

Kentucky Power Company
KPSC Case No. 2022-00105
Commission Staff's Second Set of Data Requests
Dated May 19, 2022

DATA REQUEST

KPSC 2_01 Refer to Kentucky Power's response to Commission Staff's First Request for Information (Staff's First Request), Item 2(a), regarding the \$2.70 per linear foot per year fee for attachments within ducts or conduit. Provide the detailed calculation, using both the net book value methodology and the gross book value methodology, used to arrive at the \$2.70 per linear foot per year rate.

RESPONSE

As set forth in Kentucky Power's response to Commission DR_1_02.a., the \$2.70 per linear foot rate is based on net methodology. Please see KPCO_R_KPSC_2_01_Attachment1 for calculations of both gross and net methodologies.

Witness: Pamela F. Ellis

Net Methodology

Net Investment Per Duct Foot x Net Carrying Charge Rate = Per Foot Rate
 [\$15.78 x 17.09% = \$2.70]

Where:

Net Investment Per Duct Foot = Net Conduit Investment/Conduit Feet
 [(A-E-I)/R = \$15.78]¹

and

Maintenance	L/(A-E-I)	0.771%
+ Administrative and Overhead	N/(D-H-K)	1.622%
+ Taxes	O/(D-H-K)	1.732%
+ Depreciation	(A/(A-E-I))*P	6.779%
+ Rate of Return	Q	6.190%
<hr/>		
Net Carrying Charge Rate		17.094%

Gross Methodology

Gross Investment Per Duct Foot x Gross Carrying Charge Rate = Per Foot Rate
 [\$31.18 x 8.47% = \$2.64]

Where:

Gross Investment Per Duct Foot = Gross Conduit Investment/Conduit Feet
 [A/R = \$31.18]

and

Maintenance	((A/B)*M)/A	0.645%
+ Administrative and Overhead	N/D	0.747%
+ Taxes	O/D	0.798%
+ Depreciation	P	3.430%
+ Rate of Return	((D-H-K)/D)*Q	2.852%
<hr/>		
Gross Carrying Charge Rate		8.472%

¹ See next page for values associated with A through R. This is the same data presented in Exhibit A to Kentucky Power's Response to Commission DR 1_2.a.

Gross Investment

A	Underground Conduit	FERC Account 366	\$7,922,239
B	Underground Conductors & Devices	FERC Account 367	\$12,123,529
C	Total Distribution Plant	Page 207	\$954,945,289
D	Total Utility Plant	Page 200	\$3,012,297,428

Depreciation Reserve

E	Underground Conduit	(G/C)*A	\$2,369,615
F	Underground Conductors & Devices	(G/C)*B	\$3,626,260
G	Total Distribution Plant	Page 219	\$285,632,969
H	Total Utility Plant	Page 200	\$1,089,649,675

Deferred Taxes

I	Underground Conduit	(A-E)/(D-H)*K	\$1,544,268
J	Underground Conductors & Devices	(B-F)/(D-H)*K	\$2,363,219
K	Total Utility Plant	FERC Accounts 281, 282, 283 & 190	\$534,717,339

Other Data

L	Conduit Maintenance (Net Basis)	(A-E-I)/(B-F-J)*M	\$30,916
M	Underground Maintenance	FERC Account 594	\$78,228
N	Administrative & Overhead	Page 323	
O	Operating Taxes	FERC Accounts 408, 409.1, 410.1, 411.1 & 411.4	\$24,036,220
P	Gross Distribution Plant Depreciation Rate	Finance Dept.	3.43%
Q	Rate of Return	Commission Order 2020-00174	6.19%
R	Conduit Feet	Plant Accounting	254,059

*Page numbers above reference pages in the year-end 12/31/2020 Kentucky Power Company FERC Form 1.

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DATA REQUEST

- KPSC 2_02** Refer to Kentucky Power's response to Staff's First Request, Item 2(b), regarding the \$150 per attachment per year fee for attachments of wireless facilities at the top of distribution pole.
- a. Provide the detailed calculation used to arrive at the \$150 amount.
 - b. Provide support for the statement that wireless pole-top attachments make it more expensive for Kentucky Power to perform maintenance on its facilities.
 - c. Provide support for the statement that wireless pole-top attachments almost always require a pole replacement to create additional height and strength.

RESPONSE

- a. There is not a detailed calculation used to arrive at the \$150 amount. As set forth in response to Commission DR 1_02.b.:

[B]ecause of the variability in wireless pole top antenna installations, a precise cost-based approach would require negotiations (and invite disputes) with respect to each new configuration or array. The \$150 price point fairly accounts for a wide range of circumstances, provides predictability to attaching entities and allows Kentucky Power to identify a specific price point within its tariff.

The calculation used to guide and support the \$150 amount involve two key components. First, as set forth in Kentucky Power's response to Commission DR 1_02.b.:

[W]ireless pole top attachments almost always require a pole replacement to create additional height and strength. The newer, taller, stronger poles necessary to accommodate wireless pole top attachments have a higher annual carrying cost than the average pole in Kentucky Power's system.

The current installed cost of a 50-foot Class 2 wood pole, which is the typical pole replacement used to accommodate a wireless pole top antenna, is approximately \$1,500, as compared to a net cost of \$535.78 for the average distribution pole in Kentucky Power's system. This indicates a carrying cost for a new 50/2 of roughly triple the carrying cost of an average distribution pole. Second, as set forth in Kentucky Power's response to Commission DR 1_02.b.:

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Wireline attachments within the communications space typically occupy about one (1) foot of space, whereas wireless pole-top attachments often occupy between five (5) to ten (10) feet of space.

Kentucky Power's rates for wireline attachments are \$6.71 for a three-user pole and \$10.82 for a two-user pole. This would yield ranges of \$100.65 (for a three-user pole with 5-feet of occupancy, combined with a 3x carrying charge) to \$324.60 (for a two-user pole with 10-feet of occupancy, combined with a 3x carrying charge). The \$150 amount falls closer to the low end of this range as a conservatism.

b. Wireless pole-top attachments make it more expensive for Kentucky Power to perform maintenance for several reasons. First, Kentucky Power line workers require additional training on how to work around these facilities including processes to follow for notification of work in the area. Kentucky Power's Distribution Dispatch Center has to be aware of workers in this space for safety and reliability reasons. Lineworkers also have to be aware of what is above them when working on a pole. They are trained to work with the various electrical equipment day-in and day-out, but foreign equipment can cause other unknown issues. Second, with wireless attachments, there is usually ancillary equipment in the unusable space and conduit on the pole which requires the Kentucky Power employee to climb and work around adding additional climbing hazards and impediments. Third, when replacing a pole with wireless pole-top attachments, there is an increased outage time needed to coordinate moving the attachment from the old pole to the new pole. This requires more Kentucky Power resources to be involved in the coordination of the replacement.

c. Kentucky Power requires 5-feet of clearance between the bottom of a pole top wireless antenna array and the primary. There are virtually zero distribution poles that currently have 5 feet of available useable space anywhere on the pole, let alone above the primary.

Witness: Pamela F. Ellis

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DATA REQUEST

KPSC 2_03 Refer to Kentucky Power's response to Staff's First Request, Item 2(c), regarding the \$75 per attachment per year fee for attachment of wireless facilities within communications space of a distribution pole.

- a. Provide support for the statement that Kentucky Power's affiliates charge \$75 per attachment per year for the attachment of wireless facilities within the communications space of a distribution pole, explain how Kentucky Power's affiliates arrived at that amount, and provide the calculation they used to arrive at that amount.
- b. Provide support for the statement that Kentucky Power must devote additional resources to monitoring wireless facilities due to radiofrequency radiation posing a threat to the safety of personnel working on or near Kentucky Power's poles.

RESPONSE

a. Pamela F. Ellis, the sponsoring witness for Kentucky Power's response to Commission DR 1_02.c., is the Director of Energy Delivery Engineering Services. Her responsibilities include managing joint use and pole attachments for all AEP operating companies. Ms. Ellis has personal knowledge of the rates charged by the AEP operating companies for attachment of wireless facilities within the communications space on distribution poles. There is not a detailed calculation used to derive the \$75 amount. Many of the same considerations that underpin the \$150 pole top rate inform the \$75 amount, except that (a) wireless facilities in the communications space require pole replacements less frequently than wireless pole top attachments, and (b) wireless facilities in the communications space typically occupy less space than wireless pole top attachments. As with the \$150 amount for wireless pole top attachments, the \$75 amount for wireless attachments in the communications space fairly accounts for a wide range of circumstances, provides predictability to attaching entities and allows Kentucky Power's affiliates to identify a specific price point for such attachments (as opposed to jurisdiction-by-jurisdiction negotiations with respect to each attaching entity and each configuration of wireless antenna attachment).

b. Kentucky Power must provide additional ongoing safety training for employees working on poles with wireless facilities. They must be aware of the potential radiofrequency radiation threat and how to shut off power to these facilities in order to safely perform work on the pole. They must also be aware of the additional climbing

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hazard. Additional training for workers has to be created and presented on an ongoing basis as the technologies change creating more risk for lineworkers.

Witness: Pamela F. Ellis

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DATA REQUEST

KPSC 2_04 Refer to Kentucky Power's response to Staff's First Request, Item 3(c), regarding the \$500 penalty for each unauthorized attachment within a duct. As the Federal Communications Commission (FCC) has stated that it considers a penalty for unauthorized attachments to be presumptively reasonable if the penalty does not exceed five times the current annual rental fee per pole if the pole occupant does not have a permit and the violation is self-reported or discovered through a joint inspection, with an additional sanction of \$100 per pole if the violation is found by the pole owner in an inspection in which the pole occupant declined to participate,² explain how the \$500 penalty is reasonable given that it may exceed the amounts the FCC would find presumptively reasonable.

RESPONSE

The FCC order that adopted the "safe harbor" penalty referenced above did not address unauthorized attachments within ducts. It was limited to attachments to **poles**. See, e.g., Implementing Section 224 of the Act; A National Broadband Plan for Our Future, Report and Order and Order on Reconsideration, WC Docket No. 07-245, GN Docket No. 09-51, 26 FCC Rcd 5240, 5290 at ¶ 113 (Apr. 7, 2011) (the "2011 Order") ("Another issue addressed by the Further Notice was attachments installed on **poles** without a lawful agreement with or permit from the pole owner—so-called "unauthorized attachments.") (emphasis added); id. at 5291, ¶ 115 ("An unauthorized attachment fee of \$500 per **pole** for **pole** occupants without a contract....") (emphasis added); id. ("An unauthorized attachment fee of five times the current annual rental fee if the **pole** occupant does not have a permit and the violation is self-reported....") (emphasis added). Further, the 2011 Order specifically permits higher penalties for more severe unauthorized attachment violations. For instance, the 2011 Order adopted (as a safe harbor) an "unauthorized attachment fee of \$500 per pole for occupants without a contract." 2011 Order, 26 FCC Rcd at 5291, ¶ 115. Attachments made without a pole attachment agreement are more serious violations because the entity making such attachments would have no familiarity with the electric utility's design and construction standards. However, the installation of unauthorized attachments within a duct constitutes an even more serious violation. As set forth in response to Commission DR 1_03.c.:

[T]here are unique and significant safety risks associated with working near electric distribution lines in a confined space. While Kentucky Power's ducts and conduit do not currently host any third-party attachments, Kentucky Power is in the process of developing protocols that would govern such attachments in the future. These protocols will require, inter alia, that any work performed within Kentucky

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Power's ducts or conduit be performed by an approved contractor and in the presence of a Kentucky Power-designated inspector. To the extent an unauthorized attachment is made within Kentucky Power's ducts or conduit in the future, it would necessarily mean that the attachment was installed outside of these critical safeguards, which poses a significant risk of injury to the installer and damage to Kentucky Power's underground distribution facilities. The higher unauthorized attachment penalty accounts for this increased danger and is intended to promote safe working conditions.

Given this heightened risk profile, and in light of the fact that the 2011 Order has already approved a \$500/pole penalty for a less severe type of unauthorized attachment violation, the \$500/attachment penalty for unauthorized attachments in ducts would likely fit within the contours of the FCC's 2011 Order.

Witness: Pamela F. Ellis

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DATA REQUEST

KPSC 2_05 Refer to Kentucky Power's response to Staff's First Request, Item 4. Provide copies of bonds that have been provided by attaching entities in the last 5 years to guarantee the payment of amounts due. If there are more than 10 bonds, you may provide 10 representative examples of such bonds in lieu of providing all such documents.

RESPONSE

Please see KPCO_R_KPSC_2_05 Attachments1 and 2.

Witness: Pamela F. Ellis



Brittany D. Clavin
Client Representative

Marsh USA Inc.
701 Market Street
Suite 1100
St. Louis, MO 63101-2500
314-342-2686
Brittany.Clavin@marsh.com
www.marsh.com

August 14, 2018

Amy Davis
Verizon Wireless
7575 Commerce Court
Lewis Center, OH 43045

Subject: New Bond

Principal: Cellco Partnership d/b/a Verizon Wireless
Obligee: Kentucky Power Company
Bond Description: Pole Attachment
Bond Amount: \$25,000.00
Bond Number: 9288237
Surety Name: Fidelity and Deposit Company of Maryland

Dear Amy Davis:

In response to the request dated 8/14/2018, I am pleased to enclose the above-referenced bond document that is based on the information we received with the request.

Prior to filing with Kentucky Power Company, the following items need to be completed:

1. Signed by authorized officer
2. Officer's name and title inserted below signature
3. Corporate seal affixed (if applicable)

As always, the bond document should be re-checked for accuracy before filing with Kentucky Power Company.

If you have any questions, please feel free to contact me. Thank you for allowing Marsh to service your surety needs.

Sincerely,

A handwritten signature in cursive script that reads 'Brittany'.

Brittany D. Clavin
Client Representative

Enclosure

POLE ATTACHMENT BOND

Fidelity and Deposit Company of Maryland
1299 Zurich Way, Schaumburg, IL 60196

Bond No. 9288237

KNOW ALL MEN BY THESE PRESENTS, that we Cellco Partnership dba Verizon Wireless as Principal, and Fidelity and Deposit Company of Maryland, a corporation duly organized under the laws of the Maryland, as Surety, are held and firmly bound unto Kentucky Power Company 301 Cleveland Ave SW, Canton, OH 44701 as Obligee, in the sum of Twenty-Five Thousand and No/100 ----- Dollars (\$25,000.00) lawful money of the United States of America, to be paid to said Obligee, its successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bound Principal has entered into a written agreement with the said Obligee for the use of its poles in connection with the furnishing of telecommunications service. The above mentioned agreement sets forth the terms and conditions which govern the use of such poles and said agreement is hereby specifically referred to and made part of this bond, with like force and effect as if herein at length set forth.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the above named Principal, its successors or assigns, does and shall well and truly observe, perform, fulfill and keep its obligations as set forth in the above mentioned agreement, for which a bond must be posted, then the above obligation to be void; otherwise to remain in full force and effect.

The bond is subject, however, to the following express conditions:

FIRST: That in the event of a default on the part of the Principal, its successors or assigns, a written statement of such default with full details thereof shall be given to Surety promptly, and in any event, within thirty (30) days after the Obligee shall learn of such default, such notice to be delivered personally or by registered mail to Surety at its Home Office at Hartford, Connecticut.

SECOND: That no claim, suit or action under this bond by reason of any such default shall be brought against Surety unless asserted or commenced within twelve (12) months after the effective date of any termination or cancellation of this bond.

THIRD: That this bond may be terminated or cancelled by Surety by One Hundred Eighty (180) days prior notice in writing from Surety to Principal and to Obligee. Such termination or cancellation shall not affect any liability incurred or accrued under this bond prior to the effective date of such termination or cancellation. The liability of the Surety shall be limited to the amount set forth and is not cumulative.

FOURTH: That no right of action shall accrue under this bond to or for the use of any person other than the Obligee, its successors and assigns.

IN WITNESS WHEREOF, the above bound Principal and the above Surety have hereunto set their hands and seals, on the 14th day of August, 2018. This bond is effective 14th day of August, 2018

Cellco Partnership dba Verizon Wireless

By: M. Keen
Principal

Fidelity and Deposit Company of Maryland

By: Brittany D. Clavin
Brittany D. Clavin, Attorney-in-Fact



ACKNOWLEDGMENT BY SURETY

STATE
OF Missouri }
City of St. Louis } ss.

On this 14th day of August, 2018, before me personally
appeared Brittany D. Clavin, known to me to be the Attorney-in-Fact of
Fidelity and Deposit Company of Maryland

_____, the corporation
that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid
County, the day and year in this certificate first above written.

My Commission Expires: June 20, 2022
(Seal)

Joann R. Frank
Joann R. Frank
Notary Public in the State of Missouri
City of St. Louis
Commission #14395672



**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **Thomas O. McClellan, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Brittany D. Clavin of St. Louis, Missouri, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 14th day of October, A.D. 2015.



ATTEST:
ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Thomas O. McClellan

By: **Thomas O. McClellan**
Vice President

Eric D. Barnes

By: **Eric D. Barnes**
Secretary

**State of Maryland
County of Baltimore**

On this 14th day of October, A.D. 2015, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Thomas O. McClellan, Vice President** and **Eric D. Barnes, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposed and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Constance A. Dunn

By: **Constance A. Dunn, Notary Public**
My Commission Expires: July 9, 2019

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies,
this 14th day of August, 2018.



Gerald F. Haley

By: Gerald F. Haley, Vice President



The attached bond is a replacement bond for bond no. CMS 240369. The new bond supersedes the old bond number and assumes all future liability on the effective date.

PERFORMANCE/POLE ATTACHMENT BOND

Bond No. SUR0048333
Replaces Bond# CMS 240369

Know all men by these presents,

That Windstream KDL, LLC as Principal, and Argonaut Insurance Company a corporation duly organized under the laws of the State of Illinois having its executive office in San Antonio, TX as Surety, are held and firmly bound unto American Electric Power Service Corporation, acting as agent for Kentucky Power Company (hereinafter called "AEP") as Oblige, in the penal sum of Fifteen Thousand and No/100 (\$15,000.00) for the payment of which, well and truly made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, the liability of the Surety being limited to said penal sum regardless of the number of years this bond remains in force or is renewed or of the number of premiums that shall be payable or paid.

WHEREAS, the Principal has entered into certain Pole Attachment License Agreements ("Agreements") with Kentucky Power Company, dated September 30, 2005. The agreement sets forth the terms and conditions which shall govern use by Principal of AEP's property and utility poles, located within the State of Kentucky. The agreement is hereby specifically referred to and made part hereof, with like force and effect as if herein at length set forth. The obligations of Principal under the Agreements shall hereinafter be referred to as the "Obligations".

NOW, THEREFORE, the condition of this obligation is such, that if the above bound Principal shall perform in accordance with the aforesaid agreement, then this obligation shall be void, otherwise to remain in full force and effect unless cancelled or terminated as set forth below.

This Bond may be terminated or cancelled by the Surety by giving 30 (thirty) days prior notice in writing from Surety to Principal and said Oblige, such notice to be given by certified mail.

Such termination or cancellation shall not affect any liability incurred or accrued under this Bond prior to the effective date of such termination or cancellation.

AND PROVIDED FURTHER, that no action, suit or proceeding shall be had or maintained against the Surety on this instrument unless the same be brought or instituted and process served upon the Surety within twelve months after cancellation of this bond as set forth in the preceding paragraph.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 3rd day of October, 2018.

WITNESS:

Charlotte Gumbless

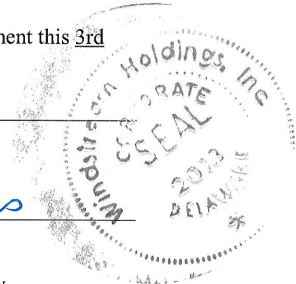
Kelly Ringer

Windstream KDL, LLC

By: Rodney Hawkins

Argonaut Insurance Company

By: Christy M. Braile
Christy M. Braile, Attorney-in-Fact



AS-0135428

Argonaut Insurance Company
Deliveries Only: 225 W. Washington, 24th Floor
Chicago, IL 60606
United States Postal Service: P.O. Box 469011, San Antonio, TX 78246

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

Jeffrey C. Carey/Mary T. Flanigan/Christy M. Braile/Laura M. Buhrmester/Patrick T. Pribyl/Debra J. Scarborough/Charles R. Teter, III/Evan D. Sizemore/Charissa D. Lecuyer/Rebecca S. Leal/C. Stephens Griggs/Tahitia M. Fry/ Megan L. Burns-Hasty

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$50,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.



Argonaut Insurance Company

Joshua C. Betz

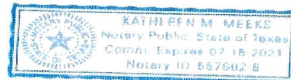
by: _____

Joshua C. Betz, Senior Vice President

STATE OF TEXAS
COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



Kathleen M. Meeks

(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

OCT 03 2018

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the _____ day of _____



James Bluzard

James Bluzard, Vice President-Surety

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Kentucky Power Company
KPSC Case No. 2022-00105
Commission Staff's Second Set of Data Requests
Dated May 19, 2022

DATA REQUEST

KPSC 2_06 Refer to Kentucky Power's response to Staff's First Request, Item 5(a), in which Kentucky Power states that the late payment charge of 5 percent did little to incentivize satisfaction of overdue balances. For calendar years 2020, 2021, and 2022 to date, provide the average amount of time it took attachers to pay their bills once they are late and had been charged a late payment penalty.

RESPONSE

Kentucky Power did not charge the 5% late payment penalty in 2020, 2021 or thus far in 2022. The average time between invoice date and actual payment for 2020 was 100.28 days and for 2021 was 66.7 days.

Witness: Pamela F. Ellis

Kentucky Power Company
KPSC Case No. 2022-00105
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Dated May 19, 2022
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DATA REQUEST

KPSC 2_07 Refer to Kentucky Power's response to Staff's First Request, Item 6(a), regarding the \$275 per pole estimated survey costs.

- a. Provide the detailed calculation used to arrive at the \$275 amount.
- b. Explain why Kentucky Power based the per pole make-ready survey cost on a 50-pole proposal.
- c. Provide support for the 15 percent surcharge to offset Kentucky Power's administrative costs.

RESPONSE

a. Please see KPCO_R_KPSC_2_07 Attachment1.

b. As set forth in response to KBCA DR 1_01.c.:

Kentucky Power utilizes a 50-pole proposal because it represents the maximum number of poles that can be included in a single application. This limitation is designed to break larger projects into more manageable segments to avoid overwhelming Kentucky Power's engineering contractor. Deployment projects can exceed fifty (50) poles, though. In other words, an attaching entity can submit multiple applications at the same time for the same project. Kentucky Power selected this input (50-pole proposal) for estimating purposes to err on the side of overestimation. Though it is possible for a single application to carry a cost higher than \$275/pole (if it disproportionately includes poles that require work beyond rearrangement), most applications will carry a lower cost. Further, use of a 50-pole proposal dilutes the fixed cost of the application on a per pole basis to its lowest possible amount.

c. As set forth in response to KBCA DR 1_02:

The 15% surcharge is designed to capture two recurring costs: (1) annual maintenance costs of Kentucky Power's Joint Use Portal and (2) Kentucky Power's administrative costs associated with processing pole attachment applications. The administrative costs fluctuate widely based on the number and complexity of applications Kentucky Power receives each year. Amounts recovered through the 15% surcharge are credited to the following FERC accounts: 5880000 and 1070001. This ensures that the Kentucky Power's ratepayers do not bear the costs

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associated with the Joint Use Portal or the processing of pole attachment applications.

Witness: Pamela F. Ellis

Kentucky Power Company
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Dated May 19, 2022

DATA REQUEST

KPSC 2_08 Refer to Kentucky Power's response to Staff's First Request, Item 9 and Item 10.

- a. Given the age of a number of Kentucky Power's poles in service, explain why the average service life used to calculate depreciation rates for distribution poles is 28 years.
- b. Provide the service lives of distribution poles used to determine the average service life, by type and vintage, to the degree they are broken down.

RESPONSE

a. Depreciation rates are approved by the Commission during base case proceedings filed by the Company. Current depreciation rates were last reviewed during Case No. 2014-00396 but remained unchanged from the depreciation rates that were last approved in Case No. 91-066. The average service life of utility account 364 (Poles, Towers, & Fixtures) approved in Case No. 91-066 was 28 years.

b. The average service life of Distribution Poles (utility account 36400) was approved in the depreciation study filed with Case No. 91-066.

Witness: Jason A. Cash

Kentucky Power Company
KPSC Case No. 2022-00105
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Dated May 19, 2022

DATA REQUEST

KPSC 2_09 Refer to Kentucky Power's response to Staff's First Request, Item 12.

- a. State how much time typically passes between the time Kentucky Power identifies a defect requiring replacement and the pole actually being replaced.
- b. Other than identifying specific defective poles through inspections, state whether Kentucky Power has a policy or practice of replacing poles in a circuit on a periodic basis or as they reach the end of their useful lives and, if so, describe that policy or practice, including how and when (e.g. how far in advance) such replacements such replacements are identified or included in Kentucky Power's projected capital spending budget.

RESPONSE

- a. Currently, Kentucky Power replaces defective poles within 5 to 8 months of being reported. This is based on average data for the years, 2019 through 2021. Poles identified as a hazard may be immediately replaced based on condition.
- b. Kentucky Power does not have a policy or practice of replacing poles based on vintage age or average useful life. Poles may be replaced as part of capital improvement projects based on the condition of the pole or to meet current design standards when modifications are performed to meet core electric service needs.

Witness: Pamela F. Ellis

Kentucky Power Company
KPSC Case No. 2022-00105
Commission Staff's Second Set of Data Requests
Dated May 19, 2022

DATA REQUEST

KPSC 2_10 Refer to Kentucky Power's proposed tariff, P.S.C. KY No. 12, Original Sheet No. 16-8, Unauthorized Attachments. Explain whether an unauthorized attachment above the communications space on a distribution pole would include an attachment that is authorized within the communications space but which was placed outside the communications.

RESPONSE

If an attachment is authorized within the communications space but installed in a way that creates a safety violation (including but not limited to installation outside the communications space), such attachment would be treated as a safety violation rather than an unauthorized attachment subject to back rent and penalties.

Witness: Pamela F. Ellis

Kentucky Power Company
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Dated May 19, 2022

DATA REQUEST

KPSC 2_11 Describe Kentucky Power's recent efforts, if any, to reduce the number of above ground transmission and distribution lines, and identify the number of poles that have been eliminated in Kentucky Power's system in each of the last ten years because the electric lines previously attached to those poles were placed underground.

RESPONSE

Kentucky Power does not currently have a program pursuant to which designated overhead lines are converted to underground. Kentucky Power's undergrounding efforts have been at the request of residential, commercial and municipal customers, wherein Kentucky Power provides underground primary, secondary and services on an as-requested basis with the customer paying a Contribution in Aid of Construction for those facilities. Kentucky Power does not maintain records on the number of poles that have been eliminated in conjunction with these types of undergrounding projects. Though it falls outside of the ten (10) year timeline set forth in this data request, Kentucky Power did undertake a significant undergrounding project approximately 15 years ago for the City of Pikeville. At the city's request, Kentucky Power retired a significant number of distribution poles in the city's downtown area and replaced the overhead distribution facilities with underground distribution facilities. Though Kentucky Power has not received any requests of a similar scope by within the past ten (10) years, Kentucky Power anticipates that it may receive comparable requests in the future.

Witness: Pamela F. Ellis

Kentucky Power Company
KPSC Case No. 2022-00105
Commission Staff's Second Set of Data Requests
Dated May 19, 2022

DATA REQUEST

KPSC 2_12 Provide any current joint use agreements.

RESPONSE

Please see KPCO_R_KPSC_2_12_PublicAttachment1.

Witness: Pamela F. Ellis

CONFIDENTIAL INFORMATION

****** PLEASE NOTE ******

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POLE JOINT USE AGREEMENT

BETWEEN

~~SOUTH CENTRAL BELL~~ TELEPHONE COMPANY
BELL SOUTH

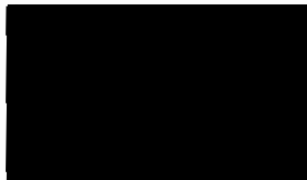
AND

KENTUCKY POWER COMPANY



PLEASE NOTE

The terms and conditions regarding engineering and field situations in this agreement also apply to the following telephone companies.



