

WEST KENTUCKY 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 Supplemental Requests for Information
dated December 2, 2013

December 23, 2013

1 **Item 1)** *Produce all pole attachment agreements, joint use agreements, and pole*
2 *license agreements between you and all pole users dated on or after April 26, 1982.*

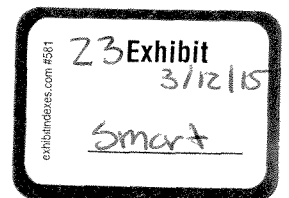
3

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

9 Please see West Kentucky's responses to KCTA 1-6 and KCTA 1-16.

10

11 **Witness)** David Smart



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1 **Item 2)** *Identify specifically any agreement responsive to Request Number 2-1*
2 *that the TVA explicitly approved.*

3

4 **Response)** West Kentucky objects to this request on the grounds that the phrase
5 “explicitly approved” is unduly vague and ambiguous. West Kentucky also objects to
6 this request on the grounds that it is not reasonably calculated to lead to the discovery of
7 relevant and admissible evidence. Notwithstanding these objections, but without waiving
8 them, West Kentucky states as follows.

9 As West Kentucky understands the phrase, no pole attachment agreements are
10 “explicitly approved” by the TVA.

11

12 **Witness)** David Smart

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1 **Item 3)** *For all agreements identified in response to Request 2-2, please produce*
2 *all documents reflecting TVA's approval of these agreements.*

3

4 **Response)** Please see West Kentucky's responses to KCTA 1-3 and KCTA 2-2.

5

6 **Witness)** David Smart

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1 **Item 4)** *Did you consult with TVA prior to entering any agreement identified in*
2 *response to Request 2-1?*

3

4 **Response)** West Kentucky objects to this request on the grounds that the word
5 "consult" is unduly vague and ambiguous. Notwithstanding this objection, but without
6 waiving it, West Kentucky states as follows.

7 Please see West Kentucky's response to KCTA 2-2.

8

9 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 5) *If the answer to Request 2-4 is affirmative, identify all oral*
2 *communications with TVA and produce all documents reflecting your consultation*
3 *with TVA prior to entering these agreements.*

4

5 **Response)** West Kentucky objects to this request on the grounds that the word
6 "consultation" is unduly vague and ambiguous. Notwithstanding this objection, but
7 without waiving it, West Kentucky states as follows.

8 Please see West Kentucky's responses to KCTA 2-2 and KCTA 2-4.

9

10 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 6)** *Did TVA explicitly approve your March 22, 2010 Joint Use Agreement*
2 *with BellSouth Telecommunications, Inc.?*

3

4 **Response)** West Kentucky objects to this request on the grounds that the phrase
5 “explicitly approve” is unduly vague and ambiguous. West Kentucky also objects to this
6 request on the grounds that it is not reasonably calculated to lead to the discovery of
7 relevant and admissible evidence. Notwithstanding these objections, but without waiving
8 them, West Kentucky states as follows.

9 Please see West Kentucky's response to KCTA 2-2.

10

11 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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- 1 **Item 7)** *If the answer to Request 2-6 is affirmative, please produce all documents*
2 *reflecting TVA's approval of the March 22, 2010 Joint Use Agreement with BellSouth*
3 *Telecommunications, Inc.*
4
5 **Response)** Please see West Kentucky's response to KCTA 2-6.
6
7 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 8)** *Did you consult with TVA regarding your March 22, 2010 Joint Use*
2 *Agreement with BellSouth Telecommunications, Inc. prior to entering the contract?*

3

4 **Response)** West Kentucky objects to this request on the grounds that the word
5 "consult" is unduly vague and ambiguous. Notwithstanding this objection, but without
6 waiving it, West Kentucky states as follows.

7 Please see West Kentucky's response to KCTA 2-6.

8

9 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 9)** *If the answer to Request 2-8 is affirmative, please identify all*
2 *communications and produce all documents reflecting your consultation with TVA*
3 *before you entered the March 22, 2010 Joint Use Agreement with BellSouth*
4 *Telecommunications, Inc.*

5

6 **Response)** West Kentucky objects to this request on the grounds that the word
7 “consultation” is unduly vague and ambiguous. Notwithstanding this objection, but
8 without waiving it, West Kentucky states as follows.

