

Exhibit 1

**Excerpts of the
Pennyrile Deposition**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Petition of the Kentucky)
Cable Telecommunications) Case No. 2012-00544
Association for a Declaratory)
Order that the Commission Has)
Jurisdiction to Regulate the)
Pole Attachment Rates, Terms,)
and Conditions of Cooperatives)
That Purchase Electricity from)
the Tennessee Valley Authority)

DEPOSITION FOR PETITIONER

*** **

DEPONENT: ESTON W. GLOVER, JR., CR 30.02(6) Designee of
Pennyrile Rural Electric Cooperative
Corporation

TAKEN: MARCH 11, 2015

BY: LINDSEY N. McMICHAEL, Certified Reporter

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1 these documents?

2 A. I've seen the documents.

3 Q. Okay. And with respect to Exhibit No. 3, you're
4 prepared to answer questions covered by the attachment to
5 Exhibit No. 3?

6 A. To the best of my ability, yes, sir.

7 Q. What did you do to prepare for this deposition?

8 A. I didn't -- didn't do a whole lot.

9 Q. Well, what did you do?

10 A. We had a meeting of the -- a group of folks to
11 talk about the process. We didn't dig into the deposition
12 materials, but we talked about the process. There were
13 several that had -- of us that had not had good experience,
14 and just to talk about what the process was about.

15 Q. Okay. When you say the "group of folks", who
16 would that be?

17 A. Those that are going to be deposed.

18 Q. The five different deponents?

19 A. Yes, sir.

20 Q. And you were represented by counsel at that
21 meeting?

22 A. Yes, sir.

23 Q. And what -- how long was that meeting?

24 A. Oh, it was an hour and a half to maybe two hours
25 at the most.

1 Q. Okay.

2 A. We had lunch afterwards.

3 Q. Okay. And you talked about what sorts of
4 questions you might be getting.

5 A. Yeah, we -- we talked about questions that might
6 come from -- from you and that type of thing.

7 Q. Have you reviewed any documents in preparation
8 for this deposition?

9 A. There were documents in the room. I did not
10 review the documents that -- that was relative to Pennyrile,
11 other than I opened them and it was a stack that high
12 (indicating). And I didn't -- didn't read them.

13 Q. Okay.

14 A. They were in the room during the time we were
15 there.

16 Q. Okay.

17 A. I didn't have them to come to or to take away
18 from.

19 Q. Okay. Did you do anything else to educate
20 yourself regarding the topics of the deposition?

21 A. No, sir. I have not. I -- I no longer work at
22 Pennyrile, --

23 Q. Okay.

24 A. -- but I'm still the one to represent Pennyrile
25 in this case.

1 indicates that this contract can be extended beyond the 20-
2 year termination date; isn't that true?

3 A. My understanding is that neither one of us gave
4 notice.

5 Q. Okay. So as far as you know, this contract is
6 still in -- is still the sole contract that Pennyrile has
7 with TVA?

8 A. I -- I -- I don't know that. I -- I think that
9 we need to look and see if there's another contract.

10 Q. Okay. So you'll look and see if there's another
11 contract.

12 MR. DEPP: Yes. We'll represent that, yes.

13 MR. GILLESPIE: Okay.

14 Q. Is there anything in this contract that expressly
15 refers to pole attachment rates?

16 A. You want me to -- to read this? I --

17 Q. Well, I want an answer, so take a look.

18 A. I don't know.

19 Q. Well, let's -- let's proceed this way.

20 A. Okay.

21 Q. Ultimately this document is going to speak for
22 itself. The lawyers can argue about it perhaps.

23 A. Yes, sir.

24 Q. But can you point to anything in this contract
25 that expressly refers to pole attachment rates?

1 A. (Witness reviews document.) On the number one,
2 Purpose of the Contract, --

3 Q. Uh-huh.

4 A. -- let's just start with the second sentence,
5 (reading) toward that end cooperatives agree that the
6 electric system shall be operated on a non-profit basis the
7 electric system funds. An account shall not be mingled with
8 other funds or accounts of cooperative. And that resale
9 rates and charges shall be applied, which will provide
10 revenues which can reasonably expected to be -- at least be
11 equal to and not substantially greater than, the sum required
12 for the items listed in Subsection A of Section 6.

