. Per RUS requirements, no proposed anchor can be within five (5) feet of an existing anchor.

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**POLE ATTACHMENT TARIFF – SCHEDULE PA**

3. Licensee may not attach guy wires to the anchors of FME or third-party user without the anchor FME's specific prior written consent.
  4. No Attachment may be installed on an FME pole until all required guys and anchors are installed. No Attachment may be modified, added to, or relocated in such a way as will materially increase the stress or loading on FME poles until all required guys and anchors are installed.
  5. Licensee's down guys, if needed, shall be bonded, to the vertical ground wires of FME's pole, in accordance with applicable NESC rules. If there is no vertical ground present at the pole, Licensee shall notify FME and a ground will be added to pole at FME's expense for Licensee to bond to.
- D. Certification of Licensee's Design
1. Licensee's Attachment Permit application must be signed and sealed by a professional engineer, registered in the State of Kentucky, certifying that Licensee's aerial cable design fully complies with the NESC and FME's Construction Standards and any other applicable federal, state or local codes and/or requirements, or Licensee will pay FME for actual costs for necessary engineering and post-construction inspection and to ensure Licensee's design fully complies with the NESC and Electric Utility's Construction Standards and any other applicable federal, state or local codes and/or requirements.
  2. This certification shall include the confirmation that the design is in accordance with pole strength requirements of the NESC, taking into account the effects of FME's facilities and other Attaching Entities' facilities that exist on the poles without regard to the condition of the existing facilities.
- E. Miscellaneous Requirements
1. Attachments. All Attachments will be made on the street side of the pole unless otherwise approved by FME.
  2. Cable Bonding. Licensee's conductive messenger cables shall be bonded at every pole with a vertical ground. If no ground exists on a pole to be bonded, Licensee shall notify FME and a ground will be added to pole at FME's expense for Licensee to bond to.
  3. Customer Premises. Licensee's service drop into customer premises shall be protected as required by the most current edition of the NEC.
  4. Communication Cables. All communications cables/wires not owned by FME shall be attached within the communications space that is located below the Communication Worker Safety Zone.
  5. Riser Installations: All Licensee's riser installations shall be in FME-approved conduit materials. Ground wires may be attached directly to pole.
  6. Tagging. On every pole to which the Licensee is attached, Licensee's facilities shall be identified with a band-type communications cable tag or other identification acceptable to FME within twelve (12) inches of the pole. The communications tag shall be consistent with communication industry standards and shall include at least the following: Licensee name and emergency contact number. Licensee shall be responsible for periodically inspecting its Attachments to ensure that they are tagged with permanent identification markers.

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Should FME encounter any Attachments without required permanent identification markers, FME shall notify Licensee of such Attachments and Licensee shall install permanent identification markers within thirty (30) days. In the event Attachments are not tagged in accordance herewith, FME reserves the right to charge all Licensee for all costs and expenses incurred by FME to identify the untagged Attachments.

7. Mid-Span Taps: All mid-span communication taps, other than service drops, are subject to the same installation and maintenance requirements as an Attachment under this Tariff. Additionally, any newly proposed mid-span taps must receive prior approval under Article IV of this Tariff.

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**APPENDIX C – BILL OF SALE (template)**

**BILL OF SALE**

Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between, a company/corporation with a principal office in \_\_\_\_\_, hereinafter called Buyer, and \_\_\_\_\_, a company/corporation, with a principal office in \_\_\_\_\_, authorized to do and doing business in, \_\_\_\_\_, hereinafter called Seller.

For and in consideration of the sum of \$\_\_\_\_\_ to it in hand paid and other valuable considerations, payable to Seller in immediately available funds, the receipt of all of which is hereby acknowledged, Seller by these presents does hereby bargain, sell, demise, release and forever quitclaim to Buyer, its successors and assigns, all of the rights, title, interest and claim the Seller now has or may have had in the following "Pole(s)" located in, \_\_\_\_\_, County \_\_\_\_\_, (State) \_\_\_\_\_.

Quantity	Description	Location (address, lat/long, etc.)

Additional locations on attached.