POLE JOINT USE AGREEMENT
BETWEEN
SOUTH CENTRAL BELL TELEPHONE COMPANY
AND
KENTUCKY POWER COMPANY

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AGREEMENT
COVERING THE JOINT USE OF POLES

THIS AGREEMENT, effective January 1, 1986, is made by and between Kentucky Power Company, a corporation of the State of Kentucky (hereinafter called the "Electric Company") and the South Central Bell Telephone Company, a corporation of the State of Georgia (hereinafter called the "Telephone Company").

WITNESSETH

WHEREAS, the Electric Company and the Telephone Company desire to promote the joint use of their respective poles when and where such joint use shall be mutually advantageous.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1

SCOPE OF AGREEMENT

1.01 This agreement shall be in effect in such portions of the State of Kentucky in which both parties to this Agreement now or hereafter operate and shall cover all poles of each of the parties now existing or hereafter erected or acquired in the above territory when said poles are brought hereunder in accordance with this Agreement.

1.02 Each party reserves the right to exclude from joint use:

- a. Poles which in Owner's judgment are necessary for its own sole use; or
- b. Poles which carry, or are intended by Owner to carry, circuits of such a character that in Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE 2

EXPLANATION OF CERTAIN TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this article.

2.01 JOINT USE is the simultaneous use of any pole for the attachment of both parties.

2.02 NORMAL SPACE ALLOCATION on a joint pole is the following described basic space for the exclusive use of each party, respectively, with the associated mutual vertical clearance space for maintenance of separations, in accordance with the specifications referred to in Article 3.

- a. For the Electric Company, the uppermost [REDACTED] feet, measured from top of pole.
- b. For the Telephone Company, the lowest [REDACTED] feet measured upward from a point of attachment on the pole which will obtain basic

clearances to ground as required by the specifications referred to in Article 3 and permit practical horizontal grading of facilities.

- c. Mutual vertical clearance space on the pole between each company's attachments shall never be less than that which will obtain minimum separations as required by the specifications referred to in Article 3.

These specifications referred to in Article 3 do not preclude certain attachments of one party being located in and extending vertically through space reserved for the other party.

2.03 OWNER - The party owning the pole.

2.04 LICENSEE - The party having the right under this Agreement to make attachments to Owner's poles.

2.05 APPLICANT - The party making application to the Owner for permission to become a Licensee on Owner's poles.

2.06 SUBTRANSMISSION - Voltage below 138KV not otherwise designated as distribution.

2.07 COST IN PLACE - ADDITIONAL OR REPLACEMENT POLE - Cost In Place shall include the Total Cost to Owner for setting a bare pole. When replacing a pole and for additional poles, due solely to the Licensee's requirements, Cost In Place shall include the Total Cost to Owner for setting a pole including the cost of transferring facilities and removal of old pole with credit for any salvageable material.

2.08 TOTAL COST - Total cost shall include all material, labor and overheads.

2.09 EMBEDDED POLE COST - The average original installed cost of a bare pole based on the original cost of poles 35 feet or higher including all sizes and vintage years; in the case of the Electric Company, distribution poles plus any subtransmission and transmission poles actually occupied shall be included.

2.10 THIRD PARTY - Any additional licensees other than the Electric Company and Telephone Company.

2.11 BARE POLE - A pole exclusive of any type of attachments.

2.12 PROPOSALS - A standardized form used by the parties to communicate either their needs, requirements or intentions regarding attachments.

2.13 LIMITED OPERATING CHARGE - A percentage to be determined annually which will include cost of capital, operation and maintenance, administrative and general, depreciation and taxes, as described in Article 12.04.

2.14 ATTACHMENT - Any device, with the exception of buried cable closures that do not have any aerial drop wires terminated in them and ground wire attachments from buried cables when the cable is not attached to the pole, now or hereafter fastened to a joint use pole by the parties hereto.

2.15 ELECTRIC COMPANY - Includes Kentucky Power Company and its subsidiary and affiliated companies, to the extent that such companies are not covered under separate agreements with the South Central Bell Telephone Company.

2.16 TELEPHONE COMPANY - Includes South Central Bell Telephone Company and its parent, subsidiary and affiliated companies to

the extent that such companies are not covered under separate agreements with Kentucky Power Company.

2.17 FIELD SUPERVISOR - The Owner's representative responsible for scheduling construction work.

ARTICLE 3
SPECIFICATIONS

3.01 The joint use of poles covered by this Agreement shall at all times be in conformity with good industry practice and with the terms and provisions of The National Electrical Safety Code, and the rules of The Public Service Commission of Kentucky and any other applicable binding orders, statutes, ordinances, rules and regulations of any other governmental body.

3.02 If either party places or maintains its facilities not in conformance with Article 3.01, then the other party may give written notice to the nonconforming party to bring its facilities into compliance with this Agreement subject to the limitations contained in Article 3.04. The nonconforming party must bring its facilities into compliance within ninety (90) days of notification.

3.03 Wood poles shall comply with American Standards Association specifications and have a preservative treatment, full length, in accordance with good modern practice at the time of installation.

3.04 It is the intent of this Agreement, that poles having attachments prior to this Agreement, providing that their installation conformed to the specifications referred to in Article 3 herein at the time original attachment was made, will not be replaced or attachments rearranged solely to meet the requirements of 2.02 a.,

and 2.02 b., under NORMAL SPACE ALLOCATION or the current specifications referred to in Article 3.01.

The foregoing does not prohibit the replacement of a pole if Licensee compensates Owner in accordance with Article 8.01.

ARTICLE 4

ESTABLISHING JOINT USE OF EXISTING POLES

4.01 Whenever either party desires to reserve space on any pole owned by the other party, either as initial space or additional space on said pole, it shall submit a proposal therefor, specifying the location of the pole in question, the amount of space desired and the number and character of circuits to be placed thereon. Within ten (10) days after the receipt of such application, Owner shall notify the Applicant in writing whether or not said pole is among those excluded from joint use under the provisions of Article 1.02. If for any reason the Owner cannot respond in writing within ten (10) days, an oral request for an extension shall be made. Failure of response within such ten (10) day period shall create a presumption that permission has been granted and Applicant may proceed accordingly. Upon receipt of Owner's notice that the said pole is not among those excluded from joint use and after the completion by Owner of any transferring or rearranging which in Owner's judgment is then required with respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as Licensee hereunder to use said space for attachments and circuits of the character specified in said notice in accordance with the terms of the notice and of this Agreement.

4.02 Whenever any jointly used pole or any existing pole about to be so used under the provisions of this Agreement is insufficient in height or strength for the existing attachments and for the proposed immediate additional attachments thereon, Owner shall replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require, and bill Licensee in accordance with Article 8.

Whenever Licensee requests any existing jointly used pole be replaced and Owner cannot complete replacement and/or required rearrangements within the time as required by the Licensee, Licensee may replace the subject pole and shall be the Owner of the new pole.

4.03 Except as herein otherwise expressly provided, on jointly used poles each party shall, at its own expense, place, maintain, transfer, rearrange and remove its own attachments, including any tree trimming or cutting, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such a manner as not to interfere with the service of the other party.

4.04 Both parties agree that in emergency situations or in situations involving the placing of a service drop on an existing pole to complete a service order, that the requirements for notification in accordance with Section 4.01 of this article may not be practical. In such situations the Licensee shall provide written notice of the attachments made within ten (10) days of the date of attachment.

ARTICLE 5

ESTABLISHING JOINT USE OF ADDITIONAL POLES

5.01 Whenever either party hereto requires new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or in connection with the reconstruction of an existing pole line, and such pole facilities are not to be excluded from joint use under the provisions of Article 1, it shall promptly notify the other party by submitting a proposal (oral notice subsequently confirmed in writing may be given in cases of emergency) stating the location and size of the new poles and the character of circuits it proposes to use thereon. Within ten (10) days after the receipt of such notice, the other party shall reply in writing, stating whether it does, or does not, desire space on the said poles and, if it does, the character of the circuits it desires to use and the amount of space it wishes to reserve. Failure of response within ten (10) days shall create a presumption that no joint use is desired and the proposing party may proceed accordingly. Should the party to whom the proposal was made express interest in joint use after the ten (10) day period referred to above, any and all additional expenses incurred by the party having given notice in order to then make joint use available, including, but not limited to, labor costs and other expenses associated with rearrangement of facilities, shall be borne by the party to whom notice was originally given.

5.02 In any case where the parties hereto shall conclude arrangements for the joint use of any new pole to be erected, and the party proposing to construct the new pole facilities already owns

more than its Ownership Objectives of Joint poles as stated in Article 12.03 d., the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning less than its Ownership Objective of Joint poles so as to work toward such a division of ownership of the Joint poles that both parties shall equitably share in the benefits of joint use.

5.03 Each party shall, at its own expense, place and maintain its own attachments on the new joint poles, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of the other party.

ARTICLE 6

RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

6.01 Owner shall not be required to secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of attachments of Licensee, and Owner does not grant, guarantee nor convey any easements, rights-of-way or franchises for the construction and maintenance of said attachments, and if objection is made thereto and Licensee is unable to satisfactorily adjust the matter within a reasonable time, Owner may at any time, upon notice in writing to Licensee, require Licensee to remove its attachments from the poles involved, and Licensee shall, within sixty (60) days after receipt of said notice, remove its attachments from

such poles at its sole expense.

ARTICLE 7

MAINTENANCE OF POLES AND ATTACHMENTS

7.01 Owner shall maintain its jointly used poles in a safe and serviceable condition in accordance with Owner's standards and in accordance with the specifications referred to in Article 3, and shall replace, reinforce or repair poles as they become defective.

7.02 When replacing a jointly used pole carrying terminals of aerial cable, underground connections, or other special equipment, the new pole shall be set in a manner which will minimize the transfer cost of both parties. Should special conditions warrant setting the new pole in the old pole hole, written notice on the standard Proposal form shall be provided to the Owner prior to construction.

7.03 Whenever it is necessary to replace or relocate a jointly used pole, Owner shall, before making the change, give notice thereof in a proposal (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) to Licensee, specifying in such notice the time of such proposed replacement or relocation. Licensee shall transfer its attachments to the new or relocated pole at the time specified by Owner's Field Supervisor. If Licensee does not do so, Licensee shall remove and dispose of the old pole in accordance with Owner's instructions. If Licensee fails to transfer its attachments and remove the pole within five (5) working days of Owner's completion of work, Licensee shall reimburse Owner for all additional expenses incurred including costs of pole removal, because of Licensee's noncompliance.

7.04 Each party shall maintain all of its attachments on jointly used poles in accordance with the specifications referred to in Article 3 and shall keep them clear of trees, in safe condition and in thorough repair in accordance with each party's standards.

7.05 The Telephone Company, when operating either as Owner or Licensee, without any charge may install electrical bonding from communication cables or equipment to Electric Company's pole grounds on jointly used poles in accordance with Article 3.

7.06 The Licensee may replace Owner's pole during emergency conditions when Owner is not able to replace such pole in a timely manner. In this event, the Owner shall pay the Licensee costs in accordance with Article 8.03.

ARTICLE 8

DIVISION OF COSTS

8.01 The Cost In Place of new jointly used poles under this Agreement, either in new pole lines, or in extensions of existing pole lines, or to replace existing poles, shall be borne by the parties as follows:

- a. The Cost In Place of a pole sufficient to provide the NORMAL SPACE ALLOCATION for Owner's requirements shall be borne by Owner except as provided in b., c., and d., herein.
- b. Licensee shall pay to Owner a sum equal to the difference between the Cost In Place of a new pole adequate to accommodate Licensee's attachments and the current Cost In Place of a pole considered by

Owner to be adequate to accommodate the attachments of Owner and its other licensees under the following conditions:

(1) Where the extra height or strength of an additional pole proposed for joint use is necessary solely to adequately accommodate the attachments of Licensee.

(2) Where the new pole is installed to replace an existing damaged or deteriorated jointly used pole hereunder and the extra height or strength of the new pole is provided to adequately accommodate the attachments of Licensee.

c. Licensee shall pay Owner a sum equal to the Cost In Place of a new pole, where such new pole is erected hereunder to replace an existing pole solely to adequately provide for the attachments Licensee proposes to place on the new pole.

d. In the case of a pole taller or stronger than a pole suitable for joint use, the extra height or strength of which is due to the requirements of public authorities (other than requirements with regard to keeping the wires of either party clear of trees), Licensee shall pay to Owner a sum equal to one-half the difference between the Cost In Place of such pole and the Cost In Place of a pole considered by Owner to be adequate to accommodate

the attachments of Owner and its other licensees, unless the Owner is reimbursed by the public authority requesting replacement.

This wording is different

- e. The cost in excess height or strength provided for the attachments of third parties, except as provided in the paragraph immediately preceding, shall be assumed by the Owner.
- f. Any such new pole shall be the property of Owner regardless of any payments by Licensee toward the cost of such new pole and Licensee shall acquire no right, title or interest in and to such pole.
- g. Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own expense, except as otherwise expressly provided elsewhere in this Agreement.

8.02 If Owner Cannot Install a New Pole or Replace a Pole for Joint Use as required in Article 4.02 without the assistance of the Licensee, then Owner shall reimburse Licensee the Total Cost Incurred in rendering the required assistance.

8.03 Where Licensee Must Replace Owner's Pole Under Emergency Conditions, Owner shall pay Licensee the total labor cost of placing the new pole plus the material cost of the pole placed, and if the Licensee removes the old pole, the cost of removing the old pole. Title to the pole will remain with the Owner. Licensee will transfer its own facilities at no cost to Owner.

8.04 Cost of Pole Replacement and Transfer of Attachments. Except as otherwise herein expressly provided, in situations

requiring the replacement of a joint pole in kind, i.e., the same height and class, the cost of replacement of the pole shall be borne by the Owner, and the cost of transferring shall be borne by each party for its own facilities.

8.05 Cost of Rearrangements on Existing Poles. Whenever joint use is requested by the Licensee on an existing pole, and space can be provided by rearrangement of the Owner's attachments, the Total Cost of such rearrangements shall be borne by the Licensee.

8.06 Sharing of Space. Each party shall, upon request of the other party, share with such other party any assigned or reserved space not presently being used, so long as the requirement of Article 3 are satisfied. Upon written notice from the sharing party that any such shared space is required for such party's operations, the other party shall within sixty (60) days relocate or rearrange its facilities at its expense. If replacement of any poles is necessary, the cost thereof shall be allocated as otherwise provided in this Article 8.

8.07 Anchors. All anchors and guys with the exception of jointly used anchors as provided in Article 8.08 below, shall be placed by and at the expense of the party whose attachments make such work necessary. Such anchors and guys shall remain the sole property of the party placing them and shall not be considered a part of the supporting structure.

8.08 Jointly Used Anchors. Normally each company will place separate anchors; however, when it is advantageous to both companies, an anchor rod suitable for joint attachment shall be placed by the Owner of the pole with the Total Cost of the anchor to be shared

equally by the parties. If one anchor is inadequate for the combined requirements of both parties, then the Licensee shall place the additional anchorage required.

ARTICLE 9

PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

9.01 When either party desires to change the character of its circuits on jointly used poles, such party shall give (90) days' written notice to the other party of such contemplated change.

The parties shall then cooperate in determining, (1) the conditions under which joint use may be continued on a mutually satisfactory basis, or (2) if in the judgment of both parties continued joint use is not feasible, the most practical and economical method of providing for separate lines.

In the latter event, the party whose circuits are to be removed from the jointly used poles shall promptly carry out the necessary work.

The cost of establishing such circuits in the new location shall be borne by each party under the provisions of this paragraph. In the event one party owns all the poles, the Licensee shall relocate its facilities at no expense to the Owner. If the parties agree that it is more practical for the Licensee to remain on the existing centerline and Owner's facilities should be relocated, Licensee shall reimburse Owner for the cost of relocation based upon the reestablishment of similar facilities. In the event neither party is the Owner of all the poles involved, the cost of reestablishing equivalent facilities in a new location shall be divided between the parties in proportion to the percent ownership of the existing poles.

Where the ownership is divided the party owning a majority of the poles shall have the right to remain on an existing centerline unless it is mutually agreed otherwise. The cost of relocation shall be divided according to ownership with the party who retains the centerline paying a portion of the relocating party's cost equal to the percent of poles involved which are owned by the relocating party. For example, if one party owns 60% of the poles involved and the second party owns 40%, the second party would relocate and receive payment equal to 40% of its cost from the first party. Where the ownership of the poles involved is equal, the parties shall decide which facilities are more practical to relocate and the relocating party will be reimbursed 50% of its relocations costs. If the party owning less than 50% of the poles involved prefers to remain on the existing centerline and the other party is agreeable, the entire cost of the relocating party's expense shall be paid by the party retaining its facilities on the existing centerline.

9.02 Attachments may be permitted on subtransmission and transmission poles of the Electric Company with the understanding that should the characteristics of the Electric Company facilities (circuits) change resulting in either the Electric Company or the Telephone Company deciding joint use is no longer feasible, the Telephone Company shall remove its facilities with no cost or obligation to the Electric Company.

ARTICLE 10

TERMINATION OF JOINT USE

10.01 If Owner desires at any time to abandon any jointly used pole, it shall give Licensee notice in writing to that effect at

least sixty (60) days prior to the date on which it intends to remove its attachments from such pole. If, at the expiration of said period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, and Owner shall transfer title to said pole and Licensee shall accept title to said pole in the manner provided for under Article 11. Licensee shall indemnify, protect and hold harmless the Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred after the expiration of the above-mentioned sixty (60) day period, and not arising out of anything theretofore occurring, because, of or arising out of, the presence or condition of such pole or of any attachment thereon; and shall pay Owner a sum equal to the Seller's Embedded Pole Cost based on height and type of such abandoned pole.

10.02 Licensee may at any time abandon the use of a jointly used pole by giving due notice thereof in writing to Owner and by removing therefrom any and all attachments it may have thereon.

ARTICLE 11

EQUALIZATION OF OWNERSHIP

11.01 The philosophy of this Agreement is that an Ownership Objective should be maintained between the parties, and that it is appropriate that such objective equate to the division of Usable Space as reflected in Article 12.03 d: that is 55.625% by the Electric Company and 44.375% by the Telephone Company. It is recognized, however, that for many reasons the ownership ratios may become

different than the Ownership Objective. Therefore, In order to correct the balance of ownership, both parties agree on the following plan:

- a. If at the end of any Rental Year either party's percentage of ownership minus that party's Ownership Objective is greater than five percent (5%), the party exceeding their Ownership Objective may demand that the other party purchase poles to correct the balance of ownership.
- b. All poles sold under the provisions of this Article 11 shall be sold at the Seller's Embedded Pole Cost at the time of sale for the height and type pole involved. Each party shall obtain, at its expense, the approval of any governmental agency having jurisdiction over such party's part of the transaction.
- c. The maximum number of poles the party exceeding their Ownership Objective may demand the other party to purchase in any one Rental Year shall not exceed 5% of the total number of joint use poles.

11.02 When ownership of poles is to be transferred, mutually approved Proposal in accordance with the Owner's standard selling policy shall be prepared to cover such transfer. Payments for such poles by the Licensee shall be made at the time of purchase.

11.03 A formal Bill of Sale will be required for the transfer of ownership of all poles. The transferring party shall also obtain any necessary mortgage releases if the poles to be transferred are

subject to any mortgages, and shall submit such releases to the other party.

ARTICLE 12

RENTALS

12.01 For purposes of this Agreement, a Rental Year shall be the period from January 1 to the succeeding December 31. Any space occupied or reserved by Licensee during any portion of any such Rental Year shall be deemed to have been so occupied or reserved during the entire year. [REDACTED]

[REDACTED]

12.02 Licensee shall pay rent annually to Owner for those poles on which space is occupied or reserved by Licensee and for which rent is payable, [REDACTED]

[REDACTED]

12.03 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

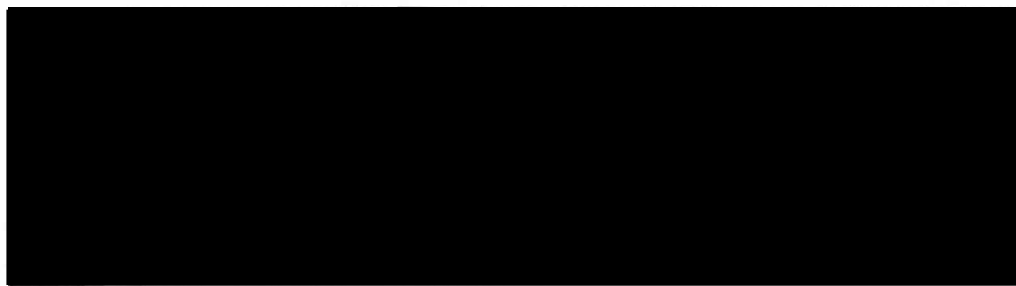
[REDACTED]

[REDACTED] Each party shall have thirty (30) days from receipt to except in writing to any part of such data. If no such exception is taken, the data shall be deemed accepted. If the parties are not able to resolve any exceptions by the next billing date, the proposed rate shall be charged and paid until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.

[REDACTED]

[REDACTED] Each such determination shall be deemed correct unless written exception is taken within thirty (30) days of receipt. If any such exception cannot be otherwise resolved, a joint inspection of the poles in dispute and records pertaining thereto shall be made. If the parties are not able to resolve any

such exceptions by the next billing date, the number originally proposed shall be used until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.



12.08 In order to make the transition between this Agreement, and any prior agreement, rentals for the period January 1, 1985 to December 31, 1985, shall be based on the number of poles, and the annual Rental Rate specified in the Joint-Use Agreement superseded by this Agreement.

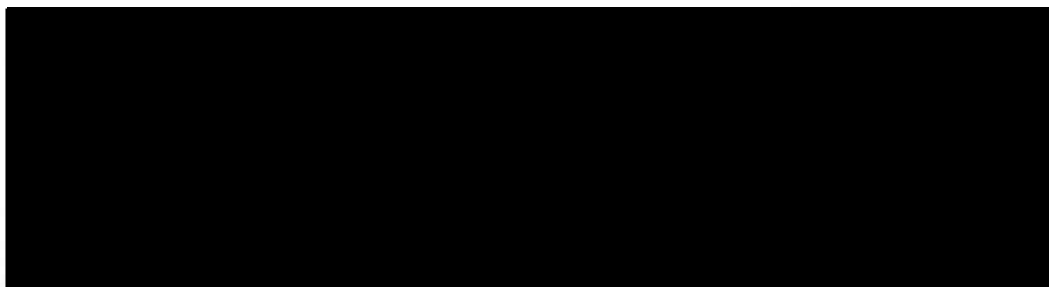
ARTICLE 13

UNAUTHORIZED USE: JOINT FIELD CHECKS

13.01 If unauthorized occupancy of poles is found, a Proposal shall be prepared to establish a record of this occupancy on the next annual billing. The party responsible for unauthorized occupancy shall owe the Owner the rental for the entire period dating back to the last joint field check including interest at the tax interest rates established by the Commissioner of Revenue of the Commonwealth of Kentucky (Reference KRS 131.183) compounded annually.

If the only attachment on a pole is unused hardware it shall not be considered a rental attachment; however, provisions will be made to have such hardware promptly removed. If not removed within

thirty (30) days after formal notification, the current annual rental will apply.



ARTICLE 14

LIABILITY AND DAMAGES

14.01 Whenever any liability is incurred by either or both of the parties hereto for damages for injury to persons (including death) or damage to property, arising out of the joint use of poles under this Agreement, which joint use is understood to include the wires and fixtures of the parties hereto, attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto, shall be as follows:

- a. Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications referred to in Article 3, and will indemnify, protect and hold harmless the other party in any such instance.
- b. Each party shall be liable for one-half (1/2) of all damages for such injuries to persons and for one-half (1/2) of all damages for such injuries to

property that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of either party.

- c. All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, that in any case under the provisions of paragraph b., of this Article and where the claimant desires to settle such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the amount which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.
- d. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall include costs, attorneys' fees, disbursements and other proper charges and expenditures.
- e. It is further understood and agreed between the

parties hereto that at all times during the term of this Agreement and particularly during the time of any construction, repair or new attachments to poles covered by this Agreement that the parties shall consider the electric wires of the Electric Company to be energized.

- f. It is further agreed between the parties hereto, that to the extent any of the provisions of this Article 14 should be determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Article shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated.

ARTICLE 15

DEFAULTS

15.01 If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the rights of the party in default insofar as concerns the granting of further joint use. If such default shall continue for a period of sixty (60) days after such suspension, the party not in default may forthwith terminate this Agreement as far as it concerns the further granting of joint use, and shall be under no further obligation to permit additions to or changes in attachments

of the defaulting party upon poles in joint use on the date of such termination.

15.02 If either party shall make default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days after presentation of bills therefor shall, at the election of the other party, constitute a default under Section 15.01 of this Article.

ARTICLE 16

ATTACHMENTS OF OTHER PARTIES

16.01 Nothing herein contained shall be construed as prohibiting the granting by Owner to others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement. The attachments of any such outside party shall be treated as attachments belonging to the Owner, who shall have the entire right to any payments from such party.

16.02 Attachments of other parties shall at all times be in conformity with Article 3.

16.03 If space is shared by the Owner or Licensee with a third party in order to minimize such third party's costs, the sharing party retains its right to use the shared portion of its space. If Owner or Licensee thereafter requires the full use of its space, it is the duty of the Owner to provide that all costs of making that space available shall be borne by the third party.

ARTICLE 17

WAIVER OF TERMS OR CONDITIONS

17.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

ARTICLE 18

PAYMENT OF TAXES

18.01 Each party shall pay all taxes and assessments levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner.

ARTICLE 19

BILLS AND PAYMENT FOR WORK

19.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within sixty (60) days after the completion of such work a statement of the costs in accordance with the provisions of this Agreement and such other party shall within thirty (30) days after such statement is presented, pay to the party doing the work such other party's portion of the cost of said work.

ARTICLE 20

EXISTING AGREEMENTS

12.01 All existing Agreements, written or oral, between the parties hereto for the joint use of poles within the territory covered by this Agreement are by mutual consent hereby terminated, and poles covered by such agreements are brought under this Agreement as of the effective date thereof, but such termination shall not extinguish any obligation arising prior to the effective date of this Agreement.

ARTICLE 21

TERM OF AGREEMENT

21.01 Subject to the provisions of Article 15 Defaults, herein, this Agreement may be terminated by either party after the first day of January, 1991 upon one (1) year's notice in writing to the other party. If not so terminated, it shall continue in force until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid. Despite any termination under this Article, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination until a new Agreement is entered into by the parties. Following such termination until a new Agreement is entered into between the parties, neither party shall be under an obligation to permit additions to or changes in attachments of the other on poles in joint use on the date of such termination. This Agreement shall not be modified except in writing executed by a duly authorized representative of both parties.

ARTICLE 22

OPERATING ROUTINE

22.01 An Operating Routine may be jointly prepared by the parties hereto, and shall be approved respectively by the Operations Manager of the Telephone Company and by the T&D Manager for the Electric Company. This routine shall be based on this Joint-Use Agreement and shall give the detailed methods and procedure which will be followed in establishing, maintaining and discontinuing the joint use of poles. In case of any ambiguity or conflict between the provisions of this Agreement, and those of the "Operating Routine" the provisions of this Agreement shall be controlling. This Operating Routine may be changed at any time upon the approval of the Operations Manager of the Telephone Company and the T&D Manager of the Electric Company, provided such changes do not conflict with the terms of this Joint Use Agreement.

Attest:

Carol D. Abraham

SOUTH CENTRAL BELL TELEPHONE COMPANY

By *George E. Burton*
GENERAL MANAGER - DISTRIBUTION

Attest:

E. A. Bergmann
Assistant Secretary

KENTUCKY POWER COMPANY
By *James H. [Signature]*
Vice President



CONFIDENTIAL INFORMATION

**** PLEASE NOTE ****

This document, including any and all attachments, may contain confidential, private, and/or privileged information, and is intended for internal use by AEP employees only.

Any unauthorized review, disclosure, distribution or use is prohibited.

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POLE JOINT USE AGREEMENT

BETWEEN

* HAROLD TELEPHONE COMPANY

NOW COALFIELDS TELEPHONE

AND

KENTUCKY POWER COMPANY

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AGREEMENT
COVERING THE JOINT USE OF POLES

THIS AGREEMENT, effective January 1, 1990, is made by and between KENTUCKY POWER COMPANY, a corporation of the State of Kentucky (hereinafter called the "Electric Company") and the HAROLD TELEPHONE COMPANY, a corporation of the State of Kentucky (hereinafter called the "Telephone Company").

