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JUN 24 2011

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COMMISSION



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June 24, 2011

Via Hand Delivery

Jeff Derouen  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
P. O. Box 615  
Frankfort, KY 40602-0615

**Re: In the Matter of: Application of Highland Telephone Cooperative, Inc.  
for an Adjustment of Rates  
Case No. 2010-00227**

Dear Mr. Derouen:

Enclosed for filing in the above-referenced case, please find one original and ten (10) copies of Highland Telephone Cooperative, Inc.'s Filing of Supplemental Information. I have also enclosed three copies of the pleading which we request be date stamped and returned to the person delivering this letter.

Thank you and please call if you have any questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Jeff Yost', written over a horizontal line.

Jeffrey J. Yost

JJY/pom  
Enclosures  
c: Highland Telephone Cooperative, Inc. (w/encl)

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JUN 24 2011

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION PUBLIC SERVICE COMMISSION

In the Matter of:

CASE NO. 2010-00227

APPLICATION OF HIGHLAND TELEPHONE COOPERATIVE, INC. FOR AN ADJUSTMENT OF RATES

FILING OF SUPPLEMENTAL INFORMATION BY HIGHLAND TELEPHONE COOPERATIVE, INC.

\*\*\*\*\*

Highland Telephone Cooperative, Inc. ("Highland") hereby files the following supplemental information which was requested during the hearing in this case held on June 16, 2011:

1. The schedule provided in Highland's response to request 13 of the Staff's First Request for Additional Information, showing the net income or loss of Highland's subsidiaries and the dividends paid by the subsidiaries to Highland, is updated below to include the amounts for 2010.

Highland Communications, Inc.

Table with 3 columns: Year, Net Income (Loss), Dividends Paid. Rows for years 2006 through 2010.

Highland Media Corporation

Table with 3 columns: Year, Net Income (Loss), Dividends Paid. Rows for years 2007 through 2010.

2. The chart below shows Highland's existing loans from the Rural Utilities Services (RUS), the balances owed on the loans as of December 31, 2010, and the applicable Times Interest Earned Ratio (TIER) requirements.

<u>Loan</u>	<u>Principal Balance Owed as of 4/30/2011</u>	<u>Loan TIER Requirement</u>
N4 Loan dated 10/16/1980	\$ 26,470	None
P8 Loan dated 11/5/1981	\$ 261,556	None
R8 Loan dated 10/29/1985	\$1,724,054	None
S8 Loan dated 4/1/1995	\$1,156,169	None
T8 Loan restated 8/26/1991	\$6,250,687	1.5 after 4/3/1989
B40 Loan dated 9/30/2010	\$ 299,335	TIER required in Prior RUS Loan Contract; and 1.0 after termination of obligation to maintain such TIER

A copy of the Restated Mortgage, Security Agreement and Financing Statement for the T8 Loan is attached as Exhibit 1, and the TIER requirement for this Loan is in Section 21 on page 23 of the Restated Mortgage. A copy of the Loan/Grant and Security Agreement for the B40 Loan is attached as Exhibit 2, and the TIER requirement for this Loan is in Section 5.8 of the Agreement.

3. Highland's Times Interest Earned Ratio (TIER) would have been 4.09 in 2010 if the increased rates had been in effect in its Tennessee territory for the full year, instead of approximately eight months, and in its Kentucky territory for the full year rather than at no time, as shown below. If the rate increase is disallowed for its Kentucky customers, the TIER would fall to 2.49. Further, if the rate increase is disallowed for its Kentucky customers, Highland

doubts that it would be able to continue collecting the increased rate from its Tennessee customers, and the TIER would turn to a negative ratio, (1.66).

	Rate Increase Effect for Full Year in Both States	Rate Increase Disallowed In Kentucky	Rate Increase Discontinued In Both States
Highland's 2010 Net Income	\$ 26,902	\$ 26,902	\$ 26,902
Less Tennessee Customers Billed for 8 Months	(699,016)	(699,016)	(699,016)
Add Full Implementation for Tennessee	1,048,524	1,048,524	-0-
Add Kentucky Customers for 12 Months	<u>402,384</u>	<u>-0-</u>	<u>-0-</u>
Adjusted Net Income	\$ 778,794	\$ 376,410	\$(672,114)
Fixed Charges (Interest Expense)	<u>252,413</u>	<u>252,413</u>	<u>252,413</u>
Total of Adjusted Net Income plus Interest Expense	<u>\$1,031,207</u>	<u>\$ 628,823</u>	<u>\$(419,701)</u>
TIER Calculation (Total/Interest Expense)	4.09	2.49	(1.66)

4. Highland's rate of return on net investment rate base (ROI) for 2010 was 2.077%. The ROI would have been 1.004% in 2010 if the increased rates had been in effect in its Tennessee territory for the full year, instead of approximately eight months, and in its Kentucky territory for the full year rather than at no time, as shown below. If the rate increase is disallowed for its Kentucky customers, the ROI would fall to (1.792%). Further, if the rate increase is disallowed for its Kentucky customers, Highland doubts that it would be able to continue collecting the increased rate from its Tennessee customers, and the ROI would turn to a negative ratio, (1.66).

	Rate Increase Effect for Full Year in Both States	Rate Increase Disallowed In Kentucky	Rate Increase Discontinued In Both States
Highland's 2010 Net Income	\$ 26,902	\$ 26,902	\$ 26,902

Less Tennessee Customers Billed for 8 Months	(699,016)	(699,016)	(699,016)
Add Full Implementation for Tennessee	1,048,524	1,048,524	-0-
Add Kentucky Customers for 12 Months	<u>402,384</u>	<u>-0-</u>	<u>-0-</u>
Adjusted Net Income	\$ 778,794	\$ 376,410	\$(672,114)
ROI Calculation (Net Income/\$37,497,089)	2.077%	1.004%	(1.792%)

5. The Service Rates that Highland proposed for high-speed broadband plans are set forth on page 3 of the Executive Summary contained in its RUS approved application for the B40 loan/grant under the Broadband Initiatives Program. A copy of the Executive Summary is attached as Exhibit 3. These Service Rates are as follows:

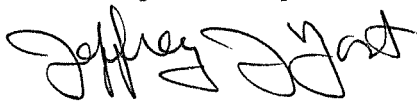
<u>Broadband Plans</u>	<u>Residential Rates</u>	<u>Business Rates</u>
6 Mb	\$ 49.95	\$ 69.96
10 Mb	\$ 87.95	\$ 82.46
20 Mb	\$125.95	\$149.99

6. A copy of Highland's Audited Consolidated Financial Statements for 2010 is attached as Exhibit 4.

Date: June 24, 2011

Respectfully submitted,

Highland Telephone Cooperative, Inc.

By: 

Jeffrey J. Yost  
 JACKSON KELLY PLLC  
 P. O. Box 2150  
 175 East Main Street, Suite 500  
 Lexington, Kentucky 40588-2150  
 (859) 255-9500  
 Counsel for Highland Telephone  
 Cooperative, Inc.



EXHIBIT 1

Restated Mortgage, Security Agreement  
and Financing Statement

REA Project Designation:  
Tennessee 554-T8 Highland

Scott 122/370

JD

3-435

Form - Restated REA/RTB Mortgage (Restating REA/RTB Common Mtg.) - Telephone Subsequent REA Loan - 10/89

REA PROJECT DESIGNATION:

TENNESSEE 554-T8 HIGHLAND

RESTATED MORTGAGE, SECURITY AGREEMENT, AND FINANCING STATEMENT

made by and among

HIGHLAND TELEPHONE COOPERATIVE, INC.,

as mortgagor and debtor,

UNITED STATES OF AMERICA  
Rural Electrification Administration  
Washington, D. C. 20250-1500,

as mortgagee and secured party,

and

RURAL TELEPHONE BANK  
Rural Telephone Bank  
Washington, D. C. 20250-1500,

as mortgagee and secured party,

THE MORTGAGOR, AS DEBTOR, IS A TRANSMITTING UTILITY

THIS INSTRUMENT WAS PREPARED BY ARTHUR D. RUBIN, ATTORNEY, ELECTRIC AND TELEPHONE DIVISION, OFFICE OF THE GENERAL COUNSEL, U. S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D. C. 20250-1400

No. 4

\*Maximum principal indebtedness for Tennessee recording tax purposes is

\$ 13,415,000.00  
Exempt TCA 67-4-409 (f)

370

See UCC - File # 10590  
Porter B. Porter, Jr. Register

See "Partial Release" Memo Book 134, Page 39  
Porter B. Porter, Jr. Register



3-435

Form - Restated REA/RTB Mortgage (Restating  
 REA/RTB Common Mtg.) - Telephone  
 Subsequent REA Loan - 10/89

RESTATED MORTGAGE, SECURITY  
 AGREEMENT AND FINANCING STATEMENT, dated as  
 of *August 26*, 19*91*, made by  
 and among HIGHLAND TELEPHONE COOPERATIVE, INC. -----

(hereinafter called the "Mortgagor"), a corporation existing  
 under the laws of the State of Tennessee -----, as  
 mortgagor and debtor, UNITED STATES OF AMERICA  
 (hereinafter called the "Government"), acting through the  
 Administrator of the Rural Electrification Administration  
 (hereinafter called "REA"), and RURAL TELEPHONE  
 BANK (hereinafter called the "Bank"), a corporation  
 existing under the laws of the United States of America  
 (hereinafter called the "Government"), as mortgagees and  
 secured parties, (the Government and the Bank being  
 hereinafter sometimes collectively called the  
 "Mortgagees").

WHEREAS, the Mortgagor has heretofore borrowed funds from the  
 Government and the Bank pursuant to the Rural Electrification Act of 1936, as  
 amended (7 U.S.C. 901 et. seq., hereinafter called the "Act"), and pursuant to a loan  
 contract or amending loan contract, as amended, identified in the seventh recital  
 hereof (hereinafter called the "Instruments Recital") initially by and between the  
 Mortgagor and the Government and, as such contract was subsequently amended,  
 by and among the Mortgagor, the Government and the Bank (said loan contract, as  
 it may have been amended prior to the date of the Telephone Loan Contract  
 Amendment referred to below, being hereinafter called the "Prior Loan Agreement");  
 and

WHEREAS, the Mortgagor, for value received, has heretofore duly  
 authorized and executed, and has delivered to the Government, or has assumed the  
 payment of, certain mortgage notes all payable to the order of the Government, in  
 installments, of which the mortgage notes (hereinafter collectively called the  
 "Outstanding REA Notes") identified in the Instruments Recital are now outstanding  
 and held by the Government; and

WHEREAS, the Mortgagor, for value received, has heretofore duly  
 authorized and executed, and has delivered to the Bank, or has assumed the  
 payment of, certain mortgage notes all payable to the order of the Bank, in  
 installments, of which the mortgage notes (hereinafter collectively called the  
 "Outstanding Bank Notes") identified in the Instruments Recital are now outstanding  
 and held by the Bank; and

Form – Restated REA/RTB Mortgage (Restating  
REA/RTB Common Mtg.) – Telephone  
Subsequent REA Loan – 10/89

WHEREAS, the Outstanding REA Notes and the Outstanding Bank Notes (hereinafter collectively called the "Outstanding Notes") evidence loans made by the Government or the Bank either to the Mortgagor or to a third party or to third parties to finance telephone exchanges, lines and related facilities; and

WHEREAS, the Outstanding Notes are secured by the security instruments (hereinafter collectively called the "Underlying Mortgage") made by the Mortgagor to the Government or by the Mortgagor to the Government and the Bank, as the case may be, identified in the Instruments Recital; and

WHEREAS, the Mortgagor has determined to borrow additional funds from the Government pursuant to the Act and to the Prior Loan Agreement, as it may have heretofore been amended and as amended by the Telephone Loan Contract Amendment, identified in the Instruments Recital (the Prior Loan Agreement, as so amended, and as it may from time to time be further amended, supplemented, consolidated or restated, being hereinafter called the "Consolidated Loan Agreement") and has accordingly duly authorized, executed and delivered to the Government its mortgage note or notes (identified in the Instruments Recital and hereinafter called the "Current REA Note") to be secured by the Underlying Mortgage, as amended, supplemented, consolidated and restated hereby; and

WHEREAS, the instruments referred to in the preceding recitals, the Maximum Debt Limit referred to in Article I, Section 1 hereof, the subdivision or subdivisions of Article II hereof made applicable by this recital, and certain data referred to in Article II, Section 15 hereof, are as follows:

#### Instruments Recital

1. The instruments referred to in the preceding recitals are identified as follows:

"Prior Loan Agreement" (exclusive of amendments) dated as of July 15, 1955.

"Telephone Loan Contract Amendment", dated as of September 28, 1990.

"Outstanding REA Notes":

Twenty ---- (20) certain mortgage notes in an aggregate principal amount of \$ 24,386,000 -----, all of which will finally mature on or before March 31, 2014.

3-435

Form – Restated REA/RTB Mortgage (Restating  
 REA/RTB Common Mtg.) – Telephone  
 Subsequent REA Loan – 10/89

"Outstanding Bank Notes":

Three ----- ( 3 ) certain mortgage notes in an aggregate principal amount of \$7,568,400 -----, all of which will finally mature on or before October 15, 2011.

"Underlying Mortgage":

<u>Instrument</u>	<u>Date</u>
Supplemental Mortgage and Security Agreement	September 11, 1972
Supplement to Supplemental Mortgage and Security Agreement	October 15, 1976
Supplement to Supplemental Mortgage and Security Agreement	October 28, 1981

"Current REA Note": (Of even date herewith):

<u>Principal Amount</u>	<u>Interest Rate</u> <u>(per annum)</u>	<u>Final Payment Date</u>
\$13,415,000	Five per centum (5%)	Twenty-two----- (22) years from the date thereof

2. "Maximum Debt Limit" for purposes of Article I, Section 1 hereof, shall be seventy-five million dollars (\$75,000,000).
3. The following subdivisions of Article II hereof are hereby made applicable:  
Section 10(a) and Section 18.
4. The percentage referred to in Section 15(a)(1) and Section 15(b) of Article II hereof is hereby established as ten ----- per centum (10%). The date referred to in Section 15(a)(3) of Article II hereof is hereby established as December 31, 1963.

Form – Restated REA/RTB Mortgage (Restating  
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WHEREAS, the Underlying Mortgage provides that the Mortgagor shall, upon the request in writing of the holder or holders of not less than a majority in principal amount of the REA Notes or the Bank Notes, as hereinafter defined, duly authorize, execute, and deliver and record and file all such supplemental mortgages and conveyances as may reasonably be requested by such holder or holders to effectuate the intention of the Underlying Mortgage and to provide for the conveying, mortgaging and pledging of the property of the Mortgagor intended to be conveyed, mortgaged or pledged by the Underlying Mortgage to secure the payment of the principal of and interest on notes executed and delivered thereunder and pursuant thereto, or otherwise secured thereby, and the holders of all such notes have in writing requested the execution and delivery of such supplemental mortgage and security agreement pursuant to such provisions; and

WHEREAS, it is further intended by the Mortgagor, at the request and with the consent of the Mortgagees, as owners and holders of the Outstanding Notes, to amend and supplement the Underlying Mortgage in the respects hereinafter set forth; and

WHEREAS, the changes in the Underlying Mortgage which the Mortgagor and the Mortgagees, as holders of the Outstanding Notes, desire now to effect make advisable the consolidating and restating of each of the instruments, constituting the Underlying Mortgage in its entirety; and

WHEREAS, all acts, things, and conditions prescribed by law and by the articles of incorporation and bylaws of the Mortgagor have been duly performed and complied with to authorize the execution and delivery hereof and to make this Restated Mortgage, Security Agreement and Financing Statement (hereinafter called "this Restated Mortgage") a valid and binding mortgage, and to make this Restated Mortgage an amendment and supplement to, and a consolidation and restatement of, the Underlying Mortgage; and

WHEREAS, the Government and Bank are authorized to enter into this Restated Mortgage; and

WHEREAS, it is contemplated that the Outstanding REA Notes and the Current REA Note shall be secured hereby, as well as additional notes and refunding, renewal and substitute notes (hereinafter collectively called the "Additional REA Notes") which may from time to time be executed and delivered by the Mortgagor to the Government as hereinafter provided (the Outstanding REA Notes,

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 REA/RTB Common Mtg.) -- Telephone  
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the Current REA Note and any Additional REA Notes being hereinafter collectively called the "REA Notes"); and

WHEREAS, it is contemplated that the Outstanding Bank Notes shall be secured hereby, as well as additional notes and refunding, renewal and substitute notes (hereinafter collectively called the "Additional Bank Notes" and, together with the Additional REA Notes, hereinafter collectively called the "Additional Notes") which may from time to time be executed and delivered by the Mortgagor to the Bank as hereinafter provided (the Outstanding Bank Notes and any Additional Bank Notes being hereinafter collectively called the "Bank Notes", and the REA Notes and the Bank Notes, collectively, being hereinafter called the "notes"); and

WHEREAS, the Mortgagor now owns a telephone system and other facilities identified in the Property Schedule contained in the Granting Clause hereof (hereinafter called the "Existing Facilities"); and

WHEREAS, to the extent that any of the property described or referred to herein and in the Underlying Mortgage is governed by the provisions of the Uniform Commercial Code of any state (hereinafter called the "Uniform Commercial Code"), the parties hereto desire that the Underlying Mortgage and this Restated Mortgage, collectively, be regarded as a "security agreement" under the Uniform Commercial Code and that this Restated Mortgage be regarded as a "financing statement" under the Uniform Commercial Code for said security agreement.

NOW, THEREFORE, this Restated Mortgage, Security Agreement and Financing Statement

#### WITNESSETH

That each of the instruments constituting the Underlying Mortgage is hereby amended, supplemented, consolidated and restated to read in its entirety from and after the date of execution of this Restated Mortgage (the Underlying Mortgage, as amended, supplemented, consolidated and restated by this Restated Mortgage, being herein called "this Mortgage") as follows:

#### GRANTING CLAUSE

In order to secure the payment of the principal of and interest on the notes, according to their tenor and effect, and further to secure the due performance of the covenants, agreements and provisions contained in this Mortgage and the

Form – Restated REA/RTB Mortgage (Restating  
REA/RTB Common Mtg.) – Telephone  
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Consolidated Loan Agreement and to declare the terms and conditions upon which the notes are to be secured, the Mortgagor, in consideration of the premises, has executed and delivered this Mortgage, and has granted, bargained, sold, conveyed, warranted, assigned, transferred, mortgaged, pledged, and set over, and by these presents does hereby grant, bargain, sell, convey, warrant, assign, transfer, mortgage, pledge and set over, unto the Mortgagees, and assigns, all and singular the following-described property (hereinafter sometimes called the "Mortgaged Property"):

1

All right, title and interest of the Mortgagor in and to the Existing Facilities and buildings, plants, works, improvements, structures, estates, grants, franchises, easements, rights, privileges and properties real, personal and mixed, tangible or intangible, of every kind or description, now owned or leased by the Mortgagor or which may hereafter be owned or leased, constructed or acquired by the Mortgagor, wherever located, and in and to all extensions and improvements thereof and additions thereto, including all buildings, plants, works, structures, improvements, fixtures, apparatus, materials, supplies, machinery, tools, implements, poles, posts, crossarms, conduits, ducts, lines, whether underground or overhead or otherwise, wires, cables, exchanges, switches including, without limitation, host switches and remote switches, desks, testboards, frames, racks, motors, generators, batteries and other items of central office equipment, paystations, protectors, instruments, connections and appliances, office furniture and equipment, work equipment and any and all other property of every kind, nature and description, used, useful or acquired for use by the Mortgagor in connection therewith and including, without limitation, the property described in the following property schedule:

PROPERTY SCHEDULE

(a) The Existing Facilities are located in the following Counties: Anderson, Campbell, Morgan and Scott, in the State of Tennessee, and McCreary and Whitley, in the State of Kentucky.

(b) The property referred to in the last line of paragraph I of the Granting Clause includes the following described real estate:

MC CREARY COUNTY, KENTUCKY

1. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated April 24, 1969, executed and delivered by Maude Chitwood, as Grantor, to the Mortgagor, as Grantee, recorded on April 24, 1969, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 64, at Page 214, such property being located at:

A certain lot located at Pine Knot, McCreary County, on U.S. Highway No. 27, and bounded to-wit;

BEGINNING at a locust stump, the northwest corner of a lot now owned by Highland Telephone Cooperative, Inc. the same located at right of way of U.S. Highway No. 27;

Thence with said right of way N 27 W 20 feet to an iron pin; Thence N 55-30 E 60 feet to an iron pipe set in the ground; Thence S 27 E 30 feet to a stake, the same being a corner common to lot owned by Highland Telephone Cooperative, Inc.; Thence with said line of the Highland Cooperative; Inc. S 55-30 W 60 feet to the Beginning.

Being part of the same land conveyed from Edith Trammell and Fred Trammell, her husband, to Maudie Chitwood, widow, by Deed dated April 24, 1956, and recorded in Deed Book No. 51, page 387, McCreary County Clerk's Office.

2. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated January 21, 1969, executed and delivered by Maude Chitwood, as Grantor, to the Mortgagor, as Grantee, recorded on January 22, 1969, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 64, at page 87, such property being located at:

A certain tract or parcel of land lying and being in McCreary County, Kentucky, in the Town of Pine Knot, more particularly described as follows:

Beginning at a large locus stump located on the right of way of Highway No. 27, the same being the northwest corner of Lot No. 1, Thence along the said right of way north 27 deg. W 20 feet to a stake, from which a power pole at the junction of highway No. 92, bears North 24 deg. West 46 feet; thence north 55 deg. 30 min. East 60 feet to an iron pipe set in the ground from which the southwest corner of a store building bears North 27 deg. West 22 feet; Thence South 27 deg. East 20 feet to a stake a corner to Lot No. 1; Thence along the north line of the said lot South 55 deg. 30 min. West 60 feet to the place of beginning.

Being the same land conveyed from Edith Trammell and Fred Trammell to Maude Chitwood by Deed bearing date 24th day of April, 1956 and of record in Deed Book No. 51 at page 387, McCreary County Clerk's Office.

3. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated August 14, 1959, executed and delivered by Maude Chitwood, as Grantor, to the Mortgagor, as Grantee, recorded on September 18, 1959, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 54, at Page 372, such property being located at:

A certain tract or parcel of land lying and being in McCreary County, Kentucky, in the town of Pine Knot, adjacent to the north right of way of U. S. Highway 27 and southeast 66 feet from the south right of way of Kentucky Highway 92, at the junction of same with U. S. Highway 27.

BEGINNING at an iron pin, same being the southeast corner of this conveyance, said beginning being in the line of the fence that divides the Chitwood and Bell property and in the east right of way of U. S. Highway 27 and S 54 W 177.5 feet from the south side of a street that parallels U. S. Highway 27, references power pole at the Highway junction southside N 31-18 W 111 feet, 8" locust tree on the Bell property N 70 E 8.5 feet. Regarding the fence



as a base line with a magnetic bearing of N 54 E. then northwardly along U. S. Highway 27 east right of way, creating an interior angle of 81° 20' with the base line, a distance of 45 feet to a large locust tree; THENCE northeastwardly creating an interior angle of 98° 40' a distance of 60 feet to a stake in a garden references, southeast corner of the store building N 31 W 40.5 feet, southeast corner of a dwelling west of the store building N 81 W 36 feet; THENCE southeastwardly 45 feet creating an interior angle of 81° 20' to a stake in the base line; THENCE along the base line creating an interior angle of 98° 40', 60 feet to the beginning, containing 2,700 square feet. All distances were taken horizontal, magnetic bearing as of May 19, 1959.

4. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated December 13, 1958, executed and delivered by Pine Knot Telephone Company, Inc., as Grantor, to the Mortgagor, as Grantee, recorded on December 31, 1958, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 53 at Page 621, such property being located at:

A part of a tract of land, lying in McCreary County, Kentucky, in the town of Pine Knot, on the East side of U. S. Highway #27, about 200 yards North of Highway 92 and U. S. 27 intersection and being a portion of the land belonging to lessors herein and situate on the north west corner of same as described in Deed Book 46 at page 299 in the McCreary County Court Clerk's Office and more particularly described as follows:

BEGINNING on a stake in edge of Highway right-of-way and in Ancil Lovett fence line, and running an Eastern direction with said Lovetts line and fence 46 feet to a stone in said line, THENCE a Southern direction 30 feet to a set stone; THENCE a Western direction 46 feet to said Highway right-of-way; THENCE with Highway 30 feet to beginning.

5. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated December 1, 1958, executed and delivered by General Telephone Company, as Grantor, to the Mortgagor, as Grantee,

recorded on December 13, 1958, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 53, at Page 597, such property being more fully described therein.

6. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated November 10, 1958, executed and delivered by Anthony Neal and Fannie Neal, his wife, as Grantors to the Mortgagor, as Grantee, recorded on November 11, 1958, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 53, at Page 546, such property being located at:

Beginning at a stone, the beginning corner of Anthony Neal's tract on the waters of Lick Creek in McCreary County, Kentucky, witnessed by a pine and post oak,

Thence with his N 14-06 W 450 ft. line a distance of 49 feet to Vickers Survey Station 775 a corner common to the Stearns Coal & Lumber Company, Anthony Neal, (first party) Gronwall tract (now owned by Haney Winchester),

Thence leaving said Anthony Neal line S-54-00W 7 1/2 feet to a set stone on the north edge of a road leading from State Highway No. 478 to the property of Anthony Neal, (first party) and Lester Inman, this the point of beginning of the lot of said second party; thence parallel to Neal's (first party) 450 ft. line N. 14-06 W 100 ft. to a set stone; thence S. 75-54; W. 75 ft. to a set stone; thence S. 14-06 E. 100 ft. to a set stone also located on the north edge of the road leading from State Highway No. 478 to the property of Anthony Neal (first party) and Lester Inman, thence N. 75-54 E 75 ft. with the north line or edge of said road to the beginning corner, of the lot of second party.

Being a part of the surface of a tract conveyed to first party by the Stearns Coal & Lumber Company by deed dated April 20, 1934, and recorded in Deed Book 27, page 522 of the Clerk's Office of the McCreary County Court, Kentucky.

7. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated February 20, 1958, executed and delivered by Stearns Coal &

Lumber Company, a corporation, as Grantor to the Mortgagor, as Grantee, recorded on February 21, 1958, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 53, at Page 147, such property being located at:

Being in Stearns in McCreary County, Kentucky, consisting of a location of the magneto central office and facilities including all leases, easements, privileges and rights-of-way with no further description given in said instrument.

8. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated July 23, 1974, executed and delivered by Herbert Gilreath and wife, Lois Gilreath, as Grantors to the Mortgagor, as Grantee, recorded on July 29, 1974, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 75, at Page 515, such property being located at:

A certain tract of land located in Pine Knot, McCreary County, Kentucky, East of Highway No. 27 and South of Highway No. 92, and further described as follows:

Beginning at a steel pipe 1 foot from a large locust tree, thence along a line parallel with Highway No. 27, S 30 E 155 feet to a steel corner stake, thence N 53-30 E 205 feet to steel corner stake, thence N 42-30 W 149 feet to steel corner stake, thence S 55 W 171 feet to point of beginning. (Tract identified by Plat prepared from survey made 2-5-73 by Engineer Burris L. Smith, L.S. No. 1001).

Being the same land conveyed from Frank Ross, Jr., et al to Herbert Gilreath by Deed dated February 16, 1973, and of record in Deed Book No. 71, Page No. 592, McCreary County Court Clerk's Office.

9. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain deed dated November 19, 1982, executed and delivered by Mary Bryant, widow, as Grantor to the Mortgagor, as Grantee, recorded on November 19, 1982, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 97, at Page 333, such property being located at:

A certain tract of land situated in McCreary County, Kentucky and bound as follows:

BEGINNING at a steel pipe 20 feet from centerline of Eagle Road, approximately 150 feet from Highway No. 90 a corner common to Calvin Taylor and Mary Bryant; thence with said common property line N 45-15 W 30.0 feet to a steel pipe; thence leaving said Taylor line N 77-15 E 30.0 feet to a steel pipe a corner common to Mary Bryant; thence S 45-15 E 30.0 feet to a steel pipe 20 feet from center of Eagle Road a corner common to Mary Bryant; thence leaving said Bryant property and running with west right of way of Eagle Road S 77-15 W 30.0 feet to point of beginning. Containing 900.00 square feet.

Being a part of the same land conveyed to Ronald Bryant by deed from Leamon Perry, dated April 3, 1956, and recorded in Deed Book 51, page 321; and also part of the same land conveyed from George Baker to Ronald Bryant, dated October 6, 1958, and recorded in Deed Book 53, page 532; and the grantor herein also inherited one-half interest in this property from her husband as shown by affidavit of descent as recorded in Deed Book 92, page 200, and the remaining portion of this conveyance was obtained by conveyance from her children as set forth in the affidavit of descent and recorded in Deed Book 92, page 201, all in McCreary County Clerk's Office.

It is stipulated between the parties hereto in the event that Highland Telephone Cooperative, Inc., should abandon or cease to use this property for telephone or related use, this property herein shall revert to the grantor, Mary Bryant.

10. A certain tract of land situated McCreary County, in the State of Kentucky, described in a certain easement dated May 3, 1984, executed and delivered by Beulah Mountain Children's Home as Grantor to the Mortgagor, as Grantee, recorded on May 3, 1984, in the Office of the County Court Clerk of the County of McCreary in the State of Kentucky in Book 100 at Page 677, such property being located at:

A certain tract of land situated in McCreary County, Kentucky, adjacent to Highway 1047 and beginning on a steel pipe; thence north 60 degrees 00 west 300 feet to a steel pole; thence south 30 degrees 00 west 300

feet to a steel pipe; thence south 60 degrees 00 east 300 feet to a steel pipe; thence north 30 degrees east 300 feet to the beginning corner consisting of 2.066 acres. Surveyed by Burris L. Smith, registered land surveyor, State of Kentucky, on March 30, 1984.

MORGAN COUNTY, TENNESSEE

11. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated November 3, 1970, executed and delivered by Trustees of the Church of God of Prophecy, as Grantor, to the Mortgagor, as Grantee, recorded on February 9, 1971, in the Office of the Register of the County of Morgan in the State of Tennessee in Book F-6, at Page 54, such property being located at:

Situated in District No. Five of Morgan County, Tennessee:

Beginning on a set stone in the C.N.O.T. and P. Railroad R.O.W. line on the east side of Highway No. U.S. 27 in the Town of Sunbright, Tennessee, being on a ridge east of the Church of God, church house. Referenced to 10" white oak 6' and 4" White oak 6' thence from begininng N 73 deg. 45' W 285.5 feet to abolt in the R. O. W. line of U. S. No. 27, said corner standing at a point 7.7 feet from telephone pole and S 13 deg. 15' E. 65.4 feet from the Northwest corner of said Church, thence following said road R. O. W. line at S 10 deg. 05' E 146 feet to a stake in Highway U.S. 27 R.O.W. line, thence N 89 deg. 55' E 250 feet to a stake in said Railroad R.O.W. line, thence N 89 deg. 55' E 250 feet to a stake in said Railroad R.O.W. line, thence following Railroad R.O.W. line at due N 63 feet to the beginning containing 23.624 sq. ft. or 0.54 of an acre more or less.

All bearings are magnetic; distances are horizontal.

Surveyed by C. Eugene Olmstead November 7, 1970.  
Scale 1" = 100':

12. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated September 14, 1964, executed and delivered by Elmo Lyons, as Grantor, to the Mortgagor, as Grantee, recorded on September 17, 1964, in the Office of the Register of the County of Morgan

in the State of Tennessee in Book T-5, at Page 370, such property being located at:

Situated in District No. Seven (7) of Morgan County, Tennessee, and more fully described as follows:

Beginning at an iron pin located on the Northwest edge of the Twin Bridge Road, said pin being located N. 45-30 E., 109.7 feet from the intersection of the Deer Lodge and Twin Bridge Road; thence N. 41-09 W., 75 ft. to an iron pin; thence S 40-50 W., 75 ft. to an iron pin in the property line of D. E. Cooper; thence S. 41-09 E., 75 ft. to an iron pin in the right of way of the Twin Bridge Road; thence N. 40-50 E., along the right-of-way of the Twin Bridge Road, 75 ft. to the beginning. Being a portion of the property as was deeded to the party of the first part by deed dated October 28, 1958, from R. M. Lyons and wife, Regina Lyons, to the party of the first part, said deed being recorded in Deed Book "L" Vol. 5, page 11 in the Register's Office of Morgan County, Tennessee, to which specific reference is here made.

13. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated June 20, 1964, executed and delivered by Ethel Kreis, a widow, H. M. Shannon, Jr., and his wife, Edna Shannon, as Grantors, to the Mortgagor, as Grantee, recorded on June 20, 1964, in the Office of the Register of the County of Morgan in the State of Tennessee in Book T-5, at Page 200, such property being located at:

Situated in the Fourth Civil District of Morgan County, Tennessee, in the town of Wartburg, and more fully described as follows:

Beginning at the Northwest corner of lot No. 151, at the intersection of Spring St. and Cumberland St., as shown on the town plat of the town of Wartburg, Tennessee, recorded in Deed Book "J", page 89 in the Register's Office of Wartburg, Tennessee; thence S. 77 deg. 23 min. E., 123.5 ft.; thence S. 12 deg. 37 min. W., 120 ft.; thence N. 77 deg. 23 min. W. 123.5 ft. to the East boundary line of Cumberland St., being the Southwest corner of lot No. 151; thence North 12 deg. 37 min. East along Cumberland St., 120 ft. to the beginning. Being lot No. 151 and a portion of lot No. 152.

The above description includes a lot formerly conveyed to Highland Telephone Cooperative, Inc. by F. A. Kreis and wife Ethel Kreis by deed recorded in Deed Book G-5, page 496 in the Register's Office of Morgan County, Tennessee.

14. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated March 16, 1964, executed and delivered by Brisco Justice and wife, Agnes Justice, as Grantors, to the Mortgagor, as Grantee, recorded on April 2, 1964, in the Office of the Register of the County of Morgan in the State of Tennessee in Book T-5, at Page 53 such property being located at:

Being in the Tenth (10th) Civil District of Morgan County, Tennessee, consisting of a microwave tower location 2,580 feet north of the south line of entry 1986; 4,320 feet east of the east line of entry 1866 with the right to keep cleared a strip of land around tower 100 by 300 feet on each side. A site map is included in the description of this easement.

15. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated June 21, 1962, executed and delivered by James E. Patching, Jr., Sgt. George Edwin Patching, Marjorie Patching Langley, Elizabeth Patching Wilson and Helen Patching Stevenson, less and except that portion thereof conveyed by the Mortgagor, as grantor, to Floyd Leathers, as grantee, by deed dated April 26, 1965, and recorded in the Office of the Register of Morgan County in Deed Book U-5, page 741, as Grantor, to the Mortgagor, as Grantee, recorded on June 22, 1962, in the Office of the Register of the County of Morgan in the State of Tennessee in Book Q-5, at Page 583 such property being located at:

Lying and being in the Tenth (10th), formerly Third, Civil District of Morgan County, Tennessee and adjacent to the town of Oakdale and on the West side of Emory River, to-wit:

BEGINNING at a set stone on the North side of the County Road; thence North 35 degrees East 60 feet to a stone; thence North 32 degrees West 100 feet to a stone; thence South 35 degrees West 60 feet to a stone; thence South 32 degrees East 100 feet to the place of beginning.