This sale is subject to the following terms and conditions:

1. Buyer is purchasing the equipment described above in reliance upon its personal inspection and in an "as is" and "where is" condition, with all faults.
2. Seller makes no warranties, express or implied, of any kind or nature except that (a) Buyer will acquire by the terms of this bill of sale good title to the equipment and (b) Seller has the right to sell the equipment. Without limiting the generality of the foregoing, SELLER MAKES NO WARRANTIES WITH RESPECT TO THE QUALITY, CONTENT, CONDITION, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE TELECOMMUNICATIONS FACILITIES.
3. BUYER UNDERSTANDS THAT THE SELLER'S FACILITIES MAY CONTAIN PRESERVATIVES OR OTHER HAZARDOUS MATERIALS. BUYER REPRESENTS AND WARRANTS THAT IT WILL HANDLE AND TREAT SUCH FACILITIES, INCLUDING BUT NOT LIMITED TO, THE FACILITIES CONTAINING LEAD, IN COMPLIANCE WITH ALL ENVIRONMENTAL LAWS, INCLUDING, BUT NOT LIMITED TO, PROCURING ALL REQUIRED PERMITS AND CERTIFICATES.

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- 4. As used herein, "Environmental Laws" shall mean all Federal, State or local laws, regulations or ordinances having to do with the protection of health, welfare, the environment or workers, including, without limitation, the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Emergency Planning and Community Right-To-Know Act, the Hazardous Materials Transportation Act, the Occupational Safety and Health Act, and any similar state or local laws, regulations or ordinances.
- 5. On the effective date hereof, Buyer releases Seller of all liability for, and Buyer assumes all liability for, and will defend, indemnify and hold harmless Seller from and against all losses, damages, expenses (including attorneys' fees and costs), claims, suits and liabilities, whether based in contract or tort (including strict liability), the extent arising out of, resulting from or in connection with (a) Buyer's negligent or intentional acts or omissions, or those of persons furnished by it, (b) the failure of Buyer or its agents to fully comply with the terms and conditions of this Agreement, including those concerning compliance with Environmental Laws or (c) assertions under Worker's Compensation or similar laws made by persons furnished by Buyer. Seller shall promptly notify Buyer of any written claim, loss or demand for which Buyer is responsible under this Clause.
- 6. If, for any reason, Buyer removes, modifies or disposes of the Telecommunication Facilities, then it will do so safely and in accordance with all Environmental Laws and standards, and will do no damage to other property or Telecommunication Facilities owned by Seller or third parties.

BUYER EXPRESSLY ASSUMES ALL LIABILITIES THAT MAY ARISE FROM THE HANDLING, PROCESSING, REMOVAL OR OTHER USE OF THE TELECOMMUNICATION FACILITIES, INCLUDING THOSE ARISING UNDER THE ENVIRONMENTAL LAWS.

- 7. This Agreement does not transfer any rights, licenses or other interests in any easement, right of way, license or other property right or interest associated with the Telecommunications Facilities and Seller expressly retains all such rights, licenses and interests.

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**APPENDIX D – PERFORMANCE BONDS**

A performance bond in the amount of \$10,000 or \$50 per Attachment, whichever is greater, is required for all intended attachers operating or seeking to operate facilities which deliver service to the public.

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**APPENDIX E – FEES AND CHARGES**

Licensee shall pay to FME the fees and charges and shall comply with the terms and conditions specified in the Schedule. Unless otherwise expressly provided, Licensee shall pay any invoice it receives from FME pursuant to this Schedule within 30 (thirty) calendar days after Licensee is presented with the invoice. Any balance that remains unpaid after its due date shall bear interest at the rate of one and five-tenths percent (1.5%) per month until paid, or if one and five-tenths percent (1.5%) exceeds the maximum rate allowed by law, then at the maximum rate allowed by law.

The estimated cost of a survey conducted by FME under this Schedule, on a per-pole basis, is \$17.37 per pole. Actual survey costs may differ from this estimate and will be the responsibility of the Licensee, consistent with the terms of this Schedule.

FME will invoice Licensee in arrears with respect to amounts owed annually for each of Licensee’s Attachments, at the following rates for each full or partial year:

Two-Party Pole Attachment	\$4.23 per year
Three-Party Pole Attachment	\$3.68 per year
Two-Party Anchor	\$6.38 per year
Three-Party Anchor	\$4.21 per year
Two-Party Ground	\$0.26 per year
Three-Party Ground	\$0.16 per year

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