WITNESSETH

WHEREAS, the Electric Company and the Telephone Company desire to promote the joint use of their respective poles when and where such joint use shall be mutually advantageous.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1

SCOPE OF AGREEMENT

1.01 This agreement shall be in effect in such portions of the State of Kentucky in which both parties to this Agreement now or hereafter operate and shall cover all poles of each of the parties now existing or hereafter erected or acquired in the above territory when said poles are brought hereunder in accordance with this Agreement.

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1.02 Each party reserves the right to exclude from joint use:

- a. Poles which in Owner's judgment are necessary for its own sole use; or
- b. Poles which carry, or are intended by Owner to carry, circuits of such a character that in Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE 2

EXPLANATION OF CERTAIN TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this article.

2.01 JOINT USE is the simultaneous use of any pole for the attachment of both parties.

2.02 NORMAL SPACE ALLOCATION on a joint pole is the following described basic space for the exclusive use of each party, respectively, with the associated mutual vertical clearance space for maintenance of separations, in accordance with the specifications referred to in Article 3.

- a. For the Electric Company, the uppermost [REDACTED] measured from top of pole.
- b. For the Telephone Company, the lowest [REDACTED] measured upward from a point of attachment on the pole which will obtain basic clearances to ground as required by the specifications referred to in Article 3 and permit practical

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horizontal grading of facilities.

- c. Mutual vertical clearance space on the pole between each company's attachments shall never be less than that which will obtain minimum separations as required by the specifications referred to in Article 3.

These specifications referred to in Article 3 do not preclude certain attachments of one party being located in and extending vertically through space reserved for the other party.

2.03 OWNER - The party owning the pole.

2.04 LICENSEE - The party having the right under this Agreement to make attachments to Owner's poles.

2.05 APPLICANT - The party making application to the Owner for permission to become a Licensee on Owner's poles.

2.06 SUBTRANSMISSION - Voltage below 138KV not otherwise designated as distribution.

2.07 COST IN PLACE - ADDITIONAL OR REPLACEMENT POLE - Cost In Place shall include the Total Cost to Owner for setting a bare pole. When replacing a pole and for additional poles, due solely to the Licensee's requirements, Cost In Place shall include the Total Cost to Owner for setting a pole including the cost of transferring facilities and removal of old pole with credit for any salvageable material.

2.08 TOTAL COST - Total Cost shall include all material, labor and overheads.

2.09 EMBEDDED POLE COST - The average original installed cost of a bare pole.

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2.10 THIRD PARTY - Any additional licensees other than the Electric Company and Telephone Company.

2.11 BARE POLE - A pole exclusive of any type of attachments.

2.12 PROPOSALS - A standardized form used by the parties to communicate either their needs, requirements or intentions regarding attachments.

2.13 ATTACHMENT - Any device, with the exception of buried cable closures that do not have any aerial drop wires terminated in them and ground wire attachments from buried cables when the cable is not attached to the pole, now or hereafter fastened to a joint use pole by the parties hereto.

2.14 ELECTRIC COMPANY - Includes Kentucky Power Company and its subsidiary and affiliated companies, to the extent that such companies are not covered under separate agreements with the Harold Telephone Company.

2.15 TELEPHONE COMPANY - Includes Harold Telephone Company, and its parent, subsidiary and affiliated companies to the extent that such companies are not covered under separate agreements with Kentucky Power Company.

2.16 FIELD SUPERVISOR - The Owner's representative responsible for scheduling construction work.

ARTICLE 3

SPECIFICATIONS

3.01 The joint use of poles covered by this Agreement shall at all times be in conformity with good industry practice and with the terms and provisions of The National Electrical Safety Code, and

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the rules of The Public Service Commission of Kentucky and any other applicable binding orders, statutes, ordinances, rules and regulations of any other governmental body.

3.02 If either party places or maintains its facilities not in conformance with Article 3.01, then the other party may give written notice to the nonconforming party to bring its facilities into compliance with this Agreement subject to the limitations contained in Article 3.04. The nonconforming party must bring its facilities into compliance within ninety (90) days of notification.

3.03 Wood poles shall comply with American Standards Association specifications and have a preservative treatment, full length, in accordance with good modern practice at the time of installation.

3.04 It is the intent of this Agreement, that poles having attachments prior to this Agreement, providing that their installation conformed to the specifications referred to in Article 3 herein at the time original attachment was made, will not be replaced or attachments rearranged solely to meet the requirements of 2.02 a., and 2.02 b., under NORMAL SPACE ALLOCATION or the current specifications referred to in Article 3.01.

The foregoing does not prohibit the replacement of a pole if Licensee compensates Owner in accordance with Article 8.01.

ARTICLE 4

ESTABLISHING JOINT USE OF EXISTING POLES

4.01 Whenever either party desires to reserve space on any pole owned by the other party, either as initial space or additional space on said pole, it shall submit a proposal therefor, specifying

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the location of the pole in question, the amount of space desired and the number and character of attachments to be placed thereon. Within ten (10) days after the receipt of such application, Owner shall notify the Applicant in writing whether or not said pole is among those excluded from joint use under the provisions of Article 1.02. If for any reason the Owner cannot respond in writing within ten (10) days, an oral request for an extension shall be made. Failure of response within such ten (10) day period shall create a presumption that permission has been granted and Applicant may proceed accordingly. Upon receipt of Owner's notice that the said pole is not among those excluded from joint use and after the completion by Owner of any transferring or rearranging which in Owner's judgment is then required with respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as licensee hereunder to use said space for attachments and circuits of the character specified in said notice in accordance with the terms of the notice and of this Agreement.

4.02 Whenever any jointly used pole or any existing pole about to be so used under the provisions of this Agreement is insufficient in height or strength for the existing attachments and for the proposed immediate additional attachments thereon, Owner shall replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require, and bill licensee in accordance with Article 8.

Whenever licensee requests any existing jointly used pole be replaced and Owner cannot complete replacement and/or required

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rearrangements within the time as required by the Licensee, Licensee may replace the subject pole and shall be the Owner of the new pole.

4.03 Except as herein otherwise expressly provided, on jointly used poles each party shall, at its own expense, place, maintain, transfer, rearrange and remove its own attachments, including any tree trimming or cutting, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such a manner as not to interfere with the service of the other party.

4.04 Both parties agree that in emergency situations or in situations involving the placing of a service drop on an existing pole to complete a service order, that the requirements for notification in accordance with Section 4.01 of this article may not be practical. In such situations the Licensee shall provide written notice of the attachments made within ten (10) days of the date of attachment.

ARTICLE 5

ESTABLISHING JOINT USE OF ADDITIONAL POLES

5.01 Whenever either party hereto requires new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or in connection with the reconstruction of an existing pole line, and such pole facilities are not to be excluded from joint use under the provisions of Article 1, it shall promptly notify the other party by submitting a proposal (oral notice subsequently confirmed in writing may be given in cases of emergency) stating the location and size of the new poles and the character of attachments it proposes to use thereon. Within

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ten (10) days after the receipt of such notice, the other party shall reply in writing, stating whether it does, or does not, desire space on the said poles and, if it does, the character of the circuits it desires to use and the amount of space it wishes to reserve. Failure of response within ten (10) days shall create a presumption that no joint use is desired and the proposing party may proceed accordingly. Should the party to whom the proposal was made express interest in joint use after the ten (10) day period referred to above, any and all additional expenses incurred by the party having given notice in order to then make joint use available, including, but not limited to, labor costs and other expenses associated with rearrangement of facilities, shall be borne by the party to whom notice was originally given.

5.02 In any case where the parties hereto shall conclude arrangements for the joint use of any new pole to be erected, and the party proposing to construct the new pole facilities already owns the large majority of joint poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning the lesser number of joint poles so as to work toward such a division of ownership of the joint poles that both parties shall equitably share in the benefits of joint use.

5.03 Each party shall, at its own expense, place and maintain its own attachments on the new joint poles, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of

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the other party.

ARTICLE 6

RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

6.01 Owner shall not be required to secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of attachments of Licensee, and Owner does not grant, guarantee nor convey any easements, rights-of-way or franchises for the construction and maintenance of said attachments, and if objection is made thereto and Licensee is unable to satisfactorily adjust the matter within a reasonable time, Owner may at any time, upon notice in writing to Licensee, require Licensee to remove its attachments from the poles involved, and Licensee shall, within sixty (60) days after receipt of said notice, remove its attachments from such poles at its sole expense.

ARTICLE 7

MAINTENANCE OF POLES AND ATTACHMENTS

7.01 Owner shall maintain its jointly used poles in a safe and serviceable condition in accordance with Owner's standards and in accordance with the specifications referred to in Article 3, and shall replace, reinforce or repair poles as they become defective.

7.02 When replacing a jointly used pole carrying terminals of aerial cable, underground connections, or other special equipment, the new pole shall be set in a manner which will minimize the transfer cost of both parties. Should special conditions warrant setting the new pole in the old pole hole, written notice on the standard

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Proposal form shall be provided to the Owner prior to construction.

7.03 Whenever it is necessary to replace or relocate a jointly used pole, Owner shall, before making the change, give notice thereof in a proposal (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) to Licensee, specifying in such notice the time of such proposed replacement or relocation. Licensee shall transfer its attachments to the new or relocated pole at the time specified by Owner's Field Supervisor. If Licensee does not do so, Licensee shall remove and dispose of the old pole in accordance with Owner's instructions. If Licensee fails to transfer its attachments and remove the pole within five (5) working days of Owner's completion of work, Licensee shall reimburse Owner for all additional expenses incurred including costs of pole removal, because of Licensee's noncompliance.

7.04 Each party shall maintain all of its attachments on jointly used poles in accordance with the specifications referred to in Article 3 and shall keep them clear of trees, in safe condition and in thorough repair in accordance with each party's standards.

7.05 The Telephone Company, when operating either as Owner or Licensee, without any charge may install electrical bonding from communication cables or equipment to Electric Company's pole grounds on jointly used poles in accordance with Article 3.

7.06 The Licensee may replace Owner's pole during emergency conditions when Owner is not able to replace such pole in a timely manner. In this event, the Owner shall pay the Licensee costs in accordance with Article 8.03.

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ARTICLE 8

DIVISION OF COSTS

8.01 The Cost In Place of new Jointly used poles under this Agreement, either in new pole lines, or in extensions of existing pole lines, or to replace existing poles, shall be borne by the parties as follows:

- a. The Cost In Place of a pole sufficient to provide the NORMAL SPACE ALLOCATION for Owner's requirements shall be borne by Owner except as provided in b., c., and d., herein.
- b. Licensee shall pay to Owner a sum equal to the difference between the Cost In Place of a new pole adequate to accommodate Licensee's attachments and the current Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees under the following conditions:
 - (1) Where the extra height or strength of an additional pole proposed for joint use is necessary solely to adequately accommodate the attachments of Licensee.
 - (2) Where the new pole is installed to replace an existing damaged or deteriorated jointly used pole hereunder and the extra height or strength of the new pole is provided to adequately accommodate the attachments of Licensee.

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- c. Licensee shall pay Owner a sum equal to the Cost In Place of a new pole, where such new pole is erected hereunder to replace an existing pole solely to adequately provide for the attachments Licensee proposes to place on the new pole.
- d. In the case of a pole taller or stronger than a pole suitable for joint use, the extra height or strength of which is due to the requirements of public authorities (other than requirements with regard to keeping the wires of either party clear of trees), Licensee shall pay to Owner a sum equal to one-half the difference between the Cost In Place of such pole and the Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees, unless the Owner is reimbursed by the public authority requesting replacement.
- e. The cost in excess height or strength provided for the attachments of third parties, except as provided in the paragraph immediately preceding, shall be assumed by the Owner.
- f. Any such new pole shall be the property of Owner regardless of any payments by Licensee toward the cost of such new pole and Licensee shall acquire no right, title or interest in and to such pole.
- g. Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own

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expense, except as otherwise expressly provided elsewhere in this Agreement.

8.02 If Owner Cannot Install a New Pole or Replace a Pole for Joint Use as required in Article 4.02 without the assistance of the Licensee, then Owner shall reimburse Licensee the Total Cost Incurred in rendering the required assistance.

8.03 Where Licensee Must Replace Owner's Pole Under Emergency Conditions, Owner shall pay Licensee the total labor cost of placing the new pole plus the material cost of the pole placed, and if the Licensee removes the old pole, the cost of removing the old pole. Title to the pole will remain with the Owner. Licensee will transfer its own facilities at no cost to Owner.

8.04 Cost of Pole Replacement and Transfer of attachments. Except as otherwise herein expressly provided, in situations requiring the replacement of a joint pole in kind, i.e., the same height and class, the cost of replacement of the pole shall be borne by the Owner, and the cost of transferring shall be borne by each party for its own facilities.

8.05 Cost of Rearrangements on Existing Poles. Whenever joint use is requested by the Licensee on an existing pole, and space can be provided by rearrangement of the Owner's attachments, the Total Cost of such rearrangements shall be borne by the Licensee.

8.06 Sharing of Space. Each party shall, upon request of the other party, share with such other party any assigned or reserved space not presently being used, so long as the requirement of Article 3 are satisfied. Upon written notice from the sharing party that any such shared space is required for such party's operations,

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the other party shall within sixty (60) days relocate or rearrange its facilities at its expense. If replacement of any poles is necessary, the cost thereof shall be allocated as otherwise provided in this Article 8.

8.07 Anchors. All anchors and guys with the exception of jointly used anchors as provided in Article 8.08 below, shall be placed by and at the expense of the party whose attachments make such work necessary. Such anchors and guys shall remain the sole property of the party placing them and shall not be considered a part of the supporting structure.

8.08 Jointly Used Anchors. Normally each company will place separate anchors; however, when it is advantageous to both companies, an anchor rod suitable for joint attachment shall be placed by the Owner of the pole with the Total Cost of the anchor to be shared equally by the parties. If one anchor is inadequate for the combined requirements of both parties, then the Licensee shall place the additional anchorage required.

ARTICLE 9

PROCEDURE WHEN CHARACTER OF ATTACHMENTS IS CHANGED

9.01 When either party desires to change the character of its attachments on jointly used poles, such party shall give (90) days' written notice to the other party of such contemplated change.

The parties shall then cooperate in determining, (1) the conditions under which joint use may be continued on a mutually satisfactory basis, or (2) if in the judgment of both parties continued joint use is not feasible, the most practical and economical method of providing for separate lines.

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In the latter event, the party whose attachments are to be removed from the jointly used poles shall promptly carry out the necessary work.

The cost of establishing such attachments in the new location shall be borne by each party under the provisions of this paragraph. In the event one party owns all the poles, the Licensee shall relocate its facilities at no expense to the Owner. If the parties agree that it is more practical for the Licensee to remain on the existing centerline and Owner's facilities should be relocated, Licensee shall reimburse Owner for the cost of relocation based upon the reestablishment of similar facilities. In the event neither party is the Owner of all the poles involved, the cost of reestablishing equivalent facilities in a new location shall be divided between the parties in proportion to the percent ownership of the existing poles. Where the ownership is divided the party owning a majority of the poles shall have the right to remain on an existing centerline unless it is mutually agreed otherwise. The cost of relocation shall be divided according to ownership with the party who retains the centerline paying a portion of the relocating party's cost equal to the percent of poles involved which are owned by the relocating party. For example, if one party owns 60% of the poles involved and the second party owns 40%, the second party would relocate and receive payment equal to 40% of its cost from the first party. Where the ownership of the poles involved is equal, the parties shall decide which facilities are more practical to relocate and the relocating party will be reimbursed 50% of its relocation costs. If the party owning less than 50% of the poles involved prefers to

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remain on the existing centerline and the other party is agreeable, the entire cost of the relocating party's expense shall be paid by the party retaining its facilities on the existing centerline.

9.02 Attachments may be permitted on subtransmission and transmission poles of the Electric Company with the understanding that should the characteristics of the Electric Company facilities (attachments) change resulting in either the Electric Company or the Telephone Company deciding joint use is no longer feasible, the Telephone Company shall remove its facilities with no cost or obligation to the Electric Company.

ARTICLE 10

TERMINATION OF JOINT USE

10.01 If Owner desires at any time to abandon any jointly used pole, it shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to remove its attachments from such pole. If, at the expiration of said period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, and Owner shall transfer title to said pole and Licensee shall accept title to said pole in the manner provided for under Article 11. Licensee shall indemnify, protect and hold harmless the Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred after the expiration of the above-mentioned sixty (60) day period, and not arising out of anything theretofore occurring, because, of or arising out of, the presence or condition of such pole or of any attachment thereon; and shall pay Owner in the manner provided for under

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Article 11.

10.02 Licensee may at any time abandon the use of a jointly used pole by giving due notice thereof in writing to Owner and by removing therefrom any and all attachments it may have thereon.

ARTICLE 11

SALE OF POLES

11.01 All poles sold shall be sold at the Seller's Embedded Pole Cost at the time of sale for the height and type pole involved. Each party shall obtain, at its expense, the approval of any governmental agency having jurisdiction over such party's part of the transaction, (including, with respect to Electric Company, the approval of the Securities and Exchange Commission pursuant to the requirements of the Public Utilities Holding Act of 1935).

11.02 When ownership of poles is to be transferred, mutually approved Proposal in accordance with the Owner's standard selling policy shall be prepared to cover such transfer. Payments for such poles by the Licensee shall be made at the time of purchase.

11.03 A formal Bill of Sale will be required for the transfer of ownership of all poles following receipt of all necessary approvals. The transferring party shall also obtain any necessary mortgage releases if the poles to be transferred are subject to any mortgages, and shall submit such releases to the other party.

ARTICLE 12

RENTALS

12.01 For purposes of this Agreement, a Rental Year shall be

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the period from January 1 to the succeeding December 31. Any space occupied or reserved by Licensee during any portion of any such Rental Year shall be deemed to have been so occupied or reserved during the entire year. [REDACTED]

[REDACTED]

12.02 Licensee shall pay rent annually to Owner for those poles on which space is occupied or reserved by Licensee and for which rent is payable, [REDACTED]

[REDACTED]

12.03 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] If any such exception cannot be otherwise resolved,

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a joint inspection of the poles in dispute and records pertaining thereto shall be made. If the parties are not able to resolve any such exceptions by the next billing date, the number originally proposed shall be used until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.

[REDACTED]

[REDACTED]

[REDACTED] All bills shall be paid within thirty (30) days of receipt.

12.06 In order to make the transition between this Agreement, and any prior agreement, rentals for the period January 1, 1989 to December 31, 1989, shall be based on the number of poles, and the annual Rental Rate specified in the Joint-Use Agreement superseded by this Agreement.

ARTICLE 13

UNAUTHORIZED USE: JOINT FIELD CHECKS

13.01 If unauthorized occupancy of poles is found, a Proposal shall be prepared to establish a record of this occupancy on the next annual billing. The party responsible for unauthorized occupancy shall owe the Owner the rental for the entire period dating back to the last joint field check including interest at the tax interest rates established by the Commissioner of Revenue of the Commonwealth of Kentucky (Reference KRS 131.183) compounded annually.

If the only attachment on a pole is unused hardware it shall

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not be considered a rental attachment; however, provisions will be made to have such hardware promptly removed. If not removed within thirty (30) days after formal notification, the current annual rental will apply.



ARTICLE 14

LIABILITY AND DAMAGES

14.01 Whenever any liability is incurred by either or both of the parties hereto for damages for injury to persons (including death) or damage to property, arising out of the joint use of poles under this Agreement, which joint use is understood to include the wires and fixtures of the parties hereto, attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto, shall be as follows:

- a. Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications referred to in Article 3, and will indemnify, protect and hold harmless the other party in any such instance.
- b. Each party shall be liable for one-half (1/2) of

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all damages for such injuries to persons and for one-half (1/2) of all damages for such injuries to property that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of either party.

- c. All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, that in any case under the provisions of paragraph b., of this Article and where the claimant desires to settle such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the amount which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.
- d. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall include costs, attorneys' fees, disbursements and other proper charges and

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expenditures.

- e. It is further understood and agreed between the parties hereto that at all times during the term of this Agreement and particularly during the time of any construction, repair or new attachments to poles covered by this Agreement that the parties shall consider the electric wires of the Electric Company to be energized.
- f. It is further agreed between the parties hereto, that to the extent any of the provisions of this Article 14 should be determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Article shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated.

ARTICLE 15

DEFAULTS

15.01 If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the rights of the party in default insofar as concerns the granting of further joint use. If such default shall continue for a period of sixty (60) days after such suspension, the party not in default may forthwith terminate this Agreement as far as

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It concerns the further granting of joint use, and shall be under no further obligation to permit additions to or changes in attachments of the defaulting party upon poles in joint use on the date of such termination.

15.02 If either party shall make default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days after presentation of bills therefor shall, at the election of the other party, constitute a default under Section 15.01 of this Article.

ARTICLE 16

ATTACHMENTS OF OTHER PARTIES

16.01 Nothing herein contained shall be construed as prohibiting the granting by Owner to others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement. The attachments of any such outside party shall be treated as attachments belonging to the Owner, who shall have the entire right to any payments from such party.

16.02 Attachments of other parties shall at all times be in conformity with Article 3.

16.03 If space is shared by the Owner or Licensee with a third party in order to minimize such third party's costs, the sharing party retains its right to use the shared portion of its

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space. If Owner or Licensee thereafter requires the full use of its space, it is the duty of the Owner to provide that all costs of making that space available shall be borne by the third party.

ARTICLE 17

WAIVER OF TERMS OR CONDITIONS

17.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

ARTICLE 18

PAYMENT OF TAXES

18.01 Each party shall pay all taxes and assessments levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner.

ARTICLE 19

BILLS AND PAYMENT FOR WORK

19.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within sixty (60) days after the completion of such work a statement of the costs in accordance with the provisions of this Agreement and such other party shall within thirty (30) days

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after such statement is presented, pay to the party doing the work such other party's portion of the cost of said work.

ARTICLE 20
EXISTING AGREEMENTS

12.01 All existing Agreements, written or oral, between the parties hereto for the joint use of poles within the territory covered by this Agreement are by mutual consent hereby terminated, and poles covered by such agreements are brought under this Agreement as of the effective date thereof, but such termination shall not extinguish any obligation arising prior to the effective date of this Agreement.

ARTICLE 21
TERM OF AGREEMENT

21.01 Subject to the provisions of Article 15 Defaults, herein, this Agreement may be terminated by either party after the first day of January 1996 upon one (1) year's notice in writing to the other party. If not so terminated, it shall continue in force until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid. Despite any termination under this Article, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination until a new Agreement is entered into by the parties. Following such termination until a new Agreement is entered into between the parties, neither party shall be under an obligation to permit additions to or changes in attachments

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of the other on poles in joint use on the date of such termination.
This Agreement shall not be modified except in writing executed by a
duly authorized representative of both parties.

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ARTICLE 22
OPERATING ROUTINE

22.01 An Operating Routine may be jointly prepared by the parties hereto, and shall be approved respectively by the Operations Manager of the Telephone Company and by the T&D Director for the Electric Company. This routine shall be based on this Joint-Use Agreement and shall give the detailed methods and procedure which will be followed in establishing, maintaining and discontinuing the joint use of poles. In case of any ambiguity or conflict between the provisions of this Agreement, and those of the "Operating Routine" the provisions of this Agreement shall be controlling. This Operating Routine may be changed at any time upon the approval of the Operations Manager of the Telephone Company and the T&D Manager of the Electric Company, provided such changes do not conflict with the terms of this Joint Use Agreement.

Attest:

A. J. Bergmann
Assistant Secretary

KENTUCKY POWER COMPANY

By

James B. ...
President

Attest:

HAROLD TELEPHONE COMPANY

Case *sheet 3-26-90*

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EXHIBIT A

[REDACTED]

[REDACTED]

[REDACTED]

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Kentucky Power Company and Harold Telephone Company hereby agree to the following modifications to the Pole Joint Use Agreement dated effective January 1, 1990.

- A. Inasmuch as both parties recognize the median age of the joint pole population is older in rural areas than in urban areas and the common operating areas of the parties are largely rural in nature, a betterment adjustment shall be included in the calculation of the Total Cost as specified in Paragraph 2.07 in cases where a pole or poles over 15 years old are being replaced solely for Licensee's benefit.

The following percentage reduction shall be made to the Total Cost in such cases:

<u>Number of Years Installed</u>	<u>Percentage Reduction</u>
16 - 20	25
21 - 25	50
26 - 30	75
over 30	100

The number of years installed shall be based upon the difference between the year the new pole was installed and the year the old pole was installed.

- B. The percentage reduction as specified in A. above shall be made to the sale price of poles sold under Article 10, Termination of Joint Use. In such case the number of years installed shall be based upon the difference between the year the Licensee is sent notice to abandon by Owner and the year the abandoned pole was installed.
- C. For any unauthorized occupancy found during the first field check made after January 1, 1990, no interest penalty shall be imposed. The provisions in the second sentence of Paragraph 13.01 shall only apply after the first field check. Any unauthorized occupancies found during the first field check will assume to have been made in proportion to the authorized occupancies made since the last field check in determining the back rental.

KENTUCKY POWER COMPANY

By 

Date 3/30/88

HAROLD TELEPHONE COMPANY

By 

Date 3-26-90

CONFIDENTIAL INFORMATION

****** PLEASE NOTE ******

This document, including any and all attachments, may contain confidential, private, and/or privileged information, and is intended for internal use by AEP employees only.

Any unauthorized review, disclosure, distribution or use is prohibited.

Signed 3/23/90

POLE JOINT USE AGREEMENT
BETWEEN
FOOTHILLS RURAL TELEPHONE COOPERATIVE CORPORATION
AND
KENTUCKY POWER COMPANY

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AGREEMENT
COVERING THE JOINT USE OF POLES

THIS AGREEMENT, effective January 1, 1990, is made by and between KENTUCKY POWER COMPANY, a corporation of the State of Kentucky (hereinafter called the "Electric Company") and the FOOTHILLS RURAL TELEPHONE COOPERATIVE CORPORATION, a corporation of the State of Kentucky (hereinafter called the "Telephone Company").

WITNESSETH

WHEREAS, the Electric Company and the Telephone Company desire to promote the joint use of their respective poles when and where such joint use shall be mutually advantageous.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1

SCOPE OF AGREEMENT

1.01 This agreement shall be in effect in such portions of the State of Kentucky in which both parties to this Agreement now or hereafter operate and shall cover all poles of each of the parties now existing or hereafter erected or acquired in the above territory when said poles are brought hereunder in accordance with this Agreement.

- 1.02 Each party reserves the right to exclude from joint use:
- a. Poles which in Owner's judgment are necessary for its own sole use; or
 - b. Poles which carry, or are intended by Owner to carry, circuits of such a character that in Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE 2

EXPLANATION OF CERTAIN TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this article.

2.01 JOINT USE is the simultaneous use of any pole for the attachment of both parties.

2.02 NORMAL SPACE ALLOCATION on a joint pole is the following described basic space for the exclusive use of each party, respectively, with the associated mutual vertical clearance space for maintenance of separations, in accordance with the specifications referred to in Article 3.

- a. For the Electric Company, the uppermost [REDACTED], measured from top of pole.
- b. For the Telephone Company, the lowest [REDACTED] measured upward from a point of attachment on the pole which will obtain basic clearances to ground as required by the specifications referred to in Article 3 and permit practical

horizontal grading of facilities.

- c. Mutual vertical clearance space on the pole between each company's attachments shall never be less than that which will obtain minimum separations as required by the specifications referred to in Article 3.

These specifications referred to in Article 3 do not preclude certain attachments of one party being located in and extending vertically through space reserved for the other party.

2.03 OWNER - The party owning the pole.

2.04 LICENSEE - The party having the right under this Agreement to make attachments to Owner's poles.

2.05 APPLICANT - The party making application to the Owner for permission to become a Licensee on Owner's poles.

2.06 SUBTRANSMISSION - Voltage below 138KV not otherwise designated as distribution.

2.07 COST IN PLACE - ADDITIONAL OR REPLACEMENT POLE - Cost In Place shall include the Total Cost to Owner for setting a bare pole. When replacing a pole and for additional poles, due solely to the Licensee's requirements, Cost In Place shall include the Total Cost to Owner for setting a pole including the cost of transferring facilities and removal of old pole with credit for any salvageable material.