13 Q. All right. So it is your interpretation that
14 resale rates and charges includes pole attachments?

15 A. Yes, sir.

16 Q. Is there anything in this document that you see
17 that would support that understanding?

18 A. Well, I think that sentence does. It says that
19 any charges.

20 Q. It says resale rates and charges, correct?

21 MR. DEPP: I'm going to object just -- just -- we
22 can move on with this momentarily, but it has been
23 acknowledged in the TVA Cooperative's filings, and in fact by
24 counsel just now, that the interpretation of this document is
25 a legal issue. Now, if the witness can answer with respect

1 to the facts of what the document says, I suppose that's
2 fine. But obviously if the document speaks for itself, it
3 speaks for itself.

4 MR. GILLESPIE: The witness can certainly give
5 his understanding of the document, which he's doing.

6 A. (Witness reviews document.) On page six, under
7 5C, (reading) if the rates and charges provided in said
8 resale schedules do not produce revenue sufficient to provide
9 for the operation and maintenance of the electric system on a
10 self-supporting and financially sound basis, including
11 requirements for interest and principal payments on
12 indebtedness incurred or assumed by cooperative for the
13 acquisition, extension, or improvement of the electric
14 system, hereinafter called "system indebtedness", the parties
15 shall agree upon, and the cooperative shall put into effect
16 promptly such changes in rates and charges as will provide
17 the increased revenue necessary to place the system upon a
18 self-supporting and financially sound basis. If the rates
19 and charges in effect at any time provide revenues that are
20 more than sufficient for such purposes, as more particularly
21 described in Section 6 hereof, the parties shall agree upon a
22 reduction in said rates and charges, and cooperative shall
23 promptly put such reduced rate and charges into effect.

24 Q. Okay. Now, the -- go back to page five, you see
25 that reference to wholesale rates and retail -- resale rates?

1 A. Yes, sir.

2 Q. On page five?

3 A. Uh-huh.

4 Q. Okay. Now, wholesale rates are the rates that
5 are paid by the distributor in the cooperative, correct, --

6 A. Yes, sir.

7 Q. -- through TVA? And Pennyrile receives that
8 electricity and it provides it to its customers on a resale
9 basis, correct?

10 A. Yes, sir.

11 Q. And the resale schedules that relate to this
12 document relate to electric rates, do they not?

13 A. Resale schedules do, --

14 Q. Right.

15 A. -- yes, sir.

16 Q. Are there are any resale schedules that include
17 pole attachment rates?

18 A. Charges.

19 Q. Are there rates?

20 A. I would -- I would -- I would classify pole
21 attachments under charges that we have for services that we
22 do.

23 Q. Does the cooperative provide to TVA any list of
24 pole attachment charges?

25 A. We provide an annual report every year with a

1 A. Yes, sir.

2 Q. And I asked you what the basis is of the
3 statement that you made here.

4 A. TVA is our regulator.

5 Q. Right.

6 A. They control and are responsive to everything
7 that's in our portfolio --

8 Q. Okay.

9 A. -- of business. They see and review all aspects
10 of our business every year.

11 Q. But those are determinations that are made by the
12 TVA, correct?

13 A. No, sir, we're required to report to them.

14 Q. You're required to report your costs and revenues
15 to them?

16 A. Yes, sir.

17 Q. Okay. Okay. So is it fair to say that what you
18 mean here is that TVA takes all revenues and expenses into
19 account in your understanding, and determines, based on that,
20 what the revenue requirement is and then sets electric rates
21 so that it covers the revenue requirement?

22 A. They use all of the information to approve or
23 disapprove, any rate change that we are involved in.

24 Q. Okay. And that's the extent of your knowledge of
25 what TVA does?

1 A. Well, I don't know how they do it.

2 Q. Okay. So it's your belief that TVA takes into
3 account the pole attachment revenues.

4 A. Yes, sir.

5 Q. Okay. Does TVA take account of pole attachment
6 revenues in any way different than other revenues and costs?

7 A. I don't know.

8 Q. Okay. Does it take account of pole revenues in
9 any way different from its taking into account other revenues
10 such as interest revenue?

11 A. I don't know.

12 Q. Or miscellaneous revenue?

13 A. I don't know.

14 Q. Or state and local taxes?

15 A. I don't know.

16 Q. Okay. To the best of your knowledge, does TVA
17 control the amounts of state and local taxes paid by
18 Pennyrile?

19 A. No, sir, I don't think so.

20 Q. Okay. So it simply takes those state and local
21 taxes, whatever they are, and considers them in connection
22 with the revenue requirement; is that right?

