

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS 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

CASE NO. 2012-00544

Response to KCTA's First Requests for Information
dated October 24, 2013

November 14, 2013

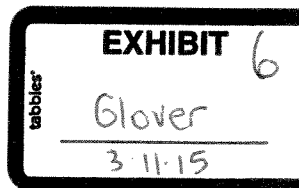
1 Item 1) *Do you contend that the TVA regulates your pole rates in any way?*

2

3 Response) Yes.

4

5 Witness) Eston Glover



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1 Item 2) *If the answer to the prior data request is affirmative, please explain*
2 *fully, making reference to all facts known to you supporting that answer.*

3

4 **Response)** Pennyrile objects to this request insofar as it seeks conclusions of a legal
5 nature which are protected by the attorney-client and attorney-work-product privileges.
6 Pennyrile also objects to this request on the grounds that it is overly broad and unduly
7 burdensome. Notwithstanding these objections, but without waiving them, Pennyrile
8 states as follows.

9 By statute, the TVA has plenary authority over all rates and services of the
10 utilities that purchase and distribute the electricity it generates. The TVA regulates these
11 rates and services through the express terms of its wholesale power contract with
12 Pennyrile. Please also see the TVA Cooperatives' Response to the January 17 Order
13 filed February 15, 2013 in this matter, and the Response to Application for Rehearing
14 filed July 25, 2013 in this matter.

15

16 **Witness)** Eston Glover

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Pennyrile Rural Electric Cooperative Corporation
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1 **Item 3)** *Provide the legal and factual basis for the statement on page 7 of the*
2 *TVA Cooperatives' Response to the January 17 Order, filed with the Commission on*
3 *February 15, 2013, that states: "The cost-based rates the TVA Cooperatives collect in*
4 *connection with the pole attachment services they provide directly impact the end-*
5 *users' retail rates which are set by the TVA."*

6

7 **Response)** Pennyrile objects to this request insofar as it seeks conclusions of a legal
8 nature which are protected by the attorney-client and attorney-work-product privileges.
9 Notwithstanding this objection, but without waiving it, Pennyrile states as follows.

10 The retail rates approved by the TVA are calculated based on Pennyrile's revenue
11 requirement. TVA's assessment of the revenue requirement takes into account all
12 revenues, including those for pole attachment services. Any change in Pennyrile's pole
13 attachment revenues will necessarily change its revenue requirement and thus directly
14 impact the retail rate set by the TVA. Please see Pennyrile's response to KCTA 1-2, and
15 the TVA Cooperatives' Response to the January 17 Order, filed February 15, 2013 in this
16 matter.

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1

2 Witness) Eston Glover

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1 Item 4) *Do you contend that regulation of your pole attachment rates according*
2 *to the cost-based rate methodology used by the Commission, and outlined in the*
3 *September 17, 1982 order by the Commission in Administrative Case No. 251, would*
4 *conflict with the TVA's regulation of your electric rates?*

5

6 Response) Yes.

7

8 Witness) Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 5) *If the answer to the prior data request is affirmative, please explain*
2 *fully, making reference to all facts known to you supporting that answer.*

3

4 Response) Pennyrile objects to this request insofar as it seeks conclusions of a legal
5 nature which are protected by the attorney-client and attorney-work-product privileges.
6 Pennyrile also objects to this request on the grounds that it is overly broad and unduly
7 burdensome. Notwithstanding these objections, but without waiving them, Pennyrile
8 states as follows.

9 The TVA takes into account pole attachment revenues when determining
10 Pennyrile's revenue requirement and retail rate. Because pole attachment rates are a
11 component of the retail rate that the TVA sets for Pennyrile, any State action attempting
12 to set Pennyrile's pole attachment rates would necessarily impact the retail rate and
13 present a direct conflict between state and federal law. Please see Pennyrile's responses
14 to KCTA 1-2 and KCTA 1-3, and the TVA Cooperatives' Response to the January 17
15 Order, filed February 15, 2013 in this matter.

16

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Witness) Eston Glover

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1 Item 6) *Produce all documents concerning how you ensure a pole attachment*
2 *rate will provide sufficient revenues to cover the costs of providing for the attachments.*

3

4 Response) Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Notwithstanding this objection, but without waiving it, Pennyrile
6 states as follows.

7 Please see the attached documents. Please also see Pennyrile's responses to
8 KCTA 1-1, KCTA 1-2, KCTA 1-3, KCTA 1-4, and KCTA 1-5.

9

10 Witness) Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 7) *Do you contend that the TVA has statutory jurisdiction to regulate pole*
2 *attachment rates of its member cooperatives?*

3

4 Response) Yes.

5

6 Witness) Eston Glover

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1 Item 8) *If the answer to the prior data request is affirmative, please explain*
2 *fully, giving all statutory reference and case citations in support of your answer.*

3

4 **Response)** Pennyrile objects to this request insofar as it seeks legal conclusions (not
5 data) and legal research and reasoning protected by the attorney-client and attorney-
6 work-product privileges. Pennyrile also objects to this request on the grounds that it is
7 overly broad and unduly burdensome. Notwithstanding these objections, but without
8 waiving them, please see the TVA Cooperatives' Response to the January 17 Order filed
9 February 15, 2013 in this matter, and the Response to Application for Rehearing filed
10 July 25, 2013 in this matter.

11

12 **Witness)** Counsel

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 9) *Provide all pole attachment rates charged by you to any entity (identify*
2 *by year and the entity to which such rate applied).*

3

4 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Pennyrile also objects to this request on the grounds that it is not
6 reasonably calculated to lead to the discovery of relevant and admissible evidence.
7 Notwithstanding these objections, but without waiving them, Pennyrile states as follows.

8 Please see Pennyrile's response to KCTA 1-6. Pennyrile charges the prices
9 specified in the TVPPA/AT&T Joint Use Agreement.

10

11 **Witness)** Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 10)** *Explain the basis and methodology for setting or calculating all pole*
2 *attachment rates used by you.*

3

4 **Response)** Pennyrile participates in the TVPPA/AT&T Joint Use Agreement.
5 Pennyrile charges the same, nondiscriminatory pole attachment rate for each foreign
6 attachment on its poles without regard to the service being provided by the attacher, as
7 specified in the TVPPA/AT&T Joint Use Agreement.

8 Each foreign attachment to Pennyrile's poles occupies one foot of horizontal
9 space, and the additional pole loading caused by the attachment affects the loading of the
10 pole from its attachment point to the ground line. The resulting joint-use rates are
11 calculated using the average installation cost of a pole multiplied by a loading factor
12 caused by an average-sized foreign attachment.

13 Please also see Pennyrile's response to KCTA 1-6.

14

15 **Witness)** Eston Glover

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1 Item 11) *Explain the basis and methodology for setting or calculating all pole*
2 *attachment rates used by you at this time and, if the basis or methodology has changed*
3 *since the year 2000, provide an explanation of the changes.*

4

5 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
6 unduly burdensome. Pennyrile also objects to this request on the grounds that it is not
7 reasonably calculated to lead to the discovery of relevant and admissible evidence.
8 Notwithstanding these objections, but without waiving them, Pennyrile states as follows.

9 Please see Pennyrile's response to KCTA 1-10.

10

11 **Witness)** Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 12) *Explain how often you have reset or recalculated your pole attachment*
2 *rates.*

3

4 **Response)** The pole attachment rates that Pennyrile charges pursuant to the
5 TVPPA/AT&T Joint Use Agreement and the addenda to that agreement are recalculated
6 annually. Please see the attachment for Pennyrile's response to KCTA 1-6.

7

8 **Witness)** Eston Glover

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1 Item 13) *State your total revenues for each of the years 2000 to the present.*

2

3 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
4 unduly burdensome. Pennyrile also objects to this request on the grounds that it is not
5 reasonably calculated to lead to the discovery of relevant and admissible evidence.

6 Notwithstanding these objections, but without waiving them, Pennyrile states as follows.

7 Please see the table below. Pennyrile's fiscal year runs from July 1 to June 30;

8 Accordingly, FY 2010, for example, is the period from July 1, 2009 to June 30, 2010.

Year	Operating Revenue (\$)
FY 2010	115,652,304
FY 2011	122,682,439
FY 2012	120,081,144
FY 2013	122,781,272

9

10 **Witness)** Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 14) *State your total revenues received from pole attachment rates for each*
2 *year from 2000 to the present.*

3

4 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Pennyrile also objects to this request on the grounds that it is not
6 reasonably calculated to lead to the discovery of relevant and admissible evidence.
7 Notwithstanding these objections, but without waiving them, Pennyrile states as follows.

8 Please see the table below. Pennyrile's fiscal year runs from July 1 to June 30.
9 Accordingly, FY 2010, for example, is the period from July 1, 2009 to June 30, 2010.

Year	Pole Attachment Revenue (\$)
FY 2010	954,714.84
FY 2011	1,057,916.50
FY 2012	1,051,557.00
FY 2013	1,021,589.34

10

11 **Witness)** Eston Glover

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1 **Item 15)** *Produce all documents reflecting any communication between you and*
2 *the TVA at any time concerning pole attachment revenues or rates.*

3

4 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Pennyrile also objects to this request on the grounds that it is
6 duplicative. Notwithstanding these objections, but without waiving them, Pennyrile
7 states as follows.