2.08 TOTAL COST - Total cost shall include all material, labor and overheads.

2.09 EMBEDDED POLE COST - The average original installed cost of a bare pole.

2.10 THIRD PARTY - Any additional licensees other than the Electric Company and Telephone Company.

2.11 BARE POLE - A pole exclusive of any type of attachments.

2.12 PROPOSALS - A standardized form used by the parties to communicate either their needs, requirements or intentions regarding attachments.

2.13 ATTACHMENT - Any device, with the exception of burred cable closures that do not have any aerial drop wires terminated in them and ground wire attachments from burred cables when the cable is not attached to the pole, now or hereafter fastened to a joint use pole by the parties hereto.

2.14 ELECTRIC COMPANY - Includes Kentucky Power Company and its subsidiary and affiliated companies, to the extent that such companies are not covered under separate agreements with the Foothills Rural Telephone Cooperative Corporation.

2.15 TELEPHONE COMPANY - Includes Foothills Rural Telephone Cooperative Corporation and its parent, subsidiary and affiliated companies to the extent that such companies are not covered under separate agreements with Kentucky Power Company.

2.16 FIELD SUPERVISOR - The Owner's representative responsible for scheduling construction work.

ARTICLE 3

SPECIFICATIONS

3.01 The joint use of poles covered by this Agreement shall at all times be in conformity with good industry practice and with the terms and provisions of The National Electrical Safety Code, and

the rules of The Public Service Commission of Kentucky and any other applicable binding orders, statutes, ordinances, rules and regulations of any other governmental body.

3.02 If either party places or maintains its facilities not in conformance with Article 3.01, then the other party may give written notice to the nonconforming party to bring its facilities into compliance with this Agreement subject to the limitations contained in Article 3.04. The nonconforming party must bring its facilities into compliance within ninety (90) days of notification.

3.03 Wood poles shall comply with American Standards Association specifications and have a preservative treatment, full length, in accordance with good modern practice at the time of installation.

3.04 It is the intent of this Agreement, that poles having attachments prior to this Agreement, providing that their installation conformed to the specifications referred to in Article 3 herein at the time original attachment was made, will not be replaced or attachments rearranged solely to meet the requirements of 2.02 a., and 2.02 b., under NORMAL SPACE ALLOCATION or the current specifications referred to in Article 3.01.

The foregoing does not prohibit the replacement of a pole if Licensee compensates Owner in accordance with Article 8.01.

ARTICLE 4

ESTABLISHING JOINT USE OF EXISTING POLES

4.01 Whenever either party desires to reserve space on any pole owned by the other party, either as initial space or additional space on said pole, it shall submit a proposal therefor, specifying

the location of the pole in question, the amount of space desired and the number and character of attachments to be placed thereon. Within ten (10) days after the receipt of such application, Owner shall notify the Applicant in writing whether or not said pole is among those excluded from joint use under the provisions of Article 1.02. If for any reason the Owner cannot respond in writing within ten (10) days, an oral request for an extension shall be made. Failure of response within such ten (10) day period shall create a presumption that permission has been granted and Applicant may proceed accordingly. Upon receipt of Owner's notice that the said pole is not among those excluded from joint use and after the completion by Owner of any transferring or rearranging which in Owner's judgment is then required with respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as Licensee hereunder to use said space for attachments and circuits of the character specified in said notice in accordance with the terms of the notice and of this Agreement.

4.02 Whenever any jointly used pole or any existing pole about to be so used under the provisions of this Agreement is insufficient in height or strength for the existing attachments and for the proposed immediate additional attachments thereon, Owner shall replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require, and bill Licensee in accordance with Article 8.

Whenever Licensee requests any existing jointly used pole be replaced and Owner cannot complete replacement and/or required

rearrangements within the time as required by the Licensee, Licensee may replace the subject pole and shall be the Owner of the new pole.

4.03 Except as herein otherwise expressly provided, on jointly used poles each party shall, at its own expense, place, maintain, transfer, rearrange and remove its own attachments, including any tree trimming or cutting, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such a manner as not to interfere with the service of the other party.

4.04 Both parties agree that in emergency situations or in situations involving the placing of a service drop on an existing pole to complete a service order, that the requirements for notification in accordance with Section 4.01 of this article may not be practical. In such situations the Licensee shall provide written notice of the attachments made within ten (10) days of the date of attachment.

ARTICLE 5

ESTABLISHING JOINT USE OF ADDITIONAL POLES

5.01 Whenever either party hereto requires new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or in connection with the reconstruction of an existing pole line, and such pole facilities are not to be excluded from joint use under the provisions of Article 1, it shall promptly notify the other party by submitting a proposal (oral notice subsequently confirmed in writing may be given in cases of emergency) stating the location and size of the new poles and the character of attachments it proposes to use thereon. Within

ten (10) days after the receipt of such notice, the other party shall reply in writing, stating whether it does, or does not, desire space on the said poles and, if it does, the character of the circuits it desires to use and the amount of space it wishes to reserve. Failure of response within ten (10) days shall create a presumption that no joint use is desired and the proposing party may proceed accordingly. Should the party to whom the proposal was made express interest in joint use after the ten (10) day period referred to above, any and all additional expenses incurred by the party having given notice in order to then make joint use available, including, but not limited to, labor costs and other expenses associated with rearrangement of facilities, shall be borne by the party to whom notice was originally given.

5.02 In any case where the parties hereto shall conclude arrangements for the joint use of any new pole to be erected, and the party proposing to construct the new pole facilities already owns the large majority of joint poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning the lesser number of joint poles so as to work toward such a division of ownership of the joint poles that both parties shall equitably share in the benefits of joint use.

5.03 Each party shall, at its own expense, place and maintain its own attachments on the new joint poles, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of

the other party.

ARTICLE 6

RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

6.01 Owner shall not be required to secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of attachments of Licensee, and Owner does not grant, guarantee nor convey any easements, rights-of-way or franchises for the construction and maintenance of said attachments, and if objection is made thereto and Licensee is unable to satisfactorily adjust the matter within a reasonable time, Owner may at any time, upon notice in writing to Licensee, require Licensee to remove its attachments from the poles involved, and Licensee shall, within sixty (60) days after receipt of said notice, remove its attachments from such poles at its sole expense.

ARTICLE 7

MAINTENANCE OF POLES AND ATTACHMENTS

7.01 Owner shall maintain its jointly used poles in a safe and serviceable condition in accordance with Owner's standards and in accordance with the specifications referred to in Article 3, and shall replace, reinforce or repair poles as they become defective.

7.02 When replacing a jointly used pole carrying terminals of aerial cable, underground connections, or other special equipment, the new pole shall be set in a manner which will minimize the transfer cost of both parties. Should special conditions warrant setting the new pole in the old pole hole, written notice on the standard

Proposal form shall be provided to the Owner prior to construction.

7.03 Whenever it is necessary to replace or relocate a jointly used pole, Owner shall, before making the change, give notice thereof in a proposal (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) to Licensee, specifying in such notice the time of such proposed replacement or relocation. Licensee shall transfer its attachments to the new or relocated pole at the time specified by Owner's Field Supervisor. If Licensee does not do so, Licensee shall remove and dispose of the old pole in accordance with Owner's instructions. If Licensee fails to transfer its attachments and remove the pole within five (5) working days of Owner's completion of work, Licensee shall reimburse Owner for all additional expenses incurred including costs of pole removal, because of Licensee's noncompliance.

7.04 Each party shall maintain all of its attachments on jointly used poles in accordance with the specifications referred to in Article 3 and shall keep them clear of trees, in safe condition and in thorough repair in accordance with each party's standards.

7.05 The Telephone Company, when operating either as Owner or Licensee, without any charge may install electrical bonding from communication cables or equipment to Electric Company's pole grounds on jointly used poles in accordance with Article 3.

7.06 The Licensee may replace Owner's pole during emergency conditions when Owner is not able to replace such pole in a timely manner. In this event, the Owner shall pay the Licensee costs in accordance with Article 8.03.

ARTICLE 8

DIVISION OF COSTS

8.01 The Cost In Place of new jointly used poles under this Agreement, either in new pole lines, or in extensions of existing pole lines, or to replace existing poles, shall be borne by the parties as follows:

- a. The Cost In Place of a pole sufficient to provide the NORMAL SPACE ALLOCATION for Owner's requirements shall be borne by Owner except as provided in b., c., and d., herein.
- b. Licensee shall pay to Owner a sum equal to the difference between the Cost In Place of a new pole adequate to accommodate Licensee's attachments and the current Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees under the following conditions:
 - (1) Where the extra height or strength of an additional pole proposed for joint use is necessary solely to adequately accommodate the attachments of Licensee.
 - (2) Where the new pole is installed to replace an existing damaged or deteriorated jointly used pole hereunder and the extra height or strength of the new pole is provided to adequately accommodate the attachments of Licensee.

- c. Licensee shall pay Owner a sum equal to the Cost In Place of a new pole, where such new pole is erected hereunder to replace an existing pole solely to adequately provide for the attachments Licensee proposes to place on the new pole.
- d. In the case of a pole taller or stronger than a pole suitable for joint use, the extra height or strength of which is due to the requirements of public authorities (other than requirements with regard to keeping the wires of either party clear of trees), Licensee shall pay to Owner a sum equal to one-half the difference between the Cost In Place of such pole and the Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees, unless the Owner is reimbursed by the public authority requesting replacement.
- e. The cost in excess height or strength provided for the attachments of third parties, except as provided in the paragraph immediately preceding, shall be assumed by the Owner.
- f. Any such new pole shall be the property of Owner regardless of any payments by Licensee toward the cost of such new pole and Licensee shall acquire no right, title or interest in and to such pole.
- g. Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own

expense, except as otherwise expressly provided elsewhere in this Agreement.

8.02 If Owner Cannot Install a New Pole or Replace a Pole for Joint Use as required in Article 4.02 without the assistance of the Licensee, then Owner shall reimburse Licensee the Total Cost Incurred in rendering the required assistance.

8.03 Where Licensee Must Replace Owner's Pole Under Emergency Conditions, Owner shall pay Licensee the total labor cost of placing the new pole plus the material cost of the pole placed, and if the Licensee removes the old pole, the cost of removing the old pole. Title to the pole will remain with the Owner. Licensee will transfer its own facilities at no cost to Owner.

8.04 Cost of Pole Replacement and Transfer of attachments. Except as otherwise herein expressly provided, in situations requiring the replacement of a joint pole in kind, i.e., the same height and class, the cost of replacement of the pole shall be borne by the Owner, and the cost of transferring shall be borne by each party for its own facilities.

8.05 Cost of Rearrangements on Existing Poles. Whenever joint use is requested by the Licensee on an existing pole, and space can be provided by rearrangement of the Owner's attachments, the Total Cost of such rearrangements shall be borne by the Licensee.

8.06 Sharing of Space. Each party shall, upon request of the other party, share with such other party any assigned or reserved space not presently being used, so long as the requirement of Article 3 are satisfied. Upon written notice from the sharing party that any such shared space is required for such party's operations,

the other party shall within sixty (60) days relocate or rearrange its facilities at its expense. If replacement of any poles is necessary, the cost thereof shall be allocated as otherwise provided in this Article 8.

8.07 Anchors. All anchors and guys with the exception of jointly used anchors as provided in Article 8.08 below, shall be placed by and at the expense of the party whose attachments make such work necessary. Such anchors and guys shall remain the sole property of the party placing them and shall not be considered a part of the supporting structure.

8.08 Jointly Used Anchors. Normally each company will place separate anchors; however, when it is advantageous to both companies, an anchor rod suitable for joint attachment shall be placed by the Owner of the pole with the Total Cost of the anchor to be shared equally by the parties. If one anchor is inadequate for the combined requirements of both parties, then the Licensee shall place the additional anchorage required.

ARTICLE 9

PROCEDURE WHEN CHARACTER OF ATTACHMENTS IS CHANGED

9.01 When either party desires to change the character of its attachments on jointly used poles, such party shall give (90) days' written notice to the other party of such contemplated change.

The parties shall then cooperate in determining, (1) the conditions under which joint use may be continued on a mutually satisfactory basis, or (2) if in the judgment of both parties continued joint use is not feasible, the most practical and economical method of providing for separate lines.

In the latter event, the party whose attachments are to be removed from the jointly used poles shall promptly carry out the necessary work.

The cost of establishing such attachments in the new location shall be borne by each party under the provisions of this paragraph. In the event one party owns all the poles, the Licensee shall relocate its facilities at no expense to the Owner. If the parties agree that it is more practical for the Licensee to remain on the existing centerline and Owner's facilities should be relocated, Licensee shall reimburse Owner for the cost of relocation based upon the reestablishment of similar facilities. In the event neither party is the Owner of all the poles involved, the cost of reestablishing equivalent facilities in a new location shall be divided between the parties in proportion to the percent ownership of the existing poles. Where the ownership is divided the party owning a majority of the poles shall have the right to remain on an existing centerline unless it is mutually agreed otherwise. The cost of relocation shall be divided according to ownership with the party who retains the centerline paying a portion of the relocating party's cost equal to the percent of poles involved which are owned by the relocating party. For example, if one party owns 60% of the poles involved and the second party owns 40%, the second party would relocate and receive payment equal to 40% of its cost from the first party. Where the ownership of the poles involved is equal, the parties shall decide which facilities are more practical to relocate and the relocating party will be reimbursed 50% of its relocation costs. If the party owning less than 50% of the poles involved prefers to

remain on the existing centerline and the other party is agreeable, the entire cost of the relocating party's expense shall be paid by the party retaining its facilities on the existing centerline.

9.02 Attachments may be permitted on subtransmission and transmission poles of the Electric Company with the understanding that should the characteristics of the Electric Company facilities (attachments) change resulting in either the Electric Company or the Telephone Company deciding joint use is no longer feasible, the Telephone Company shall remove its facilities with no cost or obligation to the Electric Company.

ARTICLE 10

TERMINATION OF JOINT USE

10.01 If Owner desires at any time to abandon any jointly used pole, it shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to remove its attachments from such pole. If, at the expiration of said period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, and Owner shall transfer title to said pole and Licensee shall accept title to said pole in the manner provided for under Article 11. Licensee shall indemnify, protect and hold harmless the Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred after the expiration of the above-mentioned sixty (60) day period, and not arising out of anything theretofore occurring, because, of or arising out of, the presence or condition of such pole or of any attachment thereon; and shall pay Owner in the manner provided for under

Article 11.

10.02 Licensee may at any time abandon the use of a jointly used pole by giving due notice thereof in writing to Owner and by removing therefrom any and all attachments it may have thereon.

ARTICLE 11

SALE OF POLES

11.01 All poles sold shall be sold at the Seller's Embedded Pole Cost at the time of sale for the height and type pole involved. Each party shall obtain, at its expense, the approval of any governmental agency having jurisdiction over such party's part of the transaction, (including, with respect to Electric Company, the approval of the Securities and Exchange Commission pursuant to the requirements of the Public Utilities Holding Act of 1935).

11.02 When ownership of poles is to be transferred, mutually approved Proposal in accordance with the Owner's standard selling policy shall be prepared to cover such transfer. Payments for such poles by the Licensee shall be made at the time of purchase.

11.03 A formal Bill of Sale will be required for the transfer of ownership of all poles following receipt of all necessary approvals. The transferring party shall also obtain any necessary mortgage releases if the poles to be transferred are subject to any mortgages, and shall submit such releases to the other party.

ARTICLE 12

RENTALS

12.01 For purposes of this Agreement, a Rental Year shall be

a joint inspection of the poles in dispute and records pertaining thereto shall be made. If the parties are not able to resolve any such exceptions by the next billing date, the number originally proposed shall be used until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.



12.06 In order to make the transition between this Agreement, and any prior agreement, rentals for the period January 1, 1989 to December 31, 1989, shall be based on the number of poles, and the annual Rental Rate specified in the Joint-Use Agreement superseded by this Agreement.

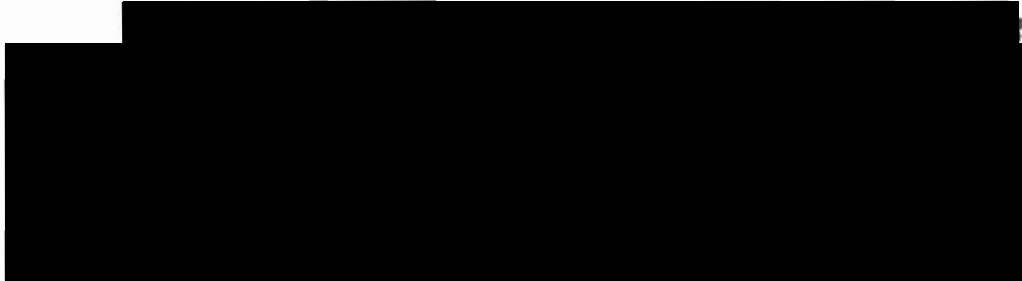
ARTICLE 13

UNAUTHORIZED USE: JOINT FIELD CHECKS

13.01 If unauthorized occupancy of poles is found, a Proposal shall be prepared to establish a record of this occupancy on the next annual billing. The party responsible for unauthorized occupancy shall owe the Owner the rental for the entire period dating back to the last joint field check including interest at the tax interest rates established by the Commissioner of Revenue of the Commonwealth of Kentucky (Reference KRS 131.183) compounded annually.

If the only attachment on a pole is unused hardware it shall

not be considered a rental attachment; however, provisions will be made to have such hardware promptly removed. If not removed within thirty (30) days after formal notification, the current annual rental will apply.



ARTICLE 14

LIABILITY AND DAMAGES

14.01 Whenever any liability is incurred by either or both of the parties hereto for damages for injury to persons (including death) or damage to property, arising out of the joint use of poles under this Agreement, which joint use is understood to include the wires and fixtures of the parties hereto, attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto, shall be as follows:

- a. Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications referred to in Article 3, and will indemnify, protect and hold harmless the other party in any such instance.
- b. Each party shall be liable for one-half (1/2) of

all damages for such injuries to persons and for one-half (1/2) of all damages for such injuries to property that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of either party.

- c. All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, that in any case under the provisions of paragraph b., of this Article and where the claimant desires to settle such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the amount which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.
- d. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall include costs, attorneys' fees, disbursements and other proper charges and

expenditures.

- e. It is further understood and agreed between the parties hereto that at all times during the term of this Agreement and particularly during the time of any construction, repair or new attachments to poles covered by this Agreement that the parties shall consider the electric wires of the Electric Company to be energized.
- f. It is further agreed between the parties hereto, that to the extent any of the provisions of this Article 14 should be determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Article shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated.

ARTICLE 15

DEFAULTS

15.01 If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the rights of the party in default insofar as concerns the granting of further joint use. If such default shall continue for a period of sixty (60) days after such suspension, the party not in default may forthwith terminate this Agreement as far as

It concerns the further granting of joint use, and shall be under no further obligation to permit additions to or changes in attachments of the defaulting party upon poles in joint use on the date of such termination.

15.02 If either party shall make default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days after presentation of bills therefor shall, at the election of the other party, constitute a default under Section 15.01 of this Article.

ARTICLE 16

ATTACHMENTS OF OTHER PARTIES

16.01 Nothing herein contained shall be construed as prohibiting the granting by Owner to others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement. The attachments of any such outside party shall be treated as attachments belonging to the Owner, who shall have the entire right to any payments from such party.

16.02 Attachments of other parties shall at all times be in conformity with Article 3.

16.03 If space is shared by the Owner or Licensee with a third party in order to minimize such third party's costs, the sharing party retains its right to use the shared portion of its

space. If Owner or Licensee thereafter requires the full use of its space, it is the duty of the Owner to provide that all costs of making that space available shall be borne by the third party.

ARTICLE 17

WAIVER OF TERMS OR CONDITIONS

17.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

ARTICLE 18

PAYMENT OF TAXES

18.01 Each party shall pay all taxes and assessments levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner.

ARTICLE 19

BILLS AND PAYMENT FOR WORK

19.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within sixty (60) days after the completion of such work a statement of the costs in accordance with the provisions of this Agreement and such other party shall within thirty (30) days

after such statement is presented, pay to the party doing the work such other party's portion of the cost of said work.

ARTICLE 20

EXISTING AGREEMENTS

12.01 All existing Agreements, written or oral, between the parties hereto for the joint use of poles within the territory covered by this Agreement are by mutual consent hereby terminated, and poles covered by such agreements are brought under this Agreement as of the effective date thereof, but such termination shall not extinguish any obligation arising prior to the effective date of this Agreement.

ARTICLE 21

TERM OF AGREEMENT

21.01 Subject to the provisions of Article 15 Defaults, herein, this Agreement may be terminated by either party after the first day of January 1996 upon one (1) year's notice in writing to the other party. If not so terminated, it shall continue in force until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid. Despite any termination under this Article, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination until a new Agreement is entered into by the parties. Following such termination until a new Agreement is entered into between the parties, neither party shall be under an obligation to permit additions to or changes in attachments

of the other on poles in joint use on the date of such termination.
This Agreement shall not be modified except in writing executed by a
duly authorized representative of both parties.

ARTICLE 22
OPERATING ROUTINE

22.01 An Operating Routine may be jointly prepared by the parties hereto, and shall be approved respectively by the Operations Manager of the Telephone Company and by the T&D Director for the Electric Company. This routine shall be based on this Joint-Use Agreement and shall give the detailed methods and procedure which will be followed in establishing, maintaining and discontinuing the joint use of poles. In case of any ambiguity or conflict between the provisions of this Agreement, and those of the "Operating Routine" the provisions of this Agreement shall be controlling. This Operating Routine may be changed at any time upon the approval of the Operations Manager of the Telephone Company and the T&D Manager of the Electric Company, provided such changes do not conflict with the terms of this Joint Use Agreement.

Attest: _____

KENTUCKY POWER COMPANY
By _____

Attest: _____

FOOTHILLS RURAL TELEPHONE
COOPERATIVE CORPORATION
By _____

CONFIDENTIAL INFORMATION

****** PLEASE NOTE ******

This document, including any and all attachments, may contain confidential, private, and/or privileged information, and is intended for internal use by AEP employees only.

Any unauthorized review, disclosure, distribution or use is prohibited.

POLE JOINT USE AGREEMENT
BETWEEN
LESLIE COUNTY TELEPHONE COMPANY, INCORPORATED
AND
KENTUCKY POWER COMPANY

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AGREEMENT
COVERING THE JOINT USE OF POLES

THIS AGREEMENT, effective January 1, 1991, is made by and between KENTUCKY POWER COMPANY, a corporation of the State of Kentucky (hereinafter called the "Electric Company") and the LESLIE COUNTY TELEPHONE COMPANY, INCORPORATED, a corporation of the State of Kentucky (hereinafter called the "Telephone Company").

WITNESSETH

WHEREAS, the Electric Company and the Telephone Company desire to promote the joint use of their respective poles when and where such joint use shall be mutually advantageous.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1

SCOPE OF AGREEMENT

1.01 This agreement shall be in effect in such portions of the State of Kentucky in which both parties to this Agreement now or hereafter operate and shall cover all poles of each of the parties now existing or hereafter erected or acquired in the above territory when said poles are brought hereunder in accordance with this Agreement.

1.02 Each party reserves the right to exclude from joint use:

- a. Poles which in Owner's judgment are necessary for its own sole use; or
- b. Poles which carry, or are intended by Owner to carry, circuits of such a character that in Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE 2

EXPLANATION OF CERTAIN TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this article.

2.01 JOINT USE is the simultaneous use of any pole for the attachment of both parties.

2.02 NORMAL SPACE ALLOCATION on a joint pole is the following described basic space for the exclusive use of each party, respectively, with the associated mutual vertical clearance space for maintenance of separations, in accordance with the specifications referred to in Article 3.

- a. For the Electric Company, the uppermost [REDACTED], measured from top of pole.
- b. For the Telephone Company, the lowest [REDACTED] measured upward from a point of attachment on the pole which will obtain basic clearances to ground as required by the specifications referred to in Article 3 and permit practical

horizontal grading of facilities.

- c. Mutual vertical clearance space on the pole between each company's attachments shall never be less than that which will obtain minimum separations as required by the specifications referred to in Article 3.

These specifications referred to in Article 3 do not preclude certain attachments of one party being located in and extending vertically through space reserved for the other party.

2.03 OWNER - The party owning the pole.

2.04 LICENSEE - The party having the right under this Agreement to make attachments to Owner's poles.

2.05 APPLICANT - The party making application to the Owner for permission to become a Licensee on Owner's poles.

2.06 SUBTRANSMISSION - Voltage below 138KV not otherwise designated as distribution.

2.07 COST IN PLACE - ADDITIONAL OR REPLACEMENT POLE - Cost In Place shall include the Total Cost to Owner for setting a bare pole. When replacing a pole and for additional poles, due solely to the Licensee's requirements, Cost In Place shall include the Total Cost to Owner for setting a pole including the cost of transferring facilities and removal of old pole with credit for any salvageable material.

2.08 TOTAL COST - Total cost shall include all material, labor and overheads.

2.09 EMBEDDED POLE COST - The average original installed cost of a bare pole.

2.10 THIRD PARTY - Any additional licensees other than the Electric Company and Telephone Company.

2.11 BARE POLE - A pole exclusive of any type of attachments.

2.12 PROPOSALS - A standardized form used by the parties to communicate either their needs, requirements or intentions regarding attachments.

2.13 ATTACHMENT - Any device, with the exception of burlled cable closures that do not have any aerial drop wires terminated in them and ground wire attachments from burlled cables when the cable is not attached to the pole, now or hereafter fastened to a joint use pole by the parties hereto.

2.14 ELECTRIC COMPANY - Includes Kentucky Power Company and its subsidiary and affiliated companies, to the extent that such companies are not covered under separate agreements with the Leslie County Telephone Company, Incorporated.

2.15 TELEPHONE COMPANY - Includes Leslie County Telephone Company, Incorporated and its parent, subsidiary and affiliated companies to the extent that such companies are not covered under separate agreements with Kentucky Power Company.

2.16 FIELD SUPERVISOR - The Owner's representative responsible for scheduling construction work.

ARTICLE 3

SPECIFICATIONS

3.01 The joint use of poles covered by this Agreement shall at all times be in conformity with good industry practice and with the terms and provisions of The National Electrical Safety Code, and

the rules of The Public Service Commission of Kentucky and any other applicable binding orders, statutes, ordinances, rules and regulations of any other governmental body.

3.02 If either party places or maintains its facilities not in conformance with Article 3.01, then the other party may give written notice to the nonconforming party to bring its facilities into compliance with this Agreement subject to the limitations contained in Article 3.04. The nonconforming party must bring its facilities into compliance within ninety (90) days of notification.

3.03 Wood poles shall comply with American Standards Association specifications and have a preservative treatment, full length, in accordance with good modern practice at the time of installation.

3.04 It is the intent of this Agreement, that poles having attachments prior to this Agreement, providing that their installation conformed to the specifications referred to in Article 3 herein at the time original attachment was made, will not be replaced or attachments rearranged solely to meet the requirements of 2.02 a., and 2.02 b., under NORMAL SPACE ALLOCATION or the current specifications referred to in Article 3.01.

The foregoing does not prohibit the replacement of a pole if Licensee compensates Owner in accordance with Article 8.01.

ARTICLE 4

ESTABLISHING JOINT USE OF EXISTING POLES

4.01 Whenever either party desires to reserve space on any pole owned by the other party, either as initial space or additional space on said pole, it shall submit a proposal therefor, specifying

the location of the pole in question, the amount of space desired and the number and character of attachments to be placed thereon. Within ten (10) days after the receipt of such application, Owner shall notify the Applicant in writing whether or not said pole is among those excluded from joint use under the provisions of Article 1.02. If for any reason the Owner cannot respond in writing within ten (10) days, an oral request for an extension shall be made. Failure of response within such ten (10) day period shall create a presumption that permission has been granted and Applicant may proceed accordingly. Upon receipt of Owner's notice that the said pole is not among those excluded from joint use and after the completion by Owner of any transferring or rearranging which in Owner's judgment is then required with respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as Licensee hereunder to use said space for attachments and circuits of the character specified in said notice in accordance with the terms of the notice and of this Agreement.

4.02 Whenever any jointly used pole or any existing pole about to be so used under the provisions of this Agreement is insufficient in height or strength for the existing attachments and for the proposed immediate additional attachments thereon, Owner shall replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require, and bill Licensee in accordance with Article 8.