EXCLUDING, however, that part of the real estate which is already owned by the party of the second part and fully described in Deed Book "Y," Volume 3 at Page 305. Also, excluding all mineral and mineral rights.

BEING part of the same property which was conveyed to the said James Edward Patching, now deceased, by the Trustees of the Methodist Church, Oakdale, Tennessee and which was duly recorded in the Register's Office of Morgan County, Tennessee in Deed Book "Y," Volume 2 at Pages 3.

16. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated March 23, 1962, executed and delivered by J. Ernest Summers, as Grantor, to the Mortgagor, as Grantee, recorded on March 28, 1962, in the Office of the Register of the County of Morgan in the State of Tennessee in Book Q-5, at Page 308 such property being located at:

Situated in District No. 5 of Morgan County, Tennessee, and being more particularly described as follows:

BEGINNING at the center point of a log road where it intersects the Deer Lodge - Sunbright Road on the northeast side, North 28° 00 minutes E 496.60' to the point of beginning; thence N 71° .52 minutes W 380.24' to a stake; thence S 157.08' to a stake; thence W 300' to a stake; thence N 300' to a stake, thence E 300' to a stake; thence S 122.92' to a stake; thence S 71° .52 minutes E 380.24' to a stake; thence S 28° 00 minutes 20' to the point of beginning, containing 2.06 acres more or less as shown on the plat attached hereto as Exhibit A and made a part of the Clyde Brummett survey dated March 21, 1962.

17. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated April 23, 1956, executed and delivered by O. C. Duncan and Roxie C. Duncan, his wife, as Grantors, to the Mortgagor, as Grantee, recorded on April 23, 1956, in the Office of the Register of the County of Morgan in the State of Tennessee in Book H-5, at Page 124, such property being located at:

Lying and being in the Fifth Civil District of Morgan County, Tennessee, about one-fourth mile south of Sunbright on the east side of U. S. Highway No. 27 and



on the west side of the C.N.O. & T. P. Railroad right-of-way, and more particularly described in the following manner:

BEGINNING at a stake in the East line of U. S. Highway 27, which stake is North 14 deg. 07 min. West 3.96 poles from the Northwest corner of the Church of God building; thence with the Northwest line of said Church lot (old Miller line) South 73 deg. 45 min. East 17.6 poles to an iron stake and stone standing in the West line of the right-of-way of the C.N.O.&T.P. railway; thence with the said right-of-way, North 6 deg. 45 min. West 5.64 poles to a Red Oak; thence North 10 deg. 23 min. West 5.24 poles to an iron stake, with post oak and Red Oak pointers; thence leaving said right-of-way, North 73 deg. 45 min. West, 17.5 poles to an iron stake in the East line of U. S. Highway #27, which iron stake stands about 5 feet South of a telephone pole; thence with said highway right-of-way line South 4 deg. 40 min. East, 5.36 poles to a concrete highway marker; thence South 7 deg. 07 min. East 5.56 poles to the beginning, containing two acres, more or less, as surveyed by Arthur D. Williams on February 6, 1956, which survey is based on the magnetic meridian.

And being a part of the property conveyed to the grantors herein by W. R. Babcock and wife by deed dated October 19, 1956, and appearing of record in Deed Book G-5 at page 363, et seq. in the office of the Register of Deeds of Morgan County, Tennessee.

18. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated December 31, 1956, executed and delivered by State of Tennessee, as Grantor, to the Mortgagor, as Grantee, recorded on January 15, 1957, in the Office of the Register of the County of Morgan in the State of Tennessee in Book I-5, at Page 262, such property being located at:

Situated in the Second Civil District of Morgan County, State of Tennessee, and which is more particularly described as follows:

BEGINNING at a point in the center line of State Highway 116, said point being N 28 1/4° W 629 feet from the northeast corner of the Petros T.V.A. substation chain link fence and also being N 15 1/4° E

203 feet from the most westerly corner of the 18.4 acre tract conveyed by Ellen W. Scott to the State of Tennessee deed of record in Book S-2, page 528 R. O M. C.; thence N 52° E 100 feet; thence N 38° W 30 feet; thence S 52° W 100 feet to the center line of said highway; thence with center line of said highway S 38 deg. E 30 feet to the BEGINNING, containing 7/100 of an acre more or less.

Being a part of the same property conveyed to the State of Tennessee by the East Tennessee Land Co. deed of record in Book F-2, pages 393 to 409 Register's Office Morgan County, Tennessee.

Bearings are magnetic 1956.

19. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated February 29, 1956, executed and delivered by Fred A. Kreis and wife, Ethel Kreis, as Grantors, to the Mortgagor, as Grantee, recorded on February 29, 1956, in the Office of the Register of the County of Morgan in the State of Tennessee in Book G-5, at Page 496 such property being located at:

Lying and being in the Fourth Civil District of Morgan County, Tennessee, in the Town of Wartburg, and described as follows:

Beginning on an iron stake, which is located the following courses and distances from a brick post 16" by 20" 4' high, which is the northeast corner of S. H. Justice's home lot #114; thence from said locating point South 12 deg. 37 min. West, crossing Spring Street, 300 feet; thence South 77 deg. 23 min. East, crossing Cumberland Street, to the Northwest corner of lot # 151, a distance of 60 feet, on same course, with North line of said lot, passing the Northeast corner of Lot #151 and Northwest corner of Lot #152 at 140 feet; thence on same course with North line of Lot #152, 13.5 feet, in all 153.5 feet to said beginning corner; thence South 12 deg. 37 min. West 50 feet to an iron stake; thence South 77 deg. 23 min. East 30 feet to an iron stake; thence North 12 deg. 37 min. East 50 feet to an iron stake; thence North 77 deg. 23 min. West with the North boundary line of Lot #152, 30 feet to the beginning;

As surveyed by Arthur D. Williams, Surveyor, February 6, 1956, survey being based on the magnetic meridian.

The reference in said description to certain lot numbers are to the map to the town of Wartburg, Tennessee, which is duly recorded in Deed Book J, page 89.

Said property being a part of Lot #152 in the plat of the Town of Wartburg, Tennessee, recorded in Deed Book J, page 89, in the office of the Register of Deeds of Morgan County.

20. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated September 30, 1964, executed and delivered by the State of Tennessee, as Grantor, to the Mortgagor, as Grantee, recorded on October 15, 1964, in the Office of the Register of the County of Morgan in the State of Tennessee in Book T-5 at Page 407 such property being located at:

Situated in the Second Civil District of Morgan County, Tennessee, and more particularly described as follows:

Beginning on an iron pin located North 52 deg. East 44.60 from the centerline of highway #116, also being North 30 deg. 10 minutes West 608.80 feet from the Northeast corner of the Petros TVA Substation chain link fence, and also being North 88 deg. 13 minutes West 89.00 from the Northwest corner of the Petros Sewer Disposal Plant chain link fence,  
Courses as follows:

1. North 52 deg. East 60.0 feet to an iron pin.
2. North 38 deg. West 70.0 feet to an iron pin.
3. South 52 deg. West 60.0 feet to an iron pin.
4. South 38 deg. East 70.0 feet to an iron pin, the point of beginning, according to the attached plan dated August 26, 1964 by Clyde A. Brummitt, Surveyor.

The above described includes the property previously conveyed to said Highland Telephone Cooperative by the State of Tennessee by deed of record in Book I, Vol. 5 Page 262-266 of Register's Office for Morgan County and is included herein in order to correct any defect in the description in the previous conveyance.

21. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated August 15, 1955, executed and delivered by Southern Continental Telephone Co., as Grantor, to the Mortgagor, as Grantee, recorded on August 16, 1955, in the Office of the Register of the County of Morgan in the State of Tennessee in Book F-5, at Page 540 such property being located at:

A lot in the incorporated Town of Oakdale, more particularly described as follows: Facing on West Main Street in said Town of Oakdale and beginning at the East end of the fifth (5th) step leading up to the front of the building on the real estate herein conveyed and on the West side of West Main Street; thence twenty-seven (27) feet and eight (8) inches along and with the retaining wall extending along the South boundary line of the lot herein conveyed to a point on said wall; thence Northwest twenty-two (22) feet and four (4) inches to an iron stake, said stake being five (5) feet from the Southwest corner of the building on said premises; thence fifty-five (55) feet Westwardly to the retaining wall between the lot herein conveyed and the church lot at a point thereon marked with a cross (X); thence forty-five (45) feet along and with this wall Northwestward to the retaining wall between W. L. Headrick and the Lot herein conveyed; thence along and with this wall one hundred fourteen (114) feet to the West side of Main Street; thence along and with said Street fifty-six (56) feet to the beginning; being the same premises conveyed by warranty deed from Gainesboro Telephone Company to Southern Continental Telephone Company dated January 2, 1931, and recorded January 15, 1931, in Deed Book Y, Volume 3, Page 305, of the Records of Morgan County, Tennessee.

22. A certain tract of land situated Morgan County, in the State of Tennessee, described in a certain deed dated February 4, 1974, executed and delivered by David L. Garrett and his wife, Mae A. Garrett, Harold C. Walker and his wife, Wilda J. Walker, as Grantors, to the Mortgagor, as Grantee, recorded on February 5, 1974, in the Office of the Register of the County of Morgan in the State of Tennessee in Book L-6 at Page 894 such property being located at:

Situated in the Fifth (5th) Civil District of Morgan County, Tennessee, and described as follows, to-wit:

BEGINNING at two black oaks growing from the same roots; thence Eastward with Millers Heirs line to Right-of-Way of the C.N.O. & T.P. Railways line; thence Northward with said railways Right-of-Way to Ray Babcocks line; thence Westwardly with said Babcocks line to the Highway line of U. S. 27; thence Southward with said Highway line to the beginning, Containing two (2) acres, more or less.

EXCLUDING, however the following tracts of land:

TRACT ONE: which was heretofore sold to Highland Telephone Cooperative, described as follows:

BEGINNING on a set stone in the C.N.O. & T.P. Railroad R.O.W. line on the East side of Highway No. U.S. 27 in the Town of Sunbright, Tennessee, being on a ridge East of the Church of God, church house. Referenced to 10" white oak 6', thence from beginning N. 73° 45' W. 285.5 feet to a bolt in the R.O.W. line of U.S. No. 27., said corner standing at a point 7.7 feet from telephone pole and S. 13° 15' E. 65.4 feet from the Northwest corner of said Church; thence following said road R.O.W. line at S. 10° 05' E. 146 feet to a stake in Highway U.S. 27 R.O.W. line; thence N. 89° 55' E. 250 feet to a stake in said Railroad R. O. W. line; thence following Railroad R.O.W. line at due N. 63 feet to the beginning, containing 23,624 sq. ft. or 0.54 of an acre, more or less. Leaving a balance of 1.54 acres herein conveyed.

TRACT TWO: BEGINNING at a point in a common property line to Highland Telephone Company and the grantors herein, said point of beginning being distant North 89 deg. 55 min. East 40 feet, more or less, from centerline Station 1016+23, more or less; thence with property line of Highland Telephone Company North 89 deg. 55 min. East 80 feet, more or less, to a point; thence with the proposed uncontrolled access right of way South 9 deg. 03 min. 16 sec. East 290 feet, more or less, to a point in common property line to Defoe Pemberton; thence South 84 deg. 57 min. West 80 feet, more or less, to the existing right of way of State Route No. 29; thence with the right of way of State Route No. 29 North 9 deg. 03 min. 16 sec. west 300 feet, more or less, to a point of BEGINNING. Containing 0.542 acres, more or less. Leaving a balance of 0.958 acres, more or less. By proceedings the State herein acquired a perpetual easement in,

over and through the above described tract of land for highway purposes as shown by the plans and specifications of said highway project. The grantors acquired title to said land under Deed of record in Deed Book H-6, Page 578, in the Register's Office of Morgan County, Tennessee.

By this conveyance a total of 0.958 acres is conveyed to the above grantees.

SCOTT COUNTY, TENNESSEE

23. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated May 14, 1964, executed and delivered by John Lee Watson, Mike Robbins, Seigal Jeffers, L. A. Carson and Ortel Woodward as and constituting the Scott County Board of Education, Malvin C. Sexton, Scott County Superintendent of Schools and Scott County, Tennessee, as Grantors, to the Mortgagor, as Grantee, recorded on May 29, 1964, in the Office of the Register of the County of Scott in the State of Tennessee in Book 96 at Page 117 such property being located at:

Lying and being in the Third Civil District of Scott County, Tennessee, in the Town of Huntsville on the north side of Tennessee Highway No. 63 and more particularly described in the following manner:

Beginning at a point in the northerly right-of-way line of Highway No. 63 which point is located by line commencing at the intersection of the southerly right-of-way line of Tennessee Highway No. 63 and Main Street on the plat of the Town of Huntsville, Tennessee, as recorded in the Office of Register of Deeds of Scott County, Tennessee, at Huntsville; thence running from said point in an easterly direction and with the southerly right-of-way line of Tennessee Highway No. 63, 323 feet to a point; thence in a northerly direction and at right angles to the southerly right-of-way line of Tennessee Highway No. 63, across said highway to northerly right-of-way line of Highway No. 63; thence and at right angles, to the northerly right-of-way line of Highway No. 63 North 10 deg., 30 min. East a distance of 30 feet to a post being the beginning corner of the premises herein described; thence south 79 deg. 30 min. E, a distance of 50 feet to a post; thence North 02 deg., 01 min. West a distance of 18.50 feet to an iron pin; thence

North 79 deg. 30 min. West, a distance of 46 feet to an iron pin; thence South 10 deg. 30 min. West, a distance of 18 feet to the point of beginning; and being a part of the same property conveyed to the Scott County Board of Education by Miss Mary H. Williams and Miss Jane Williams by Warranty Deed duly recorded in the Register's Office of Scott County, Tennessee, in Deed Book 80, page 198.

24. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated May 21, 1962, executed and delivered by W. H. Keeton and wife, Lela Keeton, as Grantors, to the Mortgagor, as Grantee, recorded on May 22, 1962, in the Office of the Register of the County of Scott in the State of Tennessee in Book 93 at Page 327 such property being located at:

Lying and being in the Fourth Civil District of Scott County, Tennessee, near the Town of Oneida, and more fully described as follows:

A lot measuring 50' by 50' being a part of the home place property of W. H. Keeton and wife, Lela Keeton, and located at latitude 36 degrees, 29 minutes, 10 seconds, and longitude 84 degrees, 29 minutes and 59 seconds, and the elevation 1,748 feet above mean sea level. Said property is square in shape and surrounded on all sides by property owned by W. H. Keeton and wife, Lela Keeton over which an easement is granted to allow the Highland Telephone Cooperative, Inc., its employees or agents to travel to reach its property. Furthermore, an easement is granted to allow Highland Telephone Cooperative, Inc., its employees or agents to remove obstructing timber that may interfere with the operation of the microwave system.

25. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated July 17, 1961, executed and delivered by Eva Cross Massey, as Grantor, to the Mortgagor, as Grantee, recorded on July 29, 1961, in the Office of the Register of the County of Scott in the State of Tennessee in Book 92, at Page 58 such property being located at:

Lying and being in the Fourth Civil District of Scott County, Tennessee within the confines of the City of Oneida and located generally South of Second Street and West of Bank Street and fronting on an alley, said

property being adjacent to the existing telephone company central office equipment building. Said existing telephone office being more fully described in that certain deed from Eva Cross Massey to Highland Telephone Cooperative, Inc., dated 12 December, 1956, and appearing of record in Warranty Deed Book 87, page 192, in the Office of the Register of Deeds in Scott County, Tennessee to which reference is here made. The premises herein sought are more fully described as follows:

Beginning at an iron pin the South East corner of a Telephone Company Property 259 feet south of Second Street and on the West side of an alley; thence South 30 feet to an iron pin, thence West 128 feet to a stake; thence North 60 feet to a stake at an alley; thence East 58 feet to a stake in the Telephone Company's line; thence South 30 feet to a stake; thence East 70 feet to the beginning and containing 5,580 square feet, plus or minus.

A map or plat of the property sought to be acquired is attached hereto and marked for identification as Exhibit A. The territory sought to be acquired is enclosed by a red line on said Exhibit A.

26. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated January 24, 1961, executed and delivered by Cal Carlie Ellis and wife, Laura Ellis, as Grantors, to the Mortgagor, as Grantee, recorded on February 4, 1961, in the Office of the Register of the County of Scott in the State of Tennessee in Book 91, at Page 295 such property being located at:

Lying and being in the Second Civil District of Scott County, Tennessee, in the Town of Robbins, and more fully described as follows:

Beginning on a stone on the East side of U.S. Highway No. 27, which stone is located on the southwest corner of the property line between Highland Telephone Cooperative, Inc. and Cal Carlie Ellis and wife, Laura Ellis, thence in an easterly direction along the aforementioned property line a distance of fifty (50) feet to a stone; thence in a southerly direction parallel with Highway No. 27 line a distance of fifteen (15) feet to a stone; thence in a westerly direction and parallel with the said northerly line a



distance of fifty (50) feet to a stone in the said Highway line; thence in a northerly direction with the said Highway line fifteen (15) feet to the beginning.

27. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated December 12, 1956, executed and delivered by Eva Cross Massey, as Grantor, to the Mortgagor, as Grantee, recorded on December 13, 1956, in the Office of the Register of the County of Scott in the State of Tennessee in Book 87, at Page 102 such property being located at:

Lying and being in the Fourth Civil District of Scott County, Tennessee, within the corporate limits of the Town of Oneida, and more fully described in the following manner, that is to say:

Beginning at a point designated by an iron pin on the west side of an alley, which beginning point is located South 229 feet of a point in Second Street according to the plat and plans of the Town of Oneida as the same are recorded in the office of the Register of Deeds of Scott County, Tennessee, and said point in Second Street being located 150 feet west of the intersection of Second and Bank Streets within the Town of Oneida. Thence with said beginning point due South 30 feet to a point designated by an iron pin; thence due West 70 feet to an iron pin; thence North 30 feet to an iron pin; thence due East 70 feet to the point of beginning, and containing twenty-one hundred (2,100) square feet, as formulated and surveyed by W. A. Terry on the 8th day of December, 1956.

28. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated December 28, 1955, executed and delivered by Cal Carlie Ellis and wife, Laura Ellis, as Grantors, to the Mortgagor, as Grantee, recorded on January 3, 1955, in the Office of the Register of the County of Scott in the State of Tennessee in Book 86 at Page 197 such property being located at:

Lying and being in the Second Civil District of Scott County, Tennessee, in the Town of Robbins, and more fully described as follows:

Beginning on a stone on the East side of U.S. Highway No. 27, which stone is located on the south side of a road leading from said highway No. 27 in an eastwardly

direction to a barn, the stone being at the intersection of said road and highway; thence in an easterly direction with southerly line of said road leading to said barn a distance of fifty (50) feet to a stone; thence in a southerly direction parallel with Highway No. 27 line a distance of thirty (30) feet to a stone; thence in a westerly direction and parallel with the said northerly line a distance of fifty (50) feet to a stone in the said Highway line; thence in a northerly direction with the said highway line thirty (30) feet to the beginning.

29. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated December 30, 1955, executed and delivered by Russell Murley, Mike Robbins, William Allen, W. H. Carson and Ortel Woodward as and constituting the Scott County Board of Education, Mrs. Ora S. Robbins, Scott County Superintendent of Schools, and Scott County, Tennessee, as Grantors, to the Mortgagor, as Grantee, recorded on January 4, 1955, in the Office of the Register of the County of Scott in the State of Tennessee in Book 86, at Page 199 such property being located at:

Lying and being in the Third Civil District of Scott County, Tennessee, in the Town of Huntsville, on the north side of Tennessee Highway No. 63, and more particularly described in the following manner:

Beginning at a point in the northerly right of way line of Highway No. 63, which point is located by a line commencing at the intersection of the southerly right of way line of Tennessee Highway No. 63 and Main Street on the plat of the Town of Huntsville, Tennessee, as recorded in the office of the Register of Deeds of Scott County, Tennessee, at Huntsville; thence running from said point in an easterly direction and with the southerly right of way line of Tennessee Highway No. 63 323 feet to a point; thence in a northerly direction and at right angles to the southerly right of way line of Tennessee Highway No. 63 across said highway to the northerly right of way line of Highway No. 63, being the beginning corner of the premises herein described. From said beginning corner thence and at right angles to the northern right of way line of Highway No. 63 in a northerly direction a distance of thirty (30) feet to a stake, thence running in an easterly direction and at right angles to the first line of the premises herein

described a distance of fifty (50) feet to a stake, thence in a southerly direction and at right angles to the second line of the premises herein described and parallel to the first line a distance of thirty (30) feet to a stake in the northern right of way line of Tennessee Highway No. 63, thence in a westerly direction and with the northern right of way line of Highway No. 63 a distance of fifty (50) feet to the point of beginning, being a rectangular plot measuring 30 feet in depth and 50 feet in width.

30. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated January 4, 1974, executed and delivered by Fred Sexton and wife, Glaria E. Sexton, as Grantors, to the Mortgagor, as Grantee, recorded on January 23, 1974, in the Office of the Register of the County of Scott in the State of Tennessee in Book 132, at Page 261 such property being located at:

District No. Two of Scott County, Tennessee and more particularly described as follows:

BEGINNING at an iron post, being the Northeast corner of the Highland Telephone Cooperative's Robbins Exchange property; thence S 67 Deg. 50 min. E 50 feet to an iron pin; thence S 26 deg. 10 min. W 45 feet; thence North 67 deg. 50 min. W 50 feet; thence N 26 deg. 10 min. E 45 feet to the point of beginning.

Being a portion of the property acquired by the parties of the first part by Warranty Deed of record in the Register's Office for Scott County, Tennessee, in Warranty Deed Book 109, Page 97.

31. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated October 12, 1978, executed and delivered by Ernest Rector and wife, Reeda Rector, as Grantors, to the Mortgagor, as Grantee, recorded on October 13, 1978, in the Office of the Register of the County of Scott in the State of Tennessee in Book 151 at Page 642 such property being located at:

District No. One of Scott County, Tennessee, North of the recently constructed Tennessee Highway No. 63 at the intersection of the county road from Norma, Tennessee, more specifically bounded and located as follows, to wit:

BEGINNING at a stake in a small branch, the east boundary of the Grantors and up stream 195.0 feet from the north right-of-way of the new highway, witness 6" Wild Cherry N 42 deg. 30 min. E 8.0 feet, then N 0 deg. 30 min. W 20.0 feet to a stake, witness 4" Wild Cherry N 10 deg. 45 min. W 12.0 feet; thence S 89 deg. 30 min. W 20.0 feet to a stake, witness 4" Wild Cherry N 8 deg. 30 min. E 13.0 feet; thence S 0 deg. 30 min. E 20.0 feet to a stake; thence N 89 deg. 30 min. E 20.0 feet to the beginning, having an area of 400 square feet.

There is further conveyed herewith an easement for access to the foregoing tract over other properties of the grantors as follows:

BEGINNING at the beginning of the above area then S 1 deg. 00 min. E 195.0 feet, down the small branch, to the north right-of-way of the recently improved Tennessee Highway No. 63. This access privilege shall not exceed 10.0 feet in width adjoining the west side of the surveyed tangent.

Surveyed by Walter H. Pemberton, T.R.L.S. No. 27, Huntsville, Tennessee.

32. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated October 12, 1978, executed and delivered by Pershing Chitwood and wife, Prillie Chitwood, as Grantors, to the Mortgagor, as Grantee, recorded on October 13, 1978, in the Office of the Register of the County of Scott in the State of Tennessee in Book 151 at Page 646 such property being located at:

District No. Five of Scott County, Tennessee in that vicinity of the county known as Pleasant Grove, more specifically bounded and located as follows, to wit:

BEGINNING on a stake at the south side of the now Isham County Road where the old Isham County Road intersects same, witnesses the most western one of a group of large post oaks N 38 deg. E 9.6 feet, the southeast corner of the foundation of former residence of T. Q. Wilson's father, N 44 deg. W 70.7 feet, then N 88 deg. 00 min. E 12.0 feet to a stake; thence S 2 deg. 00 min. E 12.0 feet to a stake; thence S 88 deg. 00 min. W 12.0 feet to a stake; thence N 2 deg. 00

min. W 12.0 feet along the east bank of the old road, to the beginning, containing 144.0 square feet.

Surveyed by Walter H. Pemberton, Huntsville, Tennessee, T.R.L.S. No. 27.

33. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated November 22, 1978, executed and delivered by McKinley Lay, as Grantor, to the Mortgagor, as Grantee, recorded on November 22, 1978, in the Office of the Register of the County of Scott in the State of Tennessee in Book 152, at Page 255 such property being located at:

District No. One of Scott County, Tennessee in that area of the county northeast of and near the Straight Fork School, near the north right of way of the recently improved Tennessee Highway No. 63, more specifically bounded and located as follows to wit:

BEGINNING at a stake located N 78 deg. 00 min. W 132.4 feet from the northwest corner of the north headwall of the first culvert crossing said highway east of the Straight Fork School property and N 1 deg. 40 min. W 36.0 feet from a Plateau Electric Coop. main line pole, then N 0 deg. 33 min. W 12.0 feet to a stake; thence S 89 deg. 27 min. W 12.0 feet to a stake; thence S 0 deg. 33 min. E 12.0 feet to a stake; thence N 89 deg. 27 min. E 12.0 feet to the beginning, containing 144.0 square feet.

Surveyed 10-19-78 by Walter H. Pemberton, T.R.L.S. No. 27, Huntsville, Tennessee.

The premises herein conveyed shall be used for telephone purposes and should they be abandoned, same shall revert to the grantor or his assigns.

34. A certain tract of land situated Scott County, in the State of Tennessee, described in a certain deed dated May 23, 1990, executed and delivered by Renfro Webb and wife, Lottie Webb, as Grantor, to the Mortgagor, as Grantee, recorded on May 23, 1990, in the Office of the Register of the County of Scott in the State of Tennessee in Book 187 at Page 667 such property being located at:

Lying and being in the Fourth Civil District of Scott County, Tennessee, within the corporate limits of the

Town of Oneida, and more fully described in the following manner, that is to say:

Beginning at a point designated by an iron pin, a corner of the Highland Telephone Company property, said pin is 289 feet south of a point in Second Street, and is on the west side of a street, thence south 1 degree west 156 1/2 feet to a stake at the King property. Thence S. 74 degrees west 135 feet to a stake; thence North 1 degree East 204 feet to the Telephone Company property; thence East 128 feet to the beginning and containing twenty-three thousand six hundred and seventy square feet (23,670) square feet, as formulated and surveyed by Elso Terry on the 22nd day of May, 1961.

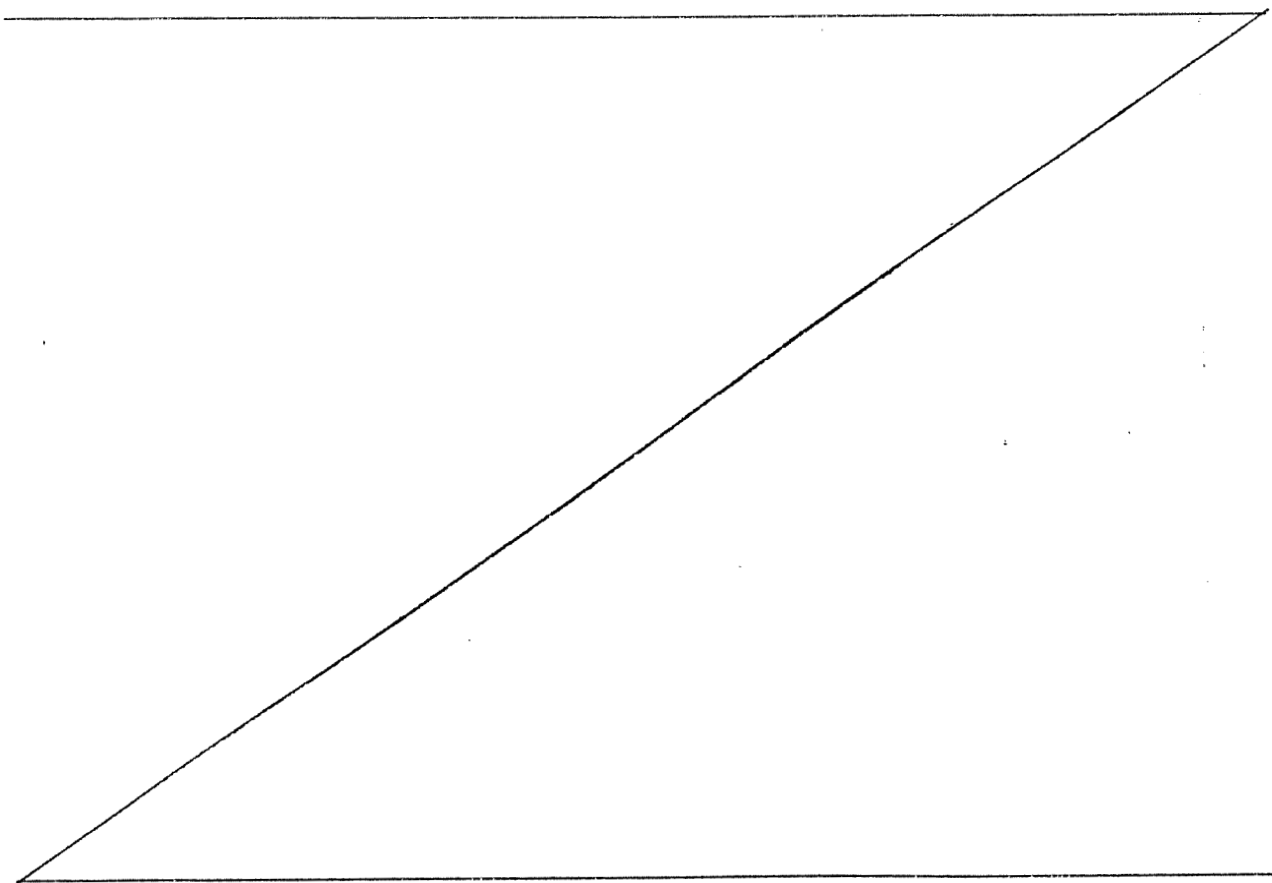
And being the same property conveyed to Mrs. Ruth Thompson from Eva Cross Massey by warranty deed recorded in Deed Book 92, at Page 15, in the Register of Deeds, Office of Scott County, Tennessee.

And being the same property conveyed to Renfro Webb and wife, Lottie Webb, from Ruth Thompson by warranty; deed recorded in the Register of Deeds Office for Scott County in Warranty Deed Book 165 at page 535 on the 6th day of April, 1983.

The legal description and the state of title of the property have been furnished to the draftsman by the Grantor(s), by third parties or from the record. The draftsman assumes no liability as to the accuracy thereof.

TOGETHER WITH all plants, works, structures, erections, reservoirs, dams, buildings, fixtures and improvements now or hereafter located on any of the properties conveyed by any and all of the aforesaid deeds mentioned above and all tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anywise appertaining.

The description of each of the properties conveyed by and through the provisions of the aforesaid deeds is by reference made a part hereof as though fully set forth at length herein.



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II

All right, title and interest of the Mortgagor in, to and under any and all grants, privileges, rights of way and easements now owned, held, leased, enjoyed or exercised, or which may hereafter be owned, held, leased, acquired, enjoyed or exercised, by the Mortgagor for the purposes of, or in connection with, the construction or operation by or on behalf of the Mortgagor of telephone properties, facilities, systems or businesses, whether underground or overhead or otherwise, wherever located;

III

All right, title and interest of the Mortgagor in, to and under any and all licenses, franchises, ordinances, privileges and permits heretofore granted, issued or executed, or which may hereafter be granted, issued or executed, to it or to its assignors by the United States of America, or by any state, or by any county, township, municipality, village or other political subdivision thereof, or by any agency, board, commission or department of any of the foregoing, authorizing the construction, acquisition, or operation of telephone properties, facilities, systems or businesses, insofar as the same may by law be assigned, granted, bargained, sold, conveyed, transferred, mortgaged, or pledged;

IV

All right, title and interest of the Mortgagor in, to and under any and all contracts heretofore or hereafter executed by and between the Mortgagor and any person, firm, or corporation relating to the Mortgaged Property together with any and all other accounts, contract rights and general intangibles (as such terms are defined in the applicable Uniform Commercial Code), and all stock, bonds, notes, debentures, commercial paper, subordinated capital certificates, securities, obligations of or beneficial interests or investments in any corporation, association, partnership, joint venture, trust, Government or any agency or department thereof, or any other entity of any kind, heretofore or hereafter acquired by the Mortgagor;

V

Also, all right, title and interest of the Mortgagor in and to all other property, real or personal, tangible or intangible, of every kind, nature and description, and wheresoever situated, now owned or leased or hereafter acquired by the Mortgagor, it being the intention hereof that all such property now owned or



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leased but not specifically described herein or acquired or held by the Mortgagor after the date hereof shall be as fully embraced within and subjected to the lien hereof as if the same were now owned by the Mortgagor and were specifically described herein to the extent only, however, that the subjection of such property to the lien hereof shall not be contrary to law;

Together with all rents, income, revenues, profits and benefits at any time derived, received or had from any and all of the above-described property of the Mortgagor.

Provided, however, that except as hereinafter provided in section 12(b) of article II hereof, no automobiles, trucks, trailers, tractors or other vehicles (including without limitation aircraft or ships, if any) owned or used by the Mortgagor shall be included in the Mortgaged Property.

TO HAVE AND TO HOLD all and singular the Mortgaged Property unto the Mortgagees and their respective assigns forever, to secure equally and ratably the payment of the principal of and interest on the notes, according to their tenor and effect, without preference, priority or distinction as to interest or principal (except as otherwise specifically provided herein) or as to lien or otherwise of any note over any other note by reason of the priority in time of the execution, delivery or maturity thereof or of the assignment or negotiation thereof, or otherwise, and to secure the due performance of the covenants, agreements and provisions herein and in the Consolidated Loan Agreement contained, and for the uses and purposes and upon the terms, conditions, provisos and agreements hereinafter expressed and declared.

