

**HIGH VOLUME
POLE ATTACHMENT APPLICATION PLAN**

between

KENTUCKY UTILITIES COMPANY

and

METRO FIBERNET, LLC

**KENTUCKY
PUBLIC SERVICE COMMISSION**

Gwen R. Pinson
Executive Director



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2/17/2018

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

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HIGH VOLUME POLE ATTACHMENT APPLICATION PLAN

This High Volume Pole Attachment Application Plan (“Plan”) is made as of the 11th day of January, 2018, by and between Kentucky Utilities Company (“KU” or “Licensor” or “Company”) and Metro Fibernet, LLC (“MetroNet” or “Licensee” or “Attachment Customer”), each a “Party” and together the “Parties.”

RECITALS

KU is an electric utility company providing services in Kentucky, including in and around the city of Lexington. KU offers pole attachment services under its Pole and Structure Attachment Charges Rate Schedule (“PSA Rate Schedule”), which is on file with and approved by the Kentucky Public Service Commission (“the Commission”) as part of KU’s Electric Service Tariff.

MetroNet is a telecommunications carrier that desires to build a fiber network within KU’s service area in or near Lexington, Kentucky. MetroNet contemplates that its fiber network construction project in or near Lexington, Kentucky (the “Project”) will require approximately 40,000 Attachments to KU-owned poles, or foreign-owned poles to which KU has attached its electric supply lines, over the course of two years.

MetroNet further contemplates that the size of its Project, and the desired speed of completing its Project, will require High Volume Applications, as defined in the PSA Rate Schedule.

The Parties have entered into an Attachment Customer Agreement, as defined in the PSA Rate Schedule, with an effective date of November 2, 2017.

The Parties enter into this Plan for purposes of accommodating MetroNet’s intent to submit High Volume Applications and for the purposes set forth in Section 7.h. of the PSA Rate Schedule. The Parties recognize that the Project is of exceptional scope and this Plan is necessary and integral to completion of the Project.

The Parties recognize that this Plan is a special contract and that it must be filed with the Commission for review and approval before becoming effective (or, in the absence of Commission approval, such other action by the Commission that allows the terms of this Plan to become effective, as determined in KU’s sole discretion).

AGREEMENT

NOW THEREFORE, in consideration of the promises and the mutual covenants herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. Capitalized terms used in this Plan shall have the meanings set forth in the PSA Rate Schedule and the Attachment Customer Agreement, unless otherwise defined herein.
2. PSA Rate Schedule and Attachment Customer Agreement. E otherwise in this Plan, the rates, terms and conditions set forth and the Attachment Customer Agreement between the Parties are adopted and incorporated

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as if fully set forth herein. Any amendments to the PSA Rate Schedule will, when approved by the Commission, be adopted and incorporated as if fully set forth herein. In the event of a conflict between this Plan and either the PSA Rate Schedule or the Attachment Customer Agreement, this Plan shall control.

3. Scope. This Plan applies only to wireline attachments to Distribution Poles. This Plan does not apply to Wireless Facilities and does not apply to any Duct, conduit or other Structure (including but not limited to Transmission Poles). To the extent MetroNet seeks to attach to any Structure other than a Distribution Pole, or seeks to attach Wireless Facilities to any Structure, it shall do so under the terms of the PSA Rate Schedule and the Attachment Customer Agreement.

4. High Volume Applications.

a. Ramp-Up. During the first thirty (30) day period of the Project, MetroNet may submit High Volume Applications for up to 625 poles. During the second thirty (30) day period of the Project, MetroNet may submit High Volume Applications for up to 1,250 poles. During the third thirty (30) day period of the Project, MetroNet may submit High Volume Applications for up to 1,875 poles. Thereafter, MetroNet may submit High Volume Applications for up to 2,500 poles during any thirty (30) day period. The purpose of this ramp-up schedule is to acclimate the Parties and their contract resources to the maximum volume of applications allowed under this Plan. The Parties agree to cooperate in good-faith for any revisions to, or extension of, this ramp-up period as necessary to achieve the objective stated in this Section 4.a.

b. Application Requirements. Each High Volume Application shall include: (1) the location and other identifying information for each pole (such as transformer location number or pole number) to which MetroNet seeks to make an Attachment, and the amount of space required thereon; (2) the physical attributes of all proposed Attachments; (3) a pole loading study; (4) an annotated picture of each pole with heights of existing facilities; (5) any issues then known to MetroNet regarding space, engineering, access or other matters that might require resolution before installation of Attachments; and (6) proposed make ready drawings. KU, in its reasonable discretion, may request additional information be included with the High Volume Application. MetroNet shall provide such additional information before KU further processes the High Volume Application.

c. Design Review. Within thirty (30) days after receipt of a complete High Volume Application, KU shall (i) perform any survey, inspection, pole loading analysis, or other engineering necessary, in KU's sole discretion, to determine whether the make-ready drawings or other design materials require revision, and (ii) notify MetroNet of any required revisions to the make-ready drawings or other design materials. Such work shall be performed by the contract designers described in Section 5.d. below.

d. Contract Designers.