9 Please see West Kentucky's responses to KCTA 2-6 and KCTA 2-8.

10

11 **Witness)** David Smart

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1 **Item 10)** *For each of the last five years, provide your "surplus revenues" as*
2 *defined in Paragraph 6(b) of the TVA Contract.*

3

4 **Response)** West Kentucky objects to this request on the grounds that it is overly
5 broad and unduly burdensome. West Kentucky also objects to this request on the
6 grounds that the requested data are not readily available. West Kentucky also objects to
7 this request on the grounds that it is not reasonably calculated to lead to the discovery of
8 relevant and admissible evidence.

9

10 **Witness)** Counsel

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 11)** *For each of the last three fiscal years, produce the annual financial*
2 *reports you provided to TVA pursuant to Paragraph 1(c) of the "Schedule of Terms*
3 *and Conditions" of the TVA Contract.*

4

5 **Response)** West Kentucky 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 this objection, but without waiving it, West Kentucky states as follows.

8 Please see the attached documents.

9

10 **Witness)** David Smart

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1 **Item 12)** *Do you report the revenues you generate from pole attachments to the*
2 *TVA, separate and distinct from the other revenue you generate?*

3

4 **Response)** As prescribed by Form TVA 3957, West Kentucky reports pole
5 attachment revenues as "rent from electric property" along with other rents. Please see
6 West Kentucky's response to KCTA 2-11.

7

8 **Witness)** David Smart

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1 **Item 13)** *If the answer to Request 2-12 is affirmative, please produce all*
2 *documents reflecting your pole attachment revenue reports to TVA for each of the past*
3 *five years.*

4

5 **Response)** Please see West Kentucky's responses to KCTA 2-11 and KCTA 2-12.

6

7 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 14)** *Do you report your pole attachment rates to TVA?*

2

3 **Response)** No. West Kentucky reports its rates and revenues only as required by the
4 TVA.

5

6 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 15) *If the answer to Request 2-14 is affirmative, please produce all*
2 *documents reflecting your reports to TVA regarding your pole attachment rates for*
3 *each of the past five years.*

4

5 Response) Please see West Kentucky's response to KCTA 2-14.

6

7 Witness) David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 16)** *Do you report your pole-related costs to TVA?*

2

3 **Response)** Pole-related costs are captured as part of West Kentucky's reporting of
4 operations, maintenance, and depreciation expenses in its annual reports. Please see
5 West Kentucky's response to KCTA 2-11.

6

7 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 17)** *If the answer to Request 2-16 is affirmative, please produce all*
2 *documents reflecting your reports to TVA regarding your pole-related costs for each of*
3 *the past five years.*

4

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

8 Please see West Kentucky's responses to KCTA 2-11 and KCTA 2-16.

9

10 **Witness)** David Smart

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1 **Item 18)** *Do you contend that the Commission's regulation of your pole*
2 *attachment rates would result in a situation where you would not be able to operate in*
3 *a self-supporting and financially sound basis?*

4

5 **Response)** West Kentucky objects to this request on the grounds that the phrase "self-
6 supporting and financially sound basis" is unduly vague and ambiguous.
7 Notwithstanding this objection, but without waiving it, West Kentucky states as follows.

8 West Kentucky's position is adequately described in its pleadings.

9

10 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 19)** *If your answer to Request 2-18 is affirmative, please explain fully,*
2 *making reference to all facts known to you supporting that answer.*

3

4 **Response)** Please see West Kentucky's response to KCTA 2-18.

5

6 **Witness)** David Smart

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1 **Item 20)** *Do you include revenues from pole attachments in the fund designated*
2 *for "electric operations" as described in Paragraph 1(a) of the "Schedule of Terms and*
3 *Conditions" of the TVA Contract?*

4

5 **Response)** West Kentucky includes revenues from pole attachments in a separate
6 fund.

7

8 **Witness)** David Smart

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1 Item 21) *Do you use property "jointly for the electric system and other*
2 *operations" as provided by Paragraph 1(a) of the "Schedule of Terms and Conditions"*
3 *of the TVA Contract?*

4

5 Response) Yes.

6

7 Witness) David Smart

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- 1 **Item 22)** *If your answer to Request 2-21 is affirmative, have you and TVA entered*
2 *into an agreement as to the appropriate allocations of joint investments, salaries and*
3 *other expenses, funds, or use of property or facilities?*
4
5 **Response)** Please see West Kentucky's responses to KCTA 1-17 and KCTA 2-21.
6
7 **Witness)** David Smart

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1 **Item 23)** *If your answer to Request 2-22 is affirmative, please explain the*
2 *agreement as to the appropriate allocations and produce all documents relating to that*
3 *allocation agreement.*

4

5 **Response)** Please see West Kentucky's responses to KCTA 1-17 and KCTA 2-22.

6

7 **Witness)** David Smart

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1 **Item 24)** *Provide the information requested in KCTA's First Request for*
2 *Information Number 20 for each of the years 2010, 2011, and 2012 according to the*
3 *FERC accounting system outlined in 18 C.F.R. Chapter 1.*

4

5 **Response)** West Kentucky objects to this request on the grounds that it is duplicative
6 of KCTA 1-20. Notwithstanding this objection, but without waiving it, West Kentucky
7 states as follows.

8 Please see West Kentucky's response to KCTA 1-20 and the TVA Cooperatives'
9 Response to KCTA's Motion to Compel filed November 27, 2013 in this matter.

10

11 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 25)** *Admit that you have produced all documents responsive to KCTA's First*
2 *Request for Information Number 6, which states, "Produce all documents concerning*
3 *how you ensure a pole attachment rate will provide sufficient revenues to cover the*
4 *costs of providing for the attachments."*

5

6 **Response)** West Kentucky objects to this request on the grounds that the civil rules
7 pertaining to requests for admissions do not apply to data requests in Commission
8 proceedings. Notwithstanding this objection, but without waiving it, West Kentucky
9 states as follows.

10 Please see West Kentucky's response to KCTA 1-6.

11

12 **Witness)** David Smart

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- 1 **Item 26)** *If your answer to Request 2-25 is anything other than an unqualified*
2 *admission, please produce all remaining documents responsive to KCTA's First*
3 *Request for Information Number 6.*
4
5 **Response)** Please see West Kentucky's responses to KCTA 1-6 and KCTA 2-25.
6
7 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 **Item 27)** *Admit that you have produced all documents responsive to KCTA's First*
2 *Request for Information Number 17, which states, "Produce all documents concerning*
3 *any order, directive, contract, or other communication from or by the TVA concerning*
4 *pole attachment rates."*

5

6 **Response)** West Kentucky objects to this request on the grounds that the civil rules
7 pertaining to requests for admissions do not apply to data requests in Commission
8 proceedings. Notwithstanding this objection, but without waiving it, West Kentucky
9 states as follows.

10 Please see West Kentucky's response to KCTA 1-17.

11

12 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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- 1 **Item 28)** *If your answer to Request 2-27 is anything other than an unqualified*
2 *admission, please produce all remaining documents responsive to KCTA's First*
3 *Request for Information Number 17.*
4
5 **Response)** Please see West Kentucky's responses to KCTA 1-17 and KCTA 2-27.
6
7 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

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1 Item 29) *For your November 14, 2013 response to KCTA's First Request for*
2 *Information Number 17, please identify any and all specific documents and references*
3 *within the produced documents that is an order, directive, contract, or other*
4 *communication from or by the TVA concerning pole attachment rates.*

5

6 **Response)** West Kentucky objects to this request on the grounds that the words
7 “directive” and “communication” are unduly vague and ambiguous given the breadth of
8 the request. Notwithstanding this objection, but without waiving it, West Kentucky states
9 as follows.

10 KCTA is in possession of the documents. Please see West Kentucky's responses
11 to KCTA 1-17, KCTA 2-27, and KCTA 2-28.

12

13 **Witness)** David Smart

WEST KENTUCKY 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 Supplemental Requests for Information
dated December 2, 2013

December 23, 2013

1 **Item 30)** *Admit that you have produced all documents responsive to KCTA's First*
2 *Request for Information Number 18 that states, "Identify and produce all*
3 *communications with the TVPPA concerning pole attachment rates."*

4

5 **Response)** West Kentucky objects to this request on the grounds that the civil rules
6 pertaining to requests for admissions do not apply to data requests in Commission
7 proceedings. Notwithstanding this objection, but without waiving it, West Kentucky
8 states as follows.

9 Please see West Kentucky's response to KCTA 1-18.

10

11 **Witness)** David Smart

WEST KENTUCKY 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 Supplemental Requests for Information
dated December 2, 2013**

December 23, 2013

1 **Item 31)** *If your answer to Request 2-30 is anything other than an unqualified*
2 *admission, please produce all communications between you and the TVPPA relating to*
3 *pole attachment rates within the last five years.*

4

5 **Response)** Please see West Kentucky's responses to KCTA 1-18 and KCTA 2-30.

6

7 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
dated December 2, 2013

December 23, 2013

1 **Item 32)** *For your November 14, 2013 response to KCTA's Request for*
2 *Information Number 18, please identify any and all specific documents and references*
3 *within the produced documents that is responsive to Request Number 18.*

4

5 **Response)** KCTA is in possession of the documents. The documents are responsive.

6 Please see West Kentucky's responses to KCTA 1-18, KCTA 2-30, and KCTA 2-31.

7

8 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 33)** *Produce all documents reflecting any communication between you and*
2 *the TVA concerning pole attachment revenues or rates from 2000 to present.*

3

4 **Response)** West Kentucky objects to this request on the grounds that it is overly
5 broad and unduly burdensome. West Kentucky also objects to this request on the
6 grounds that it is duplicative of KCTA 1-16. Notwithstanding these objections, but
7 without waiving them, West Kentucky states as follows.

8 Please see West Kentucky's response to KCTA 1-16.

9

10 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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1 **Item 34)** *State the total pole attachment revenues you received from licensee*
2 *attachers (i.e., non-joint users) for each of the years 2008 to present.*

3

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

8

9 **Witness)** Counsel

WEST KENTUCKY 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
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THAT PURCHASE ELECTRICITY FROM THE TENNESSEE VALLEY
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 35)** *Produce all invoices for pole attachment fees you sent to all pole*
2 *attachers for each of the past three years.*

3

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

8

9 **Witness)** Counsel

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 36)** *Have you, or has anyone on your behalf, ever analyzed what your pole*
2 *attachment rates would be under the Commission's cost-based pole attachment rate*
3 *methodology as set forth in the September 17, 1982 order by the Commission in*
4 *Administrative Case No. 251?*

5

6 **Response)** West Kentucky 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 this objection, but without waiving it, West Kentucky states as follows.

9 West Kentucky is not aware of any such analysis.

10

11 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 Item 37) *If your answer to Request 2-36 is affirmative, please produce all*
2 *documents relating to that analysis.*

3

4 **Response)** Please see West Kentucky's response to KCTA 2-36.

5

6 **Witness)** David Smart

WEST KENTUCKY 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
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AUTHORITY

CASE NO. 2012-00544

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1 Item 38) *Have you, or has anyone on your behalf, ever analyzed what your pole*
2 *attachment rates would be under the Federal Communication Commission's pole*
3 *attachment rate methodology used to determine the maximum just and reasonable rate*
4 *under 47 U.S.C. § 224(d)?*

5

6 **Response)** West Kentucky objects to this request on the grounds that it is not
7 reasonably calculated to lead to the discovery of relevant and admissible evidence. West
8 Kentucky also objects to this request on the grounds that cooperatively organized entities
9 are exempt from the 1978 Pole Attachment Act. Notwithstanding this objection, but
10 without waiving it, West Kentucky states as follows.

11 West Kentucky is not aware of any such analysis.

12

13 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 39)** *If your answer to Request 2-38 is affirmative, please produce all*
2 *documents relating to that analysis.*

3

4 **Response)** Please see West Kentucky's response to KCTA 2-38.

5

6 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS ASSOCIATION FOR A DECLARATORY ORDER
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 40)** *Have you, or has anyone on your behalf, ever determined if your pole*
2 *attachment rates provide a subsidy to KCTA members?*

3

4 **Response)** West Kentucky 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 this objection, but without waiving it, West Kentucky states as follows.

7 West Kentucky has not alleged that its "pole attachment rates provide a subsidy to
8 KCTA members."

9

10 **Witness)** David Smart

WEST KENTUCKY 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
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1 **Item 41)** *If your answer to Request 2-40 is affirmative, please explain the analysis*
2 *and produce all documents relating to that analysis.*

3

4 **Response)** Please see West Kentucky's response to KCTA 2-40.

5

6 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS ASSOCIATION FOR A DECLARATORY ORDER
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 42)** *Produce your pole rates charged to Windstream and NewWave*
2 *Communications for each of the last ten years.*

3

4 **Response)** West Kentucky objects to this request on the grounds that it is overly
5 broad and unduly burdensome. West Kentucky also objects to this request on the
6 grounds that it is not reasonably calculated to lead to the discovery of relevant and
7 admissible evidence. West Kentucky also objects on the grounds that it is duplicative of
8 KCTA 1-9. Notwithstanding these objections, but without waiving them, West Kentucky
9 states as follows.

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

11

12 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS ASSOCIATION FOR A DECLARATORY ORDER
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THAT PURCHASE ELECTRICITY FROM THE TENNESSEE VALLEY
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CASE NO. 2012-00544

Response to KCTA's Supplemental Requests for Information
dated December 2, 2013

December 23, 2013

1 **Item 43)** *Admit that your responses to KCTA's First Request for Information*
2 *Numbers 1 and 2 contain all the evidence of which you are aware that supports your*
3 *contention that TVA regulates your pole attachment rates.*

4

5 **Response)** West Kentucky objects to this request on the grounds that the civil rules
6 pertaining to requests for admissions do not apply to data requests in Commission
7 proceedings. West Kentucky also objects to this request on the grounds that data requests
8 are not "evidence." West Kentucky also objects to this request on the grounds that the
9 question presented by KCTA is a question of law, which requires no evidence to resolve.
10 Notwithstanding these objections, but without waiving them, West Kentucky states as
11 follows.

12 Please see West Kentucky's responses to KCTA 1-1 and KCTA 1-2.

13

14 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 44)** *If your answer to Request 2-43 is anything but an unqualified*
2 *admission, please identify and produce all remaining documents and evidence that*
3 *support your contention.*

4

5 **Response)** Please see West Kentucky's responses to KCTA 1-1, KCTA 1-2, and
6 KCTA 2-43.

7

8 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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1 **Item 45)** *Admit that your responses to KCTA's First Request for Information*
2 *Numbers 1-5 contain all the evidence of which you are aware that supports your*
3 *contention that the Commission's regulation of your pole attachment rates would*
4 *conflict with TVA's regulation of your electric rates.*

5

6 **Response)** West Kentucky objects to this request on the grounds that the civil rules
7 pertaining to requests for admissions do not apply to data requests in Commission
8 proceedings. West Kentucky also objects to this request on the grounds that data requests
9 are not "evidence." West Kentucky also objects to this request on the grounds that the
10 question presented by KCTA is a question of law, which requires no evidence to resolve.
11 Notwithstanding this objection, but without waiving it, West Kentucky states as follows.

12 Please see West Kentucky's response to KCTA 1-5.

13

14 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 46)** *If your answer to Request 2-45 is anything but an unqualified*
2 *admission, please identify and produce all remaining documents and evidence that*
3 *support your contention.*

4

5 **Response)** Please see West Kentucky's responses to KCTA 1-5 and KCTA 2-45.

6

7 **Witness)** David Smart

WEST KENTUCKY 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
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CASE NO. 2012-00544

Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 47)** *Admit that your responses to KCTA's First Request for Information*
2 *Numbers 1-6 contain all the evidence of which you are aware concerning how you*
3 *ensure your pole attachment rates will ensure your customers do not subsidize*
4 *attaching entities.*

5

6 **Response)** West Kentucky objects to this request on the grounds that the civil rules
7 pertaining to requests for admissions do not apply to data requests in Commission
8 proceedings. West Kentucky also objects to this request on the grounds that data requests
9 are not "evidence." West Kentucky also objects to this request on the grounds that the
10 question presented by KCTA is a question of law, which requires no evidence to resolve.
11 Notwithstanding these objections, but without waiving them, West Kentucky states as
12 follows.

13 Please see West Kentucky's response to KCTA 1-6.

14

15 **Witness)** David Smart

WEST KENTUCKY 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
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 48)** *If your answer to Request 2-47 is anything but an unqualified*
2 *admission, please identify and produce all remaining documents and evidence that*
3 *support your contention.*

4

5 **Response)** Please see West Kentucky's responses to KCTA 1-6 and KCTA 2-47.

6

7 **Witness)** David Smart

WEST KENTUCKY 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
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AUTHORITY

CASE NO. 2012-00544

Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 49)** *Do you contend that the pole attachment rates you charged to West*
2 *Kentucky Rural Telephone Cooperative Corporation for the calendar years 2010, 2011,*
3 *2012, and 2013 subsidize the West Kentucky Rural Telephone Cooperative*
4 *Corporation?*

5

6 **Response)** West Kentucky 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 this objection, but without waiving it, West Kentucky states as follows.