8 Please see Pennyrile's response to KCTA 1-17.

9

10 **Witness)** Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 16) *Identify each communication concerning pole attachment revenues or*
2 *rates from 2000 to the present.*

3

4 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Pennyrile also objects to this request on the grounds that it is
6 duplicative. Notwithstanding these objections, but without waiving them, Pennyrile
7 states as follows.

8 Please see Pennyrile's responses to KCTA 1-15, KCTA 1-17, and KCTA 1-18.

9

10 **Witness)** Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 17) *Produce all documents concerning any order, directive, contract or*
2 *other communication from or by the TVA concerning pole attachment rates.*

3

4 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Pennyrile also objects to this request on the grounds that it is
6 duplicative. Notwithstanding these objections, but without waiving them, Pennyrile
7 states as follows.

8 Please see the attached documents.

9

10 **Witness)** Eston Glover

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1 Item 18) *Identify and produce all communications with the TVPPA concerning*
2 *pole attachment rates.*

3

4 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Notwithstanding this objection, but without waiving it, Pennyrile
6 states as follows.

7 Please the attached documents.

8

9 **Witness)** Eston Glover

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1 Item 19) *Identify the name, title, dates of employment, and contact information*
2 *for your former and current personnel who had responsibility for setting or calculating*
3 *your pole attachment rates for the years 2008 to the present.*

4

5 Response) Since October 1994, the responsible employee has been John W. Wheeler,
6 Jr., V.P. – Engineering.

7

8 Witness) Eston Glover

PENNYRILE RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
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- 1 Item 20) *Provide the following information for each of the years 2010, 2011 and*
2 *2012. Use either the data for the entire year or the information as of the yearend, as*
3 *appropriate. If you do not keep any data requested according to the RUS accounting*
4 *system contained in 7 C.F.R. Ch. 17, provide the equivalent number.*
- 5 a. *Gross investment in RUS Account 364;*
6 b. *The number of poles in RUS Account 364;*
7 c. *Gross investment in 35 foot poles in RUS Account 364;*
8 d. *The number of 35 foot poles in RUS Account 364;*
9 e. *Gross investment in 40 foot poles in RUS Account 364;*
10 f. *The number of 40 foot poles in RUS Account 364;*
11 g. *Gross investment in 45 foot poles in RUS Account 364;*
12 h. *The number of 45 foot poles in RUS Account 364;*
13 i. *Accumulated depreciation reserve related to the total investment in RUS*
14 *Account 364;*
15 j. *Gross investment in any grounds included in RUS Account 364;*
16 k. *Gross investment in RUS Account 365;*

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- 1 *l. Accumulated depreciation related to RUS Account 365;*
- 2 *m. Gross investment in RUS Account 369;*
- 3 *n. Accumulated depreciation related to RUS Account 369;*
- 4 *o. Gross investment in total utility plant;*
- 5 *p. Accumulated depreciation related to total utility plant;*
- 6 *q. Gross investment in Distribution Plant;*
- 7 *r. Accumulated depreciation related to Distribution Plant;*
- 8 *s. Annual depreciation rate for RUS Account 364;*
- 9 *t. Expenses in RUS Account 593;*
- 10 *u. Any tax expenses (please describe and detail);*
- 11 *v. Expenses in RUS Accounts 920-931 (General and Admin.)*
- 12 *w. Cost of money*
- 13 *x. The number of poles with attachments owned only by the pole owner*
14 *and a cable company (two-party poles as described in Administrative*
15 *Order 251);*
- 16 *y. The number of poles with attachments owned by the pole owner, a cable*

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1 *company, and another entity (three-party poles as described in*
2 *Administrative Order 251).*

3

4 **Response)** Pennyrile objects to this request on the grounds that it is overly broad and
5 unduly burdensome. Pennyrile also objects to this request on the grounds that it is not
6 reasonably calculated to lead to the discovery of relevant and admissible evidence.

7

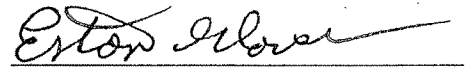
8 **Witness)** Counsel

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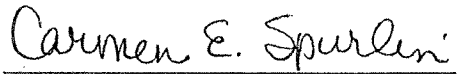
VERIFICATION

I, Eston Glover, verify, state, and affirm that I prepared or supervised the preparation of the data responses filed with this Verification, and that those data responses are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.


Eston Glover

COMMONWEALTH OF KENTUCKY)
COUNTY OF CHRISTIAN)
 TOOD *es*

SUBSCRIBED AND SWORN TO before me by Eston Glover on this the 8 day of
November, 2013.


Notary Public, Ky. State at Large
My Commission Expires October 16, 2014