

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

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

**KENTUCKY CABLE TELECOMMUNICATIONS ASSOCIATION'S  
SUPPLEMENTAL REQUESTS FOR INFORMATION TO  
TRI-COUNTY ELECTRIC MEMBERSHIP CORPORATION**

The Kentucky Cable Telecommunications Association, pursuant to the Commission's October 10, 2013 Order setting forth the procedural schedule in this case, submits its Supplemental Requests for Information to Tri-County Electric Membership Corporation to be answered in accordance with the following Instructions and Definitions.

**DEFINITIONS**

1. The term "document," as used herein, is employed in the broadest possible sense and includes, but is not limited to, any printed, written, recorded, taped, electronic (including e-mail and deleted electronic media that is recoverable in any form), graphic, or other tangible matter from whatever source, however produced or reproduced, whether in draft or otherwise, whether sent or received or neither, including the original, all amendments and addenda and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) of any and all writings, correspondence, letters, telegraphs, telex communications, cables, notes, notations, papers, newsletters, memoranda, interoffice communications, e-mails, releases, agreements, contracts, books, pamphlets, studies, minutes of meetings, recordings or other memorials of any type of personal or telephone conversations,

meetings or conferences, reports, analyses, test results, examinations, evaluations, estimates, projections, forecasts, receipts, statements, accounts, books of account, diaries, calendars, desk pads, appointment books, stenographer's notebooks, transcripts, ledgers, registers, worksheets, journals, statistical records, cost sheets, summaries, lists, tabulations, digests, canceled or uncanceled checks or drafts, vouchers, charge slips, invoices, purchase orders, hotel charges, accountant's reports, financial statements, newspapers, periodicals or magazine materials, and any materials underlying, supporting, or used in the preparation of any documents. The term "document(s)" also specifically includes any records stored on computer tape or computer disk or otherwise stored by or in a computer, including telephone voice mail or electronic mail, whether or not a hard copy (i.e., paper copy) of the document is or was at any time in existence, and any electronically generated or stored information, however produced or reproduced, and including any metadata for any such information. A document includes all documents appended thereto and any marked copy thereof. A "marked copy" is any document containing any writing or any markings of any kind in the text, in the margins, or on the reverse side of the document.

2. The term "person(s)" shall include any natural person, corporation, partnership, association, joint venture, sole proprietorship, firm, business enterprise, governmental or quasi-governmental body or agency, or legal entity of any type, and includes both the singular and plural.

3. The term "communication" or "communications" shall mean all oral, visual, or other sensory (including electronic) means of transmitting information, messages, or statements, including documents and oral statements.

4. The terms "identify," "identity," "identification," "state," "describe," or "explain,"

- (a) when used in reference to a document, shall require that you state the title, date, author, signer(s), intended recipient, addressee, place of origination, name and address of the present custodian of all copies thereof, and type of document (e.g., letter, memorandum, telegram, chart, etc.) or attach an accurate copy of the document to your answer, appropriately labeled to correspond to the interrogatory;
- (b) (1) when used in reference to a natural person, shall mean to provide that person's full name, last known address, home, business and/or cellular telephone numbers, and present occupation or business affiliation; (2) when used in reference to a person other than a natural person, shall mean to include a description of the nature of the person (that is, whether it is a corporation, partnership, etc., under the definition of person above), and the person's last known address, telephone number, and principal place of business; and (3) when used in reference to any person after the person has been properly identified previously, shall mean to provide the person's name;
- (c) when used with respect to a communication or contact, shall mean to state the date and place of such communication or contact; to state whether the communication or contact was oral or written; to identify each document which in any way concerns, relates, or refers to the communication or contact; to identify each person or persons who participated in, sent, received, or had knowledge of the communication or contact; and to state the substance of the communication or contact.
- (d) when used with respect to a fact, event, or action shall mean to provide the complete and full details (including date, time, and place) concerning such fact, event, or action, including the identity, as defined above, of all documents, communications, and persons that reflect, refer, relate, evidence, or pertain in any way to such fact, event, or action.