## ARTICLE I

### ADDITIONAL NOTES

SECTION 1. The Mortgagor, when authorized by resolution or resolutions of its board of directors, may from time to time (1) execute and deliver to the Government one or more Additional REA Notes to evidence loans made by the Government to the Mortgagor pursuant to the Act, or to evidence indebtedness of the Mortgagor incurred by the assumption by the Mortgagor of the indebtedness of a third party or parties to the Government created by a loan or loans theretofore made by the Government to such third party or parties pursuant to the Act, and (2) execute and deliver to the Bank one or more Additional Bank Notes to evidence loans made by the Bank to the Mortgagor pursuant to the Act, or to evidence in-

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debtedness of the Mortgagor incurred by the assumption by the Mortgagor of the indebtedness of a third party or parties to the Bank created by a loan or loans theretofore made by the Bank to such third party or parties pursuant to the Act. The Mortgagor, when authorized by resolution or resolutions of its board of directors, may also from time to time execute and deliver one or more Additional Notes to refund any note or notes at the time outstanding and secured hereby, or in renewal of, or in substitution for, any such outstanding note or notes. Additional Notes shall contain such provisions and shall be executed and delivered upon such terms and conditions as the board of directors of the Mortgagor in the resolution or resolutions authorizing the execution and delivery thereof and the relevant lender shall prescribe; provided, however, that the outstanding principal balances owing on the notes shall not at any one time exceed the amount identified in the Instruments Recital as the Maximum Debt Limit, and no note shall mature more than fifty (50) years after the date hereof. Additional Notes, including refunding, renewal and substitute notes, when and as executed and delivered, shall be secured by this Mortgage, equally and ratably with all other notes at the time outstanding, without preference, priority, or distinction of any of the notes over any other of the notes by reason of the priority of the time of the execution, delivery or maturity thereof or of the assignment or negotiation thereof. As used in this Mortgage, the term "directors" includes trustees.

SECTION 2. The Mortgagor, when authorized by resolution or resolutions of its board of directors, may from time to time execute, acknowledge, deliver, record and file mortgages supplemental to this Mortgage which thereafter shall form a part hereof, for the purpose of formally confirming this Mortgage as security for the notes. Nothing herein contained shall require the execution and delivery by the Mortgagor of a supplemental mortgage in connection with the issuance hereunder or the securing hereby of notes except as hereinafter provided in section 12 of article II hereof.

## ARTICLE II

### PARTICULAR COVENANTS OF THE MORTGAGOR

The Mortgagor covenants with the Mortgagees and the holders of notes secured hereby (hereinafter sometimes collectively called the "noteholders") and each of them as follows:

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SECTION 1. The Mortgagor is duly authorized under its articles of incorporation and by-laws and the laws of the State of its incorporation and all other applicable provisions of law to execute and deliver the Outstanding REA Notes, the Outstanding Bank Notes, the Current REA Note and this Mortgage and to execute and deliver Additional Notes; and all corporate action on its part for the execution and delivery of the Outstanding REA Notes, the Outstanding Bank Notes, the Current REA Note and this Mortgage has been duly and effectively taken; and the Outstanding REA Notes, the Outstanding Bank Notes, the Current REA Note and this Mortgage are, or when executed and delivered will be, the valid and enforceable obligations of the Mortgagor in accordance with their respective terms.

SECTION 2. The Mortgagor warrants that it has good right and lawful authority to mortgage the property described in the granting clauses of this Mortgage for the purposes herein expressed, and that the said property is free and clear of any deed of trust, mortgage, lien, charge or encumbrance thereon or affecting the title thereto, except (i) the lien of this Mortgage and taxes or assessments not yet due; (ii) deposits or pledges to secure payment of workmen's compensation, unemployment insurance, old age pensions or other social security; and (iii) deposits or pledges to secure performance of bids, tenders, contracts (other than contracts for the payment of borrowed money), leases, public or statutory obligations, surety or appeal bonds, or other deposits or pledges for purposes of like general nature in the ordinary course of business.

The Mortgagor will, so long as any of the notes shall be outstanding, maintain and preserve the lien of this Mortgage superior to all other liens affecting the Mortgaged Property, and will forever warrant and defend the title to the property described as being mortgaged hereby to the Mortgagees against any and all claims and demands whatsoever. The Mortgagor will promptly pay or discharge any and all obligations for or on account of which any such lien or charge might exist or could be created and any and all lawful taxes, rates, levies, assessments, liens, claims or other charges imposed upon or accruing upon any of the Mortgagor's property (whether taxed to the Mortgagor or to any noteholder), or the franchises, earnings or business of the Mortgagor, as and when the same shall become due and payable; and whenever called upon so to do the Mortgagor will furnish to the Mortgagees or to any noteholder adequate proof of such payment or discharge.

SECTION 3. The Mortgagor will duly and punctually pay the principal of and interest on the notes at the dates and places and in the manner provided therein, according to the true intent and meaning thereof, and all other sums becoming due hereunder.

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SECTION 4. (a) The Mortgagor will at all times, so long as any of the notes shall be outstanding, take or cause to be taken all such action as from time to time may be necessary to preserve its corporate existence and to preserve and renew all franchises, rights of way, easements, permits and licenses now or hereafter to it granted or upon it conferred, and will comply with all valid laws, ordinances, regulations and requirements applicable to it or its property. The Mortgagor will not, without the approval in writing of the holder or holders of not less than a majority in principal amount of the REA Notes at the time outstanding (hereinafter called the "majority REA noteholders") and of the holder or holders of not less than a majority in principal amount of the Bank Notes at the time outstanding (hereinafter called the "majority Bank noteholders"), take or suffer to be taken any steps to reorganize, or to consolidate with or merge into any other corporation, or to sell, lease or transfer (or make any agreement therefor) the Mortgaged Property, or any part thereof.

(b) If this subsection is made applicable by the Instruments Recital, then nothing herein contained shall prevent any such reorganization, consolidation or merger provided that the lien and security of this Mortgage and the rights or powers of the Mortgagees and the noteholders hereunder shall not thereby be impaired or adversely affected, and provided that upon such reorganization, consolidation or merger, the due and punctual payment of the principal of and interest on the notes according to their tenor and the due and punctual performance of all covenants and conditions of this Mortgage shall be assumed by the corporation formed by such reorganization, consolidation or merger, and the lien of this Mortgage shall remain a superior lien upon the property owned by the Mortgagor at the time of such reorganization, consolidation or merger and upon any improvements or additions to such property, either prior to or subsequent to such reorganization, consolidation or merger.

(c) The Mortgagor may, however, without obtaining the approval of the holder or holders of any of the notes at the time outstanding, at any time or from time to time so long as the Mortgagor is not in default hereunder, sell or otherwise dispose of, free from the lien hereof, any of its property which is neither necessary to nor useful for the operation of the Mortgagor's business, or which has become obsolete, worn out or damaged or otherwise unsuitable for the purposes of the Mortgagor; provided, however, that the Mortgagor shall: (1) to the extent necessary, replace the same by, or substitute therefor, other property of the same kind and nature, which shall be subject to the lien hereof, free and clear of all prior liens, and apply any proceeds derived from such sale or other disposition of

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such property and not needed for the replacement thereof to the payment of the indebtedness evidenced by the REA Notes and the Bank Notes in the proportions which the aggregate principal balances then owing on the REA Notes and the aggregate principal balances then owing on the Bank Notes, respectively, bear to the aggregate principal balances then owing on the REA Notes and the Bank Notes, collectively, and shall be applied to such notes and installments thereof as may be designated by the respective noteholders at the time of any such receipt; or (2) immediately upon the receipt of the proceeds of any sale or other disposition of said property, apply the entire amount of such proceeds to the payment of the indebtedness evidenced by the REA Notes and the Bank Notes in the proportions and in the manner provided for in (1) above; or (3) deposit all or such part of the proceeds derived from the sale or other disposition of said property as the majority REA noteholders and the majority Bank noteholders shall specify in such restricted bank accounts as such holder or holders shall designate, and shall use the same only for such additions to or improvements of the Mortgaged Property and on such terms and conditions as such holder or holders shall specify.

SECTION 5. The Mortgagor will at all times maintain and preserve the Mortgaged Property in good repair, working order and condition, and will from time to time make all needful and proper repairs, renewals, and replacements, and useful and proper alterations, additions, betterments and improvements, and will, subject to contingencies beyond its reasonable control, at all times keep its plant and properties in continuous operation and use all reasonable diligence to furnish the subscribers served by it through the Mortgaged Property with adequate telephone service.

SECTION 6. Except as specifically authorized in writing in advance by the majority REA noteholders and the majority Bank noteholders, the Mortgagor will purchase all materials, equipment, supplies and replacements to be incorporated in or used in connection with the Mortgaged Property outright, and not subject to any conditional sales agreement, chattel mortgage, bailment lease, or other agreement reserving to the seller any right, title or lien.

SECTION 7. (a) The Mortgagor will take out, as the respective risks are incurred, and maintain the following classes and amounts of insurance: (1) fidelity bonds covering each officer and employee of the Mortgagor in not less than the following amounts, based on the estimated annual gross revenues (including gross toll collected) of the Mortgaged Property:

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<u>Annual Gross Revenue</u>			<u>Amount of Coverage</u>
	Less than	\$ 200,000	\$ 50,000
From	\$200,001 to	400,000	100,000
	400,001 to	600,000	250,000
	600,001 to	800,000	300,000
	800,001 to	1,000,000	400,000
	over	1,000,000	500,000

and each collection agent of the Mortgagor shall be included in such fidelity bonds for not less than \$2,500, or 10 percent of the highest amount collected annually by any one collection agent; whichever is greater; (2) workmen's compensation insurance covering all employees of the Mortgagor, in such amounts as may be required by law, or if the Mortgagor or any of its employees are not subject to the workmen's compensation laws of the State or States in which the Mortgagor conducts its operations, then its workmen's compensation policy shall provide voluntary compensation coverage to the same extent as though the Mortgagor and such employees were subject to such laws; and including occupational disease liability coverage, and "additional medical" coverage of not less than \$10,000 in States where full medical coverage is not required by law; (3) public liability and property damage insurance, covering ownership liability, and all operations of the Mortgagor, with limits for bodily injury or death of not less than \$1,000,000 aggregate for the policy period; (4) liability insurance on all motor vehicles, trailers, semitrailers, and aircraft used in the conduct of the Mortgagor's business, whether owned, non-owned or hired by the Mortgagor, with bodily injury limits of not less than \$1,000,000 for one person and \$1,000,000 for each accident, and with property damage limits of \$1,000,000 for each accident; in connection with aircraft liability, also passenger bodily injury limits of \$1,000,000 per person and \$1,000,000 for each accident; (5) comprehensive, or separate fire, theft and windstorm insurance covering loss of or damage to all owned motor vehicles, trailers, and aircraft of the Mortgagor, having a unit value in excess of \$1,000, in an amount not less than the actual cash value of the property insured; and (6) fire and extended coverage insurance, designating the Government and the Bank as mortgagees in the policy, on each building, each building and its contents, and materials, supplies, poles and crossarms, owned by the Mortgagor, having a value at any one location in excess of \$5,000, or in excess of one percent of the total plant value, whichever is larger, and in an amount not less than 80 percent of the current cost to replace the property new, less actual depreciation.

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The Mortgagor will also, from time to time, increase or supplement the classes and amounts of insurance specified above to the extent required to conform to the accepted practice of the telephone industry for companies of the size and character of the Mortgagor. The Mortgagor will, upon request of the majority REA noteholders or the majority Bank noteholders, submit to the noteholder or noteholders designated in such request a schedule of its insurance in effect on the date specified in such request. If the Mortgagor shall at any time fail or refuse to take out or maintain insurance or to make changes in respect thereof upon appropriate request by such noteholder or noteholders, such noteholder or noteholders may take out such insurance on behalf and in the name of the Mortgagor, and the Mortgagor will pay the cost thereof.

(b) In the event of damage to or the destruction or loss of any portion of the Mortgaged Property which shall be covered by insurance, unless the majority REA noteholders and the majority Bank noteholders shall otherwise agree, the Mortgagor shall replace or restore such damaged, destroyed or lost portion so that the Mortgaged Property shall be in substantially the same condition as it was in prior to such damage, destruction or loss, and shall deposit the proceeds of the insurance in the Special Construction Account required by the Consolidated Loan Agreement to be applied for that purpose. The Mortgagor shall replace the loss or shall commence such restoration promptly after such damage, destruction or loss shall have occurred and shall complete such replacement or restoration as expeditiously as practicable, and shall pay or cause to be paid out of the proceeds of such insurance all costs and expenses in connection therewith so that such replacement or restoration shall be so completed that the portion of the Mortgaged Property so replaced or restored shall be free and clear of all mechanics' liens and other claims.

(c) Sums recovered under any fidelity bond by the Mortgagor for a loss of funds advanced under the notes or recovered by a Mortgagee for any loss under such bond shall, unless otherwise directed by the Mortgagee, be applied to the prepayment of the notes, pro rata according to the unpaid principal amounts thereof (such prepayments to be applied to such installments thereof as may be designated by the respective noteholders at the time of such prepayments) or to construct or acquire facilities approved by the Mortgagee, which will become part of the Mortgaged Property.

(d) The foregoing insurance coverage shall be obtained by means of bond and policy forms approved by regulatory authorities, including standard REA endorsements and riders used by the insurance industry to provide

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coverage for REA borrowers. Each policy or other contract for such insurance shall contain an agreement by the insurer that, notwithstanding any right or cancellation reserved to such insurer, such policy or contract shall continue in force for at least ten (10) days after written notice to the Mortgagees of cancellation.

SECTION 8. In the event of the failure of the Mortgagor in any respect to comply with the covenants and conditions herein contained with respect to the procuring of insurance, the payment of taxes, assessments and other charges, the keeping of the Mortgaged Property in repair and free of liens and other claims or to comply with any other covenant contained in this Mortgage, any noteholder or noteholders shall have the right (without prejudice to any other rights arising by reason of such default) to advance or expend moneys for the purpose of procuring such insurance, or for the payment of insurance premiums, taxes, assessments or other charges, or to save the Mortgaged Property from sale or forfeiture for any unpaid tax or assessment, or otherwise, or to redeem the same from any tax or other sale, or to purchase any tax title thereon, or to remove or purchase any mechanics' liens or other encumbrance thereon, or to make repairs thereon or to comply with any other covenant herein contained or to prosecute or defend any suit in relation to the Mortgaged Property or in any manner to protect the Mortgaged Property and the title thereto, and all sums so advanced for any of the aforesaid purposes with interest thereon at the highest legal rate but not in excess of twelve per centum (12%) per annum shall be deemed a charge upon the Mortgaged Property in the same manner as the notes at the time outstanding are secured and shall be forthwith paid to the noteholder or noteholders making such advance or advances upon demand. It shall not be obligatory for any noteholder in making any such advances or expenditures to inquire into the validity of any such tax title, or of any of such taxes or assessments or sales therefor, or of any such mechanics' liens or other encumbrance.

SECTION 9. The Mortgagor will not, without the approval in writing of the majority REA noteholders and the majority Bank noteholders: (a) enter into any contract or contracts for the operation or maintenance of all or any part of its property, for the use by others of any of the Mortgaged Property, or for toll traffic, operator assistance, extended scope or switching services to be furnished by or for connecting or other companies; provided, however, that such approval shall not be required for any toll traffic or operator assistance contract which in form and substance conforms with contracts in general use in the telephone industry; or (b) deposit any of its funds, regardless of the source thereof, in any bank which is not insured by the Federal Deposit Insurance Corporation, or the successor thereof.



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SECTION 10. (a) If this subsection is made applicable by the Instruments Recital, the Mortgagor will not pay its directors or trustees, as such, any salaries for their services, except such as shall have been approved by the majority REA noteholders and the majority Bank noteholders, provided that nothing herein contained shall preclude any director or trustee from serving the Mortgagor in any other capacity and receiving compensation therefor.

(b) Salaries, wages and other compensation paid by the Mortgagor for services, and directors' or trustees' fees, shall be reasonable and in conformity with the usual practice of corporations of the size and nature of the Mortgagor. Except as specifically authorized in writing in advance by the majority REA noteholders and the majority Bank noteholders, the Mortgagor will make no advance payments or loans, or in any manner extend its credit, either directly or indirectly, with or without interest, to any of its directors, trustees, officers, employees, stockholders, members or affiliated companies. As used in this section, the term "affiliated companies" shall have the meaning prescribed for this term by the Federal Communications Commission in its prevailing uniform system of accounts for Class A telephone companies.

SECTION 11. The Mortgagor will at all times keep, and safely preserve, proper books, records and accounts in which full and true entries will be made of all of the dealings, business and affairs of the Mortgagor, in accordance with methods of accounting prescribed by the state regulatory body having jurisdiction over the Mortgagor, or in the absence of such regulatory body or such prescription, by the Federal Communications Commission. The Mortgagor will prepare and furnish each noteholder not later than the thirtieth day of January, April, July and October in each year, or at less frequent intervals when specified by the majority REA noteholders and the majority Bank noteholders, financial and statistical reports on its condition and operations. Such reports shall be in such form and include such information as may be specified by the majority REA noteholders and the majority Bank noteholders, including without limitation an analysis of the Mortgagor's revenues, expenses, and subscriber accounts. The Mortgagor will cause to be prepared and furnished to each noteholder at least once during each 12-month period during the term hereof, a full and complete report of its financial condition as of a date (hereinafter called the Fiscal Date) not more than 90 days prior to the date such report is furnished to the noteholders hereunder, and of its operations for the twelve-month period ended on the fiscal date, in form and substance satisfactory to the majority REA noteholders and the majority Bank noteholders, audited and certified by independent certified public accountants satisfactory to said noteholders and accompanied by a report of such audit in form

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and substance satisfactory to said noteholders. Either the majority REA noteholders or the majority Bank noteholders, through its or their representatives, shall at all times during reasonable business hours have access to, and the right to inspect and make copies of, any or all books, records and accounts, and any or all invoices, contracts, leases, pay-rolls, cancelled checks, statements and other documents and papers of every kind belonging to or in the possession of the Mortgagor or in anywise pertaining to its property or business.

SECTION 12. (a) The Mortgagor will from time to time upon written demand of the majority REA noteholders or the majority Bank noteholders make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered all such further and supplemental indentures of mortgage, deeds of trust, mortgages, financing statements, continuation statements, security agreements, instruments and conveyances as may reasonably be requested by the majority REA noteholders or the majority Bank noteholders and take or cause to be taken all such further action as may reasonably be requested by the majority REA noteholders or the majority Bank noteholders to effectuate the intention of these presents and to provide for the securing and payment of the principal of and interest on the notes according to the terms thereof and for the purpose of fully conveying, transferring and confirming unto the Mortgagees the property hereby conveyed, mortgaged and pledged, or intended so to be, whether now owned by the Mortgagor or hereafter acquired by it and to reflect the assignment of the rights or interests of either of the Mortgagees or of any noteholder hereunder or under any note. The Mortgagor will cause this Mortgage and any and all supplemental indentures of mortgage, mortgages and deeds of trust and every security agreement, financing statement, continuation statement and every additional instrument which shall be executed pursuant to the foregoing provisions forthwith upon execution to be recorded and filed and rerecorded and refiled as conveyances and mortgages and deeds of trust of and security interests in real and personal property in such manner and in such places as may be required by law or reasonably requested by the majority REA noteholders or the majority Bank noteholders in order fully to preserve the security for the notes and to perfect and maintain the superior lien of this Mortgage and all supplemental indentures of mortgage, mortgages and deeds of trust and the rights and remedies of the Mortgagees and the noteholders.

(b) In the event that the Mortgagor has had or suffers a deficit in net income or net margins, as determined in accordance with methods of accounting prescribed in section 11 of article II hereof, for any of the five fiscal years immediately preceding the date hereof or for any fiscal year while any of the notes are outstanding, the Mortgagor will at any time or times upon written demand

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of the majority REA noteholders or the majority Bank noteholders, make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered all such further and supplemental indentures of mortgage, mortgages, security agreements, financing statements, instruments and conveyances, and take or cause to be taken all such further action, as may reasonably be requested by the majority REA noteholders or the majority Bank noteholders in order to include in this Mortgage, as Mortgaged Property, and to subject to all the terms and conditions of this Mortgage, all right, title and interest of the Mortgagor in and to, all and singular, the automobiles, trucks, trailers, tractors, aircraft, ships and other vehicles then owned by the Mortgagor, or which may thereafter be owned or acquired by the Mortgagor. From and after the time of such written demand of the majority REA noteholders or majority Bank noteholders, such vehicles shall be deemed to be part of the Mortgaged Property for all purposes hereof.

SECTION 13. Any noteholder may, at any time or times in succession without notice to or the consent of the Mortgagor or any other noteholder and upon such terms as such noteholder may prescribe, grant to any person, firm or corporation who shall have become obligated to pay all or any part of the principal of or interest on any note held by or indebtedness owed to such noteholder or who may be affected by the lien hereby created, an extension of the time for the payment of such principal or interest, and after any such extension the Mortgagor will remain liable for the payment of such note or indebtedness to the same extent as though it had at the time of such extension consented thereto in writing.

SECTION 14. The Mortgagor, subject to applicable laws and rules, and regulations and orders of regulatory bodies, will charge for telephone service furnished by its rates which shall yield revenues at least sufficient to enable the Mortgagor to pay and discharge all taxes and expenses when due, and also to make any payment in respect of principal of and interest on the notes when and as the same shall become due. The Mortgagor will, not less than ninety (90) days prior to the effective date of any proposed change in its rate, give to the holder or holders of the notes at the time outstanding written notice of such proposed change and a copy of a schedule showing the then existing rates and the proposed changes therein.

SECTION 15. (a) Except as specifically authorized in writing in advance by the majority REA noteholders and the majority Bank noteholders, the Mortgagor will not declare or pay any dividends on its capital stock, membership certificates or equity capital certificates (other than in shares of such capital stock or in such certificates), or make any other distribution to its stockholders, members or

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subscribers, or purchase, redeem or retire any of its capital stock, membership certificates or equity capital certificates, or make any investment in affiliated companies, unless after such action the Mortgagor's current assets (determined in accordance with Exhibit One hereto) will equal or exceed its current liabilities (determined in accordance with Exhibit One hereto) (exclusive of current liabilities incurred for additions to plant), and the Mortgagor's adjusted net worth (determined in accordance with Exhibit One hereto) will be at least forty per centum (40%) of its adjusted assets (determined in accordance with Exhibit One hereto), or the sum of the following (whichever is the smaller amount):

- (1) the percentage of its adjusted assets specified in the Instruments Recital, plus
- (2) thirty per centum (30%) of its adjusted net worth, if any, excess of the amount represented by the percentage of adjusted assets set out in the immediately preceding subparagraph (1), plus
- (3) thirty per centum (30%) of the amount of any reduction of its adjusted net worth after the date specified in the Instruments Recital, resulting from the declaration or payment of dividends or distributions, the purchase, redemption or retirement of its capital stock, membership certificates or equity capital certificates or investments in affiliated companies.

(b) During such time or times as the Mortgagor's adjusted net worth is less than the percentage of its adjusted assets specified in the Instruments Recital:

- (1) the Mortgagor will make no increase, without prior written approval of the majority REA noteholders and the majority Bank noteholders, in salaries, wages, fees and other compensation paid to officers, directors, trustees, executives, or supervisors of the Mortgagor, or to other employees having either a substantial ownership interest in the Mortgagor, or a close family relationship with officers, directors, trustees, executives, supervisors, or holders of substantial ownership interests in the Mortgagor; and
- (2) the Mortgagor will promptly furnish the majority REA noteholders and the majority Bank noteholders with certified copies of the

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minutes of all meetings of its stockholders, members, directors or trustees; and

- (3) if the operation of the Mortgaged Property for the preceding calendar year resulted in a decrease in the Mortgagor's retained earnings (determined in accordance with Exhibit One hereto), the Mortgagor shall upon the written direction of the majority REA noteholders or the majority Bank noteholders, take all required action to promptly (1) increase its charges for telephone service or (2) execute a plan for reducing expenses, such increase in charges and such plan to be submitted to all the noteholders and to be acceptable to and approved in writing by the majority REA noteholders and the majority Bank noteholders.

(c) During such time or times as the Mortgagor's adjusted net worth is less than twenty per centum (20%) of its adjusted assets:

- (1) the Mortgagor will promptly furnish the REA noteholders and the Bank noteholders with a detailed report on ownership or transfers of its capital stock, membership certificates or equity capital certificates whenever requested in writing by the majority REA noteholders or the majority Bank noteholders, or whenever one per centum (1%) or more of its outstanding ownership interests has been transferred since the last preceding report to such noteholders on ownership interests or transfers; and
- (2) whenever any change in ownership interests in the Mortgagor occurs which in the sole opinion of the majority REA noteholders or the majority Bank noteholders might adversely affect its or their security the Mortgagor shall, upon written direction of the majority REA noteholders or the majority Bank noteholders:
- (a) increase its adjusted net worth, within one year of such written request, to the level requested by the majority REA noteholders or the majority Bank noteholders, up to twenty per centum (20%) of its adjusted assets; and
- (b) take no action which would result in reducing its adjusted net worth thereafter below the sum of (i) the amount representing the level of net worth requested by the

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majority REA noteholders or the majority Bank noteholders pursuant to subparagraph (c)(2)(a) above, plus (ii) thirty per centum (30%) of its adjusted net worth, if any, in excess of the level of net worth referred to in the immediately preceding subclause (i), plus (iii) thirty per centum (30%) of the amount of any reduction of its adjusted net worth after the date of such request by the majority REA noteholders or the majority Bank noteholders, resulting from the declaration or payment of dividends or distributions, the purchase, redemption or retirement of its capital stock, membership certificates or equity capital certificates, or investments in affiliated companies.

SECTION 16. In the event that the Mortgaged Property, or any part thereof, shall be taken under the power of eminent domain, all proceeds and avails therefrom, except to the extent that all noteholders shall consent to other use and application thereof by the Mortgagor, shall forthwith be applied by the Mortgagor: first, to the ratable payment of any indebtedness by this Mortgage secured other than principal of or interest on the notes; second, to the ratable payment of interest which shall have accrued on the notes and be unpaid; third, to the ratable payment of or on account of the unpaid principal of the notes and to such installments thereof as may be designated by the respective noteholders at the time of any such payment, and fourth, the balance shall be paid to whosoever shall be entitled thereto.

SECTION 17. The Mortgagor will well and truly observe and perform all of the covenants, agreements, terms and conditions contained in the Consolidated Loan Agreement, on its part to be observed or performed.

SECTION 18. If this section is made applicable by the Instruments Recital, then: (a) The Mortgagor will not at any time employ, or enter into any contract for the employment of, any manager of its telephone properties, unless such employment or such contract shall first have been approved by the majority REA noteholders and the majority Bank noteholders. (b) If, during such periods as the Mortgagor shall be in default in the making of a payment or payments of principal of or interest on one or more of the notes, the majority REA noteholders or the majority Bank noteholders shall give notice to the Mortgagor that in their opinion its telephone properties are not being efficiently operated, and shall request the termination of the employment of any such manager, or shall request the termination

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of any operating contract in respect of any such telephone properties, the Mortgagor will terminate such employment or operating contract within thirty (30) days after the date of such notice. (c) All contracts in respect of the employment of any such manager or for the operation of such telephone properties shall contain provisions to permit compliance with the foregoing covenants.

SECTION 19. If all the REA Notes have been paid and discharged while any of the Bank Notes are still outstanding, all rights and powers of the Government and the holders of the REA Notes under this Mortgage shall immediately vest in the Bank and the holders of the Bank Notes, respectively, and, correspondingly, if all the Bank Notes have been paid and discharged while any of the REA Notes are still outstanding, all rights and powers of the Bank and the holders of the Bank Notes under this Mortgage shall immediately vest in the Government and the holders of the REA Notes, respectively. The Bank, the Government, the Mortgagor and the noteholders shall execute and deliver such instruments, assignments, releases or other documents as shall be reasonably required to carry out the intention of this section.

SECTION 20. At all times when any note is held by the Government, or in the event the Government shall assign a note without having insured the payment of such note, this Mortgage shall secure payment of such note for the benefit of the Government or such uninsured holder thereof, as the case may be. Whenever any note may be sold to an insured purchaser, it shall continue to be considered a "note" as defined herein, but as to any such insured note the Government, and not such insured purchaser, shall be considered to be, and shall have the rights of, the noteholder for purposes of this Mortgage. Notice of the rights of the Government under the preceding sentence shall be set forth in all such insured notes.

SECTION 21. (a) The Mortgagor, subject to applicable laws and rules and orders of regulatory bodies, shall design its rates for telephone service and other services furnished by it with a view to paying and discharging all taxes, maintenance expenses, operating expenses of its telephone system, and also to making all payments in respect of principal of and interest on the notes when and as the same shall become due, to providing and maintaining reasonable working capital for the Mortgagor and to maintaining an Average TIER on all of its outstanding indebtedness to the Government and all other lenders of not less than 1.25, or an average TIER of not less than 1.50 if, after April 3, 1989, the Mortgagor has obtained a loan from the Bank or a loan guaranteed by the Government pursuant to the Act and any portion of such loan is outstanding during the period for which TIER is determined.

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(b) For purposes of this section 21, Average TIER shall be determined as of January 1 of each year during which any obligation secured by this Mortgage remains unsatisfied and shall mean the average of the two highest TIER ratios achieved by the Mortgagor during each of the three calendar years last preceding the various dates of its determination.

(c) As used in this section 21, TIER means the Mortgagor's net income or net margins (determined in accordance with Exhibit One hereto) plus interest expense (determined in accordance with Exhibit One hereto) plus taxes based upon income (determined in accordance with Exhibit One hereto), all divided by interest expense.

SECTION 22. (a) The terms current assets, current liabilities, net worth, adjusted net worth, adjusted assets, retained earnings, net income or net margins, interest expense, taxes based upon income, total assets, and total telecommunications plant, as used in sections 15 or 21 of this Mortgage, are defined in Exhibit One of this Mortgage.

(b) Accounting terms used in this Mortgage shall also apply to accounts or groups of accounts of the Mortgagor, regardless of the account title or the system of accounts used, if such accounts have substantially the same meaning as those prescribed by the Federal Communications Commission in its prevailing uniform system of accounts for telecommunications companies (47 CFR Part 32).

SECTION 23. Exhibit One (pages 1-4) is attached hereto and by reference is made a part of this Mortgage.

### ARTICLE III

#### REMEDIES OF THE MORTGAGEES AND NOTEHOLDERS

SECTION 1. If one or more of the following events (hereinafter called "events of default") shall happen, that is to say:

(a) default shall be made in the payment of any installment of or on account of interest on or principal of any note or notes when and as the



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same shall be required to be made and such default shall continue for thirty (30) days;

(b) default shall be made in the due observance or performance of any other of the representations, warranties, covenants, conditions or agreements on the part of the Mortgagor in any of the notes or in this Mortgage or in the Consolidated Loan Agreement contained; and such default shall continue for a period of thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Mortgagor by any noteholder;

(c) the Mortgagor shall file a petition in bankruptcy or be adjudicated a bankrupt or insolvent, or shall make an assignment for the benefit of its creditors, or shall consent to the appointment of a receiver of itself or of its property, or shall institute proceedings for its reorganization or proceedings instituted by others for its reorganization shall not be dismissed within thirty (30) days after the institution thereof;

(d) a receiver or liquidator of the Mortgagor or of any substantial portion of its property shall be appointed and the order appointing such receiver or liquidator shall not be vacated within thirty (30) days after the entry thereof;

(e) the Mortgagor shall forfeit or otherwise be deprived of its corporate charter or franchises, permits or licenses required to carry on any material portion of its business;

(f) a final judgment shall be entered against the Mortgagor and shall remain unsatisfied or without a stay in respect thereof for a period of thirty (30) days; or

then in each and every such case any noteholder may, by notice in writing to the Mortgagor and delivery of a copy thereof to the other noteholders, declare all unpaid principal of and accrued interest on any or all notes held by such noteholder to be due and payable immediately; and upon any such declaration all such unpaid principal and accrued interest so declared to be due and payable shall become and be due and payable, immediately, anything contained herein or in any note or notes to be the contrary notwithstanding; provided, however, that if at any time after the unpaid principal of and accrued interest on any of the notes shall have been so declared to be due and payable, all payments in respect of principal and interest

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which shall have become due and payable by the terms of such note or notes shall be paid to the respective noteholders, and all other defaults hereunder and under the notes shall have been made good or secured to the satisfaction of all of the noteholders, then and in every such case, the noteholder or noteholders who shall have declared the principal of and interest on notes held by such noteholder or noteholders to be due and payable may, by written notice to the Mortgagor and delivery of a copy thereof to the other noteholders, annul such declaration or declarations and waive such default or defaults and the consequences thereof, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 2. If one or more of the events of default shall happen, the holder or holders of not less than a majority in principal amount of the notes at the time outstanding (hereinafter called the "majority noteholders"), for itself or themselves, and as the agent or agents of the other noteholders, personally or by attorney, in its or their discretion, may, insofar as not prohibited by law:

(a) take immediate possession of the Mortgaged Property, collect and receive all credits, outstanding accounts and bills receivable of the Mortgagor and all rents, income, revenues and profits pertaining to or arising from the Mortgaged Property, or any part thereof, and issue binding receipts therefor; and manage, control and operate the Mortgaged Property as fully as the Mortgagor might do if in possession thereof, including, without limitation, the making of all repairs or replacements deemed necessary or advisable;

(b) proceed to protect and enforce the rights of the Mortgagees and the rights of the noteholder or noteholders under this Mortgage by suits or actions in equity or at law in any court or courts of competent jurisdiction, whether for specific performance of any covenant or any agreement contained herein or in aid of the execution of any power herein granted or for the foreclosure hereof or hereunder or for the sale of the Mortgaged Property, or any part thereof, or to collect the debts hereby secured or for the enforcement of such other or additional appropriate legal or equitable remedies as may be deemed most effectual to protect and enforce the rights and remedies herein granted or conferred, and in the event of the institution of any such action or suit the noteholder or noteholders instituting such action or suit shall have the right to have appointed a receiver of the Mortgaged Property and of all rents, income, revenues and profits pertaining thereto or arising therefrom derived, received or had from the time of the commencement of such suit or action, and such receiver shall have all the

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usual powers and duties of receivers, in like and similar cases, to the fullest extent permitted by law, and if application shall be made for the appointment of a receiver the Mortgagor hereby expressly consents that the court to which such application shall be made may make said appointment; and

(c) sell or cause to be sold all and singular the Mortgaged Property or any part thereof, and all right, title, interest, claim and demand of the Mortgagor therein or thereto, at public auction at such place in any county in which the property to be sold, or any part thereof is located, at such time and upon such terms as may be specified in a notice of sale, which shall state the time when and the place where the sale is to be held, shall contain a brief general description of the property to be sold, and shall be given by mailing a copy thereof to the Mortgagor at least fifteen (15) days prior to the date fixed for such sale and by publishing the same once in each week for two successive calendar weeks prior to the date of such sale in a newspaper of general circulation published in said county, or if no such newspaper is published in such county, in a newspaper of general circulation in such county, the first such publication to be not less than fifteen (15) days nor more than thirty (30) days prior to the date fixed for such sale. Any sale to be made under this subparagraph (c) of this section 2 may be adjourned from time to time by announcement at the time and place appointed for such sale or for such adjourned sale or sales, and without further notice or publication the sale may be had at the time and place to which the same shall be adjourned, provided, however, that in the event another or different notice of sale or another or different manner of conducting the same shall be required by law the notice of sale shall be given or the sale shall be conducted, as the case may be, in accordance with the applicable provisions of law.