Whenever Licensee requests any existing jointly used pole be replaced and Owner cannot complete replacement and/or required

rearrangements within the time as required by the Licensee, Licensee may replace the subject pole and shall be the Owner of the new pole.

4.03 Except as herein otherwise expressly provided, on jointly used poles each party shall, at its own expense, place, maintain, transfer, rearrange and remove its own attachments, including any tree trimming or cutting, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such a manner as not to interfere with the service of the other party.

4.04 Both parties agree that in emergency situations or in situations involving the placing of a service drop on an existing pole to complete a service order, that the requirements for notification in accordance with Section 4.01 of this article may not be practical. In such situations the Licensee shall provide written notice of the attachments made within ten (10) days of the date of attachment.

ARTICLE 5

ESTABLISHING JOINT USE OF ADDITIONAL POLES

5.01 Whenever either party hereto requires new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or in connection with the reconstruction of an existing pole line, and such pole facilities are not to be excluded from joint use under the provisions of Article 1, it shall promptly notify the other party by submitting a proposal (oral notice subsequently confirmed in writing may be given in cases of emergency) stating the location and size of the new poles and the character of attachments it proposes to use thereon. Within

ten (10) days after the receipt of such notice, the other party shall reply in writing, stating whether it does, or does not, desire space on the said poles and, if it does, the character of the circuits it desires to use and the amount of space it wishes to reserve. Failure of response within ten (10) days shall create a presumption that no joint use is desired and the proposing party may proceed accordingly. Should the party to whom the proposal was made express interest in joint use after the ten (10) day period referred to above, any and all additional expenses incurred by the party having given notice in order to then make joint use available, including, but not limited to, labor costs and other expenses associated with rearrangement of facilities, shall be borne by the party to whom notice was originally given.

5.02 In any case where the parties hereto shall conclude arrangements for the joint use of any new pole to be erected, and the party proposing to construct the new pole facilities already owns the large majority of joint poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning the lesser number of joint poles so as to work toward such a division of ownership of the joint poles that both parties shall equitably share in the benefits of joint use.

5.03 Each party shall, at its own expense, place and maintain its own attachments on the new joint poles, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of

the other party.

ARTICLE 6

RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

6.01 Owner shall not be required to secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of attachments of Licensee, and Owner does not grant, guarantee nor convey any easements, rights-of-way or franchises for the construction and maintenance of said attachments, and if objection is made thereto and Licensee is unable to satisfactorily adjust the matter within a reasonable time, Owner may at any time, upon notice in writing to Licensee, require Licensee to remove its attachments from the poles involved, and Licensee shall, within sixty (60) days after receipt of said notice, remove its attachments from such poles at its sole expense.

ARTICLE 7

MAINTENANCE OF POLES AND ATTACHMENTS

7.01 Owner shall maintain its jointly used poles in a safe and serviceable condition in accordance with Owner's standards and in accordance with the specifications referred to in Article 3, and shall replace, reinforce or repair poles as they become defective.

7.02 When replacing a jointly used pole carrying terminals of aerial cable, underground connections, or other special equipment, the new pole shall be set in a manner which will minimize the transfer cost of both parties. Should special conditions warrant setting the new pole in the old pole hole, written notice on the standard

Proposal form shall be provided to the Owner prior to construction.

7.03 Whenever it is necessary to replace or relocate a jointly used pole, Owner shall, before making the change, give notice thereof in a proposal (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) to Licensee, specifying in such notice the time of such proposed replacement or relocation. Licensee shall transfer its attachments to the new or relocated pole at the time specified by Owner's Field Supervisor. If Licensee does not do so, Licensee shall remove and dispose of the old pole in accordance with Owner's instructions. If Licensee fails to transfer its attachments and remove the pole within five (5) working days of Owner's completion of work, Licensee shall reimburse Owner for all additional expenses incurred including costs of pole removal, because of Licensee's noncompliance.

7.04 Each party shall maintain all of its attachments on jointly used poles in accordance with the specifications referred to in Article 3 and shall keep them clear of trees, in safe condition and in thorough repair in accordance with each party's standards.

7.05 The Telephone Company, when operating either as Owner or Licensee, without any charge may install electrical bonding from communication cables or equipment to Electric Company's pole grounds on jointly used poles in accordance with Article 3.

7.06 The Licensee may replace Owner's pole during emergency conditions when Owner is not able to replace such pole in a timely manner. In this event, the Owner shall pay the Licensee costs in accordance with Article 8.03.

ARTICLE 8

DIVISION OF COSTS

8.01 The Cost In Place of new jointly used poles under this Agreement, either in new pole lines, or in extensions of existing pole lines, or to replace existing poles, shall be borne by the parties as follows:

- a. The Cost In Place of a pole sufficient to provide the NORMAL SPACE ALLOCATION for Owner's requirements shall be borne by Owner except as provided in b., c., and d., herein.
- b. Licensee shall pay to Owner a sum equal to the difference between the Cost In Place of a new pole adequate to accommodate Licensee's attachments and the current Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees under the following conditions:
 - (1) Where the extra height or strength of an additional pole proposed for joint use is necessary solely to adequately accommodate the attachments of Licensee.
 - (2) Where the new pole is installed to replace an existing damaged or deteriorated jointly used pole hereunder and the extra height or strength of the new pole is provided to adequately accommodate the attachments of Licensee.

-
- c. Licensee shall pay Owner a sum equal to the Cost In Place of a new pole, where such new pole is erected hereunder to replace an existing pole solely to adequately provide for the attachments Licensee proposes to place on the new pole.
- d. In the case of a pole taller or stronger than a pole suitable for joint use, the extra height or strength of which is due to the requirements of public authorities (other than requirements with regard to keeping the wires of either party clear of trees), Licensee shall pay to Owner a sum equal to one-half the difference between the Cost In Place of such pole and the Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees, unless the Owner is reimbursed by the public authority requesting replacement.
- e. The cost in excess height or strength provided for the attachments of third parties, except as provided in the paragraph immediately preceding, shall be assumed by the Owner.
- f. Any such new pole shall be the property of Owner regardless of any payments by Licensee toward the cost of such new pole and Licensee shall acquire no right, title or interest in and to such pole.
- g. Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own

expense, except as otherwise expressly provided elsewhere in this Agreement.

8.02 If Owner Cannot Install a New Pole or Replace a Pole for Joint Use as required in Article 4.02 without the assistance of the Licensee, then Owner shall reimburse Licensee the Total Cost Incurred in rendering the required assistance.

8.03 Where Licensee Must Replace Owner's Pole Under Emergency Conditions, Owner shall pay Licensee the total labor cost of placing the new pole plus the material cost of the pole placed, and if the Licensee removes the old pole, the cost of removing the old pole. Title to the pole will remain with the Owner. Licensee will transfer its own facilities at no cost to Owner.

8.04 Cost of Pole Replacement and Transfer of Attachments. Except as otherwise herein expressly provided, in situations requiring the replacement of a joint pole in kind, i.e., the same height and class, the cost of replacement of the pole shall be borne by the Owner, and the cost of transferring shall be borne by each party for its own facilities.

8.05 Cost of Rearrangements on Existing Poles. Whenever joint use is requested by the Licensee on an existing pole, and space can be provided by rearrangement of the Owner's attachments, the Total Cost of such rearrangements shall be borne by the Licensee.

8.06 Sharing of Space. Each party shall, upon request of the other party, share with such other party any assigned or reserved space not presently being used, so long as the requirements of Article 3 are satisfied. Upon written notice from the sharing party that any such shared space is required for such party's operations,

the other party shall within sixty (60) days relocate or rearrange its facilities at its expense. If replacement of any poles is necessary, the cost thereof shall be allocated as otherwise provided in this Article 8.

8.07 Anchors. All anchors and guys with the exception of jointly used anchors as provided in Article 8.08 below, shall be placed by and at the expense of the party whose attachments make such work necessary. Such anchors and guys shall remain the sole property of the party placing them and shall not be considered a part of the supporting structure.

8.08 Jointly Used Anchors. Normally each company will place separate anchors; however, when it is advantageous to both companies, an anchor rod suitable for joint attachment shall be placed by the Owner of the pole with the Total Cost of the anchor to be shared equally by the parties. If one anchor is inadequate for the combined requirements of both parties, then the Licensee shall place the additional anchorage required.

ARTICLE 9

PROCEDURE WHEN CHARACTER OF ATTACHMENTS IS CHANGED

9.01 When either party desires to change the character of its attachments on jointly used poles, such party shall give (90) days' written notice to the other party of such contemplated change.

The parties shall then cooperate in determining, (1) the conditions under which joint use may be continued on a mutually satisfactory basis, or (2) if in the judgment of both parties continued joint use is not feasible, the most practical and economical method of providing for separate lines.

In the latter event, the party whose attachments are to be removed from the jointly used poles shall promptly carry out the necessary work.

The cost of establishing such circuits in the new location shall be borne by each party under the provisions of this paragraph. In the event one party owns all the poles, the Licensee shall relocate its facilities at no expense to the Owner. If the parties agree that it is more practical for the Licensee to remain on the existing centerline and Owner's facilities should be relocated, Licensee shall reimburse Owner for the cost of relocation based upon the reestablishment of similar facilities. In the event neither party is the Owner of all the poles involved, the cost of reestablishing equivalent facilities in a new location shall be divided between the parties in proportion to the percent ownership of the existing poles. Where the ownership is divided the party owning a majority of the poles shall have the right to remain on an existing centerline unless it is mutually agreed otherwise. The cost of relocation shall be divided according to ownership with the party who retains the centerline paying a portion of the relocating party's cost equal to the percent of poles involved which are owned by the relocating party. For example, if one party owns 60% of the poles involved and the second party owns 40%, the second party would relocate and receive payment equal to 40% of its cost from the first party. Where the ownership of the poles involved is equal, the parties shall decide which facilities are more practical to relocate and the relocating party will be reimbursed 50% of its relocation costs. If the party owning less than 50% of the poles involved prefers to

remain on the existing centerline and the other party is agreeable, the entire cost of the relocating party's expense shall be paid by the party retaining its facilities on the existing centerline.

9.02 Attachments may be permitted on subtransmission and transmission poles of the Electric Company with the understanding that should the characteristics of the Electric Company facilities (attachments) change resulting in either the Electric Company or the Telephone Company deciding joint use is no longer feasible, the Telephone Company shall remove its facilities with no cost or obligation to the Electric Company.

ARTICLE 10

TERMINATION OF JOINT USE

10.01 If Owner desires at any time to abandon any jointly used pole, it shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to remove its attachments from such pole. If, at the expiration of said period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, and Owner shall transfer title to said pole and Licensee shall accept title to said pole in the manner provided for under Article 11. Licensee shall indemnify, protect and hold harmless the Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred after the expiration of the above-mentioned sixty (60) day period, and not arising out of anything theretofore occurring, because, of or arising out of, the presence or condition of such pole or of any attachment thereon; and shall pay Owner in the manner provided for under

Article 11.

10.02 Licensee may at any time abandon the use of a jointly used pole by giving due notice thereof in writing to Owner and by removing therefrom any and all attachments it may have thereon.

ARTICLE 11

SALE OF POLES

11.01 All poles sold shall be sold at the Seller's Embedded Pole Cost at the time of sale for the height and type pole involved. Each party shall obtain, at its expense, the approval of any governmental agency having jurisdiction over such party's part of the transaction, (including, with respect to Electric Company, the approval of the Securities and Exchange Commission pursuant to the requirements of the Public Utilities Holding Act of 1935).

11.02 When ownership of poles is to be transferred, mutually approved Proposal in accordance with the Owner's standard selling policy shall be prepared to cover such transfer. Payments for such poles by the Licensee shall be made at the time of purchase.

11.03 A formal Bill of Sale will be required for the transfer of ownership of all poles following receipt of all necessary approvals. The transferring party shall also obtain any necessary mortgage releases if the poles to be transferred are subject to any mortgages, and shall submit such releases to the other party.

ARTICLE 12

RENTALS

12.01 For purposes of this Agreement, a Rental Year shall be

the period from January 1 to the succeeding December 31. Any space occupied or reserved by Licensee during any portion of any such Rental Year shall be deemed to have been so occupied or reserved during the entire year. [REDACTED]

[REDACTED]

12.02 Licensee shall pay rent annually to Owner for those poles on which space is occupied or reserved by Licensee and for which rent is payable, [REDACTED]

[REDACTED]

12.03 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] If any such exception cannot be otherwise resolved,

a joint inspection of the poles in dispute and records pertaining thereto shall be made. If the parties are not able to resolve any such exceptions by the next billing date, the number originally proposed shall be used until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.

12.06 In order to make the transition between this Agreement, and any prior agreement, rentals for the period January 1, 1990 to December 31, 1990, shall be based on the number of poles, and the annual Rental Rate specified in the Joint-Use Agreement superseded by this Agreement.

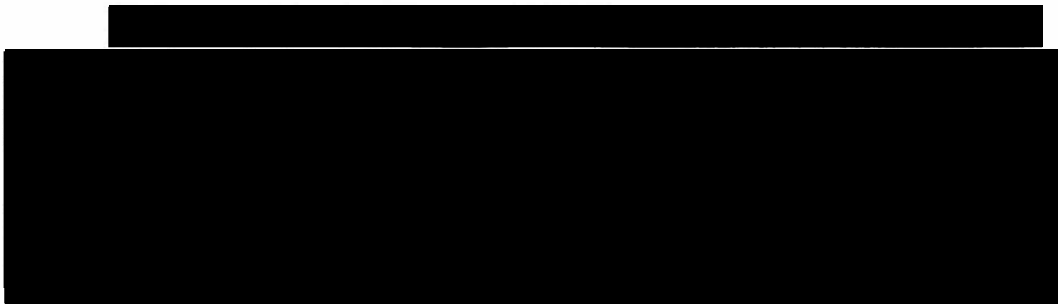
ARTICLE 13

UNAUTHORIZED USE: JOINT FIELD CHECKS

13.01 If unauthorized occupancy of poles is found, a Proposal shall be prepared to establish a record of this occupancy on the next annual billing. The party responsible for unauthorized occupancy shall owe the Owner the rental for the entire period dating back to the last joint field check including interest at the tax interest rates established by the Commissioner of Revenue of the Commonwealth of Kentucky (Reference KRS 131.183) compounded annually.

If the only attachment on a pole is unused hardware it shall

not be considered a rental attachment; however, provisions will be made to have such hardware promptly removed. If not removed within thirty (30) days after formal notification, the current annual rental will apply.



ARTICLE 14

LIABILITY AND DAMAGES

14.01 Whenever any liability is incurred by either or both of the parties hereto for damages for injury to persons (including death) or damage to property, arising out of the joint use of poles under this Agreement, which joint use is understood to include the wires and fixtures of the parties hereto, attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto, shall be as follows:

- a. Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications referred to in Article 3, and will indemnify, protect and hold harmless the other party in any such instance.
- b. Each party shall be liable for one-half (1/2) of

all damages for such injuries to persons and for one-half (1/2) of all damages for such injuries to property that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of either party.

- c. All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, that in any case under the provisions of paragraph b., of this Article and where the claimant desires to settle such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the amount which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.
- d. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall include costs, attorneys' fees, disbursements and other proper charges and

expenditures.

- e. It is further understood and agreed between the parties hereto that at all times during the term of this Agreement and particularly during the time of any construction, repair or new attachments to poles covered by this Agreement that the parties shall consider the electric wires of the Electric Company to be energized.
- f. It is further agreed between the parties hereto, that to the extent any of the provisions of this Article 14 should be determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Article shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated.

ARTICLE 15

DEFAULTS

15.01 If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the rights of the party in default insofar as concerns the granting of further joint use. If such default shall continue for a period of sixty (60) days after such suspension, the party not in default may forthwith terminate this Agreement as far as

It concerns the further granting of joint use, and shall be under no further obligation to permit additions to or changes in attachments of the defaulting party upon poles in joint use on the date of such termination.

15.02 If either party shall make default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days after presentation of bills therefor shall, at the election of the other party, constitute a default under Section 15.01 of this Article.

ARTICLE 16

ATTACHMENTS OF OTHER PARTIES

16.01 Nothing herein contained shall be construed as prohibiting the granting by Owner to others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement. The attachments of any such outside party shall be treated as attachments belonging to the Owner, who shall have the entire right to any payments from such party.

16.02 Attachments of other parties shall at all times be in conformity with Article 3.

16.03 If space is shared by the Owner or Licensee with a third party in order to minimize such third party's costs, the sharing party retains its right to use the shared portion of its

space. If Owner or Licensee thereafter requires the full use of its space, it is the duty of the Owner to provide that all costs of making that space available shall be borne by the third party.

ARTICLE 17

WAIVER OF TERMS OR CONDITIONS

17.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

ARTICLE 18

PAYMENT OF TAXES

18.01 Each party shall pay all taxes and assessments levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner.

ARTICLE 19

BILLS AND PAYMENT FOR WORK

19.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within sixty (60) days after the completion of such work a statement of the costs in accordance with the provisions of this Agreement and such other party shall within thirty (30) days

after such statement is presented, pay to the party doing the work such other party's portion of the cost of said work.

ARTICLE 20

EXISTING AGREEMENTS

12.01 All existing Agreements, written or oral, between the parties hereto for the joint use of poles within the territory covered by this Agreement are by mutual consent hereby terminated, and poles covered by such agreements are brought under this Agreement as of the effective date thereof, but such termination shall not extinguish any obligation arising prior to the effective date of this Agreement.

ARTICLE 21

TERM OF AGREEMENT

21.01 Subject to the provisions of Article 15 Defaults, herein, this Agreement may be terminated by either party after the first day of January 1996 upon one (1) year's notice in writing to the other party. If not so terminated, it shall continue in force until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid. Despite any termination under this Article, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination until a new Agreement is entered into by the parties. Following such termination until a new Agreement is entered into between the parties, neither party shall be under an obligation to permit additions to or changes in attachments

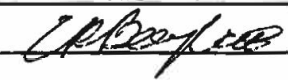
of the other on poles in joint use on the date of such termination.
This Agreement shall not be modified except in writing executed by a
duly authorized representative of both parties.

ARTICLE 22
OPERATING ROUTINE

22.01 An Operating Routine may be jointly prepared by the parties hereto, and shall be approved respectively by the Operations Manager of the Telephone Company and by the T&D Director for the Electric Company. This routine shall be based on this Joint-Use Agreement and shall give the detailed methods and procedure which will be followed in establishing, maintaining and discontinuing the joint use of poles. In case of any ambiguity or conflict between the provisions of this Agreement, and those of the "Operating Routine" the provisions of this Agreement shall be controlling. This Operating Routine may be changed at any time upon the approval of the Operations Manager of the Telephone Company and the T&D Manager of the Electric Company, provided such changes do not conflict with the terms of this Joint Use Agreement.

Attest:

Assistant Secretary

KENTUCKY POWER COMPANY ²⁰⁰⁰
By 
President

Attest:

JAN 2ND 1992


LESLIE COUNTY TELEPHONE COMPANY,
INCORPORATED
By 
CHAIRMAN - BOARD JAN 1992

EXHIBIT A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Kentucky Power Company and Leslie County Telephone Co., Inc. hereby agree to the following modifications to the Pole Joint Use Agreement dated effective January 1, 1991.

- A. Inasmuch as both parties recognize the median age of the joint pole population is older in rural areas than in urban areas and the common operating areas of the parties are largely rural in nature, a betterment adjustment shall be included in the calculation of the Total Cost as specified in Paragraph 2.07 in cases where a pole or poles over 15 years old are being replaced solely for Licensee's benefit.

The following percentage reduction shall be made to the Total Cost in such cases:

<u>Number of Years Installed</u>	<u>Percentage Reduction</u>
16 - 20	25
21 - 25	50
26 - 30	75
Over 30	100

The number of years installed shall be based upon the difference between the year the new pole was installed and the year the old pole was installed.

- B. The percentage reduction as specified in A. above shall be made to the sale price of poles sold under Article 10, Termination of Joint Use. In such case the number of years installed shall be based upon the difference between the year the Licensee is sent notice to abandon by Owner and the year the abandoned pole was installed.
- C. For any unauthorized occupancy found during the first field check made after January 1, 1991, no interest penalty shall be imposed. The provisions in the second sentence of Paragraph 13.01 shall only apply after the first field check. Any unauthorized occupancies found during the first field check will assume to have been made in proportion to the authorized occupancies made since the last field check in determining the back rental.

KENTUCKY POWER COMPANY *uor*

By *Alfred [Signature]* Date 2/20/92
President

LESLIE COUNTY TELEPHONE CO., INC.

By *Edward H. [Signature]* Date 2 JAN 1992

CONFIDENTIAL INFORMATION

****** PLEASE NOTE ******

This document, including any and all attachments, may contain confidential, private, and/or privileged information, and is intended for internal use by AEP employees only.

Any unauthorized review, disclosure, distribution or use is prohibited.

POLE JOINT USE AGREEMENT
BETWEEN
MOUNTAIN RURAL TELEPHONE COOPERATIVE CORPORATION
AND
KENTUCKY POWER COMPANY

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AGREEMENT
COVERING THE JOINT USE OF POLES

THIS AGREEMENT, effective January 1, 1990, is made by and between KENTUCKY POWER COMPANY, a corporation of the State of Kentucky (hereinafter called the "Electric Company") and the MOUNTAIN RURAL TELEPHONE COOPERATIVE CORPORATION, a corporation of the State of Kentucky (hereinafter called the "Telephone Company").

WITNESSETH

WHEREAS, the Electric Company and the Telephone Company desire to promote the joint use of their respective poles when and where such joint use shall be mutually advantageous.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1

SCOPE OF AGREEMENT

1.01 This agreement shall be in effect in such portions of the State of Kentucky in which both parties to this Agreement now or hereafter operate and shall cover all poles of each of the parties now existing or hereafter erected or acquired in the above territory when said poles are brought hereunder in accordance with this Agreement.

- 1.02 Each party reserves the right to exclude from joint use:
- a. Poles which in Owner's judgment are necessary for its own sole use; or
 - b. Poles which carry, or are intended by Owner to carry, circuits of such a character that in Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE 2

EXPLANATION OF CERTAIN TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this article.

2.01 JOINT USE is the simultaneous use of any pole for the attachment of both parties.

2.02 NORMAL SPACE ALLOCATION on a joint pole is the following described basic space for the exclusive use of each party, respectively, with the associated mutual vertical clearance space for maintenance of separations, in accordance with the specifications referred to in Article 3.

- a. For the Electric Company, the uppermost [REDACTED] [REDACTED] measured from top of pole.
- b. For the Telephone Company, the lowest [REDACTED] [REDACTED] measured upward from a point of attachment on the pole which will obtain basic clearances to ground as required by the specifications referred to in Article 3 and permit practical

horizontal grading of facilities.

- c. Mutual vertical clearance space on the pole between each company's attachments shall never be less than that which will obtain minimum separations as required by the specifications referred to in Article 3.

These specifications referred to in Article 3 do not preclude certain attachments of one party being located in and extending vertically through space reserved for the other party.

2.03 OWNER - The party owning the pole.

2.04 LICENSEE - The party having the right under this Agreement to make attachments to Owner's poles.

2.05 APPLICANT - The party making application to the Owner for permission to become a Licensee on Owner's poles.

2.06 SUBTRANSMISSION - Voltage below 138KV not otherwise designated as distribution.

2.07 COST IN PLACE - ADDITIONAL OR REPLACEMENT POLE - Cost In Place shall include the Total Cost to Owner for setting a bare pole. When replacing a pole and for additional poles, due solely to the Licensee's requirements, Cost In Place shall include the Total Cost to Owner for setting a pole including the cost of transferring facilities and removal of old pole with credit for any salvageable material.

2.08 TOTAL COST - Total cost shall include all material, labor and overheads.

2.09 EMBEDDED POLE COST - The average original installed cost of a bare pole.

2.10 THIRD PARTY - Any additional licensees other than the Electric Company and Telephone Company.

2.11 BARE POLE - A pole exclusive of any type of attachments.

2.12 PROPOSALS - A standardized form used by the parties to communicate either their needs, requirements or intentions regarding attachments.

2.13 ATTACHMENT - Any device, with the exception of buried cable closures that do not have any aerial drop wires terminated in them and ground wire attachments from buried cables when the cable is not attached to the pole, now or hereafter fastened to a joint use pole by the parties hereto.

2.14 ELECTRIC COMPANY - Includes Kentucky Power Company and its subsidiary and affiliated companies, to the extent that such companies are not covered under separate agreements with the Mountain Rural Telephone Cooperative Corporation.

2.15 TELEPHONE COMPANY - Includes Mountain Rural Telephone Cooperative Corporation and its parent, subsidiary and affiliated companies to the extent that such companies are not covered under separate agreements with Kentucky Power Company.

2.16 FIELD SUPERVISOR - The Owner's representative responsible for scheduling construction work.

ARTICLE 3
SPECIFICATIONS

3.01 The joint use of poles covered by this Agreement shall at all times be in conformity with good industry practice and with the terms and provisions of The National Electrical Safety Code, and

the rules of The Public Service Commission of Kentucky and any other applicable binding orders, statutes, ordinances, rules and regulations of any other governmental body.

3.02 If either party places or maintains its facilities not in conformance with Article 3.01, then the other party may give written notice to the nonconforming party to bring its facilities into compliance with this Agreement subject to the limitations contained in Article 3.04. The nonconforming party must bring its facilities into compliance within ninety (90) days of notification.

3.03 Wood poles shall comply with American Standards Association specifications and have a preservative treatment, full length, in accordance with good modern practice at the time of installation.

3.04 It is the intent of this Agreement, that poles having attachments prior to this Agreement, providing that their installation conformed to the specifications referred to in Article 3 herein at the time original attachment was made, will not be replaced or attachments rearranged solely to meet the requirements of 2.02 a., and 2.02 b., under NORMAL SPACE ALLOCATION or the current specifications referred to in Article 3.01.

The foregoing does not prohibit the replacement of a pole if Licensee compensates Owner in accordance with Article 8.01.

ARTICLE 4

ESTABLISHING JOINT USE OF EXISTING POLES

4.01 Whenever either party desires to reserve space on any pole owned by the other party, either as initial space or additional space on said pole, it shall submit a proposal therefor, specifying

the location of the pole in question, the amount of space desired and the number and character of attachments to be placed thereon. Within ten (10) days after the receipt of such application, Owner shall notify the Applicant in writing whether or not said pole is among those excluded from joint use under the provisions of Article 1.02. If for any reason the Owner cannot respond in writing within ten (10) days, an oral request for an extension shall be made. Failure of response within such ten (10) day period shall create a presumption that permission has been granted and Applicant may proceed accordingly. Upon receipt of Owner's notice that the said pole is not among those excluded from joint use and after the completion by Owner of any transferring or rearranging which in Owner's judgment is then required with respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as Licensee hereunder to use said space for attachments and circuits of the character specified in said notice in accordance with the terms of the notice and of this Agreement.

4.02 Whenever any jointly used pole or any existing pole about to be so used under the provisions of this Agreement is insufficient in height or strength for the existing attachments and for the proposed immediate additional attachments thereon, Owner shall replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require, and bill Licensee in accordance with Article 8.

Whenever Licensee requests any existing jointly used pole be replaced and Owner cannot complete replacement and/or required

rearrangements within the time as required by the Licensee, Licensee may replace the subject pole and shall be the Owner of the new pole.

4.03 Except as herein otherwise expressly provided, on jointly used poles each party shall, at its own expense, place, maintain, transfer, rearrange and remove its own attachments, including any tree trimming or cutting, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such a manner as not to interfere with the service of the other party.

4.04 Both parties agree that in emergency situations or in situations involving the placing of a service drop on an existing pole to complete a service order, that the requirements for notification in accordance with Section 4.01 of this article may not be practical. In such situations the Licensee shall provide written notice of the attachments made within ten (10) days of the date of attachment.