5. "Concerning" means and includes: with respect to, referring to, relating to, purporting, embodying, establishing, evidencing, comprising, connected with, commenting on or about, responding to, showing, describing, analyzing, reflecting, indicating, summarizing, containing, mentioning, discussing, presenting, and/or constituting.

6. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these interrogatories any response that otherwise would be construed to be outside their scope.

7. The terms “you” and “your” refer to the Tri-County Electric Membership Corporation and any predecessors in interest, subsidiaries, and employees, agents, representatives, attorneys and/or investigators.

8. The term “Association,” “KCTA,” or Petitioner refers to the Kentucky Cable Telecommunications Association, as well as any employee, agent, representative, attorney and/or investigator.

9. The term “TVA” refers to the Tennessee Valley Authority, as well as any employee, agent, representative, attorney and/or investigator.

10. The term “Commission” refers to the Kentucky Public Service Commission.

11. “TVPPA” refers to the Tennessee Valley Public Power Association, as well as any employee, agent, representative, attorney and/or investigator.

12. “Petition” means the petition filed by the Association in the above-captioned case.

13. “Poles” and “distribution poles” mean utility poles in your electric distribution network in Kentucky that you own or control.

14. “Secondary poles” mean poles installed for the express purpose of providing required clearances for a service drop to a customer’s location.

15. “Pole rates” mean the annual charges for use of your poles by any other entity, including any member of the Association and/or any telephone joint user.

16. “TVA Contract” means the “Power Contract Between Tennessee Valley Authority and Tri-County Electric Membership Corporation,” dated July 18, 1979, as amended.

17. “KCTA’s First Requests for Information” means KCTA’s First Requests for Information to Tri-County Electric Membership Corporation, filed with the Commission on October 24, 2013.

### **INSTRUCTIONS**

1. In answering these Requests for Information, please furnish all information that is known or available to you, regardless whether the information is possessed directly by you or your agents, employees, representatives, or investigators, or by your attorneys or their agents, employees, representatives, or investigators.

2. Please identify at the end of each answer the person or persons most knowledgeable about such response and the person or persons responsible for the preparation of such response.

3. If any information responsive to these Requests for Information is withheld, identify the Requests as to which such information is withheld and the reason(s) for withholding it.

4. For any information that you claim is unavailable, state why it is unavailable. If you cannot respond to the Request for Information precisely as it is stated, provide any information that is available that would respond to the Request at a level of detail different from that specified herein.

5. If you claim a privilege as a ground for failing to answer any Request for Information, respond to that part of each such Request that, in your view, does not call for allegedly privileged information or communications. For each Request for Information, or portion thereof, as to which you claim a privilege, describe the factual basis for your claim of

privilege in sufficient detail to permit adjudication of the validity of that claim, including without limitation, the following:

- (a) the identity, title, and job description of the transmitter of the information, document, or communication;
- (b) the identity, title, and job description of the person(s) to whom the information, document, or communication was addressed;
- (c) the identity, title, and job description of each person who has received or utilized the information, document, or communication;
- (d) the date (or your best approximation thereof) of the information, document, or communication;
- (e) a brief description of the type of information, document, or communication;
- (f) a brief description of the subject matter of the information, document or communication; and
- (g) a brief reason why the information, document or communication is claimed to be privileged, protected, or subject to non-disclosure.
- (h) Maintain a “running” log of all materials you claim to be privileged to be provided to Petitioner.

6. If you object to any Request for Information set forth herein, state the grounds of the objection with sufficient specificity to permit determination of the basis for such objection and to provide a basis for a “meet and confer” to possibly resolve the objection.

7. If you cannot answer any of the Requests for Information in full after exercising due diligence to secure the full information to do so, so state and answer to the extent possible, specifying your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion, and describing what you did in attempting to secure the unknown information.

8. The singular form of a word shall be interpreted to include the plural, and the plural form of a word shall be interpreted to include the singular whenever appropriate.

9. The past tense of a word shall be interpreted to include the present tense and vice versa.

10. To the extent that any Request for Information requires you to produce any documents, separate the responsive documents with appropriate cover sheets identifying to which Request for Information the document responds.

