

**HICKMAN-FULTON COUNTIES RURAL ELECTRIC COOPERATIVE
CORPORATION**

**IN THE MATTER OF: PETITION OF THE KENTUCKY CABLE
TELECOMMUNICATIONS ASSOCIATION FOR A DECLARATORY ORDER
THAT THE COMMISSION HAS JURISDICTION TO REGULATE THE POLE
ATTACHMENT RATES, TERMS AND CONDITIONS OF COOPERATIVES
THAT PURCHASE ELECTRICITY FROM THE TENNESSEE VALLEY
AUTHORITY
CASE NO. 2012-00544**

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

November 14, 2013

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

2

3 **Response)** Yes.

4

5 **Witness)** Debbie Weatherford

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

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

15

16 **Witness)** Debbie Weatherford

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Hickman-Fulton Counties Rural Electric Cooperative Corporation
Response to KCTA 1-2
Witness: Debbie Weatherford
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1 Witness) Debbie Weatherford

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

11 The retail rates approved by the TVA are calculated based on Hickman-Fulton's
12 revenue requirement. TVA's assessment of the revenue requirement takes into account
13 all revenues, including those for pole attachment services. Any change in Hickman-
14 Fulton's pole attachment revenues will necessarily change its revenue requirement and
15 thus directly impact the retail rate set by the TVA. Please see Hickman-Fulton's

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1 response to KCTA 1-2, and the TVA Cooperatives' Response to the January 17 Order,
2 filed February 15, 2013 in this matter.

3

4 **Witness)** Debbie Weatherford

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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) Debbie Weatherford

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

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

16

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1 **Witness)** Debbie Weatherford

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

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

9

10 **Witness)** Debbie Weatherford

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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)** Debbie Weatherford

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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)** Hickman-Fulton objects to this request insofar as it seeks legal
5 conclusions (not data) and legal research and reasoning protected by the attorney-client
6 and attorney-work-product privileges. Hickman-Fulton also objects to this request on the
7 grounds that it is overly broad and unduly burdensome. Notwithstanding these
8 objections, but without waiving them, Hickman-Fulton 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)** Hickman-Fulton objects to this request on the grounds that it is overly
5 broad and unduly burdensome. Hickman-Fulton 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,
8 Hickman-Fulton states as follows.

9 Please see the table below, indicating the foreign attacher and the price per pole.

	AT&T	Zito Media	Windstream	West KY
2010	\$27.00	\$27.00	\$25.00	\$25.00
2011	\$29.00	\$29.00	\$29.00	\$27.00
2012	\$29.61	\$31.00	\$29.50	--
2013	\$30.11	\$30.11	\$30.11	--

10

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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)** Hickman-Fulton relies on the most recent TVPPA/AT&T Joint Use
5 Agreement, which was negotiated by the TVPPA. Please see Hickman-Fulton's response
6 to KCTA 1-6.

7

8 **Witness)** Debbie Weatherford

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

10 Please see Hickman-Fulton's response to KCTA 1-10.

11

12 **Witness)** Debbie Weatherford

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

3

4 **Response)** Hickman-Fulton relies on the TVPPA/AT&T Joint Use Agreement to
5 determine its pole attachment rates. Pricing escalates annually based on the Handy-
6 Whitman Index.

7

8 **Witness)** Debbie Weatherford

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

2

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

8 Please see the table below.

Year	Operating Revenue (\$)
2010	11,029,181.00
2011	11,363,338.00
2012	11,083,555.00

9

10 **Witness)** Debbie Weatherford

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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)** Hickman-Fulton objects to this request on the grounds that it is overly
5 broad and unduly burdensome. Hickman-Fulton 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,
8 Hickman-Fulton states as follows.

9 Please see the table below.

Year	Pole Attachment Revenue (\$)
2010	79,250.00
2011	72,512.00
2012	78,638.00
2013	79,418.59

10

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

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

9

10 **Witness)** Debbie Weatherford

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

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

10

11 **Witness)** Debbie Weatherford

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

8 Please see the attached documents. Please also see Hickman-Fulton's response to
9 KCTA 1-15.

10

11 **Witness)** Debbie Weatherford

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

3

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

7 Please Hickman-Fulton's response to KCTA 1-6.

8

9 **Witness)** Debbie Weatherford

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

8 Since 2010, the responsible employee has been Debbie Weatherford, Business
9 and Member Services Manager.

10

11 **Witness)** Debbie Weatherford

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

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

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Response to KCTA 1-20

Witness: Counsel

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AUTHORITY
CASE NO. 2012-00544

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

November 14, 2013

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

3

4 **Response)** Hickman-Fulton objects to this request on the grounds that it is overly
5 broad and unduly burdensome. Hickman-Fulton 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

HICKMAN-FULTON COUNTIES 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

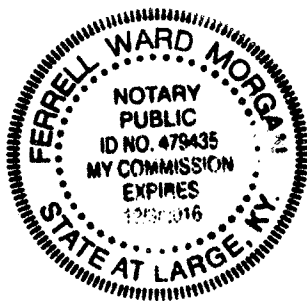
VERIFICATION

I, Debbie Weatherford, 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.

Debbie Weatherford

COMMONWEALTH OF KENTUCKY)
COUNTY OF FULTON)

SUBSCRIBED AND SWORN TO before me by Debbie Weatherford on this the 9th day of November, 2013.



Ferrell Ward Morgan
Notary Public, Ky. State at Large
My Commission Expires 12/3/2016