

Exhibit 6

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

DEPOSITION FOR PETITIONER

*** *** ***

DEPONENT: DAVID E. SMART, CR 30.02(6) Designee of
 West Kentucky Rural Electric
 Cooperative Corporation

TAKEN: MARCH 12, 2015

BY: CANDACE MAUNEY REID, Certified Reporter

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This deposition, under oath, of David E. Smart was taken by me, Candace Mauney Reid, Certified Court Reporter and Notary Public, on March 12, 2015, beginning at approximately 9:37 a.m., Central Standard Time, at the offices of Robbins & Robbins Law Office located at 101 South Seventh Street, Mayfield, Kentucky 42066. Said examination was taken pursuant to Notice, for purposes of discovery, and as provided by the Kentucky Rules of Civil Procedure.

*** **

A P P E A R A N C E S

FOR PETITIONER: GARDNER F. GILLESPIE, ESQ.
SHEPPARD MULLIN RICHTER &
HAMPTON, LLP
1300 I STREET NW
11TH FLOOR EAST
WASHINGTON, DC 20005

FOR RESPONDENT: EDWARD T. DEPP, ESQ.
DINSMORE & SHOHL, LLP
101 SOUTH FIFTH STREET
SUITE 2500
LOUISVILLE, KY 40202

1 submitted on the 15th of January, 2014. Have you seen that
2 document before?

3 A. Yes.

4 Q. Okay. Now, I'm going to ask that we have marked
5 as Exhibit No. 21 the updated Notice of Deposition that was
6 submitted on the 9th of March. This is the Notice of
7 Deposition that has been revised in conformance with the
8 Order of the Commission in this case. Have you seen this
9 document?

10 A. Yes.

11 Q. And are you prepared to answer the questions in
12 the areas covered by that notice?

13 A. To the best of my ability, yes.

14 Q. What did you do to prepare for the deposition?

15 A. I reviewed the responses that we provided to the
16 questions that you had proposed. I reviewed the letter
17 drafted from TVA to the Public Service Commission. I
18 reviewed the AT&T joint use contract between TVPPA and AT&T.
19 And I looked through some of the responses as we had sent
20 them to Tip in the beginning.

21 Q. When did you review these?

22 A. In the last couple of days. I've been looking
23 through them over the last couple of days.

24 Q. In the last couple of days starting when?

25 A. I started on -- Today is Thursday, so I started

1 reviewing them on Tuesday afternoon.

2 Q. Okay. Did you speak to anyone in connection with
3 preparation for this deposition?

4 A. Do you mean in the last two days or prior to
5 that?

6 Q. At -- At any time in connection with the
7 preparation for this deposition.

8 A. Yes. We spoke with Tip and one of the ladies
9 that works with him. I believe her name was Michelle, as
10 well as some of the other involved parties in this group.

11 Q. So, you had a meeting with counsel and the other
12 four cooperatives?

13 A. Yes.

14 Q. When was that?

15 A. It was Friday, last Friday morning.

16 Q. Have you spoken to anyone, in addition to that,
17 in preparation for this deposition or in connection with
18 educating yourself on the subject of this deposition?

19 A. Only employees of West Kentucky Rural Electric.

20 Q. Okay. And what employees of West Kentucky did
21 you speak with?

22 A. I spoke with our Vice President of Finance and
23 Administration - his name is Randy Clifford - and my
24 Executive Secretary, Cathy Ernstberger.

25 Q. And when did you have those conversations?

1 Q. Mr. Smart, are you familiar with this document?

2 A. Yes, sir.

3 Q. Were you responsible for the answers contained in
4 this document?

5 A. Not for every answer, for most of them. Yes,
6 sir.

7 Q. And you will verify the accuracy of these?

8 A. Yes, sir.

9 Q. Okay. Now, when you say that you're responsible
10 for most of them but not all of them, what do you mean by
11 that?

12 A. Well, some of the responses, I believe, said
13 counsel was the witness, correct, in that document.
14 Therefore, the -- some of the responses were -- I think --
15 Let me flip through it.

16 Q. Yes. There are a couple of responses that say
17 counsel as the witness, so you're saying that you're not
18 responsible for those answers; is that right?

19 A. That is right.

20 Q. Okay. Now, you are responsible for all of the
21 answers that reflect you as the witness?

22 A. Yes.

23 Q. Okay. What did West Kentucky do to respond to
24 these data requests?

25 A. We looked at the requests as they were presented

1 and we provided responses to the best of our ability to the
2 questions that were asked.