11. Please produce all documents on which you relied or to which you referred in responding to these Requests.

12. If you cite produced documents in your response, please provide the specific document and page number to which you refer in your response.

13. Unless otherwise indicated, these Requests for Information cover the period 2000 to present.

14. These Requests for Information shall be deemed continuing in nature, and you are required to provide supplemental answers if you obtain further or different information before the resolution of this matter.

### **REQUESTS FOR INFORMATION**

2-1. Produce all pole attachment agreements, joint use agreements, and pole license agreements between you and all pole users dated on or after July 18, 1979.

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

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

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

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

2-6. Are you a party to the 2010 Joint Use Agreement with BellSouth Telecommunications, Inc.?

2-7. If the answer to Request 2-6 is affirmative, did TVA explicitly approve your 2010 Joint Use Agreement with BellSouth Telecommunications, Inc.?

2-8. If the answer to Request 2-7 is affirmative, please produce all documents reflecting TVA's approval of the 2010 Joint Use Agreement with BellSouth Telecommunications, Inc.

2-9. If the answer to Request 2-6 is affirmative, did you consult with TVA regarding the 2010 Joint Use Agreement with BellSouth Telecommunications, Inc. prior to entering the contract?

2-10. If the answer to Request 2-9 is affirmative, please identify all communications and produce all documents reflecting your consultation with TVA before you entered the 2010 Joint Use Agreement with BellSouth Telecommunications, Inc.

2-11. For each of the last five years, provide your "surplus revenues" as defined in Paragraph 6(b) of the TVA Contract.

2-12. For each of the last three fiscal years, produce the annual financial reports you provided to TVA pursuant to Paragraph 1(c) of the "Schedule of Terms and Conditions" of the TVA Contract.



2-13. Do you report the revenues you generate from pole attachments to the TVA, separate and distinct from the other revenue you generate?

2-14. If the answer to Request 2-13 is affirmative, please produce all documents reflecting your pole attachment revenue reports to TVA for each of the past five years.

2-15. Do you report your pole attachment rates to TVA?

2-16. If the answer to Request 2-15 is affirmative, please produce all documents reflecting your reports to TVA regarding your pole attachment rates for each of the past five years.

2-17. Do you report your pole-related costs to TVA?

2-18. If the answer to Request 2-17 is affirmative, please produce all documents reflecting your reports to TVA regarding your pole-related costs for each of the past five years.

2-19. Do you contend that the Commission's regulation of your pole attachment rates would result in a situation where you would not be able to operate in a self-supporting and financially sound basis?

2-20. If your answer to Request 2-19 is affirmative, please explain fully, making reference to all facts known to you supporting that answer.

2-21. Do you include revenues from pole attachments in the fund designated for "electric operations" as described in Paragraph 1(a) of the "Schedule of Terms and Conditions" of the TVA Contract?

2-22. Do you use property "jointly for the electric system and other operations" as provided by Paragraph 1(a) of the "Schedule of Terms and Conditions" of the TVA Contract?

2-23. If your answer to Request 2-22 is affirmative, have you and TVA entered into an agreement as to the appropriate allocations of joint investments, salaries and other expenses, funds, or use of property or facilities?

2-24. If your answer to Request 2-23 is affirmative, please explain the agreement as to the appropriate allocations and produce all documents relating to that allocation agreement.

2-25. Provide the information requested in KCTA's First Request for Information Number 20 for each of the years 2010, 2011, and 2012 according to the FERC accounting system outlined in 18 C.F.R. Chapter 1.

2-26. Admit that you have produced all documents responsive to KCTA's First Request for Information Number 6, which states, "Produce all documents concerning how you ensure a pole attachment rate will provide sufficient revenues to cover the costs of providing for the attachments."

2-27. If your answer to Request 2-26 is anything other than an unqualified admission, please produce all remaining documents responsive to KCTA's First Request for Information Number 6.

2-28. Admit that you have produced all documents responsive to KCTA's First Request for Information Number 17, which states, "Produce all documents concerning any order, directive, contract, or other communication from or by the TVA concerning pole attachment rates."

2-29. If your answer to Request 2-28 is anything other than an unqualified admission, please produce all remaining documents responsive to KCTA's First Request for Information Number 17.

2-30. For your November 14, 2013 response to KCTA's First Request for Information Number 17, please identify any and all specific documents and references within the produced documents that is an order, directive, contract, or other communication from or by the TVA concerning pole attachment rates.

2-31. Admit that you have produced all documents responsive to KCTA's First Request for Information Number 18 that states, "Identify and produce all communications with the TVPPA concerning pole attachment rates."

2-32. If your answer to Request 2-31 is anything other than an unqualified admission, please produce all communications between you and the TVPPA relating to pole attachment rates within the last five years.

2-33. For your November 14, 2013 response to KCTA's Request for Information Number 18, please identify any and all specific documents and references within the produced documents that is responsive to Request Number 18.

2-34. Produce all documents reflecting any communication between you and the TVA concerning pole attachment revenues or rates from 2000 to present.

2-35. State the total pole attachment revenues you received from licensee attachers (i.e., non-joint users) for each of the years 2008 to present.

2-36. Produce all invoices for pole attachment fees you sent to all pole attachers for each of the past three years.

2-37. Have you, or has anyone on your behalf, ever analyzed what your pole attachment rates would be under the Commission's cost-based pole attachment rate methodology as set forth in the September 17, 1982 order by the Commission in Administrative Case No. 251?

2-38. If your answer to Request 2-37 is affirmative, please produce all documents relating to that analysis.

2-39. Have you, or has anyone on your behalf, ever analyzed what your pole attachment rates would be under the Federal Communication Commission's pole attachment rate methodology used to determine the maximum just and reasonable rate under 47 U.S.C. § 224(d)?

2-40. If your answer to Request 2-39 is affirmative, please produce all documents relating to that analysis.

2-41. Have you, or has anyone on your behalf, ever determined if your pole attachment rates provide a subsidy to KCTA members?

2-42. If your answer to Request 2-41 is affirmative, please explain the analysis and produce all documents relating to that analysis.

2-43. Produce your pole rates charged to Windstream and MediaCom for each of the last ten years.

2-44. Admit that your responses to KCTA's First Request for Information Numbers 1 and 2 contain all the evidence of which you are aware that supports your contention that TVA regulates your pole attachment rates.

2-45. If your answer to Request 2-44 is anything but an unqualified admission, please identify and produce all remaining documents and evidence that support your contention.

2-46. Admit that your responses to KCTA's First Request for Information Numbers 1-5 contain all the evidence of which you are aware that supports your contention that the Commission's regulation of your pole attachment rates would conflict with TVA's regulation of your electric rates.

2-47. If your answer to Request 2-46 is anything but an unqualified admission, please identify and produce all remaining documents and evidence that support your contention.

2-48. Admit that your responses to KCTA's First Request for Information Numbers 1-6 contain all the evidence of which you are aware concerning how you ensure your pole attachment rates will ensure your customers do not subsidize attaching entities.

2-49. If your answer to Request 2-48 is anything but an unqualified admission, please identify and produce all remaining documents and evidence that support your contention.

2-50. Identify each increase or decrease in electric rates set by TVA that has resulted from a change in your pole attachment revenues within the last ten years.

2-51. Do you charge AT&T for attachments to your secondary poles?

2-52. Do you charge MediaCom for attachments to your secondary poles?

2-53. Have you, or has anyone on your behalf, discussed with TVA the possibility that someone from TVA may testify on your behalf?

2-54. If your answer to Request 2-53 is affirmative, please identify the people involved in each such discussion and the TVA representative who may testify.

Respectfully submitted,

/s/ Laurence J. Zielke  
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**ATTORNEYS FOR THE KENTUCKY CABLE  
TELECOMMUNICATIONS ASSOCIATION**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Kentucky Cable Telecommunications Association's Supplemental Requests for Information to Tri-County Electric Membership Corporation has been served on all parties of record via hand delivery, facsimile, or electronically this 2nd day of December, 2013.

/s/ Laurence J. Zielke  
Laurence J. Zielke