23 A. Yes, sir.

24 Q. And the same would be true with respect to
25 interest revenue?

1 A. I don't know that.

2 Q. Okay. And the same would be true with regard to
3 miscellaneous revenue?

4 A. I don't know that either.

5 Q. Okay. I'll have marked as Exhibit No. 10 --

6 COURT REPORTER: Nine.

7 MR. GILLESPIE: Nine?

8 Q. -- a Joint Use Agreement between Pennyrile and
9 BellSouth Telecommunications, TVA, AT&T Kentucky, with the
10 cover letters dated March 15th, 2010.

11 (WHEREAS, EXHIBIT NO 09 WAS ENTERED)

12 A. (Witness reviews document.)

13 Q. Familiar with this document?

14 A. I've seen this.

15 Q. Okay. Who drafted this document?

16 A. I think this was a TVPPA document in conjunction
17 with AT&T, or BellSouth at the time -- or at the beginning,
18 but AT&T.

19 Q. By TVPPA, you mean the Tennessee Valley Public
20 Power Authority -- or Association?

21 A. Association, yes, sir.

22 Q. And this is the association of TVA Cooperatives;
23 is that right?

24 A. Yes, sir.

25 Q. And Pennyrile is a member of TVPPA?

1 Q. Okay. So you don't know?

2 A. I don't know.

3 Q. Okay. And can you tell me approximately how much
4 the rates changed from 2008 to 2009 in this Agreement?

5 A. No, sir, I cannot.

6 Q. So you have no idea, sitting here, what the pole
7 attachment rates were between AT&T and Pennyrile prior to
8 this Agreement being executed?

9 A. No, sir.

10 Q. Was this Agreement approved by TVA?

11 A. They have approved it every year when we've had
12 any kind of -- when we've asked for any rate change, that
13 would have been included in their calculation. Or at least
14 it was material provided them through our documents.

15 Q. Well, all right, let's -- let's get to this
16 answer. Did TVA -- To the best of your knowledge, has TVA
17 ever seen this Agreement?

18 A. I don't know.

19 Q. To the best of your knowledge, was this
20 Agreement, and the rates that are included in this Agreement,
21 ever approved by TVA?

22 A. Well, I contend that the rates that we get from
23 poles are in our report every year to TVA. And they have
24 approved them every year for us.

25 Q. Well --

1 A. Now whether they approved this contract, I don't
2 know.

3 Q. Okay.

4 A. I don't -- I just don't know.

5 Q. Okay. The -- We're going to look at the reports,
6 but before we get there, let me just try to cover it here.
7 The information that is supplied in those reports includes
8 revenue related to rental property, correct?

9 A. I do not know how it's broken out.

10 Q. Okay. You don't know. So it's your contention
11 that the TVA is provided with data that allows TVA to
12 understand what the revenues are from pole attachment rates.
13 Is that what you're saying?

14 A. I think that they have the data to understand
15 what we're getting from -- from all aspects of our business.

16 Q. Okay. Well, why don't you try to answer my
17 question, if you would?

18 MR. DEPP: I think he did.

19 Q. My question has to do with pole attachment
20 revenues.

21 A. All revenues --

22 Q. Okay.

23 A. -- are --

24 Q. Okay.

25 A. -- in the documents.

1 Q. Okay. They get all revenues. Do they get
2 information that would indicate to them what the specific
3 pole attachment rate is for any company in any particular
4 year?

5 A. I don't know.

6 Q. Okay. Has TVA approved -- Did TVA approve a \$29
7 pole rate between AT&T and Pennyrile for 2011?

8 A. They didn't approve anything for AT&T. They
9 approved, within our package, the rate that we charged for
10 all services.

11 Q. Well, let's distinguish, if we may, between rate
12 and revenue. Do you understand the difference?

13 A. I understand the difference.

14 Q. Okay. Revenue would be the money that is
15 received, rate would be the specific charge, right?

16 A. I understand, yes, sir.

17 Q. And the -- for 2011, this document reflects a
18 rental rate of \$29 a pole, right?

19 A. Yes, sir.

20 Q. And Pennyrile receives revenues from pole
21 attachment rates from AT&T and other parties, correct?

22 A. Yes, sir.

23 Q. And the actual rate that creates those revenues,
24 that actual rate is not provided to TVA in any documents that
25 Pennyrile provides to TVA; isn't that true?

1 A. I don't know that.

2 Q. Okay. So you don't know one way or the other.

3 A. I don't know that, no, sir.

4 Q. Okay. Do you know if there was any consultation
5 between any parties and the TVA regarding the terms and
6 conditions and rates in Exhibit 9?