SECTION 3. If, within thirty (30) days after the majority noteholders shall have had knowledge of the happening of an event or events of default, the majority noteholders shall not have proceeded to exercise the rights and enforce each of the remedies herein or by law conferred upon or reserved to the Mortgagees or to said majority noteholders, then, and only then, any noteholder for itself and as the agent of all the other noteholders, including the majority noteholders, may proceed to exercise any such right or rights and remedy or remedies not being enforced by the majority noteholders. Nothing contained in this Mortgage shall affect or impair the right, which is absolute and unconditional, of any holder of any note which may be secured hereby to enforce the payment of the principal of or interest on such note on the date or dates any such interest or principal shall become due and payable in accordance with the terms of such note.

SECTION 4. At any sale hereunder any noteholder or noteholders shall have the right to bid for and purchase the Mortgaged Property, or such part thereof as shall be offered for sale, and any noteholder or noteholders may apply in settlement of the purchase price of the property so purchased the portion of the net proceeds of such sale which would be applicable to the payment on account of the principal of and interest on the note or notes held by such noteholder or noteholders, and such amount so applied shall be credited as a payment on account of principal of and interest on the note or notes held by such noteholder or noteholders.

SECTION 5. Any proceeds or funds arising from the exercise of any rights or the enforcement of any remedies herein provided after the payment or provision for the payment of any and all costs and expenses in connection with the exercise of such rights or the enforcement of such remedies shall be applied first, to the payment of indebtedness hereby secured other than the principal of or interest on the notes; second, to the ratable payment of interest which shall have accrued on the notes and which shall be unpaid; third, to the ratable payment of or on account of the unpaid principal of the notes, and the balance, if any, shall be paid to whosoever shall be entitled thereto.

SECTION 6. The Mortgagor covenants that it will give immediate written notice to both of the Mortgagees and to all of the noteholders of the occurrence of an event of default or in the event that any right or remedy described in clauses (a) through (f) of section 1 of this article III is exercised or enforced, or any action is taken to exercise or enforce any such right or remedy.

SECTION 7. Every right or remedy herein conferred upon or reserved to the Mortgagees or to the noteholders shall be cumulative and shall be in addition to every other right and remedy given hereunder or now or hereafter existing at law, or in equity, or by statute. The pursuit of any right or remedy shall not be construed as an election.

SECTION 8. The Mortgagor, for itself and all who may claim through or under it, covenants that it will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any appraisement, valuation, stay, extension or redemption laws now or hereafter in force in any locality where any of the Mortgaged Property may be situated, in order to prevent, delay or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Mortgaged Property, or any part thereof, or the final and absolute putting into

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possession thereof, immediately after such sale, of the purchaser or purchasers thereat, and the Mortgagor, for itself and all who may claim through or under it, hereby waives the benefit of all such laws unless such waiver shall be forbidden by law.

#### ARTICLE IV

##### POSSESSION UNTIL DEFAULT-DEFEASANCE CLAUSE

SECTION 1. Until some one or more of the events of default shall have happened, the Mortgagor shall be suffered and permitted to retain actual possession of the Mortgaged Property, and to manage, operate and use the same and any part thereof, with the rights and franchises appertaining thereto, and to collect, receive, take, use and enjoy the rents, revenues, issues, earnings, income, products and profits thereof or therefrom, subject to the provisions of this Mortgage.

SECTION 2. If the Mortgagor shall well and truly pay or cause to be paid the whole amount of the principal of and interest on the notes at the time and in the manner therein provided, according to the true intent and meaning thereof, and shall also pay or cause to be paid all other sums payable hereunder by the Mortgagor and shall well and truly keep and perform according to the true intent and meaning of this Mortgage, all covenants herein required to be kept and performed by it, then and in that case, all property, rights and interests hereby conveyed or assigned or pledged shall revert to the Mortgagor and the estate, right, title and interest of the Mortgagees and the noteholders shall thereupon cease, determine and become void and the Mortgagees and the noteholders, in such case, on written demand of the Mortgagor but at the Mortgagor's cost and expense, shall enter satisfaction of this Mortgage upon the record. In any event, each noteholder, upon payment in full to him by the Mortgagor of all principal of and interest on any note held by him and the payment and discharge by the Mortgagor of all charges due to such noteholder hereunder, shall execute and deliver to the Mortgagor such instrument of satisfaction, discharge or release as shall be required by law in the circumstances.

ARTICLE V

MISCELLANEOUS

SECTION 1. It is hereby declared to be the intention of the Mortgagor that all lines, or systems, embraced in the Mortgaged Property, including, without limitation, all rights of way and easements granted or given to the Mortgagor or obtained by it to use real property in connection with the construction, operation or maintenance of such lines, or systems, and all service and connecting lines, poles, posts, crossarms, wires, cables, conduits, ducts, connections and fixtures forming part of, or used in connection with, such lines, or systems, and all other property physically attached to any of the foregoing-described property, shall be deemed to be real property.

SECTION 2. All acts and obligations of the Mortgagor hereunder shall be subject to all applicable orders, rules and regulations, now or hereafter in effect, of all regulatory bodies having jurisdiction in the premises, to the end that no act or omission to act on the part of the Mortgagor shall constitute a default hereunder insofar as such act or omission shall have been required by reason of any order, rule or regulation of any such regulatory body.

SECTION 3. All of the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor shall bind its successors and assigns, whether so specified or not, and all titles, rights and remedies hereby granted to or conferred upon the Mortgagees shall pass to and inure to the benefit of the successors and assigns of the Mortgagees and shall be deemed to be granted or conferred for the ratable benefit and security of all who shall from time to time be the holders of notes executed and delivered as herein provided.

SECTION 4. The descriptive headings of the various articles of this Mortgage were formulated and inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

SECTION 5. All demands, notices, reports, approvals, designations, or directions required or permitted to be given hereunder shall be in writing and shall

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be deemed to be properly given if mailed by registered mail addressed to the proper party or parties at the following addresses:

As to the Mortgagor: Highland Telephone Cooperative, Inc.  
 P. O. Box 119  
 Sunbright, Tennessee 37872

As to the Mortgagees: The Bank:  
 Rural Telephone Bank  
 c/o Rural Electrification Administration  
 Washington, D. C. 20250-1500

The Government:  
 Rural Electrification Administration  
 Washington, D. C. 20250-1500

and as to any other person, firm, corporation or governmental body or agency having an interest herein by reason of being the holder of any note or otherwise, at the last address designated by such person, firm, corporation, governmental body or agency to the Mortgagor and the Mortgagees. The Mortgagor or the Mortgagees may from time to time designate to one another a new address to which demands, notices, reports, approvals, designations or directions may be addressed and from and after any such designation the address designated shall be deemed to be the address of such party in lieu of the address hereinabove given. The Mortgagor will promptly notify the Mortgagees in writing of any change in location of its chief place of business or the office where its records concerning accounts and contract rights are kept.

SECTION 6. The invalidity of any one or more phrases, clauses, sentences, paragraphs or provisions shall not affect the remaining portions of this Mortgage, nor shall any such invalidity as to one Mortgagee or as to any holder of notes hereunder affect the rights hereunder of the other Mortgagee or any other holder of notes.

SECTION 7. This Mortgage may be simultaneously executed in any number of counterparts, and all said counterparts executed and delivered, each as an original, shall constitute but one and the same instrument.

3-435

Form - Restated REA/RTB Mortgage (Restating  
REA/RTB Common Mtg.) - Telephone  
Subsequent REA Loan - 10/89

IN WITNESS WHEREOF, HIGHLAND TELEPHONE COOPERATIVE, INC.

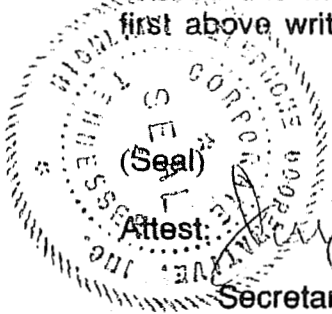
-----, as  
Mortgagor, has caused this Mortgage to be signed in its name and its corporate  
seal to be hereunto affixed and attested by its officers thereunto duly authorized,  
RURAL TELEPHONE BANK, as Mortgagee, has caused this Mortgage to be signed  
in its name and its corporate seal to be hereunto affixed and attested by its officers  
thereunto duly authorized, and UNITED STATES OF AMERICA, as Mortgagee, has  
caused this Mortgage to be duly executed in its behalf, all as of the day and year  
first above written.

HIGHLAND TELEPHONE COOPERATIVE, INC.

by

*Jerry E. Linneman*

President



Attest:

*Henry Williams*

Secretary

Executed by the Mortgagor  
in the presence of:

*James H. Henry*  
*Robert J. Brown*  
Witnesses





UNITED STATES OF AMERICA, and  
RURAL TELEPHONE BANK, respectively

by *Guy F. Pratt* as

Acting Administrator  
of

Rural Electrification Administration,  
and as

Acting Governor of  
Rural Telephone Bank

(Seal)

Attest:

*William O. ...*

Assistant Secretary

Executed by United States of America,  
Mortgagee, and Rural Telephone Bank,  
Mortgagee, in the presence of:

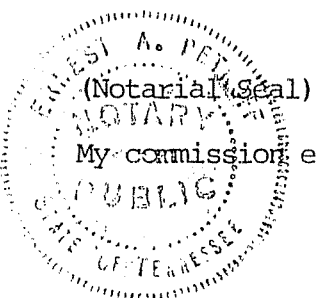
*Pauline Mae Meyers*  
*Paul W. ...*  
Witnesses

STATE OF TENNESSEE )  
 ) SS  
COUNTY OF *Morgan* )

Before me, *Ernest A. Pettigrew*, a Notary Public of the State and County aforesaid, personally appeared *Harry C. Duncan* with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the President of Highland Telephone Cooperative, Inc., a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as President.

Witness my hand and seal, at *Sunbright, Morgan Co., Tennessee,*  
this *26<sup>th</sup>* day of *August*, 19*91*.

*Ernest A. Pettigrew*  
Notary Public



My commission expires: *7/18/95*

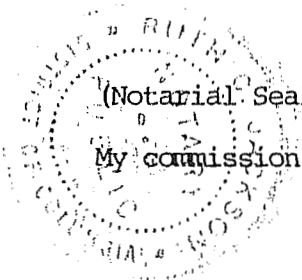
DISTRICT OF COLUMBIA ) SS

BEFORE ME, a Notary Public, in and for the District of Columbia, appeared in person the within named *George E. Pratt*, Acting Administrator of the Rural Electrification Administration, United States of America, and Acting Governor of the Rural Telephone Bank, a corporation existing under the laws of the United States of America, to me personally known, and known to be the identical person who subscribed the foregoing instrument in said capacities, and who stated that he is duly authorized to execute the foregoing instrument for and in the name and behalf of the United States of America, and said corporation respectively; and further stated that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and further stated and acknowledged that he had

executed the foregoing instrument as the free and voluntary act and deed of the United States of America and said corporation, respectively, for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal  
this 11 day of June, 1991.

*Ruth A. Jackson*  
Notary Public



(Notarial Seal)

My commission expires:

*8/31/92*

10/89

Exhibit One (Exhibit to Mortgage)  
UNIFORM SYSTEM OF ACCOUNTS  
ACCOUNT NUMBERS USED IN CERTAIN PROVISIONS

All references regarding account numbers are to 47 CFR Part 32.

ACCOUNT NAMES	ACCOUNT NUMBERS	
	CLASS A	CLASS B

NET INCOME OR NET MARGINS - Article II Sec 21 or any other section of the Mortgage setting forth a TIER requirement for the Mortgagor: the sum of the balances of the following accounts of the Mortgagor:

Local Network Services Revenues	}		
Network Access Services Revenues	}		
Long Distance Network Services Revenues	}	5000 thru 5300s	
Miscellaneous Revenues	}		
<u>LESS:</u> Uncollectible Revenues	}		
Other Operating Income and Expense		7100*	7100
Nonoperating Income and Expense		7300*	7300
Income Effect of Jurisdictional Rate-making Difference - Net		7910	7910
Nonregulated Net Income		7990	7990
Other Nonregulated Revenues		7991	7991
LESS balances of the following accounts:			
Plant Specific Operations Expense	}		
Plant Nonspecific Operations Expense	}	6100s thru 6700s	
Customer Operations	}		
Corporate Operations	}		
Operating Taxes		7200*	7200
Nonoperating Taxes		7400*	7400
Interest and Related Items		7500*	7500
Extraordinary Items		7600*	7600

INTEREST EXPENSE - Article II, SEC 21 or any other section of the Mortgage setting forth a TIER requirement for the Mortgagor: the sum of the balances of the following accounts of the Mortgagor:

Interest and Related Items		7500*	7500
Interest on Funded Debt		7510	
Interest Expense - Capital Leases		7520	
Amortization of Debt Issuance Expense		7530	
Other Interest Deductions		7540	
LESS: Allowance for Funds Used During Construction		7340	7300.4

\* Summary Accounts

TAXES, BASED UPON INCOME - Article II, Sec 21 or any other section setting forth a TIER requirement for the Mortgagor: the sum of the balances of the following accounts of the Mortgagor:

Operating Investment Tax Credits - Net	7210	7200.1
Operating Federal Income Taxes	7220	7200.2
Operating State & Local Income Taxes	7230	7200.3
Provision for Deferred Operating Income Taxes - Net	7250	7200.5
Nonoperating Investment Tax Credits - Nets	7410	7400.1
Nonoperating Federal Income Taxes	7420	7400.2
Nonoperating State & Local Income Taxes	7430	7400.3
Provision for Deferred Nonoperating Income Taxes - Net	7450	7400.5
Current Income Tax Effect of Extraordinary Items - Net	7630	7600.3
Provision for Deferred Income Tax Effect of Extraordinary Items - Net	7640	7600.4

CURRENT ASSETS - Article II, Sec 15(a): the balances of the following accounts of the Mortgagor:

Current Assets 1100s thru 1300s

CURRENT LIABILITIES - Article II, Sec 15(a): the balances of the following accounts of the Mortgagor:

Current Liabilities 4010 thru 4100s

ADJUSTED NET WORTH - Article II, Sec 15(a): the sum of the balances of the following accounts of the Mortgagor:

Capital Stock	4510	4510
Additional Paid-In Capital	4520	4520
- Treasury Stock	4530	4530
- Other Capital	4540	4540
Retained Earnings	4550	4550

NOTE: FOR NONPROFIT ORGANIZATIONS (OWNERS' EQUITY  
SHALL BE SHOWN IN SUBACCOUNTS OF 4540 AND 4550)

LESS: Adjustments (Defined below)

RETAINED EARNINGS - Article II, Sec 15(b)(3): the balance of the following account of the Mortgagor:

Retained Earnings	4550	4550
NOTE: FOR NONPROFIT ORGANIZATIONS - RETAINED EARNINGS (MARGINS) SHALL BE SHOWN IN SUBACCOUNTS OF 4550		

ADJUSTED ASSETS - ARTICLE II, Sec 15(a): the sum of the balances of the following accounts of the Mortgagor:

Current Assets	1100s thru 1300s	
Noncurrent Assets	1400s thru 1500s	
Total Telecommunications Plant (Defined Below)		
LESS: Accumulated Depreciation	3100 thru 3300s	
LESS: Accumulated Amortization	3400 thru 3600s	
Funded Debt (Still to be advanced Under Loan Contract)	( 4210.20	4210.20
	( 4210.21	4210.21
	( 4210.22	4210.22
	( 4210.24	4210.24
	( 4210.23	4210.23
LESS: Adjustments (defined below)		

ADJUSTMENTS: the sum of the balances of the following accounts of the Mortgagor:

Telecommunications Accounts Receivable	1180**	1180**
Accounts Receivable Allowance - Telecommunications	1181**	1181**
Other Accounts Receivable	1190**	1190**
Accounts Receivable Allowance - Other	1191**	1191**
Notes Receivable	1200**	1200**
Notes Receivable Allowance	1201**	1201**
(** Include Only Those Portions of These Accounts Shown in Subsidiary Record Accounts Related to Affiliates)		
Investments in Affiliated Companies	1401	1401
Telecommunications Plant Adjustment & Goodwill (Debit Amounts in Excess of Accumulated Amortization)	2500 & 2007, LESS 3600	

TOTAL TELECOMMUNICATIONS PLANT: the sum of the balances of the following amounts of the Mortgagor:

Telecommunications Plant in Service	2001	2001
Property Held for Future Telecommunications Use	2002	2002
Telecommunications Plant Under Construction - Short Term	2003	2003
Telecommunications Plant Under Construction - Long Term	2004	2004
Telecommunications Plant Adjustment	2005	2005
Nonoperating Plant	2006	2006
Goodwill	2007	2007

STATE OF TENNESSEE,  
SCOTT COUNTY.

REGISTER'S OFFICE September 12 1991

I, Porter B. Rector, Jr., Register for said County do certify that the foregoing Antated Mortgage & Security Agreement instrument is registered in said Office in Trust Book No. 122 Page 370; that they were received September 12 1991 at 10:11 A.M. and entered in Note Book L Page 68.  
State Tax \$ — Fee —, Recording Fee \$ 256.00 Total Paid \$ 256.00, Receipt No. 5019.

Porter B. Rector, Jr.  
Register





EXHIBIT 2

Loan/Grant and Security Agreement  
dated as of September 30, 2010

RUS Project Designation:  
Tennessee 1104-B40

RUS Project Designation:

TENNESSEE 1104-B40

BROADBAND INITIATIVES PROGRAM

LOAN/GRANT AND SECURITY AGREEMENT

dated as of September 30, 2010

between

HIGHLAND TELEPHONE COOPERATIVE, INC.

and

THE UNITED STATES OF AMERICA

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

**BROADBAND INITIATIVES PROGRAM  
LOAN/GRANT AND SECURITY AGREEMENT**

THIS LOAN/GRANT AND SECURITY AGREEMENT (this "Agreement"), dated as of September 30, 2010, is between **HIGHLAND TELEPHONE COOPERATIVE, INC.** ("Awardee"), a cooperative existing under the laws of TENNESSEE, and the **UNITED STATES OF AMERICA**, acting through the Administrator of the Rural Utilities Service ("RUS").

The Awardee has applied for financial assistance ("Application") from RUS to finance the construction of a broadband infrastructure project to serve areas that are at least 75% rural.

RUS is willing to extend financial assistance, in the form of a loan and grant to the Awardee, pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, 123 Stat. 115 (2009) (the "Recovery Act"), the Notice of Funds Availability published at 75 Fed. Reg. 3820 and Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*), and all applicable federal regulations, on the terms and conditions stated herein.

The Awardee is willing to secure the loan and grant and its other obligations to RUS on the terms stated herein.

THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties agree and bind themselves as follows:

**ARTICLE I - DEFINITIONS**

The terms defined herein include both the plural and the singular. Unless otherwise specifically provided, all accounting terms not otherwise defined herein shall have the meanings assigned to them, and all determinations and computations herein provided for shall be made in accordance with Accounting Requirements.

"Accounting Requirements" shall mean the system of accounting prescribed by RUS in RUS Regulations.

"Advance" or "Advances" shall mean the disbursement of Loan and/or Grant funds in accordance with this Agreement.

"Affiliate" or "Affiliated Company" of any specified person or entity means any other person or entity directly or indirectly controlling of, controlled by, under direct or indirect common control with, or related to, such specified person or entity, or which exists for the sole purpose of providing any service to one company or exclusively to companies which otherwise meet the definition of affiliate. This definition includes Variable Interest Entities as described in Financial Accounting Standards Board Interpretation (FIN) No. 46(R), *Consolidation of Variable Interest Entities*. For the purpose of this definition, "control" means the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership voting of securities, common directors, officers, or stockholders, voting trust, holding trusts (other than money exchanged) for property or services.

"Application" shall have the meaning as defined in the second paragraph hereof.

"Award" shall mean the Loan or Loan/Grant Combination described in Article III.

"Awardee" shall mean the Loan or Loan/Grant Combination recipient named in the first paragraph hereof.

"BIP" shall mean the Broadband Initiatives Program, administered by RUS and created pursuant to the Recovery Act.

"BIP Contracting, Work Order and Advance Procedures Guide" shall mean the procedures for construction and Advances, attached hereto as Attachment 1.

"Business Day" shall mean any day that RUS and the Department of Treasury are both open for business.

"Collateral" shall mean any and all property pledged as security for the Obligations, including, without limitation, security for the Loan, and other amounts owing to RUS under the Loan-Grant Documents, including, without limitation, the property described in Article IX and on Schedule 2.

"Composite Economic Life" means the weighted (by dollar amount of each class of facility in the Award) average economic life of all classes of facilities in the Award, as determined by RUS.

"Distribution" shall have the meaning as defined in Section 7.9.

"Eligible Purposes" shall mean purposes and expenses which are specified in the NOFA as being eligible for funding.

"Event of Default" shall have the meaning as defined in Article X.

"Expiration Date" shall have the meaning as defined in Paragraph (d) of Section 3.1.

"Form 481" shall have the meaning as defined in Section 4.3(d).

"Grant" shall mean the grant described in Section 3.1.

"Interest Expense" shall mean the accrual of interest on all classes of indebtedness, including capital leases and securities issued by the Awardee and shall also include the amortization of debt issuance expenses, premiums, and discounts.

"Laws" shall have the meaning as defined in paragraph (e) of Article II.

"Loan" shall mean the loan described in Section 3.1.

"Loan/Grant Combination" shall mean, collectively, the loan and grant described in Section 3.1.

"Loan-Grant Documents" shall mean, collectively, this Agreement, Security Documents and the Note(s).

"Material Adverse Effect" shall mean a material adverse effect on, or change in, the condition, financial or otherwise, operations, properties, business or prospects of the Awardee or on the ability of the Awardee to perform its obligations under the Loan-Grant Documents as determined by RUS.

"Net Income" or "Net Margins" shall mean the amount equal to the income that the Awardee has after subtracting costs and expenses from the total revenue. Costs and expenses include but are not limited to all operations and maintenance expenses, corporate operations, taxes, interest dividends, depreciation, and gains and losses on the disposition of property.

"Net Worth" (equity) shall mean total assets less total liabilities of the Awardee. Net worth includes the recorded value of capital stock, additional paid-in capital, treasury stock, retained earnings and other comprehensive income.

"NOFA" shall mean the Notice of Funds Availability, published in the Federal Register at 75 Fed. Reg. 3820.

"Note(s)" shall have the meaning as defined in Paragraph (a) of Section 3.2.

"Obligations" shall mean any and all indebtedness, obligations and liabilities of the Awardee to RUS, of every kind and description, direct or indirect, secured or unsecured, joint or several, absolute or contingent, due or to become due, whether for payment or performance, now existing or hereafter arising, howsoever evidenced or created, including, without limitation, all loans (including any loan by renewal or extension); all indebtedness, all Notes, all undertakings to take or refrain from taking any action; and all interest, taxes, fees, charges, expenses, and attorney's fees chargeable to Awardee or incurred by RUS under this Agreement or in any other document or instrument delivered hereunder or as a supplement hereto.

"Permitted Encumbrances" shall mean the liens and encumbrances permitted by the RUS Mortgage.

"Pledged Deposit Account" shall have the meaning as defined in Section 5.4.

"Prior RUS Loan Contract" shall mean the contract identified on Schedule 1 as it may have been amended or supplemented from time to time.

"Project" shall have the meaning as defined in Paragraph (a) of Section 3.4.

"Project Completion" shall mean that all Award funds have been advanced to the Awardee by RUS.

"RE Act" shall mean the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*).

"RUS Mortgage" shall mean the mortgage identified on Schedule 1 as it may be amended, supplemented and restated from time to time.

"RUS Regulations" shall mean the rules, regulations and bulletins of general applicability published by RUS from time to time, as such rules, regulations and bulletins exist at the date of applicability thereof, and shall also include 7 C.F.R. 3015 (and, by adoption, 48 C.F.R. 31.2 of the Federal Acquisition Regulations), 3016 and 3019 and applicable OMB Circulars, as well as any rule and regulations of other Federal entities which RUS is required by law to implement. Any reference to specific RUS Regulations shall mean the version of and cite to such regulation effective at the date of applicability thereof.

"Security Documents" shall mean, collectively, any mortgage, security agreement, financing statement, deposit account control agreement or other document providing collateral for the Obligations, including without limitation, repayment of the Loan.

"Service Rates" shall mean the rates charged for data, video, voice or any other service proposed in the RUS approved Application.

"Subsidiaries" shall mean the subsidiaries listed in Schedule 1.

"Substantially Complete" shall mean that 67% of Award funds have been advanced to the Awardee by RUS.

"System Design" shall mean the system as described in the RUS approved Application.

"TIER" shall mean the Awardee's total Net Income or Net Margins plus Interest Expense payable for any year divided by Interest Expense payable for such year, as set forth in Section 5.8 hereof.

"Timeline" shall mean the detailed schedule describing the Project build out, submitted with the RUS approved Application, as may be amended from time to time with prior written RUS consent.

"Total Assets" shall mean all property owned by the Awardee. Total assets include current and noncurrent assets such as cash, receivables, material and supplies, prepayments, deferred charges, and investments; fixed assets (plant) such as buildings and equipment, both in service and under construction; as well as capital leases and intangibles.

## ARTICLE II - REPRESENTATIONS AND WARRANTIES

Recognizing that RUS is relying hereon, the Awardee represents and warrants, as of the date of this Agreement, as follows:

- (a) *Organization; Power, Etc.* The Awardee: (i) is the type of organization specified in the first paragraph hereof, duly organized, validly existing, and in good standing under the laws of the State identified in the first paragraph hereof; (ii) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business make such qualification necessary; (iii) has legal power to own and operate its assets and to carry on its business and to enter into and perform its obligations under the Loan-Grant Documents; (iv) has duly and lawfully obtained and maintained all material licenses, certificates, permits, authorizations and approvals necessary to conduct its business or required by applicable Laws; and (v) is eligible to obtain the financial assistance from RUS contemplated by this Agreement.
- (b) *Authority.* The execution, delivery and performance by the Awardee of this Agreement and the other Loan-Grant Documents and the performance of the transactions contemplated hereby and thereby have been duly authorized by all necessary actions and do not violate any provision of law or any charter, articles of incorporation, organization documents or bylaws of the Awardee or result in a breach of, or constitute a default under, any agreement, security agreement, note or other instrument to which the Awardee is a party or by which it may be bound. The Awardee has not received any notice from any other party to any of the foregoing that a default has occurred or that any event or condition exists that with the giving of notice or lapse of time or both would constitute such a default.
- (c) *Consents.* No consent, approval, authorization, order, filing, qualification, license, or permit of any governmental authority is necessary in connection with the execution, delivery, performance or enforcement of the Loan-Grant Documents, except such as have been obtained and are in full force and effect.
- (d) *Binding Agreement.* Each of the Loan-Grant Documents is, or when executed and delivered will be, the legal, valid, and binding obligation of the Awardee, enforceable in accordance with its terms, subject only to limitations on enforceability imposed in equity or by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally.
- (e) *Compliance with Laws.* The Awardee is in compliance in all material respects with all federal, state and local laws, rules, regulations, ordinances, codes and orders (collectively, "Laws.")

- (f) *Litigation.* There are no pending or threatened legal, arbitration or governmental actions or proceedings to which the Awardee is a party or to which any of its property is subject which, if adversely determined, could have a Material Adverse Effect.
- (g) *Information Submitted with Application.* All information, reports, and other documents and data submitted to RUS in connection with the Application were, at the time the same were furnished, complete, and correct in all material respects. Any financial statements or data submitted to RUS in connection with the Application present fairly, in all material respects, the financial position of the Awardee and the results of its operations in conformity with Accounting Requirements. Since the date thereof, there has been no material adverse change in the financial condition or operations of the Awardee.
- (h) *Principal Place of Business.* The principal place of business and chief executive office of the Awardee is at the address of the Awardee specified in Schedule 1 hereto.
- (i) *Organization Number.* The Awardee's organization number is correctly identified in Schedule 1 hereto.
- (j) *Subsidiaries and Parent.* Any subsidiaries or parent of the Awardee are disclosed on the attached Schedule 1.
- (k) *Defaults Under Other Agreements.* No default by the Awardee has occurred under any agreement or instrument to which the Awardee is a party or to which any of its property is subject that could have a Material Adverse Effect.
- (l) *Title to Property.* Except as disclosed in writing in the opinion of counsel, the Awardee holds good and marketable title to all of the Collateral, free and clear of any liens, security interests or other encumbrances except for Permitted Encumbrances.
- (m) *RUS Mortgage.* The RUS Mortgage is in full force and effect, will secure the Obligations, including the Note, and creates a valid first lien on the property pledged thereunder and hereunder.
- (n) *Additional Representations and Warranties.* The Awardee further represents and warrants as set forth on Schedule 1.

### ARTICLE III – THE LOAN AND GRANT

#### Section 3.1 Loan and Grant Amounts, Interest Rate, and Expiration Date.

- (a) *Loan Amounts.* RUS agrees to make and the Awardee agrees to accept, on the terms and conditions stated in this Agreement and subject to 31 U.S.C. 1551 and 1552, a loan, in the amount specified in Schedule 1 hereto (the "Loan").
- (b) *Grant Amount.* RUS agrees to make and the Awardee agrees to accept, on the terms and conditions stated in this Agreement and subject to 31 U.S.C. 1551 and 1552, a grant, in the amount specified in Schedule 1 hereto (the "Grant").
- (c) *Interest Rate.* The amount of the Loan specified in Schedule 1 hereto will bear interest on each Advance at the Treasury rate for comparable loans with comparable maturities.

- (d) *Expiration Date.* The obligation of RUS to advance the Award, or any portion thereof, shall expire on a date ("Expiration Date") three (3) years from the date of this Agreement.

**Section 3.2 Loan-Grant Documents**

- (a) The debt created by the Loan will be evidenced by a note(s) ("Note(s)") executed by the Awardee and payable to the United States of America. The Awardee shall repay the Loan in accordance with the Note(s) which shall be payable and bear interest in accordance with its (their) terms.
- (b) The Awardee shall execute the Security Documents, in form and substance satisfactory to RUS, and such other security instruments as required by RUS.

**Section 3.3 Payment**

Except as otherwise prescribed by RUS, the Awardee shall make all payments on the Note(s) utilizing electronic fund transfer procedures as specified by RUS.

**Section 3.4 Project**

- (a) *Loan and Grant Purpose.* The Loan and Grant have been made solely to finance the broadband infrastructure project specifically described in the RUS approved Application ("Project.")
- (b) *Changes to Project.* The Awardee shall obtain the prior written approval of RUS for any material change to the system design, construction, Timeline, delivery of services, and/or objective(s) of the Project.

**Section 3.5 ACH Payments**

The Awardee consents to the use of the Automated Clearing House (ACH) Payment System and to the deposit of award funds directly into the Pledged Deposit Account.

**ARTICLE IV – CONDITIONS OF FINANCIAL ASSISTANCE**

**Section 4.1 Conditions Precedent to Closing**

In connection with the execution and delivery of this Agreement, each of the following conditions shall be satisfied (all documents, certificates and other evidence of such conditions are to be satisfactory to RUS in its discretion):

- (a) *Legal Matters.* All legal matters incident to the consummation of the transactions hereby contemplated shall be satisfactory to counsel for RUS;
- (b) *Loan-Grant Documents.* RUS shall receive duly executed originals of the Loan-Grant Documents;
- (c) *Filed and Recorded Security Documents.* RUS shall have received executed, filed and indexed financing statements covering all of the personal property and fixtures of the Awardee;
- (d) *Articles of Incorporation, Charter, Bylaws and Organizational Documents.* With respect to corporate and cooperative Awardees, RUS shall have received certified



copies of the Awardee's most recent articles of incorporation or charter and bylaws. With respect to limited liability companies or similar organizations, RUS shall have received certified copies of the Awardee's most recent organization documents containing provisions reflecting the obligations of the Awardee in paragraphs (c) and (d) of Section 7.3;

- (e) *Authorizations.* RUS shall have received satisfactory evidence that all Loan-Grant Documents and proceedings of the Awardee necessary for duly authorizing the execution, delivery and performance of the Loan-Grant Documents have been obtained and are in full force and effect;
- (f) *Approvals.* RUS shall have received satisfactory evidence that the Awardee has duly registered when and where required by law with all state, Federal and other public authorities and regulatory bodies and obtained all authorizations, certificates, and approvals necessary for, or required as a condition of, the validity and enforceability of each of the Loan-Grant Documents;
- (g) *Title Evidence.* RUS shall have received satisfactory evidence that the Awardee has good and marketable title to its property, including the Project, and holds such franchises, permits, leases, easements, rights, privileges, licenses, or right-of-way instruments, reasonably adequate in form and substance, as may be required by law for the continued maintenance and operation of the existing facilities and Project;
- (h) *Management, Service, and Operating Agreements.* Except as otherwise provided in Sections 4.2 and/or 4.3 herein, RUS shall have received all management, service, and operating agreements, in form and substance acceptable to RUS, which shall be in accordance with fees or rates presented in the *pro forma* financial statements submitted to RUS in the RUS approved Application;
- (i) *Opinion of Counsel.* RUS shall have received an opinion of counsel for the Awardee (who shall be acceptable to RUS) in form and substance acceptable to RUS for each state in which the Awardee operates; and
- (j) *Additional Conditions.* The Awardee has met all additional conditions specified in Schedule 1 hereto.

#### **Section 4.2 General Conditions Precedent to RUS' Obligations to Release Funds for Advance**

The obligations of RUS hereunder are subject to the satisfaction of each of the following conditions precedent (all documents, certificates and other evidence of such conditions are to be satisfactory to RUS in its discretion):

- (a) *Service Rate Evidence.* RUS shall have received satisfactory evidence that the Awardee has duly adopted Service Rates for all proposed services which are designed with a view to (i) paying and discharging all taxes, maintenance expenses, and operating expenses of the Awardee, (ii) making all payments in respect of principal and interest on the Note(s) when and as the same shall become due, (iii) providing and maintaining reasonable working capital of the Awardee, and (iv) producing and maintaining the TIER specified in Section 5.8 hereof;
- (b) *Fidelity Bond or Theft Insurance Coverage.* RUS has received copies of the fidelity bond or theft insurance policy from the Awardee, identifying RUS as a loss payee, from a surety doing business with the United States listed in 31 CFR Part 223, in the amount specified in Schedule 1, covering all officers, employees, or agents of the Awardee authorized to receive, disburse, or receive and disburse the Loan and Grant. Notwithstanding, for current RUS borrowers, RUS may waive this fidelity bond

coverage requirement, if, after evaluation, RUS has determined that adequate fidelity bond coverage is already maintained by the Awardee as a RUS borrower under existing loan or guarantee agreements between the Awardee and RUS;

- (c) *Current Financial Information and Certificate of Authority.* RUS has received from the Awardee: (i) its updated balance sheet, statement of cash flow, and income statement and (ii) a duly authorized and executed certification, Form 675, "Certification of Authority," designating an officer, employee, or agent of the Awardee as the person or persons authorized to execute and submit, on behalf of the Awardee, RUS Form 481, "Financial Requirement Statement;"
- (d) *Deposited Funds.* RUS has received from the Awardee evidence, satisfactory to RUS, verifying that the Awardee has maintained on deposit in an account, funds sufficient to complete the Project as specified on Schedule 1; and
- (e) *Additional Conditions.* The Awardee has met all additional conditions specified in Schedule 1 hereto.