ARTICLE 5

ESTABLISHING JOINT USE OF ADDITIONAL POLES

5.01 Whenever either party hereto requires new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or in connection with the reconstruction of an existing pole line, and such pole facilities are not to be excluded from joint use under the provisions of Article 1, it shall promptly notify the other party by submitting a proposal (oral notice subsequently confirmed in writing may be given in cases of emergency) stating the location and size of the new poles and the character of attachments it proposes to use thereon. Within

ten (10) days after the receipt of such notice, the other party shall reply in writing, stating whether it does, or does not, desire space on the said poles and, if it does, the character of the circuits it desires to use and the amount of space it wishes to reserve. Failure of response within ten (10) days shall create a presumption that no joint use is desired and the proposing party may proceed accordingly. Should the party to whom the proposal was made express interest in joint use after the ten (10) day period referred to above, any and all additional expenses incurred by the party having given notice in order to then make joint use available, including, but not limited to, labor costs and other expenses associated with rearrangement of facilities, shall be borne by the party to whom notice was originally given.

5.02 In any case where the parties hereto shall conclude arrangements for the joint use of any new pole to be erected, and the party proposing to construct the new pole facilities already owns the large majority of joint poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning the lesser number of joint poles so as to work toward such a division of ownership of the joint poles that both parties shall equitably share in the benefits of joint use.

5.03 Each party shall, at its own expense, place and maintain its own attachments on the new joint poles, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of

the other party.

ARTICLE 6

RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

6.01 Owner shall not be required to secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of attachments of Licensee, and Owner does not grant, guarantee nor convey any easements, rights-of-way or franchises for the construction and maintenance of said attachments, and if objection is made thereto and Licensee is unable to satisfactorily adjust the matter within a reasonable time, Owner may at any time, upon notice in writing to Licensee, require Licensee to remove its attachments from the poles involved, and Licensee shall, within sixty (60) days after receipt of said notice, remove its attachments from such poles at its sole expense.

ARTICLE 7

MAINTENANCE OF POLES AND ATTACHMENTS

7.01 Owner shall maintain its jointly used poles in a safe and serviceable condition in accordance with Owner's standards and in accordance with the specifications referred to in Article 3, and shall replace, reinforce or repair poles as they become defective.

7.02 When replacing a jointly used pole carrying terminals of aerial cable, underground connections, or other special equipment, the new pole shall be set in a manner which will minimize the transfer cost of both parties. Should special conditions warrant setting the new pole in the old pole hole, written notice on the standard

Proposal form shall be provided to the Owner prior to construction.

7.03 Whenever it is necessary to replace or relocate a jointly used pole, Owner shall, before making the change, give notice thereof in a proposal (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) to Licensee, specifying in such notice the time of such proposed replacement or relocation. Licensee shall transfer its attachments to the new or relocated pole at the time specified by Owner's Field Supervisor. If Licensee does not do so, Licensee shall remove and dispose of the old pole in accordance with Owner's instructions. If Licensee fails to transfer its attachments and remove the pole within five (5) working days of Owner's completion of work, Licensee shall reimburse Owner for all additional expenses incurred including costs of pole removal, because of Licensee's noncompliance.

7.04 Each party shall maintain all of its attachments on jointly used poles in accordance with the specifications referred to in Article 3 and shall keep them clear of trees, in safe condition and in thorough repair in accordance with each party's standards.

7.05 The Telephone Company, when operating either as Owner or Licensee, without any charge may install electrical bonding from communication cables or equipment to Electric Company's pole grounds on jointly used poles in accordance with Article 3.

7.06 The Licensee may replace Owner's pole during emergency conditions when Owner is not able to replace such pole in a timely manner. In this event, the Owner shall pay the Licensee costs in accordance with Article 8.03.

ARTICLE 8

DIVISION OF COSTS

8.01 The Cost In Place of new jointly used poles under this Agreement, either in new pole lines, or in extensions of existing pole lines, or to replace existing poles, shall be borne by the parties as follows:

- a. The Cost In Place of a pole sufficient to provide the NORMAL SPACE ALLOCATION for Owner's requirements shall be borne by Owner except as provided in b., c., and d., herein.
- b. Licensee shall pay to Owner a sum equal to the difference between the Cost In Place of a new pole adequate to accommodate Licensee's attachments and the current Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees under the following conditions:
 - (1) Where the extra height or strength of an additional pole proposed for joint use is necessary solely to adequately accommodate the attachments of Licensee.
 - (2) Where the new pole is installed to replace an existing damaged or deteriorated jointly used pole hereunder and the extra height or strength of the new pole is provided to adequately accommodate the attachments of Licensee.

- c. Licensee shall pay Owner a sum equal to the Cost In Place of a new pole, where such new pole is erected hereunder to replace an existing pole solely to adequately provide for the attachments Licensee proposes to place on the new pole.
- d. In the case of a pole taller or stronger than a pole suitable for joint use, the extra height or strength of which is due to the requirements of public authorities (other than requirements with regard to keeping the wires of either party clear of trees), Licensee shall pay to Owner a sum equal to one-half the difference between the Cost In Place of such pole and the Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees, unless the Owner is reimbursed by the public authority requesting replacement.
- e. The cost in excess height or strength provided for the attachments of third parties, except as provided in the paragraph immediately preceding, shall be assumed by the Owner.
- f. Any such new pole shall be the property of Owner regardless of any payments by Licensee toward the cost of such new pole and Licensee shall acquire no right, title or interest in and to such pole.
- g. Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own

expense, except as otherwise expressly provided elsewhere in this Agreement.

8.02 If Owner Cannot Install a New Pole or Replace a Pole for Joint Use as required in Article 4.02 without the assistance of the Licensee, then Owner shall reimburse Licensee the Total Cost incurred in rendering the required assistance.

8.03 Where Licensee Must Replace Owner's Pole Under Emergency Conditions, Owner shall pay Licensee the total labor cost of placing the new pole plus the material cost of the pole placed, and if the Licensee removes the old pole, the cost of removing the old pole. Title to the pole will remain with the Owner. Licensee will transfer its own facilities at no cost to Owner.

8.04 Cost of Pole Replacement and Transfer of attachments. Except as otherwise herein expressly provided, in situations requiring the replacement of a joint pole in kind, i.e., the same height and class, the cost of replacement of the pole shall be borne by the Owner, and the cost of transferring shall be borne by each party for its own facilities.

8.05 Cost of Rearrangements on Existing Poles. Whenever joint use is requested by the Licensee on an existing pole, and space can be provided by rearrangement of the Owner's attachments, the Total Cost of such rearrangements shall be borne by the Licensee.

8.06 Sharing of Space. Each party shall, upon request of the other party, share with such other party any assigned or reserved space not presently being used, so long as the requirement of Article 3 are satisfied. Upon written notice from the sharing party that any such shared space is required for such party's operations,

the other party shall within sixty (60) days relocate or rearrange its facilities at its expense. If replacement of any poles is necessary, the cost thereof shall be allocated as otherwise provided in this Article 8.

8.07 Anchors. All anchors and guys with the exception of jointly used anchors as provided in Article 8.08 below, shall be placed by and at the expense of the party whose attachments make such work necessary. Such anchors and guys shall remain the sole property of the party placing them and shall not be considered a part of the supporting structure.

8.08 Jointly Used Anchors. Normally each company will place separate anchors; however, when it is advantageous to both companies, an anchor rod suitable for joint attachment shall be placed by the Owner of the pole with the Total Cost of the anchor to be shared equally by the parties. If one anchor is inadequate for the combined requirements of both parties, then the Licensee shall place the additional anchorage required.

ARTICLE 9

PROCEDURE WHEN CHARACTER OF ATTACHMENTS IS CHANGED

9.01 When either party desires to change the character of its attachments on jointly used poles, such party shall give (90) days' written notice to the other party of such contemplated change.

The parties shall then cooperate in determining, (1) the conditions under which joint use may be continued on a mutually satisfactory basis, or (2) if in the judgment of both parties continued joint use is not feasible, the most practical and economical method of providing for separate lines.

In the latter event, the party whose attachments are to be removed from the jointly used poles shall promptly carry out the necessary work.

The cost of establishing such circuits in the new location shall be borne by each party under the provisions of this paragraph. In the event one party owns all the poles, the Licensee shall relocate its facilities at no expense to the Owner. If the parties agree that it is more practical for the Licensee to remain on the existing centerline and Owner's facilities should be relocated, Licensee shall reimburse Owner for the cost of relocation based upon the reestablishment of similar facilities. In the event neither party is the Owner of all the poles involved, the cost of reestablishing equivalent facilities in a new location shall be divided between the parties in proportion to the percent ownership of the existing poles. Where the ownership is divided the party owning a majority of the poles shall have the right to remain on an existing centerline unless it is mutually agreed otherwise. The cost of relocation shall be divided according to ownership with the party who retains the centerline paying a portion of the relocating party's cost equal to the percent of poles involved which are owned by the relocating party. For example, if one party owns 60% of the poles involved and the second party owns 40%, the second party would relocate and receive payment equal to 40% of its cost from the first party. Where the ownership of the poles involved is equal, the parties shall decide which facilities are more practical to relocate and the relocating party will be reimbursed 50% of its relocation costs. If the party owning less than 50% of the poles involved prefers to

remain on the existing centerline and the other party is agreeable, the entire cost of the relocating party's expense shall be paid by the party retaining its facilities on the existing centerline.

9.02 Attachments may be permitted on subtransmission and transmission poles of the Electric Company with the understanding that should the characteristics of the Electric Company facilities (attachments) change resulting in either the Electric Company or the Telephone Company deciding joint use is no longer feasible, the Telephone Company shall remove its facilities with no cost or obligation to the Electric Company.

ARTICLE 10

TERMINATION OF JOINT USE

10.01 If Owner desires at any time to abandon any jointly used pole, it shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to remove its attachments from such pole. If, at the expiration of said period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, and Owner shall transfer title to said pole and Licensee shall accept title to said pole in the manner provided for under Article 11. Licensee shall indemnify, protect and hold harmless the Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred after the expiration of the above-mentioned sixty (60) day period, and not arising out of anything theretofore occurring, because, of or arising out of, the presence or condition of such pole or of any attachment thereon; and shall pay Owner in the manner provided for under

Article 11.

10.02 Licensee may at any time abandon the use of a jointly used pole by giving due notice thereof in writing to Owner and by removing therefrom any and all attachments it may have thereon.

ARTICLE 11

SALE OF POLES

11.01 All poles sold shall be sold at the Seller's Embedded Pole Cost at the time of sale for the height and type pole involved. Each party shall obtain, at its expense, the approval of any governmental agency having jurisdiction over such party's part of the transaction, (including, with respect to Electric Company, the approval of the Securities and Exchange Commission pursuant to the requirements of the Public Utilities Holding Act of 1935).

11.02 When ownership of poles is to be transferred, mutually approved Proposal in accordance with the Owner's standard selling policy shall be prepared to cover such transfer. Payments for such poles by the Licensee shall be made at the time of purchase.

11.03 A formal Bill of Sale will be required for the transfer of ownership of all poles following receipt of all necessary approvals. The transferring party shall also obtain any necessary mortgage releases if the poles to be transferred are subject to any mortgages, and shall submit such releases to the other party.

ARTICLE 12

RENTALS

12.01 For purposes of this Agreement, a Rental Year shall be

the period from January 1 to the succeeding December 31. Any space occupied or reserved by Licensee during any portion of any such Rental Year shall be deemed to have been so occupied or reserved during the entire year. [REDACTED]

12.02 Licensee shall pay rent annually to Owner for those poles on which space is occupied or reserved by Licensee and for which rent is payable, [REDACTED]

12.03 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If any such exception cannot be otherwise resolved,

a joint inspection of the poles in dispute and records pertaining thereto shall be made. If the parties are not able to resolve any such exceptions by the next billing date, the number originally proposed shall be used until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.

[REDACTED]

12.06 In order to make the transition between this Agreement, and any prior agreement, rentals for the period January 1, 1989 to December 31, 1989, shall be based on the number of poles, and the annual Rental Rate specified in the Joint-Use Agreement superseded by this Agreement.

ARTICLE 13

UNAUTHORIZED USE: JOINT FIELD CHECKS

13.01 If unauthorized occupancy of poles is found, a Proposal shall be prepared to establish a record of this occupancy on the next annual billing. The party responsible for unauthorized occupancy shall owe the Owner the rental for the entire period dating back to the last joint field check including interest at the tax interest rates established by the Commissioner of Revenue of the Commonwealth of Kentucky (Reference KRS 131.183) compounded annually.

If the only attachment on a pole is unused hardware it shall

not be considered a rental attachment; however, provisions will be made to have such hardware promptly removed. If not removed within thirty (30) days after formal notification, the current annual rental will apply.



ARTICLE 14

LIABILITY AND DAMAGES

14.01 Whenever any liability is incurred by either or both of the parties hereto for damages for injury to persons (including death) or damage to property, arising out of the joint use of poles under this Agreement, which joint use is understood to include the wires and fixtures of the parties hereto, attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto, shall be as follows:

- a. Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications referred to in Article 3, and will indemnify, protect and hold harmless the other party in any such instance.
- b. Each party shall be liable for one-half (1/2) of

all damages for such injuries to persons and for one-half (1/2) of all damages for such injuries to property that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of either party.

- c. All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, that in any case under the provisions of paragraph b., of this Article and where the claimant desires to settle such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the amount which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.
- d. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall include costs, attorneys' fees, disbursements and other proper charges and

expenditures.

- e. It is further understood and agreed between the parties hereto that at all times during the term of this Agreement and particularly during the time of any construction, repair or new attachments to poles covered by this Agreement that the parties shall consider the electric wires of the Electric Company to be energized.
- f. It is further agreed between the parties hereto, that to the extent any of the provisions of this Article 14 should be determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Article shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated.

ARTICLE 15

DEFAULTS

15.01 If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the rights of the party in default insofar as concerns the granting of further joint use. If such default shall continue for a period of sixty (60) days after such suspension, the party not in default may forthwith terminate this Agreement as far as

It concerns the further granting of Joint use, and shall be under no further obligation to permit additions to or changes in attachments of the defaulting party upon poles in Joint use on the date of such termination.

15.02 If either party shall make default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days after presentation of bills therefor shall, at the election of the other party, constitute a default under Section 15.01 of this Article.

ARTICLE 16

ATTACHMENTS OF OTHER PARTIES

16.01 Nothing herein contained shall be construed as prohibiting the granting by Owner to others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement. The attachments of any such outside party shall be treated as attachments belonging to the Owner, who shall have the entire right to any payments from such party.

16.02 Attachments of other parties shall at all times be in conformity with Article 3.

16.03 If space is shared by the Owner or Licensee with a third party in order to minimize such third party's costs, the sharing party retains its right to use the shared portion of its

space. If Owner or Licensee thereafter requires the full use of its space, it is the duty of the Owner to provide that all costs of making that space available shall be borne by the third party.

ARTICLE 17

WAIVER OF TERMS OR CONDITIONS

17.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

ARTICLE 18

PAYMENT OF TAXES

18.01 Each party shall pay all taxes and assessments levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner.

ARTICLE 19

BILLS AND PAYMENT FOR WORK

19.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within sixty (60) days after the completion of such work a statement of the costs in accordance with the provisions of this Agreement and such other party shall within thirty (30) days

after such statement is presented, pay to the party doing the work such other party's portion of the cost of said work.

ARTICLE 20

EXISTING AGREEMENTS

12.01 All existing Agreements, written or oral, between the parties hereto for the joint use of poles within the territory covered by this Agreement are by mutual consent hereby terminated, and poles covered by such agreements are brought under this Agreement as of the effective date thereof, but such termination shall not extinguish any obligation arising prior to the effective date of this Agreement.

ARTICLE 21

TERM OF AGREEMENT

21.01 Subject to the provisions of Article 15 Defaults, herein, this Agreement may be terminated by either party after the first day of January 1996 upon one (1) year's notice in writing to the other party. If not so terminated, it shall continue in force until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid. Despite any termination under this Article, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination until a new Agreement is entered into by the parties. Following such termination until a new Agreement is entered into between the parties, neither party shall be under an obligation to permit additions to or changes in attachments

of the other on poles in joint use on the date of such termination.
This Agreement shall not be modified except in writing executed by a
duly authorized representative of both parties.

ARTICLE 22
OPERATING ROUTINE

22.01 An Operating Routine may be jointly prepared by the parties hereto, and shall be approved respectively by the Operations Manager of the Telephone Company and by the T&D Director for the Electric Company. This routine shall be based on this Joint-Use Agreement and shall give the detailed methods and procedure which will be followed in establishing, maintaining and discontinuing the joint use of poles. In case of any ambiguity or conflict between the provisions of this Agreement, and those of the "Operating Routine" the provisions of this Agreement shall be controlling. This Operating Routine may be changed at any time upon the approval of the Operations Manager of the Telephone Company and the T&D Manager of the Electric Company, provided such changes do not conflict with the terms of this Joint Use Agreement.

Attest: *J. O. Bergemire*
Assistant Secretary

KENTUCKY POWER COMPANY
BY *[Signature]*
Vice President

Attest: *Kerth Miller*

MOUNTAIN RURAL TELEPHONE
COOPERATIVE CORPORATION
BY *Samuel H. McQuinn*
Asst. Mgr.

EXHIBIT A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Kentucky Power Company and Mountain Rural Telephone Cooperative Corporation hereby agree to the following modifications to the Pole Joint Use Agreement dated effective January 1, 1990.

- A. Inasmuch as both parties recognize the median age of the joint pole population is older in rural areas than in urban areas and the common operating areas of the parties are largely rural in nature, a betterment adjustment shall be included in the calculation of the Total Cost as specified in Paragraph 2.07 in cases where a pole or poles over 15 years old are being replaced solely for Licensee's benefit.

The following percentage reduction shall be made to the Total Cost in such cases:

<u>Number of Years Installed</u>	<u>Percentage Reduction</u>
16 - 20	25
21 - 25	50
26 - 30	75
over 30	100

The number of years installed shall be based upon the difference between the year the new pole was installed and the year the old pole was installed.

- B. The percentage reduction as specified in A. above shall be made to the sale price of poles sold under Article 10, Termination of Joint Use. In such case the number of years installed shall be based upon the difference between the year the Licensee is sent notice to abandon by Owner and the year the abandoned pole was installed.
- C. For any unauthorized occupancy found during the first field check made after January 1, 1990, no interest penalty shall be imposed. The provisions in the second sentence of Paragraph 13.01 shall only apply after the first field check. Any unauthorized occupancies found during the first field check will assume to have been made in proportion to the authorized occupancies made since the last field check in determining the back rental.

KENTUCKY POWER COMPANY

By [Signature] Date 4/12/90

MOUNTAIN RURAL TELEPHONE COOPERATIVE CORPORATION

By [Signature] Date 4-6-90

~~Joe~~
Jeff
Mountain Rural File



Date April 12, 1990
Subject Mountain Rural Telephone Cooperative Corp.

From S. E. Early *SEE*
To T. F. Weaver - Ashland
P. F. Farmer - Pikeville

Enclosed please find four copies for your use of the recently executed pole joint use agreement. This agreement is effective January 1, 1990. The agreement is similar to the South Central Bell agreement except for the following:

- Equalization of Ownership not required which means no pole sales just to equalize ownership.
- Rental rate different.
- A betterment adjustment is given for poles over 15 years old being replaced solely for Licensee.
- When abandoned poles are sold to Licensee, a reduction in the sale price is made if the pole is over 15 years old.
- Unauthorized attachments found during the first field check under this agreement will be billed differently than those found in future field checks.

This agreement is the same as those signed by three other telephone companies. We plan to hold a joint meeting with operating personnel from each company to go over the provisions of the agreement, establish contact personnel and answer any questions. I will be contacting you in the near future to arrange for this meeting.

By way of this memo, I am forwarding an original copy of these agreements for General Office Accounting Department files.

SEE:r

Enclosure

c: E. L. Berginnis (original copy)	W. O. Vaughan - Pikeville - w/o
Original copy GOT&O file	L. J. Horne - Pikeville "
C. C. Crouse (copy of agreement only)	D. E. McGinnis - Ashland "
	J. B. Beavers - Ashland "

CONFIDENTIAL INFORMATION

****** PLEASE NOTE ******

This document, including any and all attachments, may contain confidential, private, and/or privileged information, and is intended for internal use by AEP employees only.

Any unauthorized review, disclosure, distribution or use is prohibited.

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**POLE JOINT USE AGREEMENT
BETWEEN
THACKER-GRIGSBY TELEPHONE COMPANY, INCORPORATED
AND
KENTUCKY POWER COMPANY**

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**AGREEMENT
COVERING THE JOINT USE OF POLES**

THIS AGREEMENT, effective January 1, 1990, is made by and between KENTUCKY POWER COMPANY, a corporation of the State of Kentucky (hereinafter called the "Electric Company") and the THACKER-GRIGSBY TELEPHONE COMPANY, INCORPORATED, a corporation of the State of Kentucky (hereinafter called the "Telephone Company").

WITNESSETH

WHEREAS, the Electric Company and the Telephone Company desire to promote the joint use of their respective poles when and where such joint use shall be mutually advantageous.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1

SCOPE OF AGREEMENT

1.01 This agreement shall be in effect in such portions of the State of Kentucky in which both parties to this Agreement now or hereafter operate and shall cover all poles of each of the parties now existing or hereafter erected or acquired in the above territory when said poles are brought hereunder in accordance with this Agreement.

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1.02 Each party reserves the right to exclude from Joint use:

- a. Poles which in Owner's judgment are necessary for its own sole use; or
- b. Poles which carry, or are intended by Owner to carry, circuits of such a character that in Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE 2

EXPLANATION OF CERTAIN TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this article.

2.01 JOINT USE is the simultaneous use of any pole for the attachment of both parties.

2.02 NORMAL SPACE ALLOCATION on a joint pole is the following described basic space for the exclusive use of each party, respectively, with the associated mutual vertical clearance space for maintenance of separations, in accordance with the specifications referred to in Article 3.

- a. For the Electric Company, the uppermost [REDACTED] measured from top of pole.
- b. For the Telephone Company, the lowest [REDACTED] measured upward from a point of attachment on the pole which will obtain basic clearances to ground as required by the specifications referred to in Article 3 and permit practical

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horizontal grading of facilities.

- c. Mutual vertical clearance space on the pole between each company's attachments shall never be less than that which will obtain minimum separations as required by the specifications referred to in Article 3.

These specifications referred to in Article 3 do not preclude certain attachments of one party being located in and extending vertically through space reserved for the other party.

2.03 OWNER - The party owning the pole.

2.04 LICENSEE - The party having the right under this Agreement to make attachments to Owner's poles.

2.05 APPLICANT - The party making application to the Owner for permission to become a Licensee on Owner's poles.

2.06 SUBTRANSMISSION - Voltage below 138KV not otherwise designated as distribution.

2.07 COST IN PLACE - ADDITIONAL OR REPLACEMENT POLE - Cost In Place shall include the Total Cost to Owner for setting a bare pole. When replacing a pole and for additional poles, due solely to the Licensee's requirements, Cost In Place shall include the Total Cost to Owner for setting a pole including the cost of transferring facilities and removal of old pole with credit for any salvageable material.

2.08 TOTAL COST - Total cost shall include all material, labor and overheads.

2.09 EMBEDDED POLE COST - The average original installed cost of a bare pole.

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2.10 THIRD PARTY - Any additional licensees other than the Electric Company and Telephone Company.

2.11 BARE POLE - A pole exclusive of any type of attachments.

2.12 PROPOSALS - A standardized form used by the parties to communicate either their needs, requirements or intentions regarding attachments.

2.13 ATTACHMENT - Any device, with the exception of buried cable closures that do not have any aerial drop wires terminated in them and ground wire attachments from buried cables when the cable is not attached to the pole, now or hereafter fastened to a joint use pole by the parties hereto.

2.14 ELECTRIC COMPANY - Includes Kentucky Power Company and its subsidiary and affiliated companies, to the extent that such companies are not covered under separate agreements with the Thacker-Grigsby Telephone Company, Incorporated.

2.15 TELEPHONE COMPANY - Includes Thacker-Grigsby Telephone Company, Incorporated and its parent, subsidiary and affiliated companies to the extent that such companies are not covered under separate agreements with Kentucky Power Company.

2.16 FIELD SUPERVISOR - The Owner's representative responsible for scheduling construction work.

ARTICLE 3

SPECIFICATIONS

3.01 The Joint use of poles covered by this Agreement shall at all times be in conformity with good industry practice and with the terms and provisions of The National Electrical Safety Code, and

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the rules of The Public Service Commission of Kentucky and any other applicable binding orders, statutes, ordinances, rules and regulations of any other governmental body.

3.02 If either party places or maintains its facilities not in conformance with Article 3.01, then the other party may give written notice to the nonconforming party to bring its facilities into compliance with this Agreement subject to the limitations contained in Article 3.04. The nonconforming party must bring its facilities into compliance within ninety (90) days of notification.

3.03 Wood poles shall comply with American Standards Association specifications and have a preservative treatment, full length, in accordance with good modern practice at the time of installation.

3.04 It is the intent of this Agreement, that poles having attachments prior to this Agreement, providing that their installation conformed to the specifications referred to in Article 3 herein at the time original attachment was made, will not be replaced or attachments rearranged solely to meet the requirements of 2.02 a., and 2.02 b., under NORMAL SPACE ALLOCATION or the current specifications referred to in Article 3.01.

The foregoing does not prohibit the replacement of a pole if Licensee compensates Owner in accordance with Article 8.01.

ARTICLE 4

ESTABLISHING JOINT USE OF EXISTING POLES

4.01 Whenever either party desires to reserve space on any pole owned by the other party, either as initial space or additional space on said pole, it shall submit a proposal therefor, specifying

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the location of the pole in question, the amount of space desired and the number and character of attachments to be placed thereon. Within ten (10) days after the receipt of such application, Owner shall notify the Applicant in writing whether or not said pole is among those excluded from joint use under the provisions of Article 1.02. If for any reason the Owner cannot respond in writing within ten (10) days, an oral request for an extension shall be made. Failure of response within such ten (10) day period shall create a presumption that permission has been granted and Applicant may proceed accordingly. Upon receipt of Owner's notice that the said pole is not among those excluded from joint use and after the completion by Owner of any transferring or rearranging which in Owner's judgment is then required with respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as Licensee hereunder to use said space for attachments and circuits of the character specified in said notice in accordance with the terms of the notice and of this Agreement.

4.02 Whenever any jointly used pole or any existing pole about to be so used under the provisions of this Agreement is insufficient in height or strength for the existing attachments and for the proposed immediate additional attachments thereon, Owner shall replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require, and bill Licensee in accordance with Article 8.

Whenever Licensee requests any existing jointly used pole be replaced and Owner cannot complete replacement and/or required

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rearrangements within the time as required by the Licensee, Licensee may replace the subject pole and shall be the Owner of the new pole.

4.03 Except as herein otherwise expressly provided, on jointly used poles each party shall, at its own expense, place, maintain, transfer, rearrange and remove its own attachments, including any tree trimming or cutting, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such a manner as not to interfere with the service of the other party.

4.04 Both parties agree that in emergency situations or in situations involving the placing of a service drop on an existing pole to complete a service order, that the requirements for notification in accordance with Section 4.01 of this article may not be practical. In such situations the Licensee shall provide written notice of the attachments made within ten (10) days of the date of attachment.

ARTICLE 5

ESTABLISHING JOINT USE OF ADDITIONAL POLES

5.01 Whenever either party hereto requires new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or in connection with the reconstruction of an existing pole line, and such pole facilities are not to be excluded from joint use under the provisions of Article 1, it shall promptly notify the other party by submitting a proposal (oral notice subsequently confirmed in writing may be given in cases of emergency) stating the location and size of the new poles and the character of attachments it proposes to use thereon. Within

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ten (10) days after the receipt of such notice, the other party shall reply in writing, stating whether it does, or does not, desire space on the said poles and, if it does, the character of the circuits it desires to use and the amount of space it wishes to reserve. Failure of response within ten (10) days shall create a presumption that no joint use is desired and the proposing party may proceed accordingly. Should the party to whom the proposal was made express interest in joint use after the ten (10) day period referred to above, any and all additional expenses incurred by the party having given notice in order to then make joint use available, including, but not limited to, labor costs and other expenses associated with rearrangement of facilities, shall be borne by the party to whom notice was originally given.

5.02 In any case where the parties hereto shall conclude arrangements for the joint use of any new pole to be erected, and the party proposing to construct the new pole facilities already owns the large majority of joint poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning the lesser number of joint poles so as to work toward such a division of ownership of the joint poles that both parties shall equitably share in the benefits of joint use.

5.03 Each party shall, at its own expense, place and maintain its own attachments on the new joint poles, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of

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the other party.