7 A. There was no question about anything that we were
8 charging for services.

9 Q. Well, let's --

10 A. Including rates for pole attachments.

11 Q. Okay. Well, let me -- let me just take a step
12 back here. So Exhibit 9 is a particular document that
13 includes terms and conditions for the attachment of poles by
14 both parties. And in Exhibit D it includes specific rates,
15 right?

16 A. Yes, sir.

17 Q. Okay. In the negotiation of this document, to
18 the best of your knowledge, was there any consultation
19 between any party and TVA regarding what the terms and
20 conditions and rates in this document were going to be?

21 A. I don't know. I wasn't on that committee.

22 Q. Okay. So you don't know of any such
23 consultation, correct?

24 MR. DEPP: Asked and answered.

25 Q. You can answer.

1 A. I'm not aware.

2 Q. Okay. Is there anything in -- to the best of
3 your knowledge, that would have prevented AT&T and TVPPA from
4 agreeing to pole rental rates that are different than the
5 rates that are included in Exhibit D?

6 A. Please say that again.

7 Q. Can you read that back, please?

8 (WHEREAS, THE QUESTION WAS READ BACK.)

9 A. I don't know of anything.

10 Q. Okay. Is there anything that would prevent
11 Pennyrile and KCTA from agreeing to a pole rate that is
12 different from the one that AT&T and TVPPA agreed to?

13 A. We've tried to be consistent with all of our
14 classes of customers and suppliers; what we charge one, we
15 charge the other in that same class. And we would put you in
16 the same class, so I don't think so.

17 Q. Is there anything else other than your desire to
18 charge these companies the same amount?

19 A. Well, there is a fairness thing and we are
20 representing our consumer owners - they own us. And it's our
21 responsibility to be consistent in our dealings with
22 everybody that we deal with. I don't know why we would do it
23 different there than we do everywhere else.

24 Q. Is it your understanding that the terms and
25 conditions that are applied to the KCTA members and AT&T are

1 Q. Okay. I'd like to mark as Exhibit 10 a pole
2 attachment Agreement between New Wave Communications and
3 Pennyrile; cover letter dated May 2nd, 2007.

4 (WHEREAS, EXHIBIT NO 10 WAS ENTERED)

5 Q. Familiar with this Agreement?

6 A. I would have just seen it as we sent it through.

7 Q. This represents the Agreement as of May 2nd,
8 2007, between Pennyrile and New Wave?

9 A. Yes, sir, that's what it looks like.

10 Q. Okay. You're aware that the New Wave system in
11 this area was acquired by Time Warner Cable?

12 A. I don't know who owns who.

13 Q. Okay. Let's take a short break.

14 (WHEREAS, A BRIEF RECESS WAS TAKEN.)

15 BY MR. GILLESPIE:

16 Q. Mr. Glover, are -- are you aware of any documents
17 that constitute an order, directive, or communication from
18 TVA regarding pole attachment rates?

19 A. No, sir, I'm not aware.

20 Q. Okay. I'm sorry, let me just have a minute here.
21 Okay. I would ask you to turn to item 15 in Exhibit No. 7,
22 which is the Responses by Pennyrile to the Supplemental
23 Requests for Information.

24 A. (Witness complies.)

25 Q. Okay. And you see that item 15 asks whether

1 Pennyrile reports pole attachment rates to the TVA. And the
2 response being, (reading) no, Pennyrile reports its rates and
3 revenues only as required by TVA.

4 Do you see that?

5 A. Yes, sir.

6 Q. So TVA does not require that the pole attachment
7 rates be reported to it, correct?

8 A. It says Pennyrile reports its rates and revenues
9 only as required by the TVA.

10 Q. Yes. And the question that is response -- that
11 this is intending to respond to says, do you report your pole
12 attachment rates through TVA, and the answer is no. Do you
13 see that? Is that correct?

14 A. Well, the -- the answer was no. But then,
15 (reading) Pennyrile reports its rates and revenues only as
16 required by the TVA.

17 Q. Yes. And does Penny -- does TVA --

18 A. If they -- If they were to ask for that, if they
19 questioned something, we would re -- give that to them in any
20 case.

21 Q. Right. And --

22 A. They have that authority.

23 Q. But they have not asked for it, isn't that true?

24 A. I'm --

25 MR. DEPP: Asked for what? I'm sorry, could you

1 clarify?