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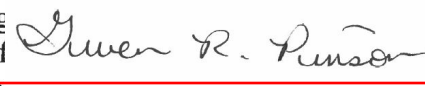
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- i. In order to process the High Volume Applications anticipated in connection with the Project, KU will retain at least two (2) contract designers for the duration of the Project. The entire cost of such contract designers, plus the overhead and any reasonable costs associated with the oversight of such contract designers, will be reimbursed by MetroNet within thirty (30) days after presentation of monthly invoices by KU. The invoices shall separately set forth the cost associated with the contract designers (including any overhead) and any oversight of such contract designers. The contract designers shall be dedicated to the Project, but may be utilized by KU for other work so long as such other work does not in any way delay or otherwise impede the progress of the Project.
 - ii. KU will initially retain two (2) contract designers, and engage additional contract designers if and as needed to process MetroNet's High Volume Applications. If at any time, MetroNet anticipates applying for access to fewer poles than the number contemplated in Section 4.a. above, MetroNet may request in writing, with not less than thirty (30) days' notice, that KU reduce the number of contract designers accordingly at the beginning of the following month. Such notice shall state with specificity the anticipated volume of applications. KU, in its reasonable discretion, shall determine whether the anticipated reduction in the volume of applications warrants a reduction in the number of contract designers. KU may delay the reduction of contract designers in order to process the High Volume Applications already submitted to KU in accordance with the time frames provided for in this Agreement. After a decrease in the number of contract designers as set forth in this Section, MetroNet may subsequently request an increase in the number of contract designers for the following month, with not less than thirty (30) days' written notice. Any increase in contract designers as set forth in the preceding sentence shall be subject to a ramp-up period as determined in KU's reasonable discretion.
 - e. Estimates. KU shall not be responsible for preparing any estimate of the Supply Space make-ready required for the approval of a High Volume Application. MetroNet is responsible for obtaining any such estimates directly from the Approved Contractor performing the Supply Space make-ready pursuant to Section 5.a. below.
5. Construction of Attachments. Upon completion of design review by KU, and notification to MetroNet of any required revisions to the make-ready drawings or other design materials within a High Volume Application, construction shall proceed as follows:

a. Supply Space Make-Ready.

- i. KU-owned poles. For any approved High Volume Applications requiring Supply Space make-ready, including rearrangement or replacement of KU poles (and transfer of KU poles to MetroNet), KU shall be required to write in writing whether to perform some or all of such Supply Space make-ready.

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If KU elects to perform some, but not all, of the Supply Space make-ready within an approved High Volume Application, KU shall designate with specificity the portion of Supply Space make-ready it elects to perform. KU shall complete any such work it elects to perform, at MetroNet's expense, within sixty (60) days of election. If KU approves a High Volume Application without so electing, MetroNet shall complete such work through the use of an Approved Contractor within sixty (60) days following KU's approval of the High Volume Application. In the event MetroNet does not complete such work within sixty (60) days, MetroNet will notify KU of the delay in completion, the reason for such delay and the need for an extension, including anticipated completion date, if known. KU may object to the extension, and the parties shall work in good faith to reach a mutually acceptable completion time frame.

ii. Foreign-owned poles. For any Supply Space make-ready required on foreign-owned poles (such as poles owned by the incumbent local exchange carrier), including rearrangement of KU facilities or transfer of KU facilities to a replacement pole, MetroNet shall present the make-ready drawings to KU for review and approval. KU shall elect in writing whether to perform some or all of such Supply Space make-ready. If KU elects to perform some, but not all, of the Supply Space make-ready within the make-ready drawings, KU shall designate with specificity the portion of Supply Space make-ready it elects to perform. KU shall complete any such work it elects to perform, at MetroNet's expense, within sixty (60) days of election. For any Supply Space make-ready work KU does not elect to perform, MetroNet shall complete such work through the use of an Approved Contractor within sixty (60) days following KU's approval of the make-ready drawings. In the event MetroNet does not complete such work within sixty (60) days, MetroNet will notify KU of the delay in completion, the reason for such delay and the need for an extension, including anticipated completion date, if known. KU may object to the extension, and the parties shall work in good faith to reach a mutually acceptable completion time frame.