ARTICLE 6

RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

6.01 Owner shall not be required to secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of attachments of Licensee, and Owner does not grant, guarantee nor convey any easements, rights-of-way or franchises for the construction and maintenance of said attachments, and if objection is made thereto and Licensee is unable to satisfactorily adjust the matter within a reasonable time, Owner may at any time, upon notice in writing to Licensee, require Licensee to remove its attachments from the poles involved, and Licensee shall, within sixty (60) days after receipt of said notice, remove its attachments from such poles at its sole expense.

ARTICLE 7

MAINTENANCE OF POLES AND ATTACHMENTS

7.01 Owner shall maintain its jointly used poles in a safe and serviceable condition in accordance with Owner's standards and in accordance with the specifications referred to in Article 3, and shall replace, reinforce or repair poles as they become defective.

7.02 When replacing a jointly used pole carrying terminals of aerial cable, underground connections, or other special equipment, the new pole shall be set in a manner which will minimize the transfer cost of both parties. Should special conditions warrant setting the new pole in the old pole hole, written notice on the standard

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Proposal form shall be provided to the Owner prior to construction.

7.03 Whenever it is necessary to replace or relocate a jointly used pole, Owner shall, before making the change, give notice thereof in a proposal (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) to Licensee, specifying in such notice the time of such proposed replacement or relocation. Licensee shall transfer its attachments to the new or relocated pole at the time specified by Owner's Field Supervisor. If Licensee does not do so, Licensee shall remove and dispose of the old pole in accordance with Owner's instructions. If Licensee fails to transfer its attachments and remove the pole within five (5) working days of Owner's completion of work, Licensee shall reimburse Owner for all additional expenses incurred including costs of pole removal, because of Licensee's noncompliance.

7.04 Each party shall maintain all of its attachments on jointly used poles in accordance with the specifications referred to in Article 3 and shall keep them clear of trees, in safe condition and in thorough repair in accordance with each party's standards.

7.05 The Telephone Company, when operating either as Owner or Licensee, without any charge may install electrical bonding from communication cables or equipment to Electric Company's pole grounds on jointly used poles in accordance with Article 3.

7.06 The Licensee may replace Owner's pole during emergency conditions when Owner is not able to replace such pole in a timely manner. In this event, the Owner shall pay the Licensee costs in accordance with Article 8.03.

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ARTICLE 8

DIVISION OF COSTS

8.01 The Cost In Place of new jointly used poles under this Agreement, either in new pole lines, or in extensions of existing pole lines, or to replace existing poles, shall be borne by the parties as follows:

- a. The Cost In Place of a pole sufficient to provide the NORMAL SPACE ALLOCATION for Owner's requirements shall be borne by Owner except as provided in b., c., and d., herein.
- b. Licensee shall pay to Owner a sum equal to the difference between the Cost In Place of a new pole adequate to accommodate Licensee's attachments and the current Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees under the following conditions:
 - (1) Where the extra height or strength of an additional pole proposed for joint use is necessary solely to adequately accommodate the attachments of Licensee.
 - (2) Where the new pole is installed to replace an existing damaged or deteriorated jointly used pole hereunder and the extra height or strength of the new pole is provided to adequately accommodate the attachments of Licensee.

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- c. Licensee shall pay Owner a sum equal to the Cost In Place of a new pole, where such new pole is erected hereunder to replace an existing pole solely to adequately provide for the attachments Licensee proposes to place on the new pole.
- d. In the case of a pole taller or stronger than a pole suitable for joint use, the extra height or strength of which is due to the requirements of public authorities (other than requirements with regard to keeping the wires of either party clear of trees), Licensee shall pay to Owner a sum equal to one-half the difference between the Cost In Place of such pole and the Cost In Place of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees, unless the Owner is reimbursed by the public authority requesting replacement.
- e. The cost in excess height or strength provided for the attachments of third parties, except as provided in the paragraph immediately preceding, shall be assumed by the Owner.
- f. Any such new pole shall be the property of Owner regardless of any payments by Licensee toward the cost of such new pole and Licensee shall acquire no right, title or interest in and to such pole.
- g. Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own

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expense, except as otherwise expressly provided elsewhere in this Agreement.

8.02 If Owner Cannot Install a New Pole or Replace a Pole for Joint Use as required in Article 4.02 without the assistance of the Licensee, then Owner shall reimburse Licensee the Total Cost Incurred in rendering the required assistance.

8.03 Where Licensee Must Replace Owner's Pole Under Emergency Conditions, Owner shall pay Licensee the total labor cost of placing the new pole plus the material cost of the pole placed, and if the Licensee removes the old pole, the cost of removing the old pole. Title to the pole will remain with the Owner. Licensee will transfer its own facilities at no cost to Owner.

8.04 Cost of Pole Replacement and Transfer of attachments. Except as otherwise herein expressly provided, in situations requiring the replacement of a joint pole in kind, i.e., the same height and class, the cost of replacement of the pole shall be borne by the Owner, and the cost of transferring shall be borne by each party for its own facilities.

8.05 Cost of Rearrangements on Existing Poles. Whenever joint use is requested by the Licensee on an existing pole, and space can be provided by rearrangement of the Owner's attachments, the Total Cost of such rearrangements shall be borne by the Licensee.

8.06 Sharing of Space. Each party shall, upon request of the other party, share with such other party any assigned or reserved space not presently being used, so long as the requirement of Article 3 are satisfied. Upon written notice from the sharing party that any such shared space is required for such party's operations,

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the other party shall within sixty (60) days relocate or rearrange its facilities at its expense. If replacement of any poles is necessary, the cost thereof shall be allocated as otherwise provided in this Article 8.

8.07 Anchors. All anchors and guys with the exception of jointly used anchors as provided in Article 8.08 below, shall be placed by and at the expense of the party whose attachments make such work necessary. Such anchors and guys shall remain the sole property of the party placing them and shall not be considered a part of the supporting structure.

8.08 Jointly Used Anchors. Normally each company will place separate anchors; however, when it is advantageous to both companies, an anchor rod suitable for joint attachment shall be placed by the Owner of the pole with the Total Cost of the anchor to be shared equally by the parties. If one anchor is inadequate for the combined requirements of both parties, then the Licensee shall place the additional anchorage required.

ARTICLE 9

PROCEDURE WHEN CHARACTER OF ATTACHMENTS IS CHANGED

9.01 When either party desires to change the character of its attachments on jointly used poles, such party shall give (90) days' written notice to the other party of such contemplated change.

The parties shall then cooperate in determining, (1) the conditions under which joint use may be continued on a mutually satisfactory basis, or (2) if in the judgment of both parties continued joint use is not feasible, the most practical and economical method of providing for separate lines.

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In the latter event, the party whose attachments are to be removed from the jointly used poles shall promptly carry out the necessary work.

The cost of establishing such circuits in the new location shall be borne by each party under the provisions of this paragraph. In the event one party owns all the poles, the Licensee shall relocate its facilities at no expense to the Owner. If the parties agree that it is more practical for the Licensee to remain on the existing centerline and Owner's facilities should be relocated, Licensee shall reimburse Owner for the cost of relocation based upon the reestablishment of similar facilities. In the event neither party is the Owner of all the poles involved, the cost of reestablishing equivalent facilities in a new location shall be divided between the parties in proportion to the percent ownership of the existing poles. Where the ownership is divided the party owning a majority of the poles shall have the right to remain on an existing centerline unless it is mutually agreed otherwise. The cost of relocation shall be divided according to ownership with the party who retains the centerline paying a portion of the relocating party's cost equal to the percent of poles involved which are owned by the relocating party. For example, if one party owns 60% of the poles involved and the second party owns 40%, the second party would relocate and receive payment equal to 40% of its cost from the first party. Where the ownership of the poles involved is equal, the parties shall decide which facilities are more practical to relocate and the relocating party will be reimbursed 50% of its relocation costs. If the party owning less than 50% of the poles involved prefers to

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remain on the existing centerline and the other party is agreeable, the entire cost of the relocating party's expense shall be paid by the party retaining its facilities on the existing centerline.

9.02 Attachments may be permitted on subtransmission and transmission poles of the Electric Company with the understanding that should the characteristics of the Electric Company facilities (attachments) change resulting in either the Electric Company or the Telephone Company deciding joint use is no longer feasible, the Telephone Company shall remove its facilities with no cost or obligation to the Electric Company.

ARTICLE 10

TERMINATION OF JOINT USE

10.01 If Owner desires at any time to abandon any jointly used pole, it shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to remove its attachments from such pole. If, at the expiration of said period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, and Owner shall transfer title to said pole and Licensee shall accept title to said pole in the manner provided for under Article 11. Licensee shall indemnify, protect and hold harmless the Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred after the expiration of the above-mentioned sixty (60) day period, and not arising out of anything theretofore occurring, because, of or arising out of, the presence or condition of such pole or of any attachment thereon; and shall pay Owner in the manner provided for under

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Article 11.

10.02 Licensee may at any time abandon the use of a jointly used pole by giving due notice thereof in writing to Owner and by removing therefrom any and all attachments it may have thereon.

ARTICLE 11

SALE OF POLES

11.01 All poles sold shall be sold at the Seller's Embedded Pole Cost at the time of sale for the height and type pole involved. Each party shall obtain, at its expense, the approval of any governmental agency having jurisdiction over such party's part of the transaction, (including, with respect to Electric Company, the approval of the Securities and Exchange Commission pursuant to the requirements of the Public Utilities Holding Act of 1935).

11.02 When ownership of poles is to be transferred, mutually approved Proposal in accordance with the Owner's standard selling policy shall be prepared to cover such transfer. Payments for such poles by the Licensee shall be made at the time of purchase.

11.03 A formal Bill of Sale will be required for the transfer of ownership of all poles following receipt of all necessary approvals. The transferring party shall also obtain any necessary mortgage releases if the poles to be transferred are subject to any mortgages, and shall submit such releases to the other party.

ARTICLE 12

RENTALS

12.01 For purposes of this Agreement, a Rental Year shall be

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the period from January 1 to the succeeding December 31. Any space occupied or reserved by Licensee during any portion of any such Rental Year shall be deemed to have been so occupied or reserved during the entire year. [REDACTED]

[REDACTED]

12.02 Licensee shall pay rent annually to Owner for those poles on which space is occupied or reserved by Licensee and for which rent is payable, [REDACTED]

[REDACTED]

12.03 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If any such exception cannot be otherwise resolved,

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a joint inspection of the poles in dispute and records pertaining thereto shall be made. If the parties are not able to resolve any such exceptions by the next billing date, the number originally proposed shall be used until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.



12.06 In order to make the transition between this Agreement, and any prior agreement, rentals for the period January 1, 1989 to December 31, 1989, shall be based on the number of poles, and the annual Rental Rate specified in the Joint-Use Agreement superseded by this Agreement.

ARTICLE 13

UNAUTHORIZED USE: JOINT FIELD CHECKS

13.01 If unauthorized occupancy of poles is found, a Proposal shall be prepared to establish a record of this occupancy on the next annual billing. The party responsible for unauthorized occupancy shall owe the Owner the rental for the entire period dating back to the last joint field check including interest at the tax interest rates established by the Commissioner of Revenue of the Commonwealth of Kentucky (Reference KRS 131.183) compounded annually.

If the only attachment on a pole is unused hardware it shall

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not be considered a rental attachment; however, provisions will be made to have such hardware promptly removed. If not removed within thirty (30) days after formal notification, the current annual rental will apply.



ARTICLE 14

LIABILITY AND DAMAGES

14.01 Whenever any liability is incurred by either or both of the parties hereto for damages for injury to persons (including death) or damage to property, arising out of the joint use of poles under this Agreement, which joint use is understood to include the wires and fixtures of the parties hereto, attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto, shall be as follows:

- a. Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications referred to in Article 3, and will indemnify, protect and hold harmless the other party in any such instance.
- b. Each party shall be liable for one-half (1/2) of

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all damages for such injuries to persons and for one-half (1/2) of all damages for such injuries to property that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of either party.

- c. All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, that in any case under the provisions of paragraph b., of this Article and where the claimant desires to settle such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the amount which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.
- d. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall include costs, attorneys' fees, disbursements and other proper charges and

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expenditures.

- e. It is further understood and agreed between the parties hereto that at all times during the term of this Agreement and particularly during the time of any construction, repair or new attachments to poles covered by this Agreement that the parties shall consider the electric wires of the Electric Company to be energized.
- f. It is further agreed between the parties hereto, that to the extent any of the provisions of this Article 14 should be determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Article shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated.

ARTICLE 15

DEFAULTS

15.01 If either party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the rights of the party in default insofar as concerns the granting of further joint use. If such default shall continue for a period of sixty (60) days after such suspension, the party not in default may forthwith terminate this Agreement as far as

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It concerns the further granting of joint use, and shall be under no further obligation to permit additions to or changes in attachments of the defaulting party upon poles in joint use on the date of such termination.

15.02 If either party shall make default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days after presentation of bills therefor shall, at the election of the other party, constitute a default under Section 15.01 of this Article.

ARTICLE 16

ATTACHMENTS OF OTHER PARTIES

16.01 Nothing herein contained shall be construed as prohibiting the granting by Owner to others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement. The attachments of any such outside party shall be treated as attachments belonging to the Owner, who shall have the entire right to any payments from such party.

16.02 Attachments of other parties shall at all times be in conformity with Article 3.

16.03 If space is shared by the Owner or Licensee with a third party in order to minimize such third party's costs, the sharing party retains its right to use the shared portion of its

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space. If Owner or Licensee thereafter requires the full use of its space, it is the duty of the Owner to provide that all costs of making that space available shall be borne by the third party.

ARTICLE 17

WAIVER OF TERMS OR CONDITIONS

17.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

ARTICLE 18

PAYMENT OF TAXES

18.01 Each party shall pay all taxes and assessments levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner.

ARTICLE 19

BILLS AND PAYMENT FOR WORK

19.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall present to the other party within sixty (60) days after the completion of such work a statement of the costs in accordance with the provisions of this Agreement and such other party shall within thirty (30) days

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after such statement is presented, pay to the party doing the work such other party's portion of the cost of said work.

ARTICLE 20

EXISTING AGREEMENTS

12.01 All existing Agreements, written or oral, between the parties hereto for the joint use of poles within the territory covered by this Agreement are by mutual consent hereby terminated, and poles covered by such agreements are brought under this Agreement as of the effective date thereof, but such termination shall not extinguish any obligation arising prior to the effective date of this Agreement.

ARTICLE 21

TERM OF AGREEMENT

21.01 Subject to the provisions of Article 15 Defaults, herein, this Agreement may be terminated by either party after the first day of January 1996 upon one (1) year's notice in writing to the other party. If not so terminated, it shall continue in force until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid. Despite any termination under this Article, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination until a new Agreement is entered into by the parties. Following such termination until a new Agreement is entered into between the parties, neither party shall be under an obligation to permit additions to or changes in attachments

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of the other on poles in joint use on the date of such termination.
This Agreement shall not be modified except in writing executed by a
duly authorized representative of both parties.

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ARTICLE 22
OPERATING ROUTINE

22.01 An Operating Routine may be jointly prepared by the parties hereto, and shall be approved respectively by the Operations Manager of the Telephone Company and by the T&D Director for the Electric Company. This routine shall be based on this Joint-Use Agreement and shall give the detailed methods and procedure which will be followed in establishing, maintaining and discontinuing the Joint use of poles. In case of any ambiguity or conflict between the provisions of this Agreement, and those of the "Operating Routine" the provisions of this Agreement shall be controlling. This Operating Routine may be changed at any time upon the approval of the Operations Manager of the Telephone Company and the T&D Manager of the Electric Company, provided such changes do not conflict with the terms of this Joint Use Agreement.

Attest:

E. J. Bergemius
Assistant Secretary

KENTUCKY POWER COMPANY

By

[Signature]
Vice President

Attest:

James Grigsby

THACKER-GRIGSBY TELEPHONE COMPANY,

INCORPORATED

By

Robert C. Hecker

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EXHIBIT A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Kentucky Power Company and Thacker-Grigsby Telephone Co., Inc. hereby agree to the following modifications to the Pole Joint Use Agreement dated effective January 1, 1990.

- A. Inasmuch as both parties recognize the median age of the joint pole population is older in rural areas than in urban areas and the common operating areas of the parties are largely rural in nature, a betterment adjustment shall be included in the calculation of the Total Cost as specified in Paragraph 2.07 in cases where a pole or poles over 15 years old are being replaced solely for Licensee's benefit.

The following percentage reduction shall be made to the Total Cost in such cases:

<u>Number of Years Installed</u>	<u>Percentage Reduction</u>
16 - 20	25
21 - 25	50
26 - 30	75
over 30	100

The number of years installed shall be based upon the difference between the year the new pole was installed and the year the old pole was installed.

- B. The percentage reduction as specified in A. above shall be made to the sale price of poles sold under Article 10, Termination of Joint Use. In such case the number of years installed shall be based upon the difference between the year the Licensee is sent notice to abandon by Owner and the year the abandoned pole was installed.
- C. For any unauthorized occupancy found during the first field check made after January 1, 1990, no interest penalty shall be imposed. The provisions in the second sentence of Paragraph 13.01 shall only apply after the first field check. Any unauthorized occupancies found during the first field check will assume to have been made in proportion to the authorized occupancies made since the last field check in determining the back rental.

KENTUCKY POWER COMPANY

By 

Date

4/5/90

THACKER-GRIGSBY TELEPHONE CO., INC.

By 

Date

3-30-90

CONFIDENTIAL INFORMATION

****** PLEASE NOTE ******

This document, including any and all attachments, may contain confidential, private, and/or privileged information, and is intended for internal use by AEP employees only.

Any unauthorized review, disclosure, distribution or use is prohibited.

JOINT USE AGREEMENT
BETWEEN
KENTUCKY POWER COMPANY
AND
KENTUCKY ALLTEL, INC.
DATED
DECEMBER 1, 2004

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AGREEMENT

COVERING THE JOINT USE OF POLES

THIS AGREEMENT, effective December 1, 2004, is made by and between Kentucky Power Company, a Kentucky Corporation (hereinafter called the "Electric Company") and Kentucky ALLTEL, Inc., a Kentucky Corporation (hereinafter called the "Telephone Company").

WITNESSETH

WHEREAS, the Electric Company and the Telephone Company desire to promote the joint use of their respective poles when and where such joint use shall be mutually advantageous,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE 1

1 SCOPE OF AGREEMENT

- 1.01 This agreement shall be in effect in such portions of the Commonwealth of Kentucky in which the Electric Company and the Telephone Company now or hereafter operate and shall cover all poles of each of the parties now existing or hereafter erected or acquired in the above territory when said poles are brought hereunder in accordance with this Agreement.
- 1.02 Each party reserves the right to exclude from joint use:
 - a. Poles which in Owner's judgment are necessary for its own sole use; or
 - b. Poles which carry, or are intended by Owner to carry, facilities of such a character that in Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE 2

2 EXPLANATION OF TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this article.

- 2.01 **JOINT USE** - The simultaneous use of any pole for the attachment of both parties.
- 2.02 **NORMAL SPACE ALLOCATION** - On a joint pole the following described basic space for the exclusive use of each party, respectively, with the associated mutual

vertical clearance space for maintenance of separations, in accordance with the specifications referred to in Article 3:

- a. For the Electric Company, the uppermost [REDACTED] measured from top of pole.
- b. For the Telephone Company, the lowest [REDACTED] measured upward from a point of attachment on the pole which [REDACTED] basic clearances to ground as required by the specifications referred to in Article 3 and permit practical horizontal grading of facilities.
- c. Mutual vertical clearance space on the pole between each company's attachments shall never be less than that which will obtain minimum separations as required by the specifications referred to in Article 3.
- d. Except by mutual agreement of the parties, attachments shall not be permitted in the neutral space required by the specifications referred to in Article 3. This limitation does not apply to attachments of street lighting or traffic control systems owned or used by governmental entities.

These specifications referred to in Article 3 do not preclude certain attachments of one party being located in and extending vertically through space reserved for the other party.

- 2.03 OWNER - The party owning the pole.
- 2.04 LICENSEE - The party having the right under this Agreement to make attachments to Owner's poles.
- 2.05 APPLICANT - The party making application to the Owner for permission to become a Licensee on Owner's poles.
- 2.06 SUBTRANSMISSION - Voltage below 138KV not otherwise designated as distribution. This Agreement does not permit the Telephone Company to make attachments to additional subtransmission poles without the prior written consent of Electric Company, which consent can be withheld in Electric Company's discretion.
- 2.07 TOTAL COST - Total Cost shall include all material, labor and overheads. When replacing a pole and for additional poles due solely to the Licensee's requirements, Total Cost shall include the cost of transferring facilities and removal of the old pole, with book value credit for any reusable/salvageable material.
- 2.08 THIRD PARTY - Any additional licensees other than the Electric Company and Telephone Company.
- 2.09 BARE POLE - A pole exclusive of any type of attachments.

- 2.10 PROPOSALS - A standardized form used by the parties to communicate either their needs, requirements or intentions regarding attachments.
- 2.11 TRANSFER NOTICE - A standardized form used by the parties to communicate that new pole placement has been completed.
- 2.12 ATTACHMENT - Any device now or hereafter fastened to a joint use pole by the parties hereto; excludes existing pedestals and bonds to pole ground where no other overhead attachment or device exists. A riser up the pole to attach to the neutral is considered a contact establishing the pole as a joint use pole herein.
- 2.13 POLE GROUND - A ground rod or wire connected thereto to which Telephone Company may connect at the base of Electric Company pole without causing pole to be considered joint use as herein defined.
- 2.14 JOINT FIELD CHECK - The physical review of joint use facilities subject to this agreement by a representative from each party to determine the ownership of each pole and licensee of said pole. This does not exclude any additional activities during the field check as long as they are mutually agreeable to both parties.

ARTICLE 3

3 SPECIFICATIONS

- 3.01 The joint use of poles covered by this Agreement shall at all times be in conformity with good industry practice and with the terms and provisions of the latest applicable edition of The National Electrical Safety Code, and the rules of the Public Service Commissions of the States applicable to this agreement and any other applicable binding orders, statutes, ordinances, rules and regulations of any other governmental body. Where differences in standards exist, the most stringent shall apply.
- 3.02 If either party places or maintains its facilities not in conformance with Article 3, then the other party may give written notice to the nonconforming party to bring its facilities into compliance with this Agreement subject to the limitations contained in Article 3.04. The nonconforming party must bring its facilities into compliance within ninety (90) days of notification. If facilities are not brought into compliance, the nonconforming party is considered in default in accordance with Article 15 of this Agreement.
- 3.03 Wood poles shall comply with American Standards Association specifications and have a preservative treatment, full length, in accordance with good modern practice at the time of installation.
- 3.04 It is the intent of this Agreement that poles having attachments prior to this Agreement, providing that their installation conformed to the specifications referred

to in Article 3 herein at the time the original attachment was made, will not be replaced or attachments rearranged solely to meet the requirements of Articles 2.02 a. and 2.02 b., under NORMAL SPACE ALLOCATION or the current specifications referred to in Article 3.01.

The foregoing does not prohibit the replacement of a pole if Licensee compensates Owner in accordance with Article 8.01.

ARTICLE 4

4 ESTABLISHING JOINT USE OF EXISTING POLES

- 4.01 (a) All existing poles of either party hereto may be contacted by the other party without notification, but only for the purpose of end user service drops, subject to all applicable laws and regulations and the other terms and conditions of this agreement. A summary Proposal of such service drop poles contacted shall be submitted monthly to the owner with as much accuracy as practical and with sufficient detail as the owner may require and which is readily determined at the pole locations.
- 4.01 (b) Except as provided for by Article 4.01 (a), whenever either party desires to reserve space on any pole owned by the other party, either as initial space or additional space on said pole, it shall submit a proposal therefor, specifying the location of the pole in question, the amount of space desired and the number and character of circuits to be placed thereon. Within fifteen (15) days after the receipt of such application, Owner shall notify the Applicant whether or not said pole is among those excluded from joint use under the provisions of Article 1.02. If for any reason the Owner cannot respond within fifteen (15) days, notification (telephone, fax, verbal, etc.) for an extension shall be made. Failure of response within such fifteen (15) day period shall create a presumption that permission has been granted and Applicant may proceed accordingly; however, notification (telephone, fax, verbal, etc.) to the Owner shall be made before the Applicant proceeds. Upon receipt of Owner's notice that the said pole is not among those excluded from joint use or notification (telephone, fax, verbal, etc.) as stated above, and after the completion by Owner of any transferring or rearranging which in the Owner's judgment is then required with respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as Licensee hereunder to use said space for attachments and circuits of the character specified in said notice in accordance with the terms of the notice and of this Agreement.

- 4.02 Whenever any jointly used pole or any existing pole about to be so used under the provisions of this Agreement is insufficient in height or strength for the existing attachments and for the proposed immediate additional attachments thereon, Owner shall replace such pole with a new pole of the necessary height and strength and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require, and bill Licensee in accordance with Article 8. Whenever Licensee requests any existing jointly used pole be replaced and Owner cannot complete replacement and/or rearrangements within the time required by Licensee, Licensee may place the new pole at the written request of the Owner (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) and bill the Owner the Total Cost of installing the new pole plus 25%. The Owner will retain ownership of the new pole and remove the old pole.
- 4.03 Except as herein otherwise expressly provided, on jointly used poles each party shall, at its own expense, place, maintain, transfer, rearrange and remove its own attachments, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of the other party.

ARTICLE 5

5 ESTABLISHING JOINT USE OF ADDITIONAL POLES

- 5.01 Whenever either party hereto requires new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or in connection with the reconstruction of an existing pole line, and such pole facilities are not to be excluded from joint use under the provisions of Article 1, it shall promptly notify the other party by submitting a proposal (oral notice subsequently confirmed in writing may be given in cases of emergency) stating the location and size of the new poles and the character of circuits it proposes to use thereon. Within fifteen (15) days after the receipt of such notice, the other party shall reply in writing, stating whether it does or does not desire space on the said poles, and, if it does, the character of the circuits it desires to use and the amount of space it wishes to reserve. Failure of response within fifteen (15) days shall create a presumption that no joint use is desired and the proposing party may proceed accordingly; however, a telephone call shall be made to the other party to confirm before the proposing party proceeds. Should the party to whom the proposal was made express interest in joint use after the fifteen (15) day period referred to above, any and all additional expenses, including, but not limited to, engineering and other labor costs plus other expenses associated with replacement and/or rearrangement of facilities, shall be borne by the party to whom notice was originally given.

- 5.02 In any case where the parties hereto shall conclude arrangements for the joint use of any new pole to be erected, and the party proposing to construct the new pole facilities already owns more than its Ownership Objective of joint poles as stated in Article 12.03., the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning less than its Ownership Objective of joint poles so as to work toward such a division of ownership of the joint poles that both parties shall equitably share in the benefits and burdens of joint use.
- 5.03 Each party shall, at its own expense, place and maintain its own attachments on the new joint poles, including any tree trimming or cutting incidental thereto, place guys to sustain unbalanced loads due to its attachments, and shall perform such work promptly and in such manner as not to interfere with the service of the other party.

ARTICLE 6

6 RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

- 6.01 Owner shall not be required to secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of attachments of Licensee, and Owner does not grant, guarantee nor convey any easements, rights-of-way or franchises for the construction and maintenance of said attachments, and if objection is made thereto and Licensee is unable to satisfactorily adjust the matter within a reasonable time, Owner may at any time, upon notice in writing to Licensee, require Licensee to remove its attachments from the poles involved, and Licensee shall, within sixty (60) days after receipt of said notice, remove its attachments from such poles at its sole expense.