2 Q. They have not asked for the rates -- pole
3 attachment rates.

4 A. I am not sure.

5 Q. Okay. Turn to item 17 in Exhibit No. 7. This
6 asks whether Pennyrile reports its pole-related costs to TVA.
7 Do you see that?

8 A. Uh-huh.

9 Q. And the response says that, (reading) pole-relate
10 -- pole-related costs are captured as part of Pennyrile's
11 reporting of operations, maintenance, and depreciation
12 expenses in these annual reports.

13 Do you see that?

14 A. Yes, sir.

15 Q. Okay. Now, the operations, maintenance, and
16 depreciation expenses that are submitted are not broken down
17 to include only poles; isn't that true?

18 A. I'm not sure.

19 Q. You don't know. Okay. Let's mark as Exhibit No.
20 11 the annual reports.

21 (WHEREAS, EXHIBIT NO 11 WAS ENTERED)

22 Q. Okay. These are the annual reports of Pennyrile
23 submitted to the TVA for the years 2010 through 2013.

24 MR. DEPP: I'm trying to remember, these were
25 attachments to one of the data requests, right? Do you

1 AT&T has some attachments on Pennyrile's poles, correct?

2 A. Yes, sir.

3 Q. Does --

4 A. Yes, sir.

5 Q. Does Pennyrile simply adjust the amount of money
6 that it pays to AT&T based on the amount of money that AT&T
7 would pay to Pennyrile, or is it -- are all of those monies
8 paid to each party?

9 A. We do a count on a regular basis. I'm not sure
10 if we bill the full amount to each, or if we bill the
11 difference. I'm not sure on that.

12 Q. Do you know whether the pole attachment revenues
13 that Pennyrile receives from AT&T include all the poles --
14 all of the attachments that AT&T has, or just the
15 differential?

16 A. That's just what I said, I don't know.

17 Q. Okay. So you don't know how that's reported on
18 the form.

19 A. No, sir.

20 Q. Okay. With respect to the other parties whose
21 poles Pennyrile attaches to other than AT&T, does Pennyrile
22 pay in each case the same amount -- the amount that is
23 included in the TVPPA/AT&T Agreement?

24 A. Yes, sir.

25 Q. And has -- has TVA approved that particular

1 expense of Pennyrile?

2 A. They've approved our report every year.

3 Q. Okay. They've approved the report, but you said
4 that you don't know whether that information is included in
5 this report, correct?

6 A. I feel that they have the material. If they want
7 more questions, they'll ask us.

8 Q. Okay. But putting aside their ability to ask
9 questions isn't it true that Pennyrile has not asked TVA to
10 approve the rate that Pennyrile pays to other parties to
11 attach to their poles?

12 A. Nor do we approve -- ask for approval for any
13 other services that we -- we are involved in, but it falls
14 under the TVA as the regulator of our organization, if
15 something is not suiting to them, they'll tell us to change
16 it. I assure you.

17 Q. Right. This is just treated -- this is just an
18 expense like other expenses, right? Well, let me put it this
19 way, --

20 A. It's a part of the business like other stuff is.

21 Q. It -- It's an expense, and as a general matter
22 Pennyrile does not ask TVA to approve what the expenses are.
23 What Pennyrile does is it makes a report that includes all of
24 the expenses and TVA can review it, correct?

25 A. They review everything we do.

1 Q. They review everything that's in this report,
2 right?

3 A. In that report and anything else they want to
4 ask.

5 Q. Well, let's put aside for the moment -- they can
6 ask the things, but the only information that -- that the TVA
7 gets, without asking specifically for it, regarding any pole
8 attachment expenses or revenues, is this report, correct?

9 A. I don't think I could say that.

10 Q. You don't know?

11 A. I don't know.

12 Q. When was the last time that Pennyrile
13 communicated with TVA about any pole attachment matter?

14 A. I don't have that in front of me. I don't know.

15 Q. You don't know. Do you know whether Pennyrile
16 has communicated with TVA about any pole attachment matter
17 this year?

18 A. I'm not aware of any in 2015.

19 Q. Okay. Go off the record for a minute.

20 (WHEREAS, A BRIEF RECESS WAS TAKEN.)

21 MR. GILLESPIE: I meant to cover this at the
22 beginning. I -- I just want to -- I just want it to be clear
23 that my understanding is that this -- in this matter the
24 parties are KCTA, Pennyrile, and other TVA Coops in a matter
25 before the PSC. As we're all aware, there is a related