#### **Section 4.3 Conditions to Individual Advances**

The obligations of RUS to approve any Advance are subject to the satisfaction of each of the following conditions precedent on or before the date of such Advance (all documents, certificates and other evidence of such conditions precedent are to be satisfactory to RUS in its discretion):

- (a) *Continuing Representations and Warranties.* That the representations and warranties of the Awardee contained in this Agreement be true and correct on and as of the date of such Advance as though made on and as of such date;
- (b) *Material Adverse Effect.* That no event has occurred which has had or could have a Material Adverse Effect;
- (c) *Event of Default.* That no Event of Default and no event which with the passage of time or giving of notice, or both, would constitute an Event of Default shall have occurred and be continuing, or shall have occurred after giving effect to any Advances on the books of the Awardee;
- (d) *Requisitions and Supporting Documentation.* That RUS shall have received not more frequently than once a month, unless otherwise agreed to by RUS, a completed RUS Form 481, "Financial Requirement Statement" (hereinafter " Form 481,") bearing the original signature of the officer, employee, or agent of the Awardee authorized to receive, disburse, or receive and disburse the Award, with supporting documentation from the Awardee in accordance with the BIP Contracting, Work Order and Advance Procedures Guide. Advances shall be limited to the minimum amounts required for the Awardee's immediate disbursement needs and shall be requested by the Awardee only for actual immediate cash requirements of the Awardee. Such loan/grant advances shall be provided on a reimbursement basis, or based on unpaid third party invoices for Eligible Purposes, or contracts approved by RUS, in accordance with the BIP Contracting, Work Order and Advance Procedures Guide. Grant funds must be advanced concurrently with Loan funds in the same proportion as the Grant is to the total Award;
- (e) *Flood Insurance.* That for any Advance used in whole or in part to finance the construction or acquisition of any building in any area identified by the Secretary of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973 (the "Flood Insurance Act") or any rules, regulations or orders issued to implement the Flood Insurance Act as any area having special flood hazards, or to

finance any facilities or materials to be located in any such building, or in any building owned or occupied by the Awardee and located in such a flood hazard area, the Awardee shall have submitted evidence, in form and substance satisfactory to RUS or RUS has otherwise determined, that (i) the community in which such area is located is then participating in the national flood insurance program, as required by the Flood Insurance Act and any related regulations, and (ii) the Awardee has obtained flood insurance coverage with respect to such building and contents as may then be required pursuant to the Flood Insurance Act and any related regulations;

- (f) *Current Financial Information.* That RUS has received from the Awardee: its current, updated balance sheets, income statements and statements of cash flow;
- (g) *Compliance with Timeline.* That RUS has received from the Awardee evidence, satisfactory to RUS, that the Project is being constructed in accordance with the Timeline;
- (h) *Compliance with Loan-Grant Documents.* That the Awardee is in material compliance with the Loan-Grant Documents and the RUS Mortgage;
- (i) *Permits, Licenses and Franchises.* That RUS shall have received satisfactory evidence that the Awardee has obtained the permits, licenses, franchises and other approvals identified on Schedule 1;
- (j) *Additional Documents.* That the Awardee agrees to provide RUS with such additional documents as RUS may request; and
- (k) *Additional Conditions.* That the Awardee has met all additional conditions specified in Schedule 1 hereto.

**Section 4.4 First Advance to Pay Off Pre-Application Expenses and Interim Financing; Restrictions on Subsequent Advances**

Funds to pay off certain pre-application expenses, as defined in the NOFA, and expenditures for Eligible Purposes incurred after submission of the Application to RUS, if any, will be included in the first Advance. Thereafter no further Advances will be made unless and until the Awardee has furnished evidence, in form and content satisfactory to RUS, that such interim financing has been paid in full and any associated liens have been duly discharged of record.

**ARTICLE V – AFFIRMATIVE COVENANTS**

**Section 5.1 Generally**

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, the Awardee shall duly observe each of the affirmative covenants contained in this Article V.

**Section 5.2 Use of Advances**

The Awardee shall expend Award funds only for Eligible Purposes in accordance with the RUS approved line item Project budget and Form(s) 481 submitted to RUS prior to the advance of funds.

**Section 5.3 Unused and Disallowed Advances**

- (a) The Awardee shall return to RUS forthwith all or any advanced portion of the Loan and Grant not disbursed by the Awardee for the Project or not needed to complete

the Project with any interest earned thereon when deposited in the Pledged Deposit Account.

- (b) The Awardee shall reimburse RUS for any advanced funds whose original expenditure has been disallowed by an RUS loan and grant audit. Disallowances shall be satisfied, as directed by RUS, by either administrative offset against other approved purposes on Form(s) 481 or repaying the disallowed amount directly to the United States Treasury. Such disallowed amounts shall accrue interest payable to RUS from the date RUS delivers to the Awardee a written demand for payment. Interest shall accrue on disallowed Loan Advances at the lesser of the following: the interest rate of the disallowed Advance or the then current United States Treasury rate as prescribed by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletin. Interest shall accrue on disallowed Grant Advances at the then current United States Treasury rate as prescribed by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletin. Closeout of the Loan and Grant will not affect the right of RUS to disallow expenditures and recover, in full, any amount on the basis of a subsequent audit or other review or the Awardee's obligation to return any disallowed expenditures.

#### **Section 5.4 Deposit of Advances into Pledged Deposit Account**

- (a) The Awardee shall open and maintain a deposit account pledged to RUS ("Pledged Deposit Account,") in a bank or depository whose deposits are insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS and shall be identified by the RUS' designation of the Awardee followed by the words "Pledged Deposit Account." The Awardee shall promptly deposit proceeds from all Advances, including previously advanced funds whose original expenditure has been disallowed by an RUS audit into the Pledged Deposit Account. Moneys in the Pledged Deposit Account shall be used solely for the purposes for which Advances were made, or for such other purposes as may be approved in writing by RUS. Deposits and disbursements from the Pledged Deposit Account shall be made and recorded in accordance with the BIP Contracting, Work Order and Advance Procedures Guide.
- (b) *First Lien on Pledged Deposit Account.* The Awardee shall perfect and maintain a first and prior lien in the Pledged Deposit Account (pursuant to a deposit account agreement or similar agreement or mechanism for perfecting as provided by applicable law) in form acceptable to RUS.

#### **Section 5.5 Additional Project Funding**

The Awardee shall ensure that adequate funding is in place to complete the Project and will, after obtaining the prior written approval of RUS, obtain additional loans or funds or receive binding commitments for supplemental funding in an amount needed to ensure completion of the Project.

#### **Section 5.6 Miscellaneous Notices**

The Awardee shall furnish to RUS:

- (a) *Notice of Default.* Promptly after becoming aware thereof, notice of the occurrence of any default under the Loan-Grant Documents or the RUS Mortgage or the receipt of any notice given pursuant to the Loan-Grant Documents or RUS Mortgage with respect to the occurrence of any event which with the giving of notice or the passage of time, or both, could become an Event of Default hereunder, the other Loan-Grant Documents or under the RUS Mortgage.

- (b) *Notice of Litigation.* Promptly after the commencement thereof, notice of the commencement of all actions, suits or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting the Awardee or any Affiliate which, if adversely determined, could have a Material Adverse Effect.
- (c) *Regulatory and Other Notices.* Promptly after receipt thereof, copies of any notices or other communications received from any governmental authority with respect to any matter or proceeding which could have a Material Adverse Effect.
- (d) *Material Adverse Effect.* Promptly after becoming aware thereof, notice of any matter which has resulted or may result in a Material Adverse Effect.
- (e) *Corporate Document Changes.* Thirty (30) days prior to their effectiveness, any amendments, supplements or modifications to the Awardee's Articles of Incorporation, Charter, Bylaws, Operating Agreement, Members Agreements or other Organizational Documents.
- (f) *Other Information.* Such other information regarding the condition, financial or otherwise, or operations of the Awardee as RUS may, from time to time, reasonably request.

#### **Section 5.7 Rates and Financial Performance Criteria**

The Awardee shall design, charge and maintain rates in effect which (i) pay and discharge all taxes, maintenance expenses and operating expenses of its system (ii) make all payments in respect of principal of and interest on the Note(s) when and as the same shall become due, (iii) provide and maintain reasonable working capital for the Awardee, and (iv) maintain the TIER specified in Section 5.8 hereof.

#### **Section 5.8 TIER**

The Awardee will maintain the TIER required in the Prior RUS Loan Contract and, upon the termination of the obligation to maintain such TIER, will maintain a TIER of 1.0 until the Loan is repaid in full.

#### **Section 5.9 Corrective Action**

Within thirty (30) days of (i) sending the financial reports required by Section 6.3 hereof that shows the TIER specified in Section 5.8 was not achieved for the reported fiscal period or (ii) being notified by RUS that the TIER specified in Section 5.8 was not achieved for the reported fiscal period, whichever is earlier, the Awardee, in consultation with RUS, shall provide a written plan satisfactory to RUS setting forth the actions that shall be taken to achieve the specified TIER on a timely basis and shall promptly implement said plan.

#### **Section 5.10 Service Obligation**

The Awardee shall provide the broadband service described in the RUS approved Application commencing from the date the Project is Substantially Complete for at least as long as the Composite Economic Life of the facilities financed by the Award as specified on Schedule 1.

### **Section 5.11 Obligations with Respect to the Construction, Operation and Maintenance of the Project**

- (a) *Project Management and Operation.* The Awardee shall be responsible for the management of the Project and will operate the Project in an efficient and economic manner as well as maintaining the Project in good repair.
- (b) *Construction in Accordance with System Design and Timeline.* The Awardee shall cause the Project to be constructed and/or built out, and completed in accordance with the system design submitted with the RUS approved Application, as such design may be amended with prior RUS consent, and the Timeline.
- (c) *General Insurance Requirements.* The Awardee shall take out and maintain insurance on the Project and any other property acquired with the Loan and Grant in accordance with 7 CFR Section 1788 as well as maintaining the fidelity bond or theft insurance coverage required in Section 4.2(b) hereof.
- (d) *Contracting.* The Awardee may, in accordance with the BIP Contracting, Work Order and Advance Procedures Guide, contract for goods and services to be funded by the Award, using RUS form contracts or private contracts; provided that private contracts must comply with equal employment opportunity and civil rights requirements, as well as the Davis Bacon Act.
- (e) *Commencement and Completion of Construction and/or Installation.*
  - (1) Awardees are required to commence construction and/or installation of the Project within 180 days from the date hereof, and
  - (2) The Project shall be Substantially Complete within two years of the date hereof, and Project Completion shall occur within three years of the date hereof.

### **Section 5.12 Preservation of Existence and Rights**

The Awardee shall take or cause to be taken all such actions as from time to time may be necessary to preserve its existence and to preserve and renew all franchises, contracts, rights of way, easements, permits, and licenses now or hereafter to be granted or conferred upon it, with respect to the Project, the loss of which would have a Material Adverse Effect.

### **Section 5.13 Compliance with Laws**

Awardees shall comply with all applicable federal and state laws, including but not limited to: (i) The nondiscrimination and equal employment opportunity requirements of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e *et seq.*, 7 CFR pt. 15); (ii) Section 504 of the Rehabilitation Act (29 U.S.C. § 794 *et seq.*; 7 CFR pt. 15b); (iii) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*; 45 CFR pt. 90); (iv) Executive Order 11375, amending Executive Order 11246, Relating to Equal Employment Opportunity (3 CFR pt. 102). *See* 7 CFR pts. 15 and 15b and 45 CFR pt. 90, RUS Bulletin 1790-1 (“Nondiscrimination among Beneficiaries of RUS Programs”), and RUS Bulletin 20-15:320-15 (“Equal Employment Opportunity in Construction Financed with RUS Loans”). The RUS Bulletins are available at <http://www.broadbandusa.gov>; (v) The Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151 *et seq.*); (vi) The Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101-19.6); (vii) The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA and certain related federal environmental laws, statutes, regulations, and Executive Orders found in 7 CFR 1794; and (viii) The Communications Act of 1934, as amended, (47 U.S.C. § 151 *et seq.*), the Telecommunications Act of 1996, as amended (Pub. L. 104-104, 110 Stat. 56 (1996)), and the Communications Assistance for Law Enforcement Act (47 U.S.C. § 1001 *et seq.*) (CALEA).

#### **Section 5.14 Equal Opportunity Requirements**

- (a) *Equal Opportunity Provisions in Construction Contracts.* The Awardee shall incorporate or cause to be incorporated into any construction contract, as defined in Executive Order 11246 of September 24, 1965 and implementing regulations, which is paid for in whole or in part with funds obtained from RUS or borrowed on the credit of the United States pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any RUS program involving such grant, contract, loan, insurance or guarantee, the equal opportunity provisions set forth in Attachment 2 hereto, entitled Equal Opportunity Contract Provisions.
- (b) *Equal Opportunity Contract Provisions Also Bind the Awardee.* The Awardee further agrees that it shall be bound by such equal opportunity clause in any federally assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of government.
- (c) *Sanctions and Penalties.* The Awardee agrees that it shall cooperate actively with RUS and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it shall furnish RUS and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it shall otherwise assist the administering agency in the discharge of RUS' primary responsibility for securing compliance. The Awardee further agrees that it shall refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Part II, Subpart D of Executive Order 11246 and shall carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by RUS or the Secretary of Labor pursuant to Part II, Subpart D of Executive Order 11246. In addition, the Awardee agrees that if it fails or refuses to comply with these undertakings RUS may cancel, terminate or suspend in whole or in part this Agreement, may refrain from extending any further assistance under any of its programs subject to Executive Order 11246 until satisfactory assurance of future compliance has been received from the Awardee, or may refer the case to the Department of Justice for appropriate legal proceedings.

#### **Section 5.15 Purchases with Award Funds**

Except as specifically authorized in writing in advance by RUS, all facilities, materials, equipment, supplies, replacements and all other items purchased with Award funds shall be purchased outright, and not subject to any conditional sales agreement, chattel mortgage, bailment lease or other agreement reserving to the seller any right, title or lien.

#### **Section 5.16 Awardee to Defend Title and Remove Liens**

Except for Permitted Encumbrances, the Awardee will maintain and preserve the lien of this Agreement superior to all other liens affecting the Collateral, and will forever warrant and defend the title to the Collateral against any and all claims and demands whatsoever. The Awardee shall make, execute, acknowledge, deliver, file and record all such mortgages, financing statements, continuation statements, security agreements, instruments and conveyances as is necessary to preserve the lien of this Agreement against the Collateral superior to all other liens. The Awardee shall maintain the Collateral free of all liens except for Permitted Encumbrances, and will promptly pay or discharge any and all obligations for or on account of which any such lien or charge might exist or could be created and any and all lawful taxes, rates, levies, assessments, liens, claims or other charges imposed upon or accruing upon any of the Collateral, as

and when the same shall become due and payable; and whenever called upon so to do by RUS will furnish to RUS adequate proof of such payment or discharge; provided, however that this provision shall not be deemed to require the payment or discharge of any tax, rate, levy, assessment or other governmental charge while the Awardee is contesting the validity thereof by appropriate proceedings in good faith and so long as it shall have set aside on its books adequate reserves with respect thereto.

#### **Section 5.17 Further Assurances**

- (a) The Awardee shall from time to time upon written demand of RUS make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered all such further and supplemental mortgages, financing statements, continuation statements, security agreements, instruments and conveyances as may be requested by RUS and take or cause to be taken all such further action as may reasonably be requested by RUS to provide for the securing and payment of the principal of, interest on, and any and all other amounts payable hereunder and under the Note(s) according to the terms thereof and for the purpose of fully conveying, transferring and confirming the property hereby conveyed, mortgaged and pledged or intended so to be, whether now owned by the Awardee or hereafter acquired by it.
- (b) The Awardee shall cause this Agreement, financing statement, continuation statement and every additional instrument which shall be executed pursuant to subsection (a) immediately above, to forthwith upon execution to be filed and recorded and refiled and rerecorded as conveyances and security interests in real and personal property in such manner and in such places as may be required by law or requested by RUS in order to fully preserve the security for the Obligations, including the Loan, and to perfect and maintain the superior lien of this Agreement and all supplemental security instruments.

#### **Section 5.18 Buy American - General Prohibition and Waiver**

For Awardees that are States, local governments, or any agency, subdivision, instrumentality, or political subdivision thereof, pursuant to § 1605 of the Recovery Act, no Loan or Grant funds may be used for the construction, alteration, maintenance, or repair of a public building or public work (as such terms are defined in 2 CFR § 176.140) unless all of the iron, steel, and manufacturing goods used in the project are produced in the United States, except as provided in OMB regulations at 75 Fed. Reg. 14323 (Mar. 25, 2010). Notwithstanding, such Awardees have been granted a general waiver by the Secretary of Agriculture with respect to certain broadband equipment, as outlined in the Federal Register at 74 Fed. Reg. 31402 (July 1, 2009). All other waivers must be requested of RUS pursuant to 2 CFR § 176.60

#### **Section 5.19 Nondiscrimination and Interconnection Obligations**

The Awardee agrees to (i) adhere to the principles contained in the FCC's Internet Policy Statement (FCC 05-151, adopted August 5, 2005); (ii) not favor any lawful Internet applications and content over others; (iii) display any network management policies in a prominent location on the service provider's webpage, provide notice to customers of changes to these policies, such policies include any business practices or technical mechanisms they employ, other than standard best efforts Internet delivery, to allocate capacity; differentiate among applications, providers, or sources, limit usage and manage illegal or harmful content; (iv) connect to the public Internet directly or indirectly, such that the project is not an entirely private closed network; and (v) offer interconnection, where technically feasible without exceeding current or reasonably anticipated capacity limitations, on reasonable rates and terms to be negotiated with requesting parties. This includes both the ability to connect to the public Internet and physical interconnection for the exchange of traffic.

- (a) Notwithstanding the above, the Awardee may not offer interconnection to anyone that will provide services that duplicate services provided by projects funded by



outstanding telecommunications loans made under the RE Act. Further, interconnection may not be used for an ineligible purpose under the Recovery Act.

- (b) These obligations are subject to the needs of law enforcement and reasonable network management. As such, the Awardee may employ generally accepted technical measures to provide acceptable service levels to all customers, such as caching and application-neutral bandwidth allocation, as well as measures to address spam, denial of service attacks, illegal content, and other harmful activities.
- (c) In the event the Awardee contracts with another entity to operate the Project, the Awardee shall require such entity to comply with the terms of this Section, expressly including this Section in their contractual arrangement.
- (d) These obligations do not apply to the Awardee's existing network.

#### **Section 5.20 Davis-Bacon Wage Requirements**

The Awardee shall comply with the Davis-Bacon Act, and the guidance found at 29 C.F.R. pts. 1, 3, and 5, such that any covered contract with a contractor or subcontractor in excess of \$2,000 for construction, alteration or repair (including painting and decorating) shall contain the contract clauses found in 29 C.F.R. 5.5(a), to ensure that all laborers and mechanics employed on the Project receive payment of not less than the prevailing wage.

#### **Section 5.21 Additional Affirmative Covenants**

The Awardee shall comply with the additional affirmative covenants set forth in Schedule 1 hereto.

### **ARTICLE VI – ACCOUNTING AND REPORTING**

#### **Section 6.1 Financial Records**

- (a) Awardees must establish an accounting system satisfactory to RUS in compliance with Accounting Requirements. Such a system of accounts must account for all funds advanced under this Agreement separately from all other funds for the Project, as required by the Recovery Act.
- (b) The Awardee shall maintain, at its premises, such books, documents, papers, or other records and supporting documents, including, but not limited to, invoices, receipts, payroll records and bills of sale, adequate to identify the purposes for which, and the manner in which Loan, Grant, and other funds were expended on the Project. The Awardee shall at all times keep, and safely preserve, proper books, records and accounts in which full and true entries shall be made of all dealings, business, and affairs of the Awardee and its Subsidiaries, in accordance with its system of accounts complying with Paragraph (a) immediately above. The Awardee shall maintain copies of all documents submitted to RUS in connection with the Award until the longer of (i) the Loan being paid in full and all audits have been completed, (ii) the term of this Agreement or (iii) three years subsequent to close-out of the Award.

#### **Section 6.2 Rights of Inspection**

The Awardee shall afford RUS, the Office of the Inspector General of USDA, and the Government Accountability Office, through their representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and right to inspect the Project, any other property encumbered by the Security Documents, and any and all books, records, accounts, including

electronic books, records, accounts and electronic mail messages, regardless of the physical form or characteristics, invoices, contracts, leases, payroll records, canceled checks, statements, and other documents, and papers of every kind belonging to or in any way pertaining to its property or business, including its Subsidiaries, if any, and to make copies or extracts therefrom.

### **Section 6.3 Annual Audit**

Effective after an Advance has been made, one hundred twenty (120) days from the end of the Awardee's current fiscal year and, thereafter, one hundred twenty (120) days from the close of each subsequent fiscal year, the Awardee must submit annual audited financial statements along with a report on compliance and on internal control over financial reporting, and a management letter in accordance with the requirements of 7 CFR 1773. The CPA conducting the annual audit must meet the requirements for a qualified CPA as set forth in 7 CFR § 1773.5. However, if the Awardee is a state, local government, or non-profit organization that expends \$500,000 or more of federal funds during its fiscal year, an audit must be performed in accordance with OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, located at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. Awardees are also responsible for ensuring that sub-recipient audit reports are received and for resolving any audit findings.

### **Section 6.4 BIP Reporting**

- (a) *Quarterly Report.* No later than thirty (30) calendar days after the end of each calendar year quarter the Awardee must submit to RUS utilizing RUS's online Broadband Collection and Analysis System (BCAS), the following information: balance sheets, income statements, statements of cash flow, summaries of its rate packages, the number of customers taking broadband service on a per community basis, the completion status of the build-out and whether the project is Substantially Complete. In addition the Awardee must provide RUS with such other reports concerning the financial condition or operation of the Awardee, including its Subsidiaries, as RUS may request.
- (b) *Annual Report.* For the lesser of five years or as long as the Awardee is required to provide service hereunder, on each January 31<sup>st</sup>, starting the first January 31<sup>st</sup> after Project Completion, the Awardee must submit the following information to RUS utilizing BCAS:
  - (i) Number of households and businesses subscribing to broadband service;
  - (ii) Number of households and businesses subscribing to broadband service that receive improved access; and
  - (iii) Number of educational, library, healthcare, and public safety providers receiving either new or improved access to broadband service.
- (c) *Annual Compliance Certificate.* Within forty-five (45) days after the close of each calendar year, or more often if requested in writing by RUS, the Awardee shall deliver to RUS a written statement signed by its general manager, managing member, or equivalent corporate official satisfactory to RUS, stating that, during such year the Awardee has fulfilled its obligations under the Loan-Grant Documents throughout such year in all material respects or, if there has been a material default in the fulfillment of such obligations, specifying each such default known to such official and the nature and status thereof.
- (d) *Close Out Report.* The Awardee shall deliver a close out report to RUS no later than ninety (90) days after the expiration or termination of the Award, or the completion

of the Project and expenditure of all Award funds. The close out report shall address: (i) a comparison of actual accomplishments to the objectives set forth in the Application; (ii) a description of problems, delays, or adverse conditions that occurred, or which affected the attainment of overall Project objectives, prevented the meeting of time schedules or objectives, or precluded the attainment of particular Project work elements during established time periods; and (iii) a comparison of how funds were spent against the original general budget submitted with the RUS approved Application.

#### **Section 6.5 Recovery Act Reporting**

No later than ten (10) calendar days after each calendar quarter in which the Awardee receives the assistance award funded in whole or part with Award funds, the Awardee shall submit through <http://www.federalreporting.gov> the information required by 2 C.F.R. 176. The final report should summarize the Awardee's quarterly filings and state whether the project's goals have been satisfied.

### **ARTICLE VII – NEGATIVE COVENANTS**

#### **Section 7.1 General**

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, the Awardee shall duly observe each of the negative covenants set forth in this Article VII.

#### **Section 7.2 Merger, Consolidation, Transfer of Property, or Change in Control**

The Awardee shall not, without the prior written consent of RUS, take or suffer to be taken any steps to reorganize consolidate with or merge into any other corporation, or to sell, lease or transfer (or make any agreement therefor) all or any substantial part of its property, including, without limitation, the Project.

#### **Section 7.3 Covenants for Limited Liability Companies and Similar Awardees**

Awardees which are limited liability or similar organizations agree that:

- (a) The death, retirement, resignation, expulsion, termination, bankruptcy or dissolution of any member or the occurrence of any other event that terminates the continued membership of any member shall not cause the Awardee to be dissolved or its affairs to be wound up;
- (b) Prior to the date on which any and all obligations owed to RUS, including the Note evidencing the Loan, are discharged in full, the Awardee shall not be dissolved or terminated;
- (c) The organizational documents of the Awardee shall contain provisions reflecting the obligations of the Awardee in paragraphs (a) and (b) immediately above and such provisions shall not be amended without the prior written consent of RUS; and
- (d) No direct or indirect addition or issuance of any membership units (or any other ownership interest) in the Awardee may be made by the Awardee or its members without the prior written consent of RUS and no transfer, whether individually or in the aggregate, of any membership units (or any other ownership interest) in the Awardee which will result in the transfer of more than 49% of the equity interests (of whatever nature, including voting and non-voting) in the Awardee may be made by the Awardee or its members without the prior written consent of RUS.

#### **Section 7.4 Additional Indebtedness**

The Awardee shall not, without the prior written consent of RUS, incur additional secured or unsecured indebtedness other than (i) purchase money security interests, (ii) unsecured trade indebtedness and (iii) other debt arising in the ordinary course of business. Indebtedness under items (i), (ii), and (iii) in the aggregate shall not exceed five percent (5%) of the Awardee's consolidated total assets.

#### **Section 7.5 Negative Pledge**

The Awardee shall not create, incur or suffer any lien, mortgage, pledge, assignment, or other encumbrance on, or security interest on its property, other than Permitted Encumbrances.

#### **Section 7.6 Contracts**

The Awardee shall not, without the prior written consent of RUS, enter into any contract or contracts for the operation or management of all or any substantial part of the Awardee's system, including, without limitation, the Project, and shall not enter into any contract for the use by others of all or any substantial part of its system, including, without limitation, the Project.

#### **Section 7.7 Salaries**

Salaries, wages, and other compensation paid by the Awardee for services, and directors', members', managers' or trustees' fees, shall be reasonable and in conformity with the usual practice of entities of the size and nature of the Awardee.

#### **Section 7.8 Extension of Credit**

Except as specifically authorized in writing in advance by RUS, the Awardee will make no advance payments or loans, or in any manner extend its credit, either directly or indirectly, with or without interest, to any of its directors, trustees, officers, employees, stockholders, members, managers, Affiliates or Affiliated companies; provided, however, that the Awardee may make an investment for any purpose described in section 607(c)(2) of the Rural Development Act of 1972 (including any investment in, or extension of credit, guarantee, or advance made to an Affiliated Company that is used by such Affiliate for such purpose) to the extent that, immediately after such investment: (1) the aggregate of such investments does not exceed one-third of the Net Worth and (2) the Awardee's Net Worth is at least twenty (20) percent of its Total Assets.

#### **Section 7.9 Distributions or Withdrawals**

- (a) Except for payments made for tax liabilities, the Awardee shall not, without the prior written approval of RUS, make any membership withdrawal, unit redemptions, or other type of profit allocation to its members, if it is a limited liability company, nor make any dividend, stock, capital, capital credit or other distribution in the nature of an investment, guarantee, extension of credit, loan or advance payment on obligations, if it is a corporation or cooperative (all such distributions being hereinafter collectively called "Distributions") which would violate the distribution restriction(s) of the Prior RUS Loan Contract or RUS Mortgage described in Schedule I hereto.
- (b) *Additional Negative Restrictions.* The Awardee shall comply with the additional negative restrictions on Distributions and Withdrawals set forth in Schedule I hereto.

**Section 7.10 Changing Principal Place of Business, Place of Conducting Business, or Type of Organization**

The Awardee shall not change its principal place of business, place of conducting business, or type of organization without the prior written consent of RUS.

**Section 7.11 Changing Name or Place of Incorporation or Organization**

The Awardee shall not change its legal name or place of incorporation or organization without giving RUS sixty (60) days prior written notice.

**Section 7.12 Historic Preservation**

The Awardee shall not, without the prior written consent of RUS, use any Advance to construct any facility which shall involve any district, site, building, structure or object which is included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior pursuant to the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

**Section 7.13 Affiliated Transactions**

With regard to the Project, the Awardee shall not enter into any transaction, contract, or dealing with an Affiliate of the Awardee or with the Awardee's or Affiliate's directors, trustees, officers, managers, members (if the Awardee is a limited liability company), or other corporate officials, without the prior written consent of RUS. RUS' consent to advance loan funds for affiliated transactions will be limited to an amount which is the lower of cost or market rate and which is subject to verification by RUS and its representatives having access to the books and records of the Affiliate.

**Section 7.14 Preferred Stock**

The Awardee shall not issue any new or additional preferred stock without the prior written approval of RUS, which approval shall not be unreasonably withheld if such stock issuance, in RUS' sole opinion, would not be considered a debt instrument under GAAP.

**Section 7.15 Restrictions on Transfers of Property**

- (a) Except as provided in Paragraph (b), and excluding any property which the Awardee must sell to customers in the ordinary course of business, the Awardee shall not sell, lease or transfer any Collateral to any other person or entity (including any subsidiary or affiliate of the Awardee) without the prior written consent of the RUS.
- (b) So long as the Awardee is not in default hereunder, the Awardee may, without obtaining the consent of RUS, sell or otherwise dispose of, free from the lien hereof, any of its property which is neither necessary to, nor useful for, the operation of the Awardee's business, or which has become obsolete, worn out, damaged, or otherwise unsuitable for the purposes of the Awardee; provided, however, that the Awardee shall to the extent necessary: (1) replace the same with other property of the same kind and nature, or substitute thereof, which shall be subject to the lien hereof, free and clear of all prior liens, and apply the proceeds, if any, derived from the sale or disposition of such property, which are not needed for the replacement thereof, to the prepayment of the indebtedness on the outstanding Notes; (2) immediately upon the receipt of the proceeds of any sale or disposition of said property, apply the entire amount of such proceeds to the prepayment of the indebtedness evidenced by the Notes; or (3) deposit all or such part of the proceeds derived from the sale or disposition of said property into the Pledged Deposit Account, and shall use the same only for such additions to, or improvements in, the Collateral, on such terms and conditions as RUS shall specify.

**Section 7.16 Restrictions on Changes to Line Item Budget**

The Awardee agrees that the budget for the Project is a line item budget and agrees not to make any revisions to the RUS approved line item Project budget, including, without limitation, the part of the budget for construction, without the prior written approval of RUS.

**Section 7.17 Additional Negative Covenants**

The Awardee shall comply with the additional negative covenants set forth in Schedule 1 hereto.

**ARTICLE VIII - LENDER'S RIGHTS**

**Section 8.1 Termination of Award Offer**

RUS, in its sole discretion, may terminate the offer to make the Loan or Loan/Grant Combination if it does not receive the Loan-Grant Documents, duly executed on behalf of the Awardee and all conditions in Section 4.1 hereof are not satisfied within sixty (60) days from the date hereof.

**Section 8.2 Audits and Compliance Reviews**

After giving prior notification to the Awardee, RUS has the right to conduct compliance reviews and audits of the Awardee to assure compliance with the Loan-Grant Documents, NOFA and the Accounting Requirements.

**Section 8.3 Disallowed Expenditures**

Upon a determination by RUS that the Awardee did not expend Award funds on Eligible Purposes in accordance with the RUS approved line item Project budget and the Form(s) 481 approved by RUS prior to the advance of funds, RUS may, in its sole discretion:

- (a) Disallow all or a part of the expenditures and disbursements of the Award and require the Awardee to deposit such funds in the Pledged Deposit Account to be applied toward other approved Project purposes on Form(s) 481 or to reimburse the Government, as provided in Section 5.3 hereof;
- (b) Suspend making Advances;
- (c) Take any other action RUS determines to be necessary including, without limitation, exercising any right or remedy available under the Loan-Grant Documents or law.

**Section 8.4 Suspension of Advances**

RUS may, in its absolute discretion, suspend making Advances on the Award upon its making a determination that an event has occurred that is likely to have a Material Adverse Effect. RUS may also suspend making advances of the Award upon the occurrence of an Event of Default.

**Section 8.5 Payment Extensions**

RUS may, at any time or times in succession without notice to or the consent of the Awardee and upon such terms as RUS may prescribe, grant to any person, firm or entity who shall have become obligated to pay all or any part of the principal of or interest on any note held by or indebtedness owed to RUS or who may be affected by the lien created by the Loan-Grant Documents, an extension of the time for the payment of such principal or interest, and after any such extension the Awardee will remain liable

for the payment of such note or indebtedness to the same extent as though it had at the time of such extension consented thereto in writing.

#### **Section 8.6 Right to Expend Money**

RUS shall have the right (without prejudice to any of its rights with respect to any Event of Default) to advance or expend moneys for the purpose of procuring insurance, or for the payment of insurance premiums as required hereunder, or to advance or expend moneys for the payment of taxes, assessments or other charges, or to save the Collateral from sale or forfeiture for any unpaid tax or assessment, or otherwise, or to redeem the same from any tax or other sale, or to purchase any tax title thereon, or to remove or purchase any mechanics' liens or other encumbrance thereon, or to make repairs thereon or to comply with any covenant herein contained or to prosecute and defend any suit in relation to the Collateral or in any manner to protect the Collateral and the title thereto, and all sums so advanced for any of the aforesaid purposes with interest thereon at the highest legal rate, but not in excess of twelve per centum (12%) per annum shall be deemed a charge upon the Collateral and shall be forthwith paid to RUS upon demand. It shall not be obligatory for RUS in making any such advances or expenditures to inquire into the validity of any such tax title, or of any such taxes or assessments or sales therefor, or of any such mechanics' liens or other encumbrance.

#### **Section 8.7 Right to File Financing Statements**

RUS shall have the right to file such financing statements and continuation statements on its behalf, as secured party, and on behalf of the Awardee, as debtor, as RUS deems necessary to perfect a first lien on the Collateral and to maintain and preserve such perfected first lien as long as the Loan remains outstanding. The Awardee shall reimburse RUS for any expenses incurred in the exercise of this right.