ARTICLE 7

7 MAINTENANCE OF POLES AND ATTACHMENTS

- 7.01 Owner shall maintain its jointly used poles in a safe and serviceable condition in accordance with Owner's standards and in accordance with the specifications referred to in Article 3, and shall replace, reinforce or repair poles as they become defective.
- 7.02 When replacing a jointly used pole carrying terminals of aerial cable, underground connections, or other special equipment, the new pole shall be set in a manner which will minimize the transfer cost of both parties. Should special conditions warrant setting the new pole in the old pole hole, written notice on the standard Proposal form shall be provided to the Owner prior to construction.
- 7.03 Whenever it is necessary to replace or relocate a jointly used pole, Owner shall,

before making the change, give notice thereof in a Proposal (except in cases of emergency, when oral notice may be given and subsequently confirmed in writing) to Licensee, specifying in such notice the time of such proposed replacement or relocation. After Owner has completed its work it shall notify Licensee by Proposal or Transfer Notice, if available, and Licensee shall transfer its attachments to the new or relocated pole. Unless otherwise mutually agreed upon by the parties, the party to this Agreement last transferring its attachments shall remove and retain or dispose of the old pole within ninety (90) days of the Transfer Notice and shall be responsible for any liability, injury, damage, expense, or claim to persons, including disease or death, which is in any way attributable to the removal and disposal of the old pole. If Licensee is the party so removing the existing pole it will be reimbursed for the cost of removing the existing pole, including its disposition, by the original Owner of the pole. If Owner must return to pull the old pole because of failure of Licensee to remove the old pole in a timely manner, Licensee shall compensate Owner for pulling the pole. However, if Licensee is unable to transfer their facilities and remove the old pole due to a third party not transferring its facilities within 10 days of the Transfer Notice, the Licensee will not be liable for the additional costs associated with removal of the old pole. In this instance the Licensee will be responsible for removing the old pole and authorized to bill the Owner for the cost of removing the old pole and any return trips. The Owner will then bill the third party accordingly.

- 7.04 Each party shall maintain all of its attachments on jointly used poles in accordance with the specifications referred to in Article 3 and the terms of this Agreement and shall keep them clear of trees, in safe condition and in thorough repair in accordance with each party's standards.
- 7.05 The Telephone Company, when operating either as Owner or Licensee, without any charge other than normal joint use rental, may install electrical bonding from communication cables or equipment to Electric Company's pole grounds on jointly used poles in accordance with Article 3.
- 7.06 The Licensee may replace Owner's pole during emergency conditions when Owner is not able to replace such pole in a timely manner. In this event, the Owner shall pay the Licensee's costs in accordance with Article 8.04.

ARTICLE 8

8 DIVISION OF COSTS

- 8.01 The Total Cost of new jointly used poles under this Agreement, either in new pole lines, in extension of existing pole lines, to replace existing poles, or to add an additional pole in an existing line, shall be borne by the parties as follows:

a. General

The Total Cost of a pole sufficient to provide the NORMAL SPACE ALLOCATION for Owner's requirements shall be borne by Owner except as provided in b., c. and d. herein.

b. Existing Pole

- (1) Where a pole must be replaced due to Owner's requirements, the Total Cost of the pole shall be borne by Owner. Each party shall transfer its facilities at its own expense.
- (2) Where a pole is replaced by Owner at the request of Licensee solely to accommodate attachments of Licensee, Licensee shall pay to Owner a sum equal to the Total Cost of the new pole.
- (3) Where a pole must be replaced due to Owner's requirements and the extra height and/or strength is required to accommodate Licensee's attachments, Licensee shall pay to Owner a sum equal to the difference between the Total Cost of a new pole required to accommodate Licensee's attachments and the Total Cost of a pole adequate to accommodate the attachments of Owner and its other licensees.
- (4) Where a new pole is installed to replace an existing damaged or deteriorated jointly used pole hereunder, and the extra height and/or strength of the new pole is required or requested by Licensee, Licensee shall pay Owner a sum equal to the difference between the Total Cost of a new pole adequate to accommodate Licensee's attachments and the Total Cost of a pole adequate to accommodate attachments of Owner and its other licensees.
- (5) Where a pole must be replaced as a result of an additional attachment of a third party or the modification of a third party's existing attachment, absent any other arrangements, the Owner shall replace the pole but may be entitled to full reimbursement from the third party for costs associated with pole replacement and costs related to transfer of its facilities. Licensee shall transfer its facilities to the new pole but may also be entitled to full reimbursement from the third party for costs related to transfer of its facilities. Owner shall provide Licensee with the name, address and other relevant contact information of the third party causing such pole replacement and shall cooperate with Licensee to facilitate Licensee to bill the third party for Licensee's transfer expenses.

c. New (Additional Pole)

Nothing herein contained shall be construed to preclude the use of poles less than the basic pole (40 foot, Class 5 wood pole) provided that such poles provide the necessary space for the attachments of both parties and comply with the specifications referred to. A basic pole, or a pole shorter and/or weaker than the basic pole, shall be installed at the sole expense of the Owner only when a new (additional pole) is required.

- (1) Where Owner requires a new pole and neither party requires any extra height and/or strength above the basic pole to accommodate its facilities, the Owner will install a basic pole and the cost of installing the pole shall be borne by Owner.
 - (2) Where Owner requires a new pole and Licensee requires extra height and/or strength above the basic pole to accommodate its attachments, Licensee shall pay a sum equal to the difference between the Total Cost of a new pole adequate to accommodate Licensee's attachments and the Total Cost of a basic pole, and the balance of the cost of installing such pole shall be borne by the Owner.
 - (3) Where one party requires a pole, but desires to have the other party set the pole and the other party agrees, the party that requires the pole shall pay a sum equal to the Total Cost of the new pole less any cost for extra height and/or strength above a basic pole (required by the other party) to the party setting the pole, and shall become the Owner.
- d. In the case of a pole taller or stronger than a pole suitable for joint use, the extra height and/or strength of which is due to the requirements of public authorities (other than requirements with regard to keeping the wires of either party clear of trees), Licensee shall pay to Owner a sum equal to one-half the difference between the Total Cost of such pole and the Total Cost of a pole considered by Owner to be adequate to accommodate the attachments of Owner and its other licensees, unless the Owner is reimbursed by the public authority requesting replacement.
- e. The cost of excess height and/or strength provided for the attachments of third parties, except as provided in Article 8.01 d., shall be billed to and reimbursed by the third party according to the agreement between the Owner and the third party, provided that in no event shall Licensee be responsible for said cost.
- f. Any such new pole shall be the property of Owner regardless of any payments by Licensee toward the cost of such new pole, and Licensee shall acquire no right, title or interest in and to such pole.

- g. Each party shall place, maintain, rearrange, transfer and remove its own attachments at its own expense, except as otherwise expressly provided elsewhere in this Agreement.
- 8.02 Cost of Pole Replacement and Transfer of Attachments. Except as otherwise herein expressly provided, in situations requiring either (a) the replacement of a joint pole in kind, i.e., the same height and class, or (b) where replacement pole must be taller or stronger due to Owner's requirements, the costs of replacement of the pole shall be borne by the Owner, and the costs of transferring shall be borne by each party for its own facilities.
- 8.03 Assistance Required. If Owner cannot physically install a new pole or replace a pole for Joint Use as required in Article 4.02 without the assistance of the Licensee, then Owner shall reimburse Licensee the Total Cost incurred in rendering the required assistance.
- 8.04 Emergency Conditions. Where Licensee must replace Owner's pole under emergency conditions, Owner shall pay Licensee a sum equal to the Total Cost, plus 25%, incurred in replacing the pole, and, if Licensee removes the old pole, the cost of removal plus 25%. Title to the new pole will remain with the Owner. Licensee will transfer its own facilities at no cost to Owner.
- 8.05 Cost of Rearrangements on Existing Poles. Whenever joint use is requested by the Licensee on an existing pole, and space can be provided by rearrangement of the Owner's attachments, the Total Cost of such rearrangements shall be borne by the Licensee.
- 8.06 Sharing of Space. Each party may, upon request of the other party, share with such other party any assigned or reserved space not presently being used, so long as the requirements of Article 3 are satisfied. Upon written notice from the sharing party that any such shared space is required for such party's operations, the party to whom the space was originally loaned shall, within sixty (60) days, relocate or rearrange its facilities. The Total Cost of any work necessary to provide the sharing party with its normal space allocation shall be the responsibility of the party to whom the space was originally loaned.
- 8.07 Anchors. All anchors and guys, with the exception of jointly used anchors as provided in Article 8.08 below, shall be placed by and at the expense of the party whose attachments make such work necessary. Such anchors and guys shall remain the sole property of the party placing them and shall not be considered a part of the supporting structure.

- 8.08 Jointly Used Anchors. Normally each company will place separate anchors; however, when it is advantageous to both companies, an anchor rod suitable for joint attachment shall be placed by the Owner of the pole with the Total Cost of the anchor to be shared equally by the parties. If the anchor is inadequate for the combined requirements of both parties, then the Licensee shall place the additional anchorage required.

ARTICLE 9

9 PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

- 9.01 When either party desires to change the character of its circuits on jointly used poles, such party shall give ninety (90) days' written notice to the other party of such contemplated change.

The parties shall then cooperate in determining (1) the conditions under which joint use may be continued on a mutually satisfactory basis, or (2) if in the judgment of both parties continued joint use is not feasible, the most practical and economical method of providing for separate lines. In the latter event, the party whose circuits are to be removed from the jointly used poles shall promptly carry out the necessary work.

The cost of establishing such circuits in the new location shall be borne by each party under the provisions of this paragraph. In the event one party owns all the poles, the Licensee shall relocate its facilities at no expense to the Owner. If the parties agree that it is more practical for the Licensee to remain on the existing centerline (pole line) and Owner's facilities should be relocated, Licensee shall reimburse Owner for the cost of relocation based upon the reestablishment of similar facilities. In the event neither party is the Owner of all the poles involved, the cost of reestablishing equivalent facilities in a new location shall be divided between the parties in proportion to the percent ownership of the existing poles. Where ownership is divided, the party owning a majority of the poles shall have the right to remain on an existing centerline unless it is mutually agreed otherwise. The cost of relocation shall be divided according to ownership with the party who retains the centerline paying a portion of the relocating party's cost equal to the percent of poles involved which are owned by the relocating party. For example, if one party owns 60% of the poles and the second party owns 40%, the second party would relocate and receive payment equal to 40% of its cost from the first party. Where the ownership of the poles involved is equal, the parties shall decide which facilities are more practical to relocate, and the relocating party will be reimbursed 50% of its relocation costs. If the party owning less than 50% of the poles prefers to remain on the existing centerline and the other party is agreeable, the entire cost of the relocating party's expense shall be paid by the party retaining its facilities on the existing centerline.

- 9.02 Attachments may be permitted on subtransmission and transmission poles of the Electric Company only after obtaining written authorization with the understanding that, should the characteristics of the Electric Company facilities (circuits) change resulting in either the Electric Company or the Telephone Company deciding joint use is no longer feasible, the Telephone Company shall remove its facilities with no cost or obligation to the Electric Company.

ARTICLE 10

10 TERMINATION OF JOINT USE

- 10.01 If Owner desires at any time to abandon any jointly used pole, it shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to remove its attachments from such pole. If, at the expiration of said period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, and Owner shall transfer title to said pole and Licensee shall accept title to said pole in the manner provided for under Article 11. Licensee shall indemnify, protect and hold harmless the Owner from all obligations, liabilities, damages, costs, expenses or charges incurred after the expiration of the sixty (60) day period, and not arising out of anything theretofore occurring, because of or arising out of, the presence or condition of such pole or of any attachment thereon; and shall pay Owner a sum as described in Article 11.02.
- 10.02 Licensee may at any time abandon the use of a jointly used pole by giving due notice thereof in writing to Owner, and by removing therefrom any and all attachments it may have thereon.

ARTICLE 11

11 TRANSFERS OF OWNERSHIP

- 11.01 Any time it is determined that either party owns more than its appropriate percentage of jointly used poles as stated in Article 12.03, the party whose ownership is deficient shall have the option to purchase poles, the location and number of which shall be arrived at by mutual agreement. If one party purchases poles from the other party, the price to be paid shall be determined as described in Article 11.02. Each party shall obtain, at its expense, the approval of any governmental agency having jurisdiction over such party's part of the transaction, including the approval of the Securities and Exchange Commission under the Public Utility Holding Company Act. The parties shall share equally in the cost of any regulatory filing fees excluding any legal fees.

- 11.02 When ownership of poles is to be transferred, a mutually approved Proposal in accordance with the Owner's standard selling policy shall be prepared to cover such transfer. Payments for such poles by the Licensee will be made at the time of purchase. The price of such poles shall be the original Owner's current Total Cost to place a like pole at the time of sale depreciated at the rate of 3% per year, but not less than 25% of the current Total Cost to place a like pole.
- 11.03 Unless otherwise specified in this Agreement, a formal Bill of Sale will be required for the transfer of ownership of all poles. The transferring party shall also obtain any necessary mortgage releases if the poles to be transferred are subject to any mortgages, and shall submit such releases to the other party.

ARTICLE 12

12 RENTALS

- 12.01 For purposes of this Agreement, a Rental Year shall be a calendar year from January 1 to the succeeding December 31. Any space occupied or reserved by Licensee during any portion of any such Rental Year shall be deemed to have been so occupied or reserved during the entire year.
- 12.02 Licensee shall pay rent annually to Owner for those poles on which space is occupied or reserved by Licensee and for which rent is payable, [REDACTED]
- 12.03 Each party's Objective Ownership shall be:
- | | |
|-------------------|-------|
| Electric Company | = 60% |
| Telephone Company | = 40% |
- 12.04 a. Each party shall submit to the other, on or before each March 31, a determination of the number of poles subject to this Agreement on which space was occupied or reserved by such other party as of the preceding December 31. Each such determination shall be deemed correct unless written exception is taken within thirty (30) days of receipt. If any such exception cannot be otherwise resolved, a joint inspection of the poles in dispute and records pertaining thereto shall be made. If the parties are not able to resolve any such exceptions by the next billing date, the number originally proposed shall be used until such resolution is accomplished, at which time a retroactive adjustment shall be made if necessary.
- b. Annual rental payment for each pole occupied shall be set for the first three (3) rental years of this Agreement as follows:
[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- 12.05 The bills for the annual rental shall be rendered each year on or about June 1 and shall contain the total rental due for the current Rental Year. All such bills shall be paid within sixty (60) days of receipt.
- 12.06 In order to make the transition between this Agreement and any prior agreement, it is agreed that an inventory will be necessary to determine a new base line total of contacts. Until an inventory is completed and concurred to, the latest agreed inventory totals will be used.

ARTICLE 13

13 UNAUTHORIZED USE: JOINT FIELD CHECKS

- 13.01 If unauthorized occupancy of poles is found, a Proposal shall be prepared to establish a record of this occupancy on the next annual billing. The party responsible for unauthorized occupancy shall owe the Owner the rental for the entire period dating back to the last joint field check including interest of 8% compounded annually. The back rentals shall be based on the rate specified in Article 12.04(b).

If the only attachment on a pole is unused hardware it shall not be considered a rental attachment; however, provisions will be made to have such hardware promptly removed. If not removed within thirty (30) days after formal notification, the current annual rental will apply, including interest of 8% compounded annually.

- 13.02 The parties shall participate in a joint field check at their own expense no less often than every five (5) years, unless an extension is mutually agreed by the parties. Should one party elect not to participate, that party shall pay one-half (1/2) the cost of the field check performed by the other party. The non-participating party has sixty (60) days in which to verify the findings, after which the results of the inventory will become final.

ARTICLE 14

14 LIABILITY AND DAMAGES

14.01 Whenever any liabilities, losses, costs, expenses, suits, actions, claims and all other obligations and proceedings whatsoever, including all judgments rendered against, fines or penalties are incurred by either or both of the parties hereto, or their respective employees, agents, contractors or subcontractors, including without limitation, injuries to persons, including disease or death, or damage to property, arising out of the joint use of poles under this Agreement, including the location of said poles, the liability for such damages, as between the parties hereto, shall be as follows:

- a. Each party shall be liable for all damages for such injuries to persons or property caused by its sole negligence or by the sole negligence of its contractors or subcontractors or by its sole failure to comply at any time with the specifications referred to in Article 3 or solely by its contractor's or subcontractor's sole failure to comply at any time with the specifications referred to in Article 3, and will indemnify, protect and hold harmless the other party in any such instance.
- b. Each party shall be liable for one-half (1/2) of all damages for such injuries to persons and for one-half (1/2) of all damages for such injuries to property that are caused by the concurrent negligence of both parties hereto, the concurrent negligence of both parties respective contractors/subcontractors, the concurrent negligence of a party and the other party's contractor/subcontractor, or that are due to causes which cannot be traced to the sole negligence of either party, and each party will indemnify, protect and hold harmless the other party for such liability in any such instance.
- c. All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, however, that in any case under the provisions of paragraph b. of this Article and where the claimant desires to settle such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the amount which such settlement would involve as a one-time non-refundable payment, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim, regardless of the final disposition of such claim.
- d. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall include costs, attorneys' fees, disbursements and other proper charges and expenditures.

- e. It is further understood and agreed between the parties hereto that at all times during the term of this Agreement and particularly during the time of any construction, repair or new attachments to poles covered by this Agreement, the parties shall consider the electric wires of the Electric Company to be energized, that working in the vicinity of the wires poses potential dangers and that the Telephone Company shall warn all of its employees, agents, contractors and subcontractors, or any other parties who may be working on behalf of the undersigned, of the potential dangers.
- f. The parties hereto agree to require their contractors and subcontractors to provide a release and indemnification of all claims for the benefit of the other joint user in the form attached hereto as Exhibit A. If one of the parties hereto fails to obtain the appropriate release and indemnification from its contractor/subcontractor, such party agrees to provide the same release and indemnification to the other party to this Agreement.
- g. In the event that one of the parties hereto is providing storm, emergency, or safety-related services for the benefit of the other party hereto and the party providing the service incurs any liability as referenced in this Article 14, the party receiving the service shall be responsible for any and all such liability.
- h. It is further agreed between the parties hereto, that to the extent any of the provisions of this Article 14 should be determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Article shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated, and provide the maximum indemnity allowed by law. With respect to claims against one party by the other party's employees, the latter party agrees to expressly waive its immunity, if any, as a complying employer under the workers' compensation law but only to the extent that such immunity would bar or affect recovery under or enforcement of the indemnification obligations set forth in this Article. With respect to the State of Ohio, this waiver applies to Section 35, Article II of the Ohio Constitution and Ohio Revised Code Section 4123.74.

ARTICLE 15

15 INSURANCE

- 15.01 Each party performing work for the other party under this Agreement, shall take out and maintain throughout the term of this Agreement the following minimum Insurance:
 - a. Worker's compensation insurance as statutorily required.

- b. Public liability and property damage liability insurance covering all operations under this Agreement for bodily injury or death not less than \$2,000,000 combined single limit covering bodily injury, death or property damage.
 - c. Automobile liability insurance on all self-propelled vehicles used in connection with this Agreement whether owned, non-owned, or hired with public liability limits of not less than \$2,000,000 combined single limit covering bodily injury, death or property damage.
- 15.02 The policies of insurance shall be in such form and issued by such insurance carriers as are rated "A" or better. Each party shall furnish to the other party, within thirty (30) days of the execution of this Agreement, a certificate of insurance evidencing the party's compliance with the foregoing insurance requirements and stating the following:
- a. The coverage required whether claims made or occurrence and the limits on each, including the amount of deductibles or self-insured retentions.
 - b. A statement that naming the other party as an insured or an additional insured (except for worker's compensation) on all policies.
 - c. Specific cancellation language, as follows: "in the event of cancellation or modification of any said policies, the insuring company shall give the party to whom this certificate is issued thirty (30) days prior notice of such cancellation or modifications of any of the policies which may affect the other party's interests."
- 15.03 Each party may elect to self-insure in lieu of obtaining any of the insurance coverages required by this section if that party's net worth exceeds \$250,000,000. If either party self-insures, that party shall furnish to the other party, and keep current, evidence of such net worth. If either party self-insures, that party shall save and hold harmless and shall indemnify and defend the other party against all losses, costs (including reasonable attorney's fees), damages, and liabilities resulting from claims that would have otherwise been covered by the foregoing insurance requirements (including without limitation claims alleging negligence or breach of contract).

ARTICLE 16

16 DEFAULTS

- 16.01 If either party shall be in substantial default in any of its obligations under this Agreement and such default continues thirty (30) days after notice thereof in writing by the other party, the party not in default may suspend the granting of any further joint use. If such default shall continue for a period of ninety (90) days after such suspension, the party not in default may forthwith terminate this Agreement as far as it concerns the further granting of joint use, and shall be under no further obligation to permit additions to, changes in, or upgrades to attachments of the defaulting party upon poles in joint use on the date of such termination.
- 16.02 If either party shall default in the performance of any work which it is obligated to do under this Agreement, the other party may, with a thirty (30) day advance written notice to the defaulting party, elect to do such work (for example, rearranging the defaulting party's attachments, including pole replacement, to result in attachments conforming to Article 3.01. Where pole replacement is required, the new pole shall be the property of the party performing the work unless the defaulting party wishes to retain ownership by paying the Total Cost of the new pole.), and the party in default shall reimburse the other party for the Total Cost thereof. Failure on the part of the defaulting party to make such payment within sixty (60) days after presentation of bills therefor shall, at the election of the other party, constitute a default under Article 16.01.
- 16.03 The defaulting party shall repay to the non-defaulting party, upon demand, any actual costs and expenses incurred by the non-defaulting party in successfully enforcing this Agreement.
- 16.04 All rights and remedies of the non-defaulting party set forth in this Agreement shall be cumulative and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule or court, or the common law, either at law or in equity, or both.

ARTICLE 17

17 ATTACHMENTS OF OTHER PARTIES

- 17.01 Nothing herein contained shall be construed as prohibiting the granting by Owner to others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by this Agreement. The attachments of any such outside party shall be treated as attachments belonging to the Owner, who shall have the entire right to any payments from such party.
- 17.02 Attachments of other parties shall at all times be in conformity with Article 3.

17.03 If space is shared by the Owner or Licensee with a third party in order to minimize such third party's costs, the sharing party retains its right to use the shared portion of its space. If Owner or Licensee thereafter requires the full use of its space, it is the duty of the Owner to provide that all costs of making that space available shall be borne by the third party.

17.04 If there is insufficient space on a joint use pole to accommodate a third party, the third party shall be required to reimburse Owner and Licensee for all costs incurred by them in making such space available.

ARTICLE 18

18 WAIVER OF TERMS OR CONDITIONS

18.01 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

ARTICLE 19

19 PAYMENT OF TAXES

19.01 Each party shall pay all taxes and assessments levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said jointly used poles shall be paid by the Owner.

ARTICLE 20

20 BILLS AND PAYMENT FOR WORK

20.01 Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party performing the work shall include the expense on the next quarterly billing summary if used or present to the other party within sixty (60) days after the completion of such work a statement of the costs in accordance with the provisions of this Agreement and such other party shall within sixty (60) days after such statement is presented, pay to the party doing the work such other party's portion of the cost of said work or submit in writing a reasonable dispute.

ARTICLE 21

21 EXISTING AGREEMENTS

21.01 All existing agreements, written or oral, between the parties hereto for the joint use of poles within the territory covered by this Agreement are by mutual consent hereby terminated, and poles covered by such agreements are brought under this Agreement as of the effective date hereof, but such termination shall not extinguish any obligation arising prior to the effective date of this Agreement.

ARTICLE 22

22 TERM OF AGREEMENT

22.01 Subject to the provisions of Article 16 Defaults, herein, this Agreement may be terminated by either party after the first day of January upon one (1) year's notice in writing to the other party. If not so terminated, it shall continue in force until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid. Despite any termination under this Article, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination until a new Agreement is entered into by the parties. Following such termination until a new Agreement is entered into between the parties, neither party shall be under an obligation to permit additions to or changes in attachments of the other on poles in joint use on the date of such termination. This Agreement and the rates, terms and conditions hereunder shall not be modified except upon the parties' mutual agreement in writing executed by a duly authorized representative of both parties.

ARTICLE 23

23 OPERATING ROUTINE

23.01 An Operating Routine shall be jointly prepared by the parties hereto, and shall be approved respectively by the one designated person responsible to administer joint use for the Telephone Company and the Electric Company. This routine shall be based on this Joint Use Agreement and shall give the detailed methods and procedures which will be followed in establishing, maintaining and discontinuing the joint use of poles. In case of any ambiguity or conflict between the provisions of this Agreement and those of the Operating Routine, the provisions of this Agreement shall be controlling. This Operating Routine may be changed at any time upon the mutual approval of the designated persons responsible to administer joint use for the Telephone Company and the Electric Company, provided such changes do not conflict with the terms of this Joint Use Agreement.

ARTICLE 24

24 MISCELLANEOUS

- 24.01 Force Majeure. Neither party shall be considered in default in the performance of its obligations herein, or any of them, to the extent that performance is delayed or prevented due to the following causes which are beyond the control of said party: Acts of God or the public enemy, war, revolution, terrorism, civil commotion, blockade or embargo, fires, explosions, cyclones, floods, unavoidable casualties, quarantine, and restrictions.
- 24.02 Modifications of Agreement. No amendments or modifications to this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the parties.
- 24.03 Invalidity. If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable under any laws, rules or regulations of any governmental body or agency having jurisdiction thereof, any such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been incorporated herein.
- 24.04 Execution. The Agreement may be executed in two (2) counterparts, each of which so executed shall be deemed to be an original.
- 24.05 Headings. Headings used in this Agreement are inserted only for the convenience of the parties and shall not affect the interpretation or construction of this Agreement.
- 24.06 Electronic Communications. For the purpose of this Agreement, when notification or notice is specified to be given in writing to the other party in this Agreement, electronic communications may be used in place of paper forms if it is mutually agreed to by the parties and reflected as such in the Operating Routine.
- 24.07 Applicable Law. This contract shall be governed by and interpreted under the laws of the Commonwealth of Kentucky.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

KENTUCKY POWER COMPANY

By: Timothy C. Mosler
1-21-05

KENTUCKY ALLTEL, INC.

By: Albert E. Burke
Albert E. Burke, Level 5
Vice President, Network Services
12-30-04

EXHIBIT A

Page 1 of 2

RELEASE AND INDEMNIFICATION OF ALL CLAIMS

In consideration of Kentucky ALLTEL, Inc. ("Telephone Co.") granting and providing Kentucky Power Company ("Electric Co.") and its contractors and subcontractors with access and/or permission to work on or in the vicinity of Telephone Co.'s facilities under the terms of that certain Joint Use Agreement between Telephone Co. and Electric Co. effective December 1, 2004, the undersigned, its employees, subcontractors or agents, agrees to release, indemnify, save harmless, and defend Telephone Co., or any of their affiliated or subsidiary companies, directors, officers, employees and agents (collectively Indemnities) from and against any losses, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon Indemnities, and any reasonable attorney fees and any other costs of litigation (hereafter referred to as liabilities) arising out of injuries to persons including, disease or death or damage to property, caused by the undersigned, its employees, agents, subcontractors or any other parties whether connected to the undersigned or not, which are in any way attributable to the performance and prosecution of any work under the Joint Use Agreement. This release and indemnification shall specifically cover, but not be limited to, any liabilities arising out of any injury or damage due to working in the vicinity of or contacting Telephone Co.'s telephone lines and facilities.

The undersigned agrees to expressly waive the undersigned's immunity as a complying employer under the workers' compensation law of the jurisdictional state from indemnification. With respect to the contractors based in the State of Ohio, this waiver applies to Section 35, Article II of the Ohio Constitution and Ohio Revised Code 4123.74. The undersigned shall also hold Indemnities harmless from any workers' compensation claims by the undersigned's employees, agents, and contractors in accordance with the indemnity set forth in the first paragraph.

The undersigned hereby acknowledges that he has been warned that working in the vicinity of Telephone Co.'s facilities poses potential dangers and that the undersigned is aware of said dangers and will furthermore warn all employees, agents, subcontractors, or any other parties who may be working on behalf of the undersigned, of the potential dangers.

I have fully read this release and understand and consent to it in its entirety.

Name of Electric Company Contractor

EXHIBIT A

Page 2 of 2

RELEASE AND INDEMNIFICATION OF ALL CLAIMS

In consideration of Kentucky Power Company ("Electric Co.") granting and providing Kentucky ALLTEL, Inc. ("Telephone Co.") with access and/or permission to work on or in the vicinity of Electric Co.'s facilities under the terms of that certain Joint Use Agreement between Telephone Co. and Electric Co. effective December 1, 2004, the undersigned, its employees, subcontractors or agents, agrees to release, indemnify, save harmless, and defend Electric Co., directors, officers, employees and agents (collectively Indemnities) from and against any losses, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon Indemnities, and any reasonable attorney fees and any other costs of litigation (hereafter referred to as liabilities) arising out of injuries to persons including, disease or death or damage to property, