

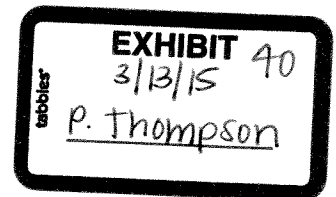
TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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) Paul Thompson



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Response to KCTA 1-1
Witness: Paul Thompson
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TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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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)** Tri-County 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 Tri-County also objects to this request on the grounds that it is overly broad and unduly
7 burdensome. Notwithstanding these objections, but without waiving them, Tri-County
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 Tri-
12 County. Please also see the TVA Cooperatives' Response to the January 17 Order filed
13 February 15, 2013 in this matter, and the Response to Application for Rehearing filed
14 July 25, 2013 in this matter.

15

16 **Witness)** Paul Thompson

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TRI-COUNTY ELECTRIC MEMBERSHIP 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)** Tri-County 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, Tri-County states as follows.

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

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TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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1

2 **Witness)** Paul Thompson

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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) Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP 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)** Tri-County 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 Tri-County also objects to this request on the grounds that it is overly broad and unduly
7 burdensome. Notwithstanding these objections, but without waiving them, Tri-County
8 states as follows.

9 The TVA takes into account pole attachment revenues when determining Tri-
10 County's revenue requirement and retail rate. Because pole attachment rates are a
11 component of the retail rate that the TVA sets for Tri-County, any State action attempting
12 to set Tri-County's pole attachment rates would necessarily impact the retail rate and
13 present a direct conflict between state and federal law. Please see Tri-County'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

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1 Witness) Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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

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

9

10 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP 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) Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
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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)** Tri-County 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. Tri-County 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, Tri-County states as follows.

9 Please see the TVA Cooperatives' Response to the January 17 Order filed
10 February 15, 2013 in this matter, and the Response to Application for Rehearing filed
11 July 25, 2013 in this matter.

12

13 **Witness)** Counsel

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

9 Please see the attached documents.

10

11 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP 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) Please see Tri-County's responses to KCTA 1-6 and KCTA 1-18.
5
6 Witness) Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
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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)** Tri-County objects to this request on the grounds that it is overly broad
6 and unduly burdensome. Tri-County also objects to this request on the grounds that it is
7 not reasonably calculated to lead to the discovery of relevant and admissible evidence.
8 Notwithstanding these objections, but without waiving them, Tri-County states as
9 follows.

10 Please see Tri-County's response to KCTA 1-10.

11

12 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
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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 Tri-County charges pursuant to the
5 TVPPA/AT&T Joint Use Agreement and the addenda to that agreement are recalculated
6 annually based on the Handy-Whitman Index. Please see the attachment for Tri-
7 County's responses to KCTA 1-6, KCTA 1-10, and KCTA 1-18. All other pole
8 attachment rates are recalculated every three (3) years.

9

10 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

**IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
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1 **Item 13)** *State your total revenues for each of the years 2000 to the present.*

2

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

8 Please see the table below. Tri-County'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	Operating Revenue (\$)
FY 2010	111,072,165.60
FY 2011	121,070,203.63
FY 2012	110,878,838.13
FY 2013	112,070,923.94

10

11 **Witness)** Paul Thompson

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

9 Please see the table below. Tri-County's fiscal year runs from July 1 to June 30.

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

Year	Pole Attachment Revenue (\$)
FY 2010	1,279,194.92
FY 2011	1,374,935.27
FY 2012	1,319,248.63
FY 2013	1,463,639.19

11

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1 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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

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

9

10 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
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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)** Tri-County objects to this request on the grounds that it is overly broad
5 and unduly burdensome. Tri-County also objects to this request on the grounds that it is
6 duplicative. Notwithstanding these objections, but without waiving them, Tri-County
7 states as follows.

8 Please see the attached documents. Please also see Tri-County's responses to
9 KCTA 1-15, KCTA 1-17, and KCTA 1-18.

10

11 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP 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)** Tri-County objects to this request on the grounds that it is overly broad
5 and unduly burdensome. Tri-County also objects to this request on the grounds that it is
6 duplicative. Notwithstanding these objections, but without waiving them, Tri-County
7 states as follows.

8 Please see the attached documents.

9

10 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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

3

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

7 Please the attached documents.

8

9 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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

8 Since 2010, the following employees have had responsibility for setting or
9 calculating Tri-County's pole attachment rates:

Name	Dates of Employment
Ralph Law	1970 – present
Steve Linville	1978 – present
Paul Thompson	1998 – present

10

11 **Witness)** Paul Thompson

TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION

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

3

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

7

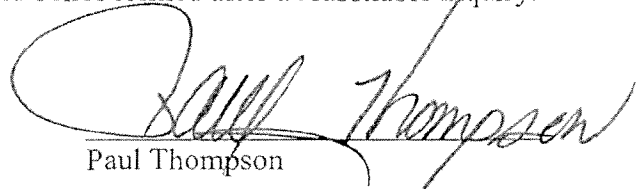
8 **Witness)** Counsel

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IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
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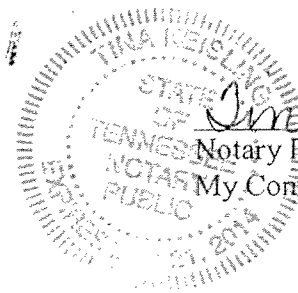
VERIFICATION

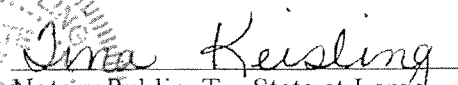
I, Paul Thompson, verify, state, and affirm that I prepared or supervised the preparation of the data responses filed with this Verification, and that those data responses are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.


Paul Thompson

STATE OF TENNESSEE)
COUNTY OF MACON)

SUBSCRIBED AND SWORN TO before me by Paul Thompson on this the 14th day of November, 2013.




Notary Public, Tn. State at Large
My Commission Expires 5/21/14