### **ARTICLE IX - GRANT OF SECURITY INTEREST**

To secure the payment and performance of the Obligations, including, without limitation, the Note(s), the Awardee hereby pledges, assigns, and transfers to RUS, and grants to RUS a continuing security interest in and to all property, tangible and intangible, of every kind, nature or description, now owned, leased, or hereafter acquired by the Awardee, wherever located, including but not limited to, accounts, chattel paper, documents, instruments, general intangibles, licenses, (including, without limitation, those granted by the Federal Communications Commission ("FCC"), subject to the FCC's prior approval of any assignment or transfer of de jure or de facto control of such licenses), permits, equipment, goods, proceeds, products, and accessions, as well as its right, title and interests in fixtures and real property, now owned, leased or hereafter acquired and wherever located, and the property described in Schedule 2 hereto.

### **ARTICLE X - EVENTS OF DEFAULT**

#### **Section 10.1 Events of Default**

The following shall be events of default (each an "Event of Default") under this Agreement:

- (a) Representations and Warranties. Any representation or warranty made by the Awardee in Loan-Grant Documents, Form(s) 481 or any certificate furnished to RUS under the Loan-Grant Documents, or in the Application shall prove to have been incorrect in any material respect at the time made;
- (b) Non-Payment. The nonpayment of any required and due installment of interest on, or principal of, any Note, whether by acceleration or otherwise, which continues for five (5) Business Days, as such term is herein defined;

- (c) Corrective Actions. Default by the Awardee in the observance or performance of Section 5.9;
- (d) Limited Liability Companies. Default by the Awardee or its members in the observance or performance of Section 7.3;
- (e) Improper Expenditures. The Awardee expends Award funds on costs which are not for Eligible Purposes in accordance with the RUS approved line item Project budget and the Form(s) 481 approved by RUS prior to the advance of funds;
- (f) Failure to Keep Adequate Records. The Awardee fails to keep adequate records, including the failure to document Award fund expenditures for Eligible Purposes as required herein;
- (g) Failure to Build in Accordance with Timeline. The Awardee fails to commence build out of the Project within 180 days from the date hereof or otherwise fails to meet or exceed milestones established in the Timeline, as it may be amended with prior written RUS consent;
- (h) Failure to Comply with Accounting and Reporting Requirements. The Awardee fails to comply with the accounting and reporting requirements in Article VI;
- (i) Other Covenants. Default by the Awardee in the observance or performance of any other covenant or agreement contained in any of the Loan-Grant Documents, which shall remain unremedied for thirty (30) calendar days after written notice thereof shall have been given to the Awardee by RUS;
- (j) Adverse Effects. The Awardee shall forfeit or otherwise be deprived of its charter, articles of organization, franchises, permits, easements, consents or licenses required to carry on any material portion of its business or the Awardee files for or an event occurs which can reasonably be expected to result in its dissolution or termination;
- (k) Other Obligations. Default by the Awardee in the payment of any obligation, whether direct or contingent, for borrowed money in excess of ten thousand dollars (\$10,000.00) or in the performance or observance of the terms of any instrument pursuant to which such obligation was created or securing such obligation which default shall have resulted in such obligation becoming or being declared due and payable prior to the date on which it would otherwise be due and payable;
- (l) Bankruptcy. A court having jurisdiction in the premises shall enter a decree or order for relief with respect to the Awardee in an involuntary case under any applicable bankruptcy, insolvency, or other similar law now or hereafter in effect: (1) appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official, or (2) ordering the winding up or liquidation of its affairs; or the Awardee shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian or trustee, of a substantial part of its property, or make any general assignment for the benefit of creditors;
- (m) Dissolution or Liquidation. Other than as provided in the immediately preceding subsection, the dissolution or liquidation of the Awardee, or the filing of such by the Awardee;
- (n) Impaired Business. The failure by the Awardee to promptly forestall or remove any execution, garnishment or attachment of such consequence as shall impair its ability



to continue its business or fulfill its obligations and such execution, garnishment or attachment shall not be vacated within thirty (30) days;

- (o) Payment of Final Judgment. A final judgment in an amount of ten thousand dollars (\$10,000.00) or more shall be entered against the Awardee and shall remain unsatisfied or without a stay in respect thereof for a period of thirty (30) days; and/or
- (p) Default under RUS Mortgage. An event of default occurs under the RUS Mortgage and is continuing for thirty (30) days.

## ARTICLE XI - REMEDIES

### Section 11.1 Generally

- (a) Upon the occurrence of an Event of Default, RUS may pursue all rights and remedies available to RUS that are contemplated by the Loan-Grant Documents and/or the RUS Mortgage in the manner, upon the conditions, and with the effect provided in such documents, and may pursue such other remedies that are generally available at law or in equity including, without limitation, a suit for specific performance, injunctive relief or damages. Nothing herein shall limit the right of RUS to pursue all rights and remedies available to a creditor following the occurrence of an Event of Default listed in Article X hereof. Each right, power and remedy of RUS shall be cumulative and concurrent, and recourse to one or more rights or remedies shall not constitute a waiver of any other right, power or remedy.
- (b) RUS and the Awardee acknowledge they are, respectively, mortgagee and mortgagor, under the RUS Mortgage and agree that the RUS Mortgage secures the Obligations, including the Note, and that the RUS Mortgage creates or will create a first lien on the Collateral. RUS and the Awardee further agree that an Event of Default hereunder shall constitute an event of default under the RUS Mortgage permitting RUS to exercise rights and remedies thereunder.

### Section 11.2 Remedies

In addition to the remedies referred to in Section 11.1 hereof, upon the occurrence of an Event of Default, RUS may:

- (a) Refuse to make any advance or further advance on account of the Award, but any advance thereafter made by RUS shall not constitute a waiver of such default;
- (b) Declare all unpaid principal of and all interest accrued on the Note(s) to be immediately due and payable and upon such declaration all such principal and interest shall become due and payable immediately;
- (c) Terminate the obligation to further advance on account of the Award;
- (d) Take immediate possession of the Collateral, collect and receive all credits, outstanding accounts and bills receivable of the Awardee and all rents, income, revenues and profits pertaining to or arising from the Collateral, or any part thereof, and issue binding receipts therefor; manage and control and operate the Collateral as fully as the Awardee might do if in possession thereof; RUS, any employee or agent of RUS is hereby constituted and appointed as true and lawful attorney-in-fact of the Awardee with full power to (i) notify or require the Awardee to notify any and all Customers that the Collateral has been assigned to RUS and/or that RUS has a security interest in the Collateral; (ii) endorse the name of the Awardee upon any

notes, checks, acceptances, drafts, money orders, or other instruments or payment (including payments made under any policy of insurance) that may come into possession of RUS in full or part payment of any amount owing to RUS; (iii) sign and endorse the name of the Awardee upon any invoice, freight, or express bill, bill of lading, storage or warehouse receipt, assignment verification or notice in connection with receivables; (iv) send requests for verifications of Collateral to customers or account debtors; (v) sell, assign, sue for, collect, or compromise payment of all any part of the Collateral in the name of the Awardee or in its own name, or make any other disposition of Collateral, or any part thereof, which disposition may be for cash, credit, or any combination thereof, and RUS may purchase all or any part of the Collateral at public or, if permitted by law, private sale, and in lieu of actual payment of such purchase price may set off the amount of such price against the Obligations; granting to RUS, as the attorney-in-fact of the Awardee, full power of substitution and full power to do any and all things necessary to be done in and about the premises fully and effectually as the Awardee might or could do but for this appointment, hereby ratifying all that said attorney-in-fact shall lawfully do or cause to be done by virtue hereof. Neither RUS, its employees, nor its agents shall be liable for any act or omissions or for any error of judgment or mistake of fact or law in its capacity as such attorney-in-fact. This power of attorney is coupled with an interest and shall be irrevocable during the term of this Agreement and so long as any Obligations shall remain outstanding;

- (e) RUS shall have the right to enter and/or remain upon the premises of the Awardee without any obligation to pay rent to the Awardee or others, or any other place or places where any of the Collateral is located and kept and: (i) remove the Collateral therefrom in order to maintain, collect, sell, and/or liquidate the Collateral or, (ii) use such premises, together with materials, supplies, books, and records of the Awardee, to maintain possession and/or the condition of the Collateral, and to prepare the Collateral for sale, liquidation, or collection. RUS may require the Awardee to assemble the Collateral and make it available to RUS at a place to be designated by RUS;
- (f) RUS shall have the right, without prior notice to the Awardee, to exercise rights of setoff or recoupment and apply any and all amounts held or hereafter held, by RUS or owed to the Awardee or for the credit of the Awardee against any and all of the Obligations. RUS agrees to notify the Awardee promptly after any such setoff or recoupment and the application thereof, provided that the failure to give such notice shall not affect the validity of such setoff, recoupment or application. Awardee waives all rights of setoff, deduction, recoupment or counterclaim; and/or
- (g) RUS shall have, in addition to any other rights and remedies contained in this Agreement, and in any other agreements, guarantees, notes, mortgages, instruments, and documents heretofore, now, or at any time or times hereafter executed by the Awardee and delivered to RUS, all of the rights and remedies of a secured party under the Uniform Commercial Code in force in the state identified in the first paragraph hereof, as well as the state where the Collateral is located, as of the date hereof, all of which rights and remedies shall be cumulative, and nonexclusive.

## ARTICLE XII - MISCELLANEOUS

### Section 12.1 Notices

All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing (including, without limitation, by telecopy) and delivered to the intended recipient at the

"Address for Notices" specified below; or, as to any party, at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as provided for herein. The Addresses for Notices of the respective parties are as follows:

<u>RUS</u> Rural Utilities Service United States Department of Agriculture 1400 Independence Avenue, S.W. Washington, D.C.20250-1510 Attention: Administrator Fax: (202) 720-1725	<u>Awardee</u> See Schedule 1
<u>With a copy to:</u> Rural Utilities Service United States Department of Agriculture 1400 Independence Avenue, S.W. Stop 1599, Room No. 2868 Washington, D.C. 20250-1599 Attention: Kenneth Kuchno Fax: (202) 690-4389	<u>With a copy to:</u> See Schedule 1

#### **Section 12.2 Notices of Actions Against Collateral**

Any notice required to be given by RUS of a sale or other disposition or other intended action by RUS with respect to any of the Collateral, or otherwise, made in accordance with this Agreement at least five (5) days prior to such proposed action, shall constitute fair and reasonable notice to the Awardee of any such action.

#### **Section 12.3 Application of Proceeds**

Any proceeds or funds arising from the exercise of any rights or the enforcement of any remedies herein provided after the payment or provision for the payment of any and all costs and expenses in connection with the exercise of such rights or the enforcement of such remedies shall be applied first, to the payment of indebtedness hereby secured other than the principal of or interest on the Notes; second, to the ratable payment of interest which shall have accrued on the Notes and which shall be unpaid; third, to the ratable payment of or on account of the unpaid principal of the Notes, and the balance, if any, shall be paid to whosoever shall be entitled thereto.

#### **Section 12.4 Expenses**

To the extent allowed by law, the Awardee shall pay all costs and expenses of RUS, including reasonable fees of counsel, incurred in connection with the enforcement of the Loan-Grant Documents or with the preparation for such enforcement if RUS has reasonable grounds to believe that such enforcement may be necessary.

#### **Section 12.5 Late Payments**

If payment of any amount due hereunder is not received at the United States Treasury in Washington, DC, or such other location as RUS may designate to the Awardee within five (5) Business Days after the due date thereof or such other time period as RUS may prescribe from time to time in its policies of general application in connection with any late payment charge (such unpaid amount being herein called the "delinquent amount", and the period beginning after such due date until payment of the delinquent amount being herein called the "late-payment period"), the Awardee shall pay to RUS, in addition to all other amounts due under the terms of the Notes, the Mortgage and this Agreement, any late

payment charge as may be fixed from time to time on the delinquent amount for the late-payment period by regulations adopted by RUS.

**Section 12.6 Filing Fees**

To the extent permitted by law, the Awardee agrees to pay all expenses of RUS (including the fees and expenses of its counsel) in connection with the filing or recordation of all financing statements and instruments as may be required by RUS in connection with this Agreement, including, without limitation, all documentary stamps, recordation and transfer taxes and other costs and taxes incident to recordation of any document or instrument in connection herewith. Awardee agrees to save harmless and indemnify RUS from and against any liability resulting from the failure to pay any required documentary stamps, recordation and transfer taxes, recording costs, or any other expenses incurred by RUS in connection with this Agreement. The provisions of this section shall survive the execution and delivery of this Agreement and the payment of all other amounts due hereunder or due on the Notes.

**Section 12.7 No Waiver**

No failure on the part of RUS to exercise, and no delay in exercising any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise by RUS of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

**Section 12.8 Governing Law**

This Agreement shall be governed by and construed in accordance with applicable federal law and, in the absence of controlling federal law, by the laws of the State identified in the first paragraph herein, except those that would render such choice of law ineffective.

**Section 12.9 Consent to Jurisdiction**

The Awardee hereby irrevocably submits to the jurisdiction of the U.S. District Court for the District of Columbia and the US Court of Appeals for the Federal Circuit (both the "DC Federal Courts") for any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined in such federal courts. The Awardee irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the Awardee's address set forth in Schedule 1. The Awardee hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement brought in the DC Federal Courts and hereby further irrevocably waives and agrees not to plead or claim in such court that any such action or proceeding brought in any such court has been brought in a forum *non conveniens*. Nothing herein shall affect the right of the Government to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against the Awardee in its own jurisdiction.

**Section 12.10 Waiver of Jury Trial**

EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, SECURED PARTY, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

#### **Section 12.11 Holiday Payments**

If any payment to be made by the Awardee hereunder shall become due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

#### **Section 12.12 Rescission**

The Awardee may elect to rescind the Award, in which event RUS shall release the Awardee from its obligations hereunder, provided the Awardee complies with such terms and conditions as RUS may impose for such release.

#### **Section 12.13 Successors and Assigns**

- (a) This Agreement shall be binding upon and inure to the benefit of the Awardee and RUS and their respective successors and assigns, except that the Awardee may not assign or transfer its rights or obligations hereunder without the prior written consent of RUS.
- (b) Pursuant to federal claims collection laws, RUS' claims hereunder may be transferred to other agencies of the United States of America; in the event of such a transfer, all rights and remedies hereby granted or conferred on RUS shall pass to and inure to the benefit of any such successor agency.

#### **Section 12.14 Complete Agreement; Waivers and Amendments**

Subject to RUS Regulations, this Agreement and the other Loan-Grant Documents are intended by the parties to be a complete and final expression of their agreement. However, RUS reserves the right to waive its rights to compliance with any provision of this Agreement and the other Loan-Grant Documents. No amendment, modification, or waiver of any provision hereof or thereof, and no consent to any departure of the Awardee herefrom or therefrom, shall be effective unless approved in writing by RUS in the form of either a RUS Regulation or other writing signed by or on behalf of RUS, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

#### **Section 12.15 Headings**

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

#### **Section 12.16 Severability**

If any term, provision, condition, or any part thereof, of this Agreement, Note(s) or the Security Documents shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision, or condition nor any other term, provision, or condition, and this Agreement, the Note(s), and the Security Documents shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

#### **Section 12.17 Right of Setoff**

Upon the occurrence and during the continuance of any Event of Default, RUS is hereby authorized at any time and from time to time, without prior notice to the Awardee, to exercise rights of setoff or recoupment and apply any and all amounts held or hereafter held, by RUS or owed to the Awardee or for the credit or account of the Awardee against any and all of the obligations of the Awardee now or

hereafter existing hereunder or under the Note(s). RUS agrees to notify the Awardee promptly after any such setoff or recoupment and the application thereof, provided that the failure to give such notice shall not affect the validity of such setoff, recoupment or application. The rights of RUS under this section are in addition to any other rights and remedies (including other rights of setoff or recoupment) which RUS may have. Awardee waives all rights of setoff, deduction, recoupment or counterclaim.

**Section 12.18 Schedules and Attachments**

Each Schedule and Attachment attached hereto and referred to herein is each an integral part of this Agreement.

**Section 12.19 Authority of Representatives of RUS**

In the case of any consent, approval or waiver from RUS that is required under this Agreement or any other Loan-Grant Document, such consent, approval or waiver must be in writing and signed by an authorized RUS representative to be effective. As used in this section, "authorized RUS representative" means the Administrator of RUS, and also means a person to whom the Administrator has officially delegated specific or general authority to take the action in question.

**Section 12.20 Prepayment of Loan**

In the event the Awardee prepays the entire Loan portion of the Loan within three (3) years from the date hereof, the Awardee shall, within thirty (30) days of making such prepayment, execute a standard grant agreement with the RUS.

**Section 12.21 Term**

This Agreement shall remain in effect until one of the following two events has occurred:

- (a) The Awardee and RUS replace this Agreement with another written agreement;
- (b) All of the Awardee's obligations under this Agreement have been discharged and paid.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HIGHLAND TELEPHONE COOPERATIVE, INC.

by Sam L Strunk  
Name: SAM L. STRUNK  
Title: President

(Seal)

Attested to by: Clara Jerry  
Secretary

UNITED STATES OF AMERICA

by \_\_\_\_\_  
Administrator  
of the Rural Utilities Service

## SCHEDULE 1

### Article I Definitions

1. Prior RUS Loan Contract: **Loan Agreement dated as of September 23, 2008**
2. RUS Mortgage: **Restated Mortgage, Security Agreement and Financing Statement dated as of September 23, 2008**

### Article II Representations and Warranties

1. Paragraph (h) Awardee's principal place of business: **7840 Morgan County Highway Sunbright, TN 37872**
2. Paragraph (i) Awardee's Organization Number: **0119210**
3. Paragraph (j) Awardee's Subsidiaries: **Highland Communications Corporation, Inc.  
Highland Media Corporation, Inc.**
4. Paragraph (j) Awardee's Parent: **None**
5. Paragraph (n) Additional Representations and Warranties:  
  
The Awardee represents and warrants that it is primarily engaged in the business of transmitting communications electrically, electromagnetically, or by light.

### Article III The Loan

1. Section 3.1(a) Loan amount: **\$16,622,291**
2. Section 3.1(b) Grant amount: **\$49,866,871**

### Article IV Conditions Precedent to Loan Closing

1. The additional conditions referred to in Section 4.1(j) are as follows: **None**  
  
Conditions Precedent to Release of Funds
2. Section 4.2(b) amount of fidelity bond coverage: **\$9,973,374**
3. Section 4.2(d) funds deposited for Project completion: **None**
4. The additional conditions referred to in Section 4.2(e) are as follows:
  - a. The Awardee has provided RUS with documentation of its consultation with its local U.S. Fish and Wildlife Services (USFWS) Ecological Services office (<http://www.fws.gov/offices>) with respect to the affect of the Project on any listed threatened or endangered species, candidate species or their critical habitat; and
  - b. The consultation process referred to immediately above in paragraph (a) has concluded.

#### Conditions Precedent to Individual Advances

5. Section 4.3(i) Required permits, licenses, franchise, and other approvals: **None**

6. The additional conditions to advance referred to in Section 4.3(k) are as follows:
  - a. No funds will be advanced for construction that disturbs ground or involves land clearing, until the Awardee has received written confirmation from RUS that the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) have been met in accordance with implementing regulations, "Protection of Historic Properties" (36 C.F.R. Part 800).

Article V Affirmative Covenants

1. Section 5.10 Composite Economic Life of RUS financed facilities: **25 Years**
2. The additional affirmative covenants referred to in Section 5.21 are as follows:
  - a. Within sixty (60) days from the date hereof, the Awardee shall provide Project construction plans to their local U.S. Fish and Wildlife Service (USFWS) Ecological Services office (<http://www.fws.gov/offices/>) to initiate the consultation process as to whether Project construction will affect any listed threatened or endangered species, candidate species or their critical habitat.
  - b. Within sixty (60) days from the date hereof the Awardee shall provide all information necessary to the applicable organizations to complete the review and approval processes required by Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), in accordance with implementing regulations, "Protection of Historic Properties" (36 C.F.R. 800), relating to construction that disturbs ground or involves land clearing.
  - c. The Awardee shall insert the following language in all construction contracts:

If previously unidentified historic properties (that is, properties listed on or eligible for listing on the National Register of Historic Places) or unanticipated effects to historic properties are discovered during Project construction, the construction contractor shall immediately halt all activity within a one hundred (100) foot radius of the discovery, notify the Awardee and law enforcement of the discovery and implement interim measures to protect the discovery from further impact, especially looting and vandalism. Construction shall not resume within a 100 foot radius of the discovery until the construction contractor has received written instructions to proceed from the Awardee.
  - d. Immediately upon receipt of notification from the construction contractor that a discovery of unidentified historic properties (properties listed or eligible for listing on the National Register of Historic Places) or unanticipated effects to historic properties are discovered during Project construction, the Awardee shall :
    - (i) Inspect the construction site to determine the scope of the discovery and to ensure that construction activities have halted;
    - (ii) Clearly mark the area of the discovery;
    - (iii) Implement additional measures, as appropriate, to protect the discovery from further impact, especially looting and vandalism;
    - (iv) Notify USDA Rural Utilities Service (RUS), Engineering and Environmental Staff, Federal Preservation Officer at 202-720-9583; and
    - (v) If the discovery contains human remains, comply with all applicable state laws, notify the State Historic Preservation Office(s) and any Indian Tribes or Hawaiian organizations which might be interested in the discovery.

Article VII Negative Covenants

1. The additional negative restrictions on Distributions and Withdrawals referred to in Section 7.9(b) are as follows: **None**



2. The additional negative covenants referred to in Section 7.17 are as follows:
  - a. The Awardee agrees not to start or proceed with any ground breaking construction activities relating to the Project prior to completing the consultation process required by the Endangered Species Act and referred to on this Schedule under Article IV, Paragraphs 5(a) and (b).
  - b. The Awardee agrees not to engage in construction activities which disturb ground or involves land clearing until the Awardee has received written confirmation from RUS that the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) have been met in accordance with implementing regulations, "Protection of Historic Properties" (36 C.F.R. Part 800).
  - c. The Awardee agrees not to resume construction or authorize a construction contractor to resume construction within a 100 foot radius of a discovery of unidentified historic properties (properties listed or eligible for listing on the National Register of Historic Places) or unanticipated effects to historic properties until receipt of written notification from RUS that the requirements of the National Historic Preservation Act (16 U.S.C. 470f) have been met.

Article XII Miscellaneous

1. Section 12.1 Awardee's address for purposes of notification:

**Mr. F. L. Terry**  
**Manager**  
**Highland Telephone Cooperative, Inc.**  
**7840 Morgan County Highway**  
**Sunbright, Tennessee 37872**

2. Section 12.1 Address for Awardee's notification copy: **Same as above**

## SCHEDULE 2

### COLLATERAL

1. Collateral shall include the following:

All property, assets, rights, privileges, licenses and franchises of the Awardee of every kind and description, real, personal or mixed, tangible and intangible, of the kind or nature specifically mentioned herein, or any other kind or nature now owned or hereafter acquired or arising by the Awardee (by purchase, consolidation, merger, donation, construction, erection or in any other way) wherever located, including without limitation all or in part the following (hereinafter the "Collateral:")

#### I

All right, title, and interest of the Awardee in and to the Existing Facilities, buildings, plants, works, improvements, structures, estates, grants, franchises, easements, rights, privileges and properties, whether real, personal, or mixed, tangible or intangible, of every kind or description, now or hereafter owned, leased, constructed, or acquired by the Awardee, wherever located, and in and to all extensions, improvements, and additions thereto, including but not limited to all buildings, plants, works, structures, towers, antennas, fixtures, apparatus, materials, supplies, machinery, tools, implements, poles, posts, crossarms, conduits, ducts, lines, wires, cables, whether underground, overhead, or otherwise, exchanges, switches, including, without limitation, host and remote switches, desks, testboards, frames, racks, motors, generators, batteries, and other items of central office equipment, pay stations, protectors, instruments, connections and appliances, office furniture, equipment, and any and all other property of every kind, nature, and description, used, useful, or acquired for use by the Awardee in connection therewith;

#### II

All right, title, and interest of the Awardee in, to, and under any and all grants, privileges, rights of way and easements now owned, held, leased, enjoyed or exercised, or which may hereafter be owned, held, leased, acquired, enjoyed or exercised, by the Awardee for the purposes of, or in connection with, the construction or operation by, or on behalf of, the Awardee of its properties, facilities, systems, or businesses, whether underground, overhead, or otherwise, wherever located;

#### III

All right, title, and interest of the Awardee in, to, and under any and all licenses and permits (including without limitation those granted by the Federal Communications Commission ("FCC"), subject to the FCC's prior approval of any assignment or transfer of de jure or de facto control of such licenses), franchises, ordinances, and privileges, whether heretofore or hereafter granted, issued, or executed, to it or to its assignors by the Government, or by any state, county, township, municipality, village, or other political subdivision thereof, or by any agency, board, commission, or department of any of the foregoing, authorizing the construction, acquisition, or operation of the Awardee's properties, facilities, systems, or businesses, insofar as the same may by law be assigned, granted, bargained, sold, conveyed, transferred, mortgaged, or pledged;

#### IV

All right, title, and interest of the Awardee in, to, and under all personal property and fixtures of every kind and nature, including without limitation all goods (such as inventory, equipment and any accessions thereto), instruments (such as promissory notes or chattel paper, electronic or otherwise), documents, accounts (such as deposit accounts or trust accounts pursuant hereto or to a loan agreement), letter-of-credit rights, investment property (such as certificated and uncertificated securities or security entitlements and accounts,) software, general intangibles (such as payment intangibles), supporting

obligations, contract rights or rights to the payment of money, insurance claims, and proceeds (as such terms are presently and hereafter defined in the UCC; provided, however, that the term "instrument" shall be such term as defined in Article 9 of the UCC rather than Article 3);

V

All right, title, and interest of the Awardee in, to, and under any and all agreements, leases or contracts heretofore or hereafter executed by and between the Awardee and any person, firm, corporation, or other corporate entity relating to the Collateral (including contracts for the lease, occupancy, or sale of the Collateral, or any portion thereof);

VI

All right, title, and interest of the Awardee in, to, and under any and all books, records and correspondence relating to the Collateral, including, but not limited to, all records, ledgers, leases, computer and automatic machinery, software, programs, databases, disc or tape files, print-outs, batches, runs, and other electronically-prepared information indicating, summarizing, evidencing, or otherwise necessary or helpful in the collection or realization on the Collateral;

VII

Also, all right, title, and interest of the Awardee in, to, and under all other property, real or personal, tangible or intangible, of every kind, nature, and description, and wherever situated, now or hereafter owned or leased by the Awardee, it being the intention hereof that all such property now owned or leased but not specifically described herein, or acquired or held by the Awardee after the date hereof, shall be as fully embraced within and subjected to the lien hereof as if the same were now owned by the Awardee and were specifically described herein to the extent only, however, that the subjection of such property to the lien hereof shall not be contrary to law;

Together with all rents, income, revenues, proceeds, products, profits and benefits at any time derived, received, or had from any and all of the above-described property of the Awardee;

Provided, however, no automobiles, trucks, trailers, tractors or other vehicles (including without limitation aircraft or ships, if any) owned or used by the Awardee shall be included in the Collateral.

2. Additionally, property pledged as Collateral shall also include the following specifically described property, if any: **None**

# **Attachment 1**

Rural Development  
United States Department of Agriculture

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## **RURAL UTILITIES SERVICE**

**Broadband Initiatives Program  
Contracting, Work Order and  
Advance Procedures Guide**

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## GENERAL

This guide implements and explains the provisions of the loan and grant documents containing the requirements and procedures to be followed by an Awardee performing work to be financed with RUS Recovery funds. The Awardee shall maintain accounting and plant records sufficient to document the cost and location of all construction and to support fund advances and disbursements. The standard Loan and Grant Documents also contain provisions regarding advances and disbursement of broadband funds. This document also implements certain provisions by setting forth requirements and procedures to be followed by the Awardees in obtaining advances and making disbursements of funds.

## ABBREVIATIONS

For purpose of this guide:

*C.F.R.* stands for Code of Federal Regulations.

*FRS* stands for RUS Form 481, *Financial Requirement Statement*.

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*GFR* stands for RUS general field representative.

*Pub. L.* stands for Public Law.

*U.S.C.* stands for United States Code.

## DEFINITIONS

For purposes of this guide:

*Advance* means transferring funds from RUS to the Awardee's deposit account.

*Architect* means a person registered as an architect in the state where construction is performed.

*Award* means any broadband award made by RUS.

*Award documents* mean the documents covering an award made by RUS, including the loan or grant agreement, note, and mortgage or other security documents between the Awardee and RUS.

*Award funds* means funds provided by RUS through an award.

*Awardee* means any organization that has received financing from RUS.

*Bid guarantee* means a bid bond or certified check required of contractors bidding on construction work to ensure that the bidder, if successful, will furnish a performance bond.

*Buy American Requirement* means the requirements as stated in the Recovery Act and any associated waivers.

*Broadband Service* means the minimum transmission rate as defined in the applicable NOFA for the Broadband Initiatives Program, under which the award was made.

*Closeout documents* mean the documents required to certify satisfactory completion of all obligations under a contract.

*Contract* means the agreement between the Awardee and an independent contractor covering the purchase and/or installation of equipment or the construction of facilities to deliver broadband services for an Awardee's system.

*Contract work* means any work performed pursuant to an RUS form contract, or a Non-Standard Contract.

*Disbursement* means payment by the Awardee out of the deposit account for approved award purposes.

*Engineer* means a person registered as an engineer in the state where construction is performed, or a person on the Awardee's staff authorized by RUS to perform engineering services.

*In-house engineering* means any pre-loan or post-loan engineering services performed by the Awardee's staff.

*Interim work* means any work that commences after an application has been submitted to RUS, but prior to release of award funds.

*Non-Standard Contract* means a non-RUS form contract for specific work that is submitted by the Awardee, which must be approved by RUS before execution, if it is to be funded.

*Outside plant* means the part of the telecommunications network that is physically located outside of telecommunication buildings. This includes cable, conduits, poles and other supporting structures and certain other associated equipment items.

*Performance bond* means a surety bond in form satisfactory to RUS guaranteeing the contractor's faithful performance of a contract. (See 7 CFR Part 1788.)

*Plans and specifications* means a copy of the appropriate contract, the specifications, and such additional information and documents needed to provide a clear, accurate, and complete understanding of the work to be performed.

*Pledged Deposit account* means an account required by the award agreement into which all RUS funds are advanced.

*RUS* means the Rural Utilities Service; an agency of the United States Department of Agriculture and successor to the Rural Electrification Administration.

*RUS form contract* means contracts identified as a RUS form.

*Subcontract* means a secondary contract undertaking some of the obligations of a primary contract.

*System design* means the system described in the approved Application.

*Work* means any purchase of equipment, software and/or installation, if applicable; construction of facilities; or professional services.

*Work order* means any work performed by the Awardee's employees, pursuant to its work order procedure, with the Awardee furnishing all materials, equipment, tools, and transportation.

## CONTRACTING PROCEDURES

### I GENERAL

All work must conform to the Application, as approved by RUS, and shall be covered by an Environmental Report prepared in accordance with 7 CFR Part 1794 and approved by RUS. No construction and/or installation activities shall commence until all necessary local, state and federal requirements have been satisfied.

All work performed prior to the submission of an application to RUS will not be eligible for financing. In addition, only new materials and equipment may be financed with award funds, unless otherwise approved in writing by RUS.

A. Interim Work

Once RUS has received an application, the applicant may proceed with interim work. However, this should not be construed as a commitment that RUS will approve the application. To ensure that interim work is eligible for reimbursement with award funds, the Awardee must comply with all the procedures in this Guide, including the following requirements:

- (1) Equal employment opportunity requirements in RUS Bulletin 320-15; and
- (2) Environmental requirements contained in 7 CFR 1794;

B. Non-Standard Contracts

The Awardee may choose to use a Non-Standard contract to perform work. The Non-Standard Contract must include a provision that it will not be binding on the parties, until administrative approval by RUS has been granted. RUS will not approve use of the Non-Standard Contract if, in RUS' judgment:

- (1) The contract is for work not covered in the approved Application, or is not for an Eligible Purpose;
- (2) The contract terms and conditions, are vague, inadequate, or unreasonable; or
- (3) The contract presents unacceptable loan security risk to RUS.

C. Contract Amendments

The Awardee shall obtain RUS approval before execution of any amendment to an approved contract if:

- (1) The amendment alters the terms and conditions of the contract or changes the scope of the project covered by the contract regardless of the amount of the contract before amendment;
- (2) The amendment by itself (or together with preceding amendments) increases the original contract price by 20% or more. In this case, a bond extension will be required to bring the penal sum of the bond to the total amended contract price; or
- (3) The amendment causes an unbonded contract to require a contractor's performance bond. This would occur when an amendment increases the contract price to an amount requiring a performance bond per 7 CFR Part 1788, Subpart C.

Once RUS approval to amend the contract has been granted, or for any other contract amendments not requiring approval, the Awardee must submit an original executed amendment to RUS.

D. Insurance

A performance bond is required for construction of facilities exceeding \$250,000, as indicated in 7 CFR Part 1788, Subpart C, or certain significant installation, as outlined in the Agency's memorandum found at [http://www.usda.gov/rus/telecom/publications/pdf\\_files/Contractors-Bond-Requirement7-28-09.pdf](http://www.usda.gov/rus/telecom/publications/pdf_files/Contractors-Bond-Requirement7-28-09.pdf).

The Awardee is responsible for ensuring that its contractor and engineer comply with all the insurance and bond requirements of 7 CFR Part 1788, Subpart C.

E. Title Clearance

For any building construction over \$250,000, the Awardee shall provide title evidence satisfactory to RUS, prior to releasing the invitations to bid.

F. Software License

As part of an equipment purchase, the original equipment manufacturer may require that the Awardee enter into a software license agreement for the use of the equipment. The Awardee may use RUS Form 390, *Software License Agreement—Special Equipment Contract*, or a Non-Standard Contract.

G. Buy American

All iron, steel, or manufactured goods that are purchased with Recovery Act funds by state or local governments, or an instrumentality thereof, which are not included in the Agency's waiver covering Broadband Switching Equipment, Broadband Routing Equipment, Broadband Transport Equipment, Broadband Access Equipment, Broadband Customer Premises Equipment and End-User Devices, or Billing/Operations Systems, shall be subject to the Buy American provision of the Recovery Act, unless a waiver is requested from the RUS. For further details see 74 Fed. Reg. 31402.

H. Davis-Bacon Act

The Awardee shall comply with The Davis-Bacon Act, and the guidance found at 29 C.F.R pts. 1, 3, and 5, such that any covered contract with a contractor or subcontractor in excess of \$2,000 for construction, alteration or repair (including painting and decorating) shall contain the contract clauses found in 29 C.F.R. 5.5(a), to ensure that all laborers and mechanics employed on the Project receive payment of not less than the prevailing wage.

I. Affiliated Transactions

With regard to the Project, the Awardee shall not enter into any transaction, contract, or dealing with an Affiliate of the Awardee or with the Awardee's or Affiliate's directors, trustees, officers, managers, members (if the Awardee is a limited liability company), or other corporate officials, without the prior written consent of RUS. RUS' consent to advance award funds for affiliated transactions will be limited to an amount which is the lower of cost or market rate and which is subject to verification by RUS and its representatives having access to the books and records of the Affiliate.

As defined in the appropriate award document, "Affiliate" or "Affiliated Company" of any specified person or entity means any other person or entity directly or indirectly controlling of, controlled by, under direct or indirect common control with, or related to, such specified person or entity, or which exists for the sole purpose of providing any service to one company or exclusively to companies which otherwise meet the definition of affiliate. This definition includes Variable Interest Entities as described in Financial Accounting Standards Board Interpretation (FIN) No. 46(R), *Consolidation of Variable Interest Entities*. For the purpose of this definition, "control" means the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership voting of securities, common directors, officers, or stockholders, voting trust, holding trusts (other than money exchanged) for property or services.



J. Records

Records supporting all assets financed by RUS shall be retained until audited and approved by RUS.

Records must be sufficient to document the cost and location of all expenditures and to support advances and disbursement of award funds. The support records must include, but not be limited to, contracts, third party invoices, timesheets, payroll records, material records, and overhead allocation records and summary schedules

Records related to plant in service must be retained until the facilities are permanently removed from utility service, all removal and restoration activities are completed, and all costs are retired from the accounting records unless accounting adjustments resulting from reclassification and original costs studies have been approved by RUS or other regulatory body having jurisdiction.

Life and mortality study data for depreciation purposes must be retained for 25 years or for 10 years after plant is retired, whichever is longer.

II PROFESSIONAL SERVICES

General

Awardees shall only obtain professional services from persons or firms not affiliated with, or that do not represent a contractor, vendor or manufacturer presently providing labor, materials, or equipment to the Awardee. This does not include in-house services.

A. Engineering Services

All engineering services required by an Awardee, including inspection and certification, shall be rendered by an engineer selected by the Awardee and licensed in the State where the facilities will be located, or by qualified employees on the Awardee's staff, who after submission of qualifications to RUS, have been approved to perform such services.

- (1) *Outside Consultant.* Engineering services performed by an outside consultant may be covered under RUS Form 217, *Postloan Engineering Services Contract - Telecommunications*, RUS Form 245, *Engineering Service Contract - Special Services*, or a Non-Standard Contract.
- (2) *In-House Engineering.* When the proposed work is such that the engineering involved is within the capabilities of the employees on the Awardee's staff, Awardees may request RUS approval to provide such services. The request shall include:
  - (i) A description of services to be performed;
  - (ii) The names and qualifications of each employee that will be performing the specific services. In addition, the Awardee shall identify an employee who will be in charge of the services. Such employee must meet the State experience requirements for a registered engineer in the State where facilities will be located. In the absence of specific State experience requirements, this employee should have at least eight years experience in the design and construction of telecommunication facilities, with at least two years of the work experience at a supervisory level. RUS does not require professional registration of this employee, but this does not relieve the Awardee from compliance with applicable state registration requirements, which may require a licensed individual to perform such services; and

- (iii) A letter signed by an authorized representative of the Awardee requesting in-house engineering approval and certifying the supporting information.

RUS shall notify the Awardee by letter of approval or disapproval to perform in-house engineering. The letter shall set forth any conditions associated with an approval or the reasons for disapproval. RUS approval of in-house engineering services shall be only for the specific services covered by the approval.

B. Architectural Services

The Awardee shall select an architect licensed in the state where the facility will be located. The borrower may use either RUS Form 220 or RUS Form 217 when contracting for architectural services, or a Non-Standard Contract.

C. Contract and Closeout Documents

The Awardee must submit three executed copies of the RUS form contract or the approved Non-Standard Contract, covering the professional services to be provided, for final administrative approval. Once all services and obligations required under the professional services contract have been completed, Awardees shall submit two copies of RUS Form 288, *Final Statement of Architect's Fees* and/or RUS Form 506, *Final Statement of Engineering Fees*, to close out the specific RUS Form contract. Awardees using Non-Standard Contracts should provide a similar certification for Non-Standard Contracts.

III PURCHASE AND INSTALLATION OF EQUIPMENT

General

When purchasing any equipment, including installation, that costs more than \$100,000, the Awardee must use a contract for the purchase. Any equipment purchases for less than \$100,000, including installation, can be purchased under a purchase order and reimbursed after submission of the invoices along with an RUS Form 771a, following the inspection and reimbursement procedures under Work Order procedures.

A. Equipment Purchased with Contract

Awardee may use RUS Form 397, *Special Equipment Contract (Including Installation)*, RUS Form 398, *Special Equipment Contract (Not Including Installation)*, or a Non-Standard Contract.

The engineer shall prepare the performance requirements, including any installation requirements, if applicable, prior to releasing them along with the respective contract to prospective vendors. The Awardee may purchase equipment using a negotiated purchase, although RUS recommends that the Awardee obtain quotes from at least three different vendors.

Equipment purchased under RUS Form 398 or a Non-Standard Contract that does not include installation, may be installed by the Awardee using the Work Order method or RUS Form 773, as outlined in the Work Order procedures below.

B. Contract and Closeout Documents

Once a vendor has been selected, the Awardee must submit three executed copies of the RUS form contract or the approved Non-Standard Contract, including the non-standard performance requirements covering the equipment to be provided, for final administrative approval. Once all equipment purchased under the contract has been installed, and tested, and meets the performance requirements, the Awardee shall proceed with the closeout of the contract and submit a final

contract closeout certification on RUS Form 756 or a similar certification for Non-Standard Contracts.

#### IV CONSTRUCTION OF FACILITIES

##### General

Construction for outside plant facilities, building, and towers may be performed using the work order method or by an outside contractor. When using an outside contractor, either RUS Contract Forms 773, 257, or 515, or a Non-Standard contract may be used.

##### A. Outside Contractor

If using a standard RUS Contract Form, the Awardee shall use the form without modifications, and attach any diagrams, sketches, and tabulations necessary to specify clearly the work to be performed and who shall provide which materials.

The engineer shall prepare the construction specifications prior to releasing them along with the respective contract to prospective contractors. RUS recommends that Awardees obtain quotes from several contractors before entering into a contract to ensure obtaining the lowest cost. The Awardee shall ensure that the contractor selected meets all federal, state, and local licensing requirements, as well as bonding requirements, and that the contractor maintains the insurance coverage required by the contract for the duration of the work. (See 7 C.F.R. Part 1788.)

Once a contractor has been selected, the Awardee must submit three executed copies of the RUS form contract (except RUS Form 773, which shall follow the procedures below) or the approved Non-Standard Contract, including the construction specifications for the work to be performed, for final administrative approval. Once construction has been completed per the construction specifications and all acceptance tests have been made, the Awardee shall proceed with the closeout of the contract and submit a final contract closeout certification on RUS Form 756 or a similar certification for Non-Standard Contracts.

##### B. Work Order Procedures

Work order construction shall be performed to all local, state, and Federal requirements. As work order construction is performed, the Awardee shall keep daily timesheets and material reports, referenced by the work project number, to record labor and materials used. Cost accounting system must be in place to meet the requirements of 7 CFR 3015 (including 48 CFR 31.2), 3016, 3019 as applicable, to show the source and summary records to support requested and expended funds.

- (1) Inspection and Certification. Upon completion and prior to closeout, the Awardee shall obtain the engineer's certification on RUS Form 771a for all construction completed using RUS Form 773 or the work order method. An authorized official of the Awardee shall execute the Awardee's certification.
- (2) Reimbursement. To request funds for construction completed under the work order construction procedures or RUS Form 773 contract construction procedures, the Awardee shall submit RUS Form 771a, initialed by the GFR, along with a description of each project, as well as RUS Form 481, *Financial Requirement Statement* (FRS). RUS Form 771a should be submitted only with the FRS that it supports. Unless otherwise approved by RUS, the Awardee shall finance all work order and RUS Form 773 contract construction with non-loan funds and obtain reimbursement with RUS funds when construction is completed and properly executed closeout documents have been submitted to RUS.

## V ADVANCE AND DISBURSEMENT OF FUNDS

### General

The award document contains the provisions regarding advances and disbursement of funds to the Awardee. This section implements certain provisions by setting forth requirements and procedures to be followed by the Awardee in obtaining advances and making withdrawals/disbursements of funds.

RUS is under no obligation to make or approve advances of funds unless the Awardee complies with all terms and conditions of the award documents.

#### A. Broadband Budget

The Awardee will be provided a broadband budget, based on the approved Application. This budget divides the award into budget categories that are associated with the proposed projects, such as equipment, outside plant, land and buildings, professional services, etc. Funds from one budget category may not be used for a different budget category without prior written approval from RUS.

#### B. Budget Adjustments

If more funds are required than are available in a budget category, the Awardee may request RUS' approval of a budget adjustment to use funds from another budget category. The request shall include an explanation as to why the adjustment is needed and the affected budget categories. RUS will not approve a budget adjustment unless the Awardee can demonstrate that all purposes can still be completed with the requested adjustment. RUS, at its discretion, may make a budget adjustment without a formal request to encumber funds for a contract, when funds within the budget category are insufficient, and when it determines that the budget adjustment is insignificant.

#### C. Pledged Deposit Account

The Awardee shall establish and maintain a pledged deposit account to hold all Advances deposited by the Agency. The pledged deposit account shall only be established in a bank or depository whose deposits are insured by the FDIC or other federal agency acceptable to RUS. Funds in the pledged deposit account shall be used solely for the purpose approved in the Application and shall be withdrawn/disbursed for the approved purpose for which they were requested in the financial requirement statement. All Advances will be deposited into the pledged deposit account by electronic transfer.

RUS may require that other funds be deposited into the pledged deposit account. These may include equity or general fund contributions to construction, proceeds from the sale of property, interest received on award funds and similar types of receipts. Deposit slips for any deposits to the pledged deposit account shall show the source and amount of funds deposited and be executed by an authorized representative of the bank. The disbursement of non-award funds deposited into the pledged deposit account requires the same RUS approval as Advances on the award.

For accounting purposes, all withdrawals/disbursements from the Pledged Deposit Account must be evidenced by canceled checks or support for other forms of payment. Disbursements to reimburse the Awardee's general fund account shall be documented by a reimbursement schedule to be retained in the Awardee's records that lists the pledged deposit account check number, date, and an explanation of amounts reimbursed for the Project.

D. Financial Requirement Statement (FRS)

To request Advances the Awardee must submit RUS Form 481, *Financial Requirement Statement* ("FRS"), a description of the Advances desired, and other related information to the transactions as required by RUS.

The Awardee must request funds in the first Advance to repay any interim financing indebtedness, as well as other approved pre-application expenses. RUS may not make further Advances until the Awardee has submitted evidence, in form and substance satisfactory to RUS, that: (1) any indebtedness created by the interim financing and any liens associated therewith have been fully discharged of record; and (2) the Awardee has satisfied all other conditions on the advance of additional loan funds.

If the source of funds for interim financing is the Awardee's internally generated funds, the Awardee may request reimbursement of those funds along with Advances for other purposes on the first FRS submitted to RUS.

The Awardee shall request advances as needed to meet its obligations promptly. Generally, RUS does not approve an advance requested more than 30 days before the obligation is payable.

Funds must be disbursed for the item for which they were advanced except in the following circumstance. If the Awardee needs to pay an invoice which has been approved on an FRS for which funds have not been advanced, and disbursement of advanced funds for another item has been delayed, the latter funds may be disbursed to pay the due and owing invoice up to the amount approved for such item on the FRS. The Awardee shall make entries on the next FRS showing the changes under "Total Advances to Date" and shall explain the changes in writing before RUS will process the next FRS.

The certification on each of the three copies of the FRS sent to RUS shall be signed by a corporate officer or manager authorized to sign such statements. RUS Form 675, *Certificate of Authority*, shall be submitted to RUS indicating the names of all persons authorized to sign a FRS. RUS will not process a FRS signed by an individual whose name is not included on the most recent Form 675.

Funds other than award funds that are deposited in the pledged deposit account are reported as a credit under total disbursements. Disbursements of these funds are subject to the same RUS approvals as RUS funds.

The documentation required for audit of FRS transactions, include but are not limited to deposit slips for the pledged deposit account, all cancelled pledged deposit account checks and the supporting third party invoices, timesheets, payroll records, accounts payable records, general ledger, etc., and/or reimbursement schedules. These shall be kept in the Awardee's files for periodic audits by RUS.

The FRS shall be the primary method used by the Awardee to record and control transactions in the deposit account. Approved contracts and other items are shown on the FRS under "Approved Purposes." Funds are approved for advance as follows:

(1) Contracts/Work Orders

- (a) *Equipment Contracts*: Ninety percent of the approved contract amount, including amendments, with the final 10 percent available when RUS approves the contract closeout certification.

(b) *Construction contracts*: Ninety-five percent of the approved contract amount, including amendments, with the final 5 percent available when RUS approves the contract closeout certification.

(c) *Work orders*: The amount shown on the RUS form 771a that RUS determines to be eligible for reimbursement.

(2) Pre-Application Expenses and Engineering

(a) *Pre-Application expenses*: Based on the final itemized invoice from the person(s) or firm(s) that provide services to complete the Application, engineering, and accounting, as approved by RUS.

(b) *Post-loan engineering contracts*: Ninety-five percent of the amount of the RUS approved engineering contract, with the final 5 percent available when RUS approves the final statement of engineering/architectural fees.

(c) *In-house engineering*: One hundred percent of the amount approved by RUS.

(3) Operating Equipment

Office equipment, vehicles, and work equipment will be reimbursed based on copies of invoices.

E. Temporary Excess Construction Funds

When unanticipated events delay the Awardee's disbursement of advanced funds, the funds may be used for other approved purposes as described above or must remain in the pledged deposit account. If the pledged deposit account is an interest bearing account, all interest earned must remain in the pledged deposit account and cannot be disbursed without RUS approval.

F. Method of Advancing Funds

The first or subsequent advances may be conditioned on the satisfaction of certain requirements stated in the Awardee's agreement with RUS.

All advances shall be made electronically using the Automatic Clearing House (ACH). Normally, for advance of funds ACH only makes one payment per FRS.

The following information shall be included with each advance:

- (1) Name and address of Awardee's bank. If the Awardee's bank is not a member of the Federal Reserve System, the name and address of its correspondent bank that is a member of the Federal Reserve System;
- (2) ACH routing information;
- (3) Awardee's bank account title and number; and
- (4) Any other necessary identifying information.

## ATTACHMENT 2

### EQUAL OPPORTUNITY CONTRACT PROVISIONS

During the performance of this contract, the contractor agrees as follows:

- (a) The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- (b) The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (c) The contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous place available to employees and applicants for employment.
- (d) The contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (e) The contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulation, and orders.
- (f) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or part by the Government, and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with the procedure authorized in Executive Order 11246 of September 14, 1965, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The contractor shall include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, dated September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.





EXHIBIT 3

Executive Summary

# Executive Summary

## Highland Telephone Company

### \* INTRODUCTION \*

Highlands Telephone Cooperative, Inc. (HTC) is a full service local Telephone Cooperative providing voice, video and Internet services to the counties of Morgan, Scott and McCreary located in rural Tennessee and Kentucky. HTC currently serves over 19,900 subscribers. HTC desires to provide high-speed broadband services to all subscribers located within the Highland service exchange area and provide high speed broadband connections to the critical anchor institutions in the area. The Cooperative has a long history of providing state of the art communications technology to the community, whenever it is economically possible. Starting in 2008, HTC utilized an RUS loan to deploy a gigabit passive optical network (GPON) network that passes approximately 3,300 homes in some of the more dense areas of the community. In this limited deployment, HTC has proven fiber-to-the-home (FTTH) as a viable technology for this rural community and its benefits in supporting high-speed broadband services. It has also demonstrated the ability of the Cooperative to build and manage a FTTH network that supports high-speed broadband services. However the remainder of the service territory has a much lower density and it will not be economically possible for the Cooperative to expand this technology to the critical anchor institutions and the subscribers in the remainder of the community without the assistance of grant.

The area served by HTC is a remote, rural mountainous area that is devoid of an interstate or major highway infrastructure. These factors have limited the areas ability to attract major industry and employers. The economic downturn has been especially hard for this area with the loss of numerous manufacturers and thousands of jobs. In January 2009, the Tennessee State Department of Labor and Workforce Development reported the Scott County unemployment rate grew to 14.3%. In one year, the economic conditions continue to worsen and job losses have increased at a devastating pace. In January 11, 2010, *The Independent Herald*<sup>®</sup> reported this area "...relies heavily on the manufacturing industry, the expansive flooring mill near downtown has been Scott County's industrial lifeblood for more than a generation." This same week, Armstrong World Industries reported it will "idle" production in April of this year at its Oneida, Tennessee plant costing 260 hourly and salaried jobs. The current unemployment rate for this area has grown to 18.8%. With the Armstrong workers entering the unemployment pool, the jobless rate is expected to grow to 22%.

HTC and its subsidiaries continue to be a primary employer in the area, providing highly skilled jobs to 83 telephone cooperative employees.

### \* BROADBAND SERVICES – THE FUTURE OF MORGAN, SCOTT AND MCCREARY COUNTIES \*

The expansion of high-speed broadband services throughout the counties located within HTC's serving area will provide new opportunities for education, health care and future economic development. HTC has experienced an outpouring of support from critical community facilities, local governments and business leaders throughout the serving areas. Each has stated that high-speed broadband is instrumental for future economic growth. Service based companies such as call centers have shown interest in locating within the exchange boundaries, but the lack of a high-speed broadband infrastructure is often a deterrent to attracting new business to the area. Educators and county service

agencies stress the need for high-speed broadband services to address travel cost reductions and aid in the expansion of distance learning throughout the three major counties served. Medical clinics are requesting high-speed broadband service to allow the clinics and medical service providers to improve the health care of the citizens. In some cases the availability of high speed broadband connections can literally mean the difference between life and death when treating patients in these remote regions for critical conditions such as strokes and heart attacks.

Challenges encountered in HTC's previous efforts to expand high-speed broadband to its customers will prevent it from expanding the FTTH to the remaining areas that are less dense. As previously mentioned, HTC has successfully deployed FTTH, but this was directed in more densely populated serving areas. It will not be economically possible to expand the broadband network to serve these areas without the assistance of a grant. In fact, HTC had an RUS Loan to support the implementation of broadband services in these areas and has rescinded the loan due to the fact that these rural areas will not be able to support a broadband network without the support of a grant. If a grant is not obtained these areas will probably continue to remain underserved and will fall further behind in the areas of employment, health, public safety and education. Even though HTC is a cooperative and does not attempt to make a profit, it has found that it cannot justify building a much needed broadband network in these areas without the support of a grant. In summary, numerous factors have impeded the expansion the FTTH network including cost of network, a very rural and sparse population, and continued economic deterioration. HTC has identified 106 critical community facilities within its exchange boundaries. Receiving a partial grant to complete this network will revolutionize communications in this rural community. Local schools, community colleges and technical colleges state:

- High-speed broadband is vital to high-school distance learning and obtaining access to state college dual-credit courses. High-speed broadband will enable the school system to provide an instructional program rich in technology and better prepare students for gainful employment in their chosen careers.
- The Scott County Board of Education states a need for faster, reliable and affordable high-speed broadband service for the school system and members of this community. Broadband technology is essential to providing access to education resources, employment and economic development.
- Roane State Community College, a 2008 recipient of RUS Distance Learning and Telemedicine (DLT) funding, states distance learning using high-speed broadband will provide access to the Harriman and Oak Ridge campuses, expanding classes to this community. The college further states high-speed broadband is instrumental for the expansion of web-based college classes and affordable education.

The medial service providers for this area are also equally supportive of the expansion of broadband services and the need of HTC to obtain grant funds through the Broadband Initiative Program. Medical clinics and medical service providers are supportive of HTC including:

High-speed broadband services are far more important than merely providing a method to receive emails or obtain forms of entertainment. High-speed broadband is quickly becoming the new interstate highway, stimulating new forms of commerce, education and critical care services. HTC plans to construct a FTTH network to all subscribers located within its exchange boundaries. This high-speed broadband network design is based on a state-of-the-art GPON solution providing fiber optic cable from the network point-of-service generation to the subscriber residence or business. Fiber optic cable provides a long lasting solution to current and future broadband services producing transport speeds with a reliability that surpasses the best of copper-based Internet transport solutions. Capacity in the access network is capable of supporting broadband services speeds in the multiples of one-hundred megabits per second. This non-conducting fiber optic network eliminates many of the weather related problems and the metallic deterioration that occurs with copper based networks. Reliability is paramount to a successful broadband service launch and this fiber-based design ensures the network can be maintained in a cost-effective manner that is crucial to managing recurring maintenance expenses and keeping service costs affordable.

HTC's high-speed broadband network design considers one-hundred percent coverage for the 1,709 miles of network remaining to be constructed. Each customer will have the opportunity to subscribe to a best-in-class voice service, modem-less high-speed broadband connection and a competitive video service offering. The transport network to all major network nodes will support redundant paths reducing the possibility of an outage for each service.

HTC is committed to operate a high-speed network that does not discriminate, providing equal access to all service providers and consumers. HTC's current network and proposed expansion does not limit the type of lawful Internet content or service that may be conducted over the public network to its subscribers. HTC will ensure this network continues to meet the Federal Communications Commission's Internet Policy Statement, which states that consumers are entitled to access lawful Internet content, run applications of their choice, connect devices of their choice, and expect "competition" among network providers and services.

HTC currently supports almost 20,000 access lines and has done so since 1955 providing quality communications services to the residents of Morgan, Scott and McCreary Counties. Over the last two years, HTC has demonstrated its ability to successfully launch, operate and maintain a FTTH-based broadband network. HTC is seeking a 75/25 grant/loan Broadband Stimulus Grant totaling \$66,489,162. The Broadband Stimulus Grant will ensure HTC's ability to continue to operate as a major employer, to provide high-speed broadband services critical to the economic growth of this region, and ensure that communications services for this rural community are both as reliable and competitive as those found in much larger cities located in Tennessee and Kentucky.



EXHIBIT 4

Audited Consolidated Financial Statements  
Tennessee 554  
December 31, 2010 and 2009

AUDITED CONSOLIDATED FINANCIAL STATEMENTS

TENNESSEE 554  
HIGHLAND TELEPHONE COOPERATIVE, INC.  
AND SUBSIDIARIES  
SUNBRIGHT, TENNESSEE

December 31, 2010 and 2009

**TOTHEROW, HAILE & WELCH, PLLC**

*Certified Public Accountants*

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Gentry B. Underhill Jr., CPA  
Stephen B. Boyd, CPA, CMA, CFE  
Kevin C. Sizemore, CPA  
Carol C. Boyd, CPA  
L. Candice King, CPA  
Kellie M. Rowland, CPA

# TOTHEROW, HAILE & WELCH, PLLC

TIN 62-0693408

*Certified Public Accountants*

2355 South Chancery Street  
McMinnville, Tennessee 37110

Tel. (931) 668-1272  
Fax (931) 668-2752  
www.thwcpa.com

## INDEPENDENT AUDITORS' REPORT

Board of Directors  
Highland Telephone Cooperative, Inc.  
Sunbright, Tennessee

We have audited the accompanying consolidated balance sheets of Highland Telephone Cooperative, Inc. and Subsidiaries as of December 31, 2010 and 2009, and the related consolidated statements of income and comprehensive income, changes in member's equity, and cash flows for the years then ended. These consolidated financial statements are the responsibility of the Cooperative's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We did not audit the financial statements of Highland Communications Corporation, a wholly owned subsidiary, which statements reflect total assets of \$3,544,468 as of September 30, 2010 and \$3,357,790 as of December 31, 2009 and total revenues of \$4,266,579 for the nine months ended September 30, 2010 and \$5,485,124 for the year ended December 31, 2009. Those statements were audited by other auditors whose report has been furnished to us, and our opinion, insofar as it relates to the amounts included for Highland Communications Corporation, is based solely on the report of the other auditors.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, based on our audits and the report of other auditors, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Highland Telephone Cooperative, Inc. and Subsidiaries as of December 31, 2010 and 2009, and the results of its operations and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

INDEPENDENT AUDITORS' REPORT (CONT'D)

Board of Directors  
Highland Telephone Cooperative, Inc.  
Sunbright, Tennessee

In accordance with Government Auditing Standards, we have also issued our report dated March 11, 2011, on our consideration of Highland Telephone Cooperative, Inc.'s internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be read in conjunction with this report in considering the results of our audits.

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audits of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

*Dotterow, Hale & Welch, PLLC*  
Certified Public Accountants

McMinnville, Tennessee  
March 11, 2011

CONSOLIDATED

## HIGHLAND TELEPHONE COOPERATIVE,

December 31, 2010

	2010	2009
<u>ASSETS</u>		
<u>CURRENT ASSETS</u>		
Cash - general	\$ 7,086,263	\$ 6,435,269
Temporary investments	978,171	978,350
Securities available for sale	3,798,548	5,147,202
Telecommunications accounts receivable, less allowances of \$63,909 in 2010 and \$148,786 in 2009	1,132,058	988,260
Other accounts receivable	771,849	679,582
Grants receivable	630,318	0
Materials and supplies	1,533,456	1,588,267
Prepayments	306,846	393,581
Refundable tax deposits	15,256	63,286
Other current assets	105,943	127,989
	<u>\$ 16,358,708</u>	<u>\$ 16,401,786</u>
<u>NONCURRENT ASSETS</u>		
Other investments	\$ 971,504	\$ 950,489
Nonregulated investments	2,727,603	2,751,533
Deferred tax asset	45,410	0
Deposits	4,173	4,173
	<u>\$ 3,748,690</u>	<u>\$ 3,706,195</u>
<u>PROPERTY, PLANT AND EQUIPMENT</u>		
Telecommunications plant in service	\$ 107,861,309	\$ 106,130,907
Telecommunications plant under construction	2,848,217	1,564,392
	<u>\$ 110,709,526</u>	<u>\$ 107,695,299</u>
Less accumulated depreciation	73,212,437	68,944,144
	<u>\$ 37,497,089</u>	<u>\$ 38,751,155</u>
	<u>\$ 57,604,487</u>	<u>\$ 58,859,136</u>

See the notes to financial statements.

BALANCE SHEETS

INC. AND SUBSIDIARIES

and 2009

	2010	2009
<u>LIABILITIES AND MEMBERS' EQUITY</u>		
<u>CURRENT LIABILITIES</u>		
Accounts payable	\$ 184,765	\$ 528,614
Advance billings and payments	786,063	736,471
Customer deposits	399	1,699
Current maturities on long-term debt	1,959,453	1,864,295
Accrued taxes	532,009	563,073
Accrued interest	19,252	23,946
Accrued rents	621,752	571,107
Accrued salaries and wages	171,454	156,825
Accrued compensated absences	1,189,625	1,240,384
Accrued federal and state income taxes	6,336	5,204
Other current liabilities	193,128	156,430
	<hr/>	<hr/>
TOTAL CURRENT LIABILITIES	\$ 5,664,236	\$ 5,848,048
 <u>LONG-TERM DEBT</u>		
Rural Utilities Service - mortgage notes	4,291,234	6,252,539
 <u>OTHER LIABILITIES</u>		
Postretirement benefits other than pension	3,899,210	3,995,335
Deferred grant revenue	630,318	0
Deferred taxes	91,291	55,676
	<hr/>	<hr/>
TOTAL LIABILITIES	\$ 14,576,289	\$ 16,151,598
 <u>MEMBERS' EQUITY</u>		
	43,028,198	42,707,538
	<hr/>	<hr/>
	<u>\$ 57,604,487</u>	<u>\$ 58,859,136</u>

CONSOLIDATED STATEMENTS OF INCOME

HIGHLAND TELEPHONE COOPERATIVE,

For the years ended

	2010	2009
Operating revenues:		
Local network services revenue	\$ 6,859,332	\$ 6,253,462
Long distance services revenue	845,008	1,223,596
Network access services revenue	7,639,250	7,659,763
Miscellaneous revenues	2,808,379	2,429,646
Less uncollectible revenue	<u>(86,197)</u>	<u>(67,077)</u>
TOTAL OPERATING REVENUES	\$ 18,065,772	\$ 17,499,390
Operating expenses:		
Plant specific operations expense	\$ 5,637,190	\$ 5,377,800
Plant nonspecific operations expense	1,861,166	1,493,263
Provision for depreciation	4,898,422	5,010,945
Customer operations expense	2,283,243	2,500,243
Corporate operations expense	3,430,226	3,797,555
Operating taxes	<u>445,253</u>	<u>344,272</u>
TOTAL OPERATING EXPENSES	<u>\$ 18,555,500</u>	<u>\$ 18,524,078</u>
OPERATING LOSS	\$ (489,728)	\$ (1,024,688)
Other income (expense):		
Interest income	\$ 91,894	\$ 74,810
Nonregulated income	1,022,913	1,577,743
Income from investment	14,858	49,656
Gain (Loss) from sale of fixed asset	(4,494)	3,500
Loss on obsolete inventory	<u>0</u>	<u>(706,485)</u>
TOTAL OTHER INCOME	\$ 1,125,171	\$ 999,224

AND COMPREHENSIVE INCOME

INC. AND SUBSIDIARIES

December 31, 2010 and 2009

	2010	2009
Fixed charges:		
Interest on long-term debt	\$ 360,439	\$ 451,232
Interest charged to construction - credit	(108,455)	(67,132)
Interest on customer deposits	<u>429</u>	<u>642</u>
TOTAL FIXED CHARGES	<u>\$ 252,413</u>	<u>\$ 384,742</u>
INCOME (LOSS) BEFORE TAXES ON INCOME	\$ 383,030	\$ (410,206)
Taxes on income	<u>356,129</u>	<u>514,369</u>
NET INCOME (LOSS)	\$ 26,901	\$ (924,575)
Other comprehensive income (loss):		
Unrealized loss on investment of securities available for sale	(1,225)	(9,725)
Postretirement benefits other than pension:		
Prior service costs	5,667	5,667
Unrecognized loss	<u>298,432</u>	<u>101,026</u>
COMPREHENSIVE INCOME (LOSS)	<u>\$ 329,775</u>	<u>\$ (827,607)</u>

See the notes to financial statements.

CONSOLIDATED STATEMENTS OF CHANGES IN MEMBERS' EQUITY

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

For the years ended December 31, 2010 and 2009

	Memberships	Patronage Capital	Accumulated Other Comprehensive Income (Loss)	Total Members' Equity
Balance at December 31, 2008	\$ 268,502	\$ 44,294,700	\$ (1,021,997)	\$ 43,541,205
Net loss for 2009	0	(924,575)	0	(924,575)
Unrealized loss on investment of securities available for sale	0	0	(9,725)	(9,725)
Memberships refunded	(6,060)	0	0	(6,060)
Postretirement benefits other than pension:				
Prior service costs	0	0	5,667	5,667
Unrecognized gain	0	0	101,026	101,026
Balance at December 31, 2009	\$ 262,442	\$ 43,370,125	\$ (925,029)	\$ 42,707,538
Net income for 2010	0	26,901	0	26,901
Unrealized loss on investment of securities available for sale	0	0	(1,225)	(1,225)
Memberships refunded	(9,115)	0	0	(9,115)
Postretirement benefits other than pension:				
Prior service costs	0	0	5,667	5,667
Unrecognized gain	0	0	298,432	298,432
Balance at December 31, 2010	<u>\$ 253,327</u>	<u>\$ 43,397,026</u>	<u>\$ (622,155)</u>	<u>\$ 43,028,198</u>

See the notes to financial statements.

CONSOLIDATED STATEMENTS

## HIGHLAND TELEPHONE COOPERATIVE,

For the years ended

	2010	2009
Cash flows from operating activities:		
Cash received from customers	\$ 17,879,299	\$ 17,908,871
Cash paid to suppliers and employees	(12,622,289)	(12,866,551)
Interest and dividends received	92,703	106,671
Interest paid	(257,107)	(389,208)
Taxes paid	(793,079)	(871,582)
NET CASH PROVIDED BY OPERATING ACTIVITIES	\$ 4,299,527	\$ 3,888,201
Cash flows from investing activities:		
Construction and acquisition of plant	\$ (4,464,886)	\$ (3,445,813)
Plant removal cost	(1,076)	(924)
Salvage	42,912	16,731
Proceeds from sale of fixed asset	0	3,500
Increase in nonregulated assets	23,930	(4,291)
Purchase of investment	(6,158)	(55,558)
Securities available for sale	1,348,654	(987,991)
Increase in temporary investments	179	(5,201)
Increase (decrease) in reserve for market valuation of securities	(1,225)	(9,725)
Decrease (Increase) in:		
Materials and supplies	54,812	59,582
Nonregulated income	1,022,913	1,577,743
NET CASH USED BY INVESTING ACTIVITIES	\$ (1,979,945)	\$ (2,851,947)



OF CASH FLOWS

INC. AND SUBSIDIARIES

December 31, 2010 and 2009

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	2010	2009
Cash flows from financing activities:		
Payments on long-term borrowings	\$ (1,866,147)	\$ (1,775,518)
Postretirement benefits other than pension	207,974	211,962
Decrease in:		
Customer deposits	(1,300)	(2,700)
Memberships	<u>(9,115)</u>	<u>(6,060)</u>
NET CASH USED BY FINANCING ACTIVITIES	<u>\$ (1,668,588)</u>	<u>\$ (1,572,316)</u>
NET INCREASE (DECREASE) IN CASH	\$ 650,994	\$ (536,062)
CASH AT BEGINNING OF YEAR	<u>6,435,269</u>	<u>6,971,331</u>
CASH AT END OF YEAR	<u><u>\$ 7,086,263</u></u>	<u><u>\$ 6,435,269</u></u>

CONSOLIDATED STATEMENTS OF CASH FLOWS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

For the years ended December 31, 2010 and 2009

	2010	2009
Net income (loss)	\$ 26,901	\$ (924,575)
Nonregulated income	(1,022,913)	(1,577,743)
Income from investment	(14,858)	(49,656)
(Gain) Loss from sale of fixed asset	4,494	(3,500)
Deferred tax benefit	(9,795)	(4,408)
Loss from obsolete inventory	<u>0</u>	<u>706,485</u>
Net loss from regulated operations	\$ (1,016,171)	\$ (1,853,397)
Adjustments to reconcile net loss from regulated operations to net cash provided by operating activities:		
Depreciation	\$ 5,672,622	\$ 6,000,532
Decrease (Increase) in:		
Customer and other accounts receivable	(236,065)	383,564
Refundable tax deposit	48,030	(63,286)
Current and accrued assets - other	22,046	37,996
Prepaid expenses	86,735	144,547
Increase (Decrease) in:		
Accounts payable	(343,849)	(698,575)
Advance billings and payments	49,592	25,917
Accrued taxes	(31,064)	73,541
Accrued interest	(4,694)	(4,466)
Accrued rents	50,645	24,920
Accrued salaries and compensated absences	(36,130)	(89,741)
Accrued federal and state income taxes	1,132	(18,788)
Other current liabilities	<u>36,698</u>	<u>(74,563)</u>
TOTAL ADJUSTMENTS	<u>\$ 5,315,698</u>	<u>\$ 5,741,598</u>
NET CASH PROVIDED BY OPERATING ACTIVITIES	<u>\$ 4,299,527</u>	<u>\$ 3,888,201</u>

See the notes to financial statements.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

### HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

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Note A – Highland Telephone Cooperative, Inc. provides telecommunications services to customers in Morgan County and Scott County, Tennessee and McCreary County, Kentucky. The Cooperative has adopted the following accounting policies:

(1) Principles of Consolidation:

Highland Telephone Cooperative, Inc. (Cooperative) owns 100% of the outstanding common stock of Highland Communications Corporation and Highland Media Corporation. Highland Communications Corporation was formed on May 8, 1996 for the purpose of providing long distance telephone services, internet and other telecommunications services. Highland Media Corporation was formed to provide cable television services. The consolidated financial statements include the accounts of Highland Communications Corporation and Highland Media Corporation. All significant intercompany accounts and transactions have been eliminated in consolidation.

On October 1, 2010, Highland Telephone Cooperative, Inc. exchanged its shares of common stock in Highland Communications Corporation for shares of Highland Media Corporation in a tax free stock merger. Immediately following the stock merger, Highland Media Corporation changed its name to Highland Holdings, Inc. and transferred the assets and liabilities of Highland Communications Corporation to Highland Communications, LLC. The Company also transferred assets and liabilities to form a new entity, Highland Media, LLC. The newly formed entities are single member limited liability companies. The stock merger and subsequent transfer of assets and liabilities did not disrupt the daily operations of the companies.

The Cooperative operates on a fiscal year ending December 31. The newly formed Subsidiary and its subsidiaries operate on a fiscal year ending September 30. The consolidated financial statements reflect the results of operations from January 1 through December 31 for the Cooperative. Because of the merger and reorganization, Highland Communications Corporation results of operations are included for the period from January 1 through September 30 for 2010.

- (2) The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.
- (3) Certificates of deposit and United States treasury bills with original maturities over 90 days are classified as temporary investments.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

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Note A – (Cont'd):

- (4) Accounts receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a charge to earnings and a credit to the allowance for doubtful accounts based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the allowance for doubtful accounts and a credit to accounts receivable. No interest is charged on accounts receivable balances that are past due. Past due accounts receivable are based upon contractual terms as defined on customer invoices. Accounts receivable past due 90 days or more amounted to \$20,296 at December 31, 2010.

The allowance for doubtful accounts is based upon a credit review of the accounts receivable, past bad debt experience, current economic conditions and other pertinent factors which form a basis for determining the adequacy of the allowance. The allowance represents an estimate based upon these and other factors and, it is at least reasonably possible that a change in the estimate will occur in the near term.

Telecommunications services are provided to the Cooperative's customers on a credit basis in the ordinary course of business. Generally, the accounts receivable generated by the sale of these services are unsecured.

- (5) Materials and supplies are valued at average cost accumulated in perpetual inventory records, which are periodically adjusted to physical counts. The lower of cost (first-in, first-out) or market method has been used in determining the inventory value at year-end for the subsidiaries.
- (6) Revenue is recorded upon the billing of telecommunications services net of sales tax.
- (7) Expenditures for maintenance and repairs are charged to operations as they are incurred and betterments are capitalized. Original costs of properties retired are eliminated from property accounts and removal costs are charged to the allowance for depreciation. Salvage value of retired property is credited to the allowance for depreciation.
- (8) Employee vacation pay is accrued as the benefits are earned according to an established policy.
- (9) Advertising costs are expensed as incurred and included in customer operations. Advertising expense amounted to \$144,423 in 2010 and \$194,983 in 2009.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

Note B – Substantially all assets are pledged as security for the long-term debt to RUS.

Note C – The Cooperative and Subsidiary maintains its cash in several commercial banks located within its trade area. Accounts are guaranteed by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000 on interest bearing accounts and unlimited coverage on non-interest bearing accounts. Approximately \$4,083,784 was uninsured at December 31, 2010.

The Cooperative has an agreement with Regions Bank whereby \$990,000 of the uninsured cash is collateralized by United States Treasury Bills.

Highland Communications Corporation has a private insurance policy insuring \$15,723 of its otherwise uninsured cash balances that are included in the uninsured cash balances above.

Note D – Investments in Debt and Equity Securities:

Investments in debt and equity securities consist of the following:

	<u>Amortized Cost</u>	<u>Gross Unrealized Gains (Losses)</u>	<u>Estimated Market Value</u>
December 31, 2010:			
Available for sale:			
U.S. Treasury Notes	<u>\$3,796,910</u>	<u>\$ 1,638</u>	<u>\$3,798,548</u>
December 31, 2009:			
Available for sale:			
U.S. Treasury Notes	<u>\$5,156,927</u>	<u>\$ (9,725)</u>	<u>\$5,147,202</u>
	<u>Less than 12 months</u>		
Description of Securities	<u>Fair Value</u>	<u>Unrealized Gain</u>	
U.S. Treasury Notes	<u>\$3,798,548</u>	<u>\$ 1,638</u>	

Management evaluates securities for other-than-temporary impairment at least on an annual basis, and more frequently when economic or market concerns warrant such evaluation. Consideration is given to (1) the length of time and the extent to which the fair value has been less than cost, (2) the financial condition and near term prospects of the issuer, and (3) the intent and ability of the Cooperative to retain the investment in the issuer for a period of time sufficient to allow for any anticipated recovery. At December 31, 2010, management believes there are no other-than-temporary impairments in the debt and equity securities.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

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Note D – (Cont'd):

The amortized cost and estimated market value of debt securities at December 31, 2010, by contractual maturities, are shown above. Expected maturities may differ from contractual maturities because borrowers may have the right to call or prepay obligations with or without call or prepayment penalties.

Proceeds from the sale of investments in debt securities were as follows:

	<u>2010</u>	<u>2009</u>
Proceeds from sales and redemptions	<u>\$6,393,939</u>	<u>\$8,531,109</u>

The Cooperative's investments are reported at fair value. The methods used to measure fair value may produce an amount that may not be indicative of net realizable value or reflective of future fair values. Furthermore, although the Cooperative believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

The fair value measurement accounting literature establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. This hierarchy consists of three broad based levels. A description of the three levels follows:

Level 1 – Uses prices and other relevant information generated by active market transactions involving identical or comparable assets that the Cooperative has the ability to access at the measurement date;

Level 2 – Uses inputs other than quoted market prices included within Level 1 that are observable for valuing the asset, either directly or indirectly. This level of the hierarchy may use quoted prices for similar assets in an active or non-active market and may also include insignificant adjustments to market observable inputs;

Level 3 – Uses unobservable inputs used for valuing assets. Unobservable inputs are those that use valuation techniques to convert future amounts to a single present amount based on current market expectations about the future amounts.

The Cooperative's investments are grouped and measured at fair value and use the aforementioned fair value hierarchy in the following manner:

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

Note D – (Cont'd):

	<u>Fair Value</u>	Quoted Prices In Active Markets for Identical Assets/Liabilities (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<u>December 31, 2010</u>				
Treasury Notes:				
Available for sale	<u>\$3,798,548</u>	<u>\$3,798,548</u>	\$ 0	\$ 0
Total	<u>\$3,798,548</u>	<u>\$3,798,548</u>	<u>\$ 0</u>	<u>\$ 0</u>
<u>December 31, 2009</u>				
Treasury Notes:				
Available for sale	<u>\$5,147,202</u>	<u>\$5,147,202</u>	\$ 0	\$ 0
Total	<u>\$5,147,202</u>	<u>\$5,147,202</u>	<u>\$ 0</u>	<u>\$ 0</u>

Financial instruments are considered Level 3 when their fair values are determined using pricing models, discounted cash flow methodologies or similar techniques and at least one significant model assumption or input is unobservable. Level 3 financial instruments also include those for which the determination of fair value requires significant management judgment or estimation.

Note E – Other Investments:

	<u>2010</u>	<u>2009</u>
Tennessee Independent Telecom Group (IRIS Networks) (10.556%)	\$965,346	\$950,489
National Rural Telecommunications Cooperative (NRTC)	<u>6,158</u>	<u>0</u>
	<u>\$971,504</u>	<u>\$950,489</u>

Ownership percentages are in parentheses for investments in which Highland Telephone Cooperative Corporation, Inc. owns a significant portion of the investment. All other investments are carried at cost.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

Note E – (Cont'd):

Investments carried at cost are not normally evaluated for impairment because it is not practical to estimate fair value due to insufficient information being available. An evaluation is performed, however, if economic or market concerns warrant such an evaluation. Consideration is given to (1) the length of time and the extent to which the fair value has been less than cost, (2) the financial condition and near-term prospects of the issuer, and (3) the intent or ability of the Company to retain its investment in the issuer for a period of time sufficient to allow for any anticipated recovery of fair value.

Note F – Nonregulated Investments:

	<u>2010</u>	<u>2009</u>
Nonregulated customer premises equipment, paystations, and key systems	\$4,860,823	\$4,624,015
Less accumulated depreciation	<u>(2,305,680)</u>	<u>(2,050,335)</u>
Net nonregulated customer premises equipment, paystations, and key systems	\$2,555,143	\$2,573,680
Nonregulated materials and supplies	<u>172,460</u>	<u>177,853</u>
TOTAL	<u>\$2,727,603</u>	<u>\$2,751,533</u>

Note G – Investment in Telecommunications Plant in Service:

Telecommunications plant in service and under construction is stated at cost. Listed below are the major classes of the telecommunications plant in the accounts of the Cooperative as of December 31:

	<u>2010</u>	<u>2009</u>
Land	\$ 264,586	\$ 259,586
Buildings	3,689,235	3,689,235
Central office equipment	29,912,432	30,131,024
Poles, cables, and wire	61,603,164	59,619,969
Furniture and office equipment	2,255,458	2,231,350
Vehicles and other work equipment	2,703,861	3,075,580
Intangibles	<u>2,422</u>	<u>2,422</u>
Telecommunications plant in service as contained on the Cooperative's records	<u>\$100,431,158</u>	<u>\$99,009,166</u>



NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

Note G – (Cont'd):

Investment in property and equipment included in the accounts of Highland Communications Corporation:

	<u>2010</u>	<u>2009</u>
Land	\$ 194,289	\$ 194,289
Land improvements	15,579	15,579
Buildings and improvements	746,549	746,549
Furniture	23,042	23,042
Vehicles	101,564	101,564
Equipment	<u>728,329</u>	<u>735,425</u>
Telecommunications plant in service as contained on Highland Communications Corporation's records	<u>\$1,809,352</u>	<u>\$1,816,448</u>

Investment in property and equipment included in the accounts of Highland Media:

	<u>2010</u>	<u>2009</u>
Land	\$ 54,250	\$ 54,250
Buildings	762,960	762,960
Vehicles	21,645	21,645
Furniture	173,452	173,452
Tools and other work equipment	12,210	12,210
Video equipment	4,575,242	4,259,736
Testing equipment	<u>21,040</u>	<u>21,040</u>
Telecommunications plant in service as contained on Highland Media Corporation's records	<u>\$5,620,799</u>	<u>\$5,305,293</u>

The Cooperative provides for depreciation on a straight-line basis at annual rates, which will amortize the depreciable property over its estimated useful life. Such provision, as a percentage of the average balance of telecommunications plant in service, was 4.92% in 2010 and 5.39% in 2009. Individual depreciation rates are as follows:

Buildings	2.7%
Central office	8.9 – 11.6%
Poles, cables and wire	5.2%
Furniture and office equipment	6.6 – 15.8%
Vehicles and other work equipment	6.5 – 12.1%

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

Note G – (Cont'd):

Highland Communications Corporation and Highland Media provide for depreciation on a straight-line basis at annual rates, which will amortize the depreciable property over its useful life. Depreciation charged to expense on Highland Communication Corporation's records amounted to \$67,911 in 2010 and \$91,209 in 2009. Depreciation charged to expense on the records of Highland Media amounted to \$702,206 for 2010 and \$624,866 for 2009.

Note H – Mortgage Notes:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt:

	<u>2010</u>	<u>2009</u>
5% Rural Utilities Service	\$6,250,687	\$8,116,834
Less current maturities	<u>1,959,453</u>	<u>1,864,295</u>
TOTAL	<u>\$4,291,234</u>	<u>\$6,252,539</u>

Principal and interest installments on the above notes are due periodically. The maturities of long-term debt for each of the five years succeeding the balance sheet date are as follows:

<u>Year</u>	<u>Amount</u>
2011	\$1,959,453
2012	2,057,426
2013	2,160,297
2014	<u>73,511</u>
TOTAL	<u>\$6,250,687</u>

Note I – As required by the Retirement Benefit Topic of the FASB ASC, the Cooperative accrues all postretirement benefits other than pensions. Under the prescribed accrual method, the Cooperative's obligation for these postretirement benefits is to be fully accrued by the date employees attain full eligibility for such benefits. The cost of medical benefits for current and future associate retirees was recognized as determined under the projected united credit cost method.

Substantially all of the Cooperative's employees are covered under postretirement medical plans. The determination of postretirement benefit cost for postretirement medical benefit plan is based on comprehensive hospital, medical and surgical benefit provisions.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

Note I – (Cont'd):

The following table sets forth the plan's funded status and the amounts recognized in the Cooperative's Consolidated Balance Sheet as of December 31:

	<u>2010</u>	<u>2009</u>
Accumulated postretirement obligation attributable to:		
Retirees	\$ 960,012	\$ 946,149
Other active plan participants	<u>2,939,198</u>	<u>3,049,186</u>
Total accumulated postretirement benefit obligation	\$3,899,210	\$3,995,335
Fair value of plan assets	<u>0</u>	<u>0</u>
Net unfunded status	<u>\$3,899,210</u>	<u>\$3,995,335</u>
Amounts recognized in other comprehensive income:		
Unrecognized net gains	\$ 606,785	\$ 905,217
Unamortized transition obligation	<u>17,007</u>	<u>22,674</u>
Total included in other comprehensive income	<u>\$ 623,792</u>	<u>\$ 927,891</u>

Postretirement benefit cost is composed of the following for the year ended December 31:

	<u>2010</u>	<u>2009</u>
Benefits earned during the year	\$108,704	\$117,726
Interest on accumulated postretirement benefit obligation	218,776	229,952
Net amortization of transition obligation over 20 years	<u>23,669</u>	<u>49,164</u>
Postretirement benefit cost	<u>\$351,149</u>	<u>\$396,842</u>

The Medicare and Prescription Drug, Improvement and Modernization Act of 2003 provides for a federal subsidy to sponsors of retiree health care benefit plans that provide a benefit that is at least actuarially equivalent to the benefit established by the law. Currently, for the plan, the Medicare Part D Subsidy is a reduction to premiums paid for by participants that are at least 65 years old. For 2010, premiums for this group of participants were approximately \$50 less than it would have been without the adjustment.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

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Note I – (Cont'd):

Weighted average assumptions to determine benefit obligations and net periodic cost for the years ended December 31:

	<u>2010</u>	<u>2009</u>
Discount rate	6.00%	6.00%
Expected return on plan assets	0.00%	0.00%

The Company's expected rate of return on plan assets is determined by the plan's historical long-term investment performance, current asset allocation, and estimates of future long-term return by asset class. To date the Company has chosen not to fund the liability

The medical cost trend rate in 2010 was approximately 11.0% grading down to an ultimate rate in 2027 of 6.5%. A one percentage point increase in the assumed medical cost trend rates for each future year would have increased the aggregate of the service and the interest components of the 2010 net periodic postretirement benefit cost by \$50,472 and would have increased the postretirement benefit obligation as of December 31, 2010 by \$445,738.

The Plan attempts to mitigate investment risks by balancing between equity and debt classes of investments. Currently, the plan is invested in mutual funds with a target allocation of approximately 65% domestic and international stocks, 15% investment grade bonds, 10% high yield bonds, and 10% real estate. Although changes in interest rates may affect the fair value of a portion of the investment portfolio and cause unrealized gains and losses, such gains and losses would not be realized unless the investments are sold. In addition, no plan assets are expected to be returned to the Company in 2011.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

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Note I – (Cont'd)

The following benefit payments, which reflect expected future service, as appropriate, are expected to be paid from the plan:

<u>Year</u>	<u>Amount</u>
2011	\$ 159,011
2012	162,191
2013	165,435
2014	168,744
2015	172,118
Years 2016 – 2020	<u>913,626</u>
TOTAL	<u>\$1,741,125</u>

The Company generally does not make an annual contribution to the plan and a contribution is not anticipated in 2011.

Note J – The Cooperative has adopted the retirement and security program of the National Telephone Cooperative Association as a pension plan covering all employees meeting certain age and length of service requirements for which it pays approximately 80% of the cost. The Cooperative funds the pension plan by making monthly contributions into the program based on salaries. The Cooperative's cost was \$433,580 for 2010 and \$487,790 for 2009.

Note K – Pension Plan:

The Cooperative sponsors a 401(k) savings plan in which non-union employees can participate. The company matches employees' contributions based on a percentage of salary contributed by participants. Employer matches amounted to \$111,621 in 2010 and \$125,364 in 2009.

Highland Communications Corporation established a 401(k) plan effective May 19, 1997. The plan covers all full time employees. Employees have the option to contribute up to 10% of their pay up to a maximum of \$16,500 for 2010 and 2009. The Company matches the entire amount that each employee contributes to the plan. Retirement expense related to this plan amounted to \$21,862 in 2010 and \$24,858 in 2009.

Note L – Lease Commitments:

Highland Communications Corporation has a one-year lease for its Oneida office space. The monthly rental expense for the office space was \$947 in 2010 and \$1,062 in 2009. The lease for the Oneida office can be renewed for one additional year. Rent expense was \$11,363 in 2010 and \$13,409 in 2009.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

Note M – Income Taxes:

As required by the Income Tax Topic of FASB ASC, the Company recognizes deferred tax assets and liabilities for future tax consequences of events that have been previously recognized in the Company's financial statements and tax returns. The measurement of deferred tax assets and liabilities is based on provisions of the enacted tax law; the effects of future changes in tax laws or rates are not anticipated. Measurement is computed using applicable current tax rates.

	<u>2010</u>	<u>2009</u>
Current income tax expense:		
Federal	\$302,540	\$430,585
State	63,384	88,192
Deferred income tax expense (benefit):		
Federal	(8,129)	(3,659)
State	<u>(1,666)</u>	<u>(749)</u>
Income tax	<u>\$356,129</u>	<u>\$514,369</u>

The Company's total deferred tax assets and liabilities at December 31 are as follows:

	<u>2010</u>	<u>2009</u>
Deferred tax asset	\$ 45,410	\$ 0
Deferred tax liability	<u>(91,291)</u>	<u>(55,676)</u>
	<u>\$(45,881)</u>	<u>\$(55,676)</u>

The deferred tax asset is the result of amortizing intangible assets for tax purposes. The deferred tax liability is the result of timing differences in depreciation.

The individual companies included in the consolidation are responsible for their own tax liabilities. All companies are no longer subject to Internal Revenue or state taxing authority examinations beyond the statute of limitations of the respective tax authorities.

Highland Media Corporation has a net operating loss carryforwards of approximately \$2,500,000 which is available to offset future taxable income. These carryforwards will expire in 12 to 15 years.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (CONT'D)

HIGHLAND TELEPHONE COOPERATIVE, INC. AND SUBSIDIARIES

December 31, 2010 and 2009

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Note N – Labor Force:

Approximately 80% of the Cooperative's labor force is subject to a collective bargaining agreement. A three-year agreement was negotiated and approved for the period October 1, 2008 to September 30, 2011 between the Cooperative and the Communications Workers of America.

Note O – Commitments and Contingencies:

The Cooperative is a guarantor for loans in the amount of approximately \$550,000. These loans are the obligation of TN Independent Telecommunications Group d/b/a Iris Networks, a related party.

Note P – Related Party Transactions:

Highland Telephone Cooperative, Inc. (Cooperative) provides billing and collection services for Highland Communications Corporation and Highland Media Corporation and remits revenues as billed net of collection service fees and other adjustments including any uncollectible revenues from previous billings.

Note Q – Subsequent Events:

Subsequent events are transactions or events that occur subsequent to the date of the financial statements and before the issuance of those financial statements. Management has evaluated transactions and events that occurred subsequent to December 31, 2010 and before the date these financial statements were available to be issued, March 11, 2011, and determined that no additional disclosures are necessary.

SUPPLEMENTARY INFORMATION



Gentry B. Underhill Jr., CPA  
Stephen B. Boyd, CPA, CMA, CFE  
Kevin C. Sizemore, CPA  
Carol C. Boyd, CPA  
L. Candice King, CPA  
Kellie M. Rowland, CPA

# TOTHEROW, HAILE & WELCH, PLLC

TIN 62-0693408

*Certified Public Accountants*

2355 South Chancery St.  
McMinnville, Tennessee 37110

Tel. (931) 668-1272  
Fax (931) 668-2752  
www.thwcpa.com

## INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS APPLICABLE TO EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A-133

Board of Directors  
Highland Telephone Cooperative  
Sunbright, Tennessee

### Compliance

We have audited Highland Telephone Cooperative, Inc.'s (HTC) compliance with the types of compliance requirements described in the OMB Supplement Circular A-133 Compliance that could have a direct and material effect on each of HTC's major federal programs for the year ended December 31, 2010. Compliance with the requirements of laws, regulations, contracts, and grants applicable to each of its major federal programs is the responsibility of HTC's management. Our responsibility is to express an opinion on HTC's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about HTC's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of HTC's compliance with those requirements.

In our opinion, HTC complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended December 31, 2010.

## Internal Control over Compliance

Management of HTC is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts, and grants applicable to federal programs. In planning and performing our audit, we considered HTC's internal control over compliance with the requirements that could have a direct and material effect on a major federal program to determine the auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of HTC's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A material weakness in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of management, others within the entity and federal awarding agencies and is not intended to be and should not be used by anyone other than these specified parties.

*Johnson, Haire & Walden, PLLC*

Certified Public Accountants

McMinnville, Tennessee  
March 11, 2011

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

HIGHLAND TELEPHONE COOPERATIVE, INC

For the year ended December 31, 2010

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Federal Grantor / Program Cluster or Title	Federal CFDA Number	Federal Expenditures	Federal Grant Received	Grant Receivable
U.S. Department of Agriculture: Rural Utilities Service: Broadband Initiatives Program	10.787	<u>\$ 630,318</u>	<u>\$ 0</u>	<u>\$ 630,318</u>

See the notes to schedule of expenditures of federal awards.

NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

HIGHLAND TELEPHONE COOPERATIVE, INC.

For the year ended December 31, 2010

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Note A – Basis of presentation

The accompanying schedule of expenditures of federal awards includes grant activity of Highland Telephone Cooperative, Inc. under programs of the federal government for the year ended December 31, 2010. The information in this Schedule is presented in accordance with the requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. Because the Schedule presents only a selected portion of the operations of Highland Telephone Cooperative, Inc., it is not intended to and does not present the financial position, changes in net assets, or cash flows of Highland Telephone Cooperative, Inc.

Note B – Summary of significant accounting policies

Expenditures on the Schedule are reported on the accrual basis of accounting. Such expenditures are recognized following the cost principles contained in OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, wherein certain types of expenditures are not allowable or are limited as to reimbursement.

CONSOLIDATING INFORMATION

Gentry B. Underhill Jr., CPA  
Stephen B. Boyd, CPA, CMA, CFE  
Kevin C. Sizemore, CPA  
Carol C. Boyd, CPA  
L. Candice King, CPA  
Kellie M. Rowland, CPA

# TOTHEROW, HAILE & WELCH, PLLC

TIN 62-0693408

*Certified Public Accountants*

2355 South Chancery Street  
McMinnville, Tennessee 37110

Tel. (931) 668-1272  
Fax (931) 668-2752  
www.thwcpa.com

## INDEPENDENT AUDITORS' REPORT ON CONSOLIDATING INFORMATION

Board of Directors  
Highland Telephone Cooperative, Inc.  
Sunbright, Tennessee

Our report on our audit of the consolidated financial statements of Highland Telephone Cooperative, Inc. and Subsidiaries as of December 31, 2010, and for the year then ended, appears on pages three and four. That audit was made for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The consolidating information contained on pages 33 through 36 is presented for purposes of additional analysis of the consolidated financial statements rather than to present the financial position and results of operations of the individual companies. Such information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements. In our opinion, which insofar as it relates to Highland Communications Corporation, is based on the report of other auditors, such information is fairly stated in all material respects in relation to the consolidated financial statements taken as a whole.

*Totherow, Haile & Welch, PLLC*

Certified Public Accountants

McMinnville, Tennessee  
March 11, 2011

HIGHLAND TELEPHONE COOPERATIVE,

December 31,

	Highland Telephone Cooperative, Inc.	Highland Communications Corporation	Highland Media Corporation	Eliminations	Total
<u>ASSETS</u>					
<u>CURRENT ASSETS</u>					
Cash - general	\$ 5,193,474	\$ 1,782,872	\$ 109,917	\$ 0	\$ 7,086,263
Temporary investments	600,000	378,171	0	0	978,171
Securities available for sale	3,798,548	0	0	0	3,798,548
Telecommunications accounts receivable	1,132,058	319,954	48,056	(368,010)	1,132,058
Other accounts receivable	771,849	0	0	0	771,849
Grants receivable	630,318	0	0	0	630,318
Materials and supplies	1,533,456	0	0	0	1,533,456
Prepayments	293,155	13,691	0	0	306,846
Refundable tax deposits	7,240	0	8,016	0	15,256
Other current assets	105,021	0	922	0	105,943
<b>TOTAL CURRENT ASSETS</b>	<b>\$ 14,065,119</b>	<b>\$ 2,494,688</b>	<b>\$ 166,911</b>	<b>\$ (368,010)</b>	<b>\$ 16,358,708</b>
<u>NONCURRENT ASSETS</u>					
Investment in subsidiaries	\$ 6,836,052	\$ 0	\$ 0	\$ (6,836,052)	\$ 0
Other investments	965,346	0	6,158	0	971,504
Nonregulated investments	2,727,603	0	0	0	2,727,603
Advance to related company	1,077,605	0	0	(1,077,605)	0
Deferred tax asset	0	0	45,410	0	45,410
Deposits	2,573	1,200	400	0	4,173
<b>TOTAL NONCURRENT ASSETS</b>	<b>\$ 11,609,179</b>	<b>\$ 1,200</b>	<b>\$ 51,968</b>	<b>\$ (7,913,657)</b>	<b>\$ 3,748,690</b>
<u>PROPERTY, PLANT AND EQUIPMENT</u>					
Telecommunications plant in service	\$ 100,431,158	\$ 1,809,352	\$ 5,620,799	\$ 0	\$ 107,861,309
Telecommunications plant under construction	2,848,217	0	0	0	2,848,217
	\$ 103,279,375	\$ 1,809,352	\$ 5,620,799	\$ 0	\$ 110,709,526
Less accumulated depreciation	70,925,911	760,772	1,525,754	0	73,212,437
<b>TOTAL PROPERTY, PLANT AND EQUIPMENT</b>	<b>\$ 32,353,464</b>	<b>\$ 1,048,580</b>	<b>\$ 4,095,045</b>	<b>\$ 0</b>	<b>\$ 37,497,089</b>
	<b>\$ 58,027,762</b>	<b>\$ 3,544,468</b>	<b>\$ 4,313,924</b>	<b>\$ (8,281,667)</b>	<b>\$ 57,604,487</b>

BALANCE SHEETS

## INC. AND SUBSIDIARIES

2010

	Highland Telephone Cooperative, Inc.	Highland Communications Corporation	Highland Media Corporation	Eliminations	Total
<u>LIABILITIES AND MEMBERS' EQUITY</u>					
<u>CURRENT LIABILITIES</u>					
Accounts payable	\$ 774,697	\$ 0	\$ 19,291	\$ (609,223)	\$ 184,765
Advance billings and payments	766,847	0	19,216	0	786,063
Customer deposits	399	0	0	0	399
Current maturities on long-term debt	1,959,453	0	0	0	1,959,453
Accrued taxes	488,696	23,018	20,295	0	532,009
Accrued interest	19,252	0	0	0	19,252
Accrued rent	621,752	0	0	0	621,752
Accrued salaries and wages	171,454	0	0	0	171,454
Accrued compensated absences	1,189,625	0	0	0	1,189,625
Accrued federal and state income taxes	370	5,966	0	0	6,336
Other current liabilities	186,257	0	6,871	0	193,128
<b>TOTAL CURRENT LIABILITIES</b>	<b>\$ 6,178,802</b>	<b>\$ 28,984</b>	<b>\$ 65,673</b>	<b>\$ (609,223)</b>	<b>\$ 5,664,236</b>
<u>LONG-TERM DEBT</u>					
Rural Utilities Service	4,291,234	0	0	0	4,291,234
<u>OTHER LIABILITIES</u>					
Postretirement benefits other than pension	3,899,210	0	0	0	3,899,210
Advance from related company	0	0	836,392	(836,392)	0
Deferred grant revenue	630,318	0	0	0	630,318
Deferred taxes	0	49,081	42,210	0	91,291
<b>TOTAL LIABILITIES</b>	<b>\$ 14,999,564</b>	<b>\$ 78,065</b>	<b>\$ 944,275</b>	<b>\$ (1,445,615)</b>	<b>\$ 14,576,289</b>
<u>MEMBERS' EQUITY</u>					
Memberships	\$ 253,327	\$ 0	\$ 0	\$ 0	\$ 253,327
Patronage capital	42,774,871	0	0	0	42,774,871
Accumulated other comprehensive loss	0	0	0	0	0
Capital stock	0	1,387,409	200,000	(1,587,409)	0
Paid-in capital	0	604,435	5,681,739	(6,286,174)	0
Retained earnings	0	1,474,559	(2,512,090)	1,037,531	0
<b>TOTAL MEMBERS' EQUITY</b>	<b>\$ 43,028,198</b>	<b>\$ 3,466,403</b>	<b>\$ 3,369,649</b>	<b>\$ (6,836,052)</b>	<b>\$ 43,028,198</b>
	<u>\$ 58,027,762</u>	<u>\$ 3,544,468</u>	<u>\$ 4,313,924</u>	<u>\$ (8,281,667)</u>	<u>\$ 57,604,487</u>



CONSOLIDATING STATEMENTS OF INCOME

HIGHLAND TELEPHONE COOPERATIVE,

For the year ended

	Highland Telephone Cooperative, Inc.	Highland Communications Corporation	Highland Media Corporation	Eliminations	Total
Operating revenues:					
Local network services revenue	\$ 6,859,332	\$ 0	\$ 0	\$ 0	\$ 6,859,332
Long distance services revenue	0	845,008	0	0	845,008
Network access services revenue	8,134,063	0	0	(494,813)	7,639,250
Miscellaneous revenues	3,016,713	3,466,260	447,735	(4,122,329)	2,808,379
Less uncollectible revenue	<u>(17,514)</u>	<u>(44,689)</u>	<u>0</u>	<u>(23,994)</u>	<u>(86,197)</u>
<b>TOTAL OPERATING REVENUES</b>	<b>\$ 17,992,594</b>	<b>\$ 4,266,579</b>	<b>\$ 447,735</b>	<b>\$ (4,641,136)</b>	<b>\$ 18,065,772</b>
Operating expenses:					
Plant specific operations expense	\$ 5,629,023	\$ 8,167	\$ 120,560	\$ (120,560)	\$ 5,637,190
Plant nonspecific operations expense	1,861,166	0	116,873	(116,873)	1,861,166
Provision for depreciation	4,830,511	67,911	702,206	(702,206)	4,898,422
Customer operations expense	1,868,663	2,393,830	60,127	(2,039,377)	2,283,243
Corporate operations expense	2,818,316	863,946	358,578	(610,614)	3,430,226
Operating taxes	<u>432,397</u>	<u>12,856</u>	<u>35,340</u>	<u>(35,340)</u>	<u>445,253</u>
<b>TOTAL OPERATING EXPENSES</b>	<b>\$ 17,440,076</b>	<b>\$ 3,346,710</b>	<b>\$ 1,393,684</b>	<b>\$ (3,624,970)</b>	<b>\$ 18,555,500</b>
<b>OPERATING INCOME (LOSS)</b>	<b>\$ 552,518</b>	<b>\$ 919,869</b>	<b>\$ (945,949)</b>	<b>\$ (8,266,106)</b>	<b>\$ (489,728)</b>
Other income (expense):					
Interest and dividend income	\$ 81,628	\$ 4,108	\$ 6,158	\$ 0	\$ 91,894
Nonregulated income	6,748	0	0	1,016,165	1,022,913
Income from subsidiaries	(368,147)	0	0	368,147	0
Income from investment	14,858	0	0	0	14,858
Gain on sale of fixed asset	0	(4,494)	0	0	(4,494)
Loss on obsolete inventory	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>TOTAL OTHER INCOME (LOSS)</b>	<b>\$ (264,913)</b>	<b>\$ (386)</b>	<b>\$ 6,158</b>	<b>\$ 1,384,312</b>	<b>\$ 1,125,171</b>

AND COMPREHENSIVE INCOME

## INC. AND SUBSIDIARY

December 31, 2010

	Highland Telephone Cooperative, Inc.	Highland Communications Corporation	Highland Media Corporation	Eliminations	Total
Fixed charges:					
Interest on long-term debt	\$ 360,439	\$ 0	\$ 0	\$ 0	\$ 360,439
Interest charged to construction - credit	(108,455)	0	0	0	(108,455)
Interest on customer deposits	429	0	0	0	429
<b>TOTAL FIXED CHARGES</b>	<b>\$ 252,413</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 252,413</b>
<b>INCOME (LOSS) BEFORE TAXES ON INCOME</b>	<b>\$ 35,192</b>	<b>\$ 919,483</b>	<b>\$ (939,791)</b>	<b>\$ (6,881,794)</b>	<b>\$ 383,030</b>
Taxes on income	8,290	351,039	(3,200)	0	356,129
<b>NET INCOME (LOSS)</b>	<b>\$ 26,902</b>	<b>\$ 568,444</b>	<b>\$ (936,591)</b>	<b>\$ (6,881,794)</b>	<b>\$ 26,901</b>
Other comprehensive income (loss):					
Unrealized loss on investment securities available for sale	(1,225)	0	0	0	(1,225)
Postretirement benefits other than pension:					
Prior service costs	5,667	0	0	0	5,667
Unrecognized loss	298,432	0	0	0	298,432
<b>COMPREHENSIVE INCOME (LOSS)</b>	<b>\$ 329,776</b>	<b>\$ 568,444</b>	<b>\$ (936,591)</b>	<b>\$ (6,881,794)</b>	<b>\$ 329,775</b>