b. Approved Contractor. The Approved Contractor shall provide notice to KU, in the form and manner directed by KU, at least one week prior to performing any Supply Space make-ready. MetroNet shall provide the Approved Contractor with Supply Space make-ready drawings or other design materials as approved by KU, and the Approved Contractor shall document receipt of such drawings or materials, in the manner directed by KU, for each pole requiring Supply Space make-ready. Supply Space make-ready work shall be performed in accordance with KU's electric design and construction standards and applicable requirements of the NESC, NEC, all other applicable codes and laws, and KU's construction and safety practices. Each Approved Contractor performing Supply Space make-ready pursuant to this Plan shall (i) execute a Structure Access Agreement and performing such work, and (ii) procure all materials for approved in writing by KU. The cost of the Approved Contractor using any

materials and other labor necessary to complete the Supply Space make-ready, shall be paid entirely by MetroNet. Supply Space make-ready shall be completed prior to third-party make-ready or installation of Attachments.

- c. Supply Space Make-Ready Inspectors. During the performance of any Supply Space make-ready by Approved Contractors under this Plan, an inspector designated by KU shall accompany the Approved Contractor(s). The inspector, in his or her sole discretion, may direct that work be performed in a manner other than as approved in a High Volume Application, based on the then-existing circumstances in the field. The reasonable cost of such inspector(s) shall be reimbursed by MetroNet within thirty (30) days after presentation of monthly invoices by KU.
- d. Third-Party Make-Ready. In the event an approved High Volume Application requires another Attachment Customer to rearrange or transfer its facilities on one or more poles, MetroNet shall coordinate the rearrangement or transfer with such third party and shall pay the costs related thereto. MetroNet shall not install its Attachments on any pole until all necessary third-party make-ready for that pole is complete.
- e. Installation of Attachments. MetroNet shall complete installation of its Attachments on KU poles within sixty (60) days of the later of the following: (i) approval of a High Volume Application; or (ii) if an approved High Volume Application requires make-ready work, completion of such make-ready work. In the event MetroNet does not complete installation within one sixty (60) days, MetroNet will notify KU of the delay in installing, the reason for such delay and the need for an extension, including anticipated installation date, if known. KU may object to the extension, and the parties shall work in good faith to reach a mutually acceptable installation time frame. MetroNet shall provide notice to KU of completion of installation of Attachments, with as-built drawings, within thirty (30) days of completion of installation.
- f. Election Not to Proceed. If MetroNet elects not to proceed with construction of any portion of an approved High Volume Application, MetroNet shall so notify KU in writing.
- g. Identification of Contractors. At all times while performing work on or near KU's poles, MetroNet shall cause its contractors to visibly identify themselves and their work vehicles as such.

6. Inspection and Corrective Action.

- a. Within sixty (60) days of notification of completion of installation as set forth in Section 5.e. above, and at MetroNet's expense (limited to expenses reasonably incurred by KU), KU shall conduct a post-construction inspection of the Attachments with the High Volume Application for the such Attachments comply with all KU design and

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applicable requirements of the NESC, NEC, and all other applicable codes and laws.

- b. The process for correcting any non-compliance with any such requirements discovered during such inspection shall be as set forth in the PSA Rate Schedule, except that MetroNet shall, in addition to complying with the requirements in the PSA Rate Schedule, pay as liquidated damages the amount of \$50 per pole for each pole on which violations are discovered during the post-construction inspection.
- 7. Process Flow Chart. The process described in Sections 4 through 6 above is illustrated in the flow chart attached as Exhibit A, hereto.
- 8. Regular Coordination Meeting. On a regular basis during the term of this Plan, but no less than twice per month, the Parties, through their designated Project representatives, shall meet in person or by telephone for the purpose of discussing progress of the Project, resolving issues and other coordination necessary for the efficient completion of the Project.
- 9. Denial of Access. In the normal course, KU contemplates approving each High Volume Application submitted by MetroNet pursuant to this Plan. Nothing in this Plan, though, shall be interpreted as requiring KU to grant approval to make Attachments to any particular pole. KU reserves the right to deny access to any pole for reasons of insufficient capacity, safety, reliability and generally applicable engineering concerns.
- 10. No Ownership Interest. No payment for materials or labor associated with Supply Space make-ready pursuant to this Plan shall establish any ownership interest in KU's poles or other facilities. All such poles and facilities, including but not limited to those KU poles replaced by MetroNet pursuant to this Plan, shall be and remain the sole property of KU.
- 11. Additional Reimbursement. Given the extraordinary scope of the Project contemplated by this Plan, the Parties recognize that KU may incur different and additional costs in connection with the Project beyond those contemplated by the PSA Rate Schedule, the Attachment Customer Agreement, or within this Plan. If KU is aware that it will incur such different and additional costs, KU will notify MetroNet in advance of incurring such additional costs to the extent reasonably possible, but KU's failure to provide such notice shall not relieve MetroNet of the responsibility to pay such costs. MetroNet agrees to reimburse KU for all such costs reasonably incurred, within thirty (30) days after presentation of an invoice for such costs, together with any reasonable supporting documentation requested by MetroNet.
- 12. Unauthorized Work in Supply Space. In the event MetroNet performs Supply Space make-ready or any other work in the Supply Space except as expressly set forth in this Plan, MetroNet shall pay to KU as liquidated damages the amount of \$2,500 per each such pole on which such unauthorized work was performed.
- 13. Performance Assurance. The Parties anticipate that the Project will require the installation of 40,000 Attachments to KU poles, or foreign-owned poles to electric supply lines, over the course of a two-year period, and the Parties recognize that

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the size of the Project, along with the provisions set forth in this Plan to accommodate the Project, increases KU's financial risk beyond the risk addressed in Section 24 (Performance Assurance) of the PSA Rate Schedule. Prior to submitting a High Volume Application, MetroNet shall furnish to KU a surety bond in the amount of one million dollars (\$1,000,000) (or increase its existing surety bond to \$1,000,000), which otherwise meets the requirements of Section 24 of the PSA Rate Schedule. The surety bond required by this Plan shall remain in place until the completion of the Project, at which point the bond shall be reduced in accordance with Section 24 of the PSA Rate Schedule.

14. Insurance. During the term of this Plan, MetroNet shall comply with the insurance requirements set forth in Section 23 of the PSA Rate Schedule, except as follows:

a. Umbrella/Excess Liability Insurance. MetroNet shall maintain minimum limits of \$5,000,000 per occurrence; \$5,000,000 aggregate to apply to employer's liability, commercial general liability, and automobile liability.

b. Election Not to Comply. MetroNet may not avail itself of the election not to comply with Section 23.a. through f. of the PSA Rate Schedule, as set forth in Section 23.h. of the PSA Rate Schedule, at any time during the term of this Plan.

15. Revocation or Suspension of Plan: Safety. In the event KU discovers unauthorized work in the Supply Space, Unauthorized Attachments or other violations of KU's safety standards, or if MetroNet's Attachments repeatedly fail the post-construction inspection, or if MetroNet repeatedly submits deficient applications, KU may in the exercise of its reasonable discretion revoke or suspend this Plan, or restart the Ramp-Up period set forth in Section 4.a. above.

16. Term and Termination. The initial term of this Plan shall be for two (2) years from the effective date, unless earlier terminated by either Party due to default by the other (and failure to cure such default within thirty (30) days written notice). This Plan shall automatically renew for successive one (1) month terms unless either Party gives notice of termination thirty (30) days prior to expiration of the initial term or any successive term.

17. Supplemental Operating Procedures. The Parties recognize that, during the course of the Project, it may become necessary to implement mutually beneficial supplemental operating procedures. Nothing herein, or in the Customer Attachment Agreement or the PSA Rate Schedule, shall prevent the Parties from adopting supplemental operating procedures as deemed mutually beneficial for purposes of completing the Project.

18. No Third Party Beneficiaries. This Agreement is entered into for the sole benefit of KU and MetroNet and, where permitted, their respective successors and assigns. Nothing in this Plan or in any approved High Volume Application shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity.

19. Exhibits. KU may revise the Exhibit to this Plan, in its reason without need for a mutually executed amendment to this Plan, be incorporated into this Plan. In the event of a conflict between this Plan shall control unless otherwise mutually agreed in writing.

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IN WITNESS WHEREOF, the Parties have caused this Plan to be duly executed by their authorized officers.

KENTUCKY UTILITIES COMPANY

By: *Denise Simon*

Name: Denise Simon

Title: Dir. Dist Reliability, Analytics, & Admin.

Date: 1/16/2018

METRO FIBERNET, LLC.

By: *[Signature]*

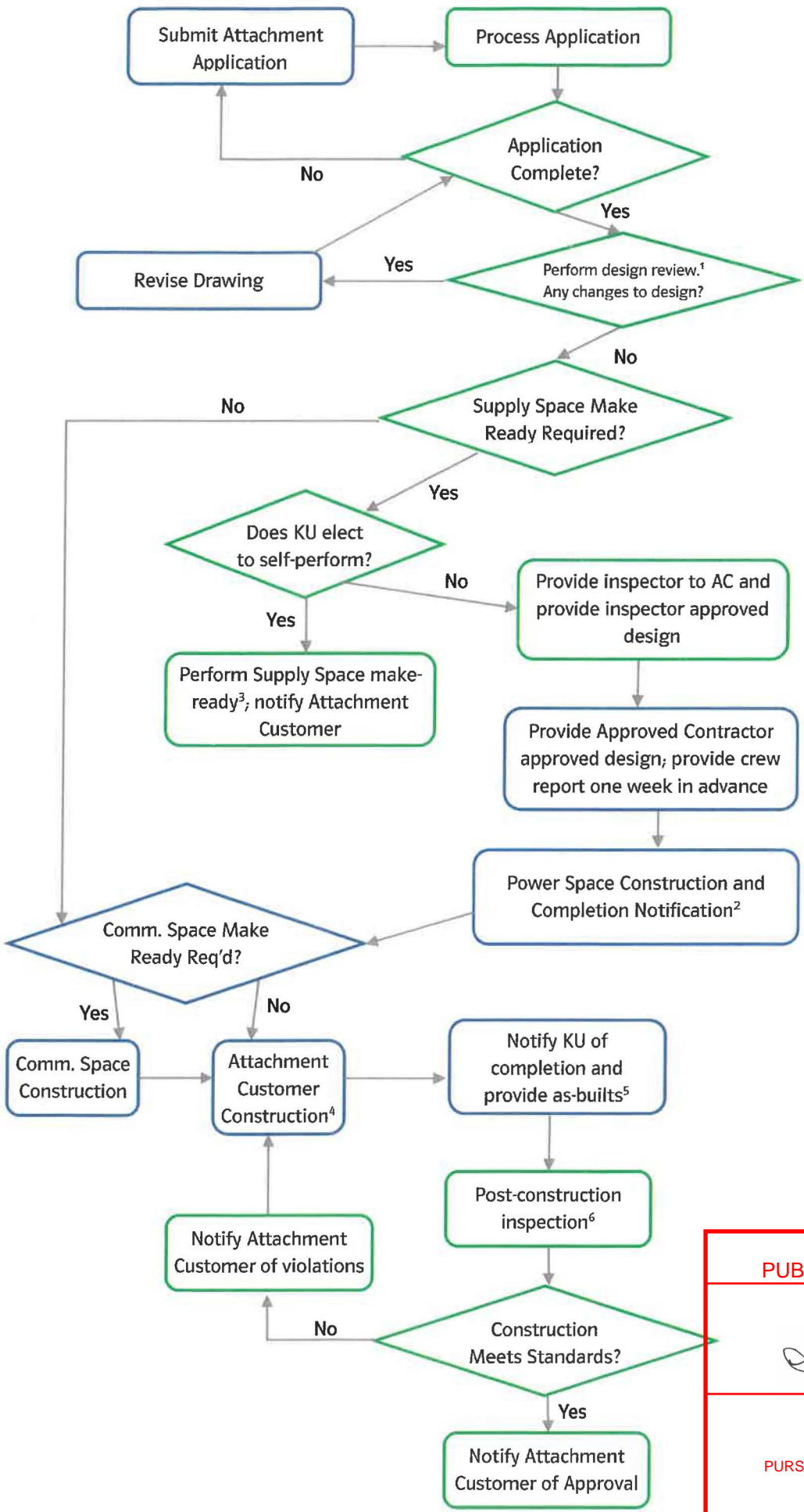
Name: John Greenbank

Title: Executive Vice President

Date: January 8, 2018



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Legend

- Attachment Customer (Blue rounded rectangle)
- KU Contract Designer (Green rounded rectangle)

- Notes**
- Up to 2,500 poles per month; KU deadline: 30 days after receipt
 - Attachment Customer construction deadline: 60 days after approval
 - KU construction deadline: 60 days
 - Attachment Customer initial construction deadline: 60 days, corrective construction deadline: 30 days
 - As-built deadline: 30 days after completion
 - Post-construction inspection deadline: 60 days

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