3 Q. Were the responses that you provided the same as
4 contained in these documents?

5 A. Yes, except for one I believe.

6 Q. And what was the one?

7 A. It was a question in the second part about the
8 FCC formula. (Reading) Have you or anyone on your behalf
9 ever analyzed what your pole attachment rates would be under
10 the Federal Communication Commission's pole attachment rate
11 methodology?

12 And when we first answered that question, we had
13 -- NRECA put out a document a few years ago on pole
14 attachment calculations and, at the time, we had our -- I had
15 my finance person, CFO at the time, plug some numbers in just
16 to see what those numbers were.

17 Q. And which of the methodologies proposed by NRECA
18 did you use in those calculations?

19 A. I don't recall the exact methodology. All I
20 recall doing was looking at the FCC formulas that were out
21 there at that time. There was like a teleco rate, maybe in
22 the cable. The teleco rate, that's been several years ago.

23 Q. And what were the cable and teleco rates that
24 were calculated for West Kentucky. Do you remember?

25 A. No, sir.

1 Q. Can you give us a range of what those rates were?

2 MR. DEPP: I'm going to object. I mean, the
3 witness can answer if he knows, but I'm going to object just
4 to note that the Commission's Order specifically declined to
5 allow KCTA to get into this line of questioning.

6 MR. GILLESPIE: I don't recall. I just want to
7 note that the Commission's Order does allow us to get into
8 questions related to the data responses.

9 Q. So, you're saying that your answers were the same
10 as each of the responses in the data requests where you are
11 shown as the sponsoring witness?

12 A. I'm saying that the initial inquiry about the FCC
13 formula and our knowledge of it indicated that we had run
14 numbers on that, but not for any particular negotiation with
15 AT&T or anyone like that, because we had no part in that
16 negotiation. Just to see and compare what those formulas
17 would have said versus some of what our current rates were.

18 Q. Okay. Well, I really was intending to ask a
19 broader question. Putting aside that particular answer, all
20 of the other answers where you are shown as the sponsoring
21 witness, your responses were the same as the responses that
22 are included in these exhibits?

23 MR. DEPP: I'm going to object again. I think
24 that's been answered three times now. You have asked a
25 question about the verification page, which is attached.

1 He's answered that. That document speaks for itself.

2 MR. GILLESPIE: Well, I'm trying to understand
3 the process of the responses to this document and the
4 question has not been asked and answered.

5 A. On behalf of Tip and his team, on behalf of the
6 group of distributors that are involved in this discussion
7 with you, prepared several of these responses based on the
8 information that was provided to them by us.

9 Q. Okay. Well, that -- Just so I understand the
10 process, counsel sent you the data requests; is that right?

11 A. Yes.

12 Q. Okay. And then, you provided some responses back
13 to your counsel; is that right?

14 A. Yes.

15 Q. And then, your counsel provided you the responses
16 that are specifically written in these two exhibits; is that
17 right?

18 A. Yes.

19 Q. Okay. Do you have -- Did you send to your
20 counsel the responses in writing?

21 A. Yes.

22 Q. I would ask for those.

23 MR. DEPP: The documents that you have identified
24 as Exhibits 22 and 23 contain the responses to the data
25 requests. We are not providing attorney work product

1 information or attorney-client privileged information. You
2 have the responses, we're not providing more.

3 MR. GILLESPIE: Well, I just want to make it
4 clear I'm not asking for either attorney-client information
5 or attorney work product information. I'm simply asking for
6 this witness' initial responses to the data requests.

7 MR. DEPP: Our position is you have them.

8 MR. GILLESPIE: Okay.

9 BY MR. GILLESPIE:

10 Q. What did West Kentucky do to look for the
11 documents requested in the data requests?

12 A. We reviewed the current Power Contract we have in
13 place with TVA, and we reviewed the pole attachment contracts
14 we currently have in place, and we reviewed -- including the
15 AT&T Joint Use Agreement negotiated with TVPPA. And to
16 answer some of the other requests, we had to review some of
17 our historical financial data.

18 Q. Okay. And is it fair to say that the documents
19 that were provided to us are all of the documents that were
20 requested, as far as you know?

21 A. As far as I know.

22 Q. Okay. Now, let's turn to Exhibit No. 22, item
23 number two. It's on the second page of that exhibit. And
24 the second sentence of the second paragraph of the response
25 reads as follows, (reading) the TVA regulates these rates and

1 services through the expressed terms of its wholesale Power
2 Contract with West Kentucky.

3 Do you see that?

4 A. Yes, sir.

5 Q. What rates does this sentence refer to?

6 A. TVA is our complete rate regulator. Therefore,
7 it refers to any rate that we charge.

8 Q. That includes the pole attachment rates?

9 A. That includes any rate that we charge.

10 Q. Does that include pole attachment rates?

11 A. Yes.

12 Q. So, where in the ex -- expressed terms of the
13 wholesale power contract with West Kentucky does it address
14 pole attachment rates, do you recall?

15 A. No.

16 Q. Okay. Let's look at the contract. And I
17 apologize for this. This is a hefty document. And I would
18 have marked, as Exhibit No. 24, the Power Contract as --
19 that's been provided to us from West Kentucky.

20 (WHEREAS, EXHIBIT NO 24 WAS ENTERED)

21 MR. GILLESPIE: Do you have paper -- Do you have
22 rubber bands for that? I'm sure we can get something.

23 COURT REPORTER: I've -- I'll find one.

24 MR. GILLESPIE: Those won't do it.

25 BY MR. GILLESPIE:

1 MR. DEPP: No, I don't think.

2 BY MR. GILLESPIE:

3 Q. So does this represent the annual financial
4 reports submitted by West Kentucky to TVA for the years 2010
5 through 2013?

6 A. The fiscal years, yes. Fiscal years 2010 through
7 2013.

8 Q. Okay. Do you recall whether there are any
9 references to pole attachment revenues in -- listed in these
10 documents?

11 A. Not broken down specifically, the pole
12 attachment. But yes, the pole attachment revenues are
13 included in the document.

14 Q. Well, the -- Let's look first at the 2010 report.

15 A. Okay.

16 Q. So, the pole attachment revenues are included
17 within the revenue for rent from electric property on page
18 three, line 62; is that right?

19 A. That's correct.

20 Q. And the revenue that is in that line is more than
21 simply pole attachment revenue, correct?

22 A. Correct.

23 Q. In reviewing this document, the TVA doesn't know
24 specifically what the pole attachment revenues of West
25 Kentucky are, correct?

DAVID E. SMART

ERRATA PAGE
(may or may not be requested)

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PAGE	LINE	REASON
5	14	Should be "West" not "Western"
9	10	Should be April 15 th not April 1 st
9	19	Should be "Fleming" not "Floyd"
10	2	I was "manager" not "a manager" - There was only one.

I HAVE READ THE FOREGOING PAGES, AND THE STATEMENTS CONTAINED THEREIN (SUBJECT TO CORRECTIONS, ADDITIONS, AND DELETIONS CONTAINED IN THE ADDENDUM ANNEXED HERETO, IF ANY), AND THEY ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

David E. Smart
DAVID E. SMART

SWORN TO AND SUBSCRIBED BEFORE ME THIS 13th DAY OF
April, 2015.
(Month) (Year)

Pathey L. Ernstberger
NOTARY PUBLIC, STATE OF Kentucky
(State)
MY COMMISSION EXPIRES: 8-17-2018

RETURN WITHIN 30 DAYS TO:
Video Court Reporting Services, Inc.
734 West Main Street, Suite 100
Louisville, Kentucky 40202
502.561.9988 Voice 502.561.9080 Fax
E-mail: depo@vcrslou.com

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STATE OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

I, CANDACE MAUNEY REID, Certified Court Reporter and Notary Public in and for the Commonwealth of Kentucky, State at Large, hereby certify that the foregoing deposition was taken at the time and place stated in the caption; that the appearances are as set forth in the caption; that prior to giving the testimony the witness was first duly sworn by me; that said testimony was reported by mechanical means by me, and thereafter transcribed under my personal direction and supervision; and that said typewritten transcript is a true, accurate, and complete transcript to the best of my ability and understanding; and that there was a request that the witness read and sign the deposition.

I further certify that I am not related by blood or marriage to any of the parties hereto and that I have no interest in the outcome of the captioned matter.

My Commission as a Notary Public expires March 12, 2016.

Given under my hand this _____ day of _____, 2015, at Louisville, Jefferson County, Kentucky.

Candace M. Reid

CANDACE MAUNEY REID, CERTIFIED COURT REPORTER
NOTARY PUBLIC, STATE-AT-LARGE, KY