9 West Kentucky has made no contention regarding any supposed subsidization of
10 West Kentucky Rural Telephone Cooperative Corporation. West Kentucky has not
11 alleged that its pole attachment rates “subsidize the West Kentucky Rural Telephone
12 Cooperative Corporation”

13

14 **Witness)** David Smart

WEST KENTUCKY 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
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CASE NO. 2012-00544

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December 23, 2013

1 Item 50) *Did TVA explicitly approve the pole attachment rates you charged to*
2 *West Kentucky Rural Telephone Cooperative Corporation for the calendar years 2010,*
3 *2011, 2012, and 2013?*

4

5 **Response)** West Kentucky 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

WEST KENTUCKY 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
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AUTHORITY
CASE NO. 2012-00544

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dated December 2, 2013

December 23, 2013

1 Item 51) *If your answer to Request 2-50 is affirmative, please produce all*
2 *documents reflecting communications with TVA regarding its approval of West*
3 *Kentucky Rural Telephone Cooperative Corporation's pole attachment rate.*

4

5 Response) Please see West Kentucky's response to KCTA 2-50.

6

7 Witness) Counsel

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS ASSOCIATION FOR A DECLARATORY ORDER
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Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 **Item 52)** *Identify each increase or decrease in electric rates set by TVA that has*
2 *resulted from a change in your pole attachment revenues within the last ten years.*

3

4 **Response)** West Kentucky objects to this request on the grounds that is unduly
5 burdensome. West Kentucky 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. West
7 Kentucky also objects to this request on the grounds that the requested information is not
8 in the custody or control of West Kentucky.

9

10 **Witness)** Counsel

WEST KENTUCKY 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
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**Response to KCTA's Supplemental Requests for Information
dated December 2, 2013**

December 23, 2013

1 **Item 53)** *Do you charge BellSouth for attachments to your secondary poles?*

2

3 **Response)** Yes.

4

5 **Witness)** David Smart

WEST KENTUCKY 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
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CASE NO. 2012-00544**

**Response to KCTA's Supplemental Requests for Information
dated December 2, 2013**

December 23, 2013

1 **Item 54)** *Do you charge NewWave Communications for attachments to your*
2 *secondary poles?*

3

4 **Response)** Yes.

5

6 **Witness)** David Smart

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS ASSOCIATION FOR A DECLARATORY ORDER
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THAT PURCHASE ELECTRICITY FROM THE TENNESSEE VALLEY
AUTHORITY

CASE NO. 2012-00544

Response to KCTA's Supplemental Requests for Information
dated December 2, 2013

December 23, 2013

1 **Item 55)** *Have you, or has anyone on your behalf, discussed with TVA the*
2 *possibility that someone from TVA may testify on your behalf?*

3

4 **Response)** West Kentucky objects to this request on the grounds that it is not
5 reasonably calculated to lead to the discovery of relevant and admissible evidence. West
6 Kentucky also objects to this request on the grounds that it is premature in light of the
7 fact that discovery is ongoing and no decision regarding potential witnesses has been
8 made. West Kentucky will identify its witnesses, if any, in accordance with the
9 Commission's scheduling orders.

10

11 **Witness)** Counsel

WEST KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS ASSOCIATION FOR A DECLARATORY ORDER
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ATTACHMENT RATES, TERMS AND CONDITIONS OF COOPERATIVES
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AUTHORITY

CASE NO. 2012-00544

Response to KCTA's Supplemental Requests for Information
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December 23, 2013

1 Item 56) *If your answer to Request 2-55 is affirmative, please identify the people*
2 *involved in each such discussion and the TVA representative who may testify.*

3

4 **Response)** Please see West Kentucky's response to KCTA 2-55.

5

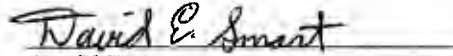
6 **Witness)** Counsel

WEST KENTUCKY 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


VERIFICATION

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


David E. Smart

COMMONWEALTH OF KENTUCKY)
COUNTY OF GRAVES)

SUBSCRIBED AND SWORN TO before me by David E. Smart on this the 12th day of December, 2013.


Notary Public, Ky. State at Large
My Commission Expires 8-17-2014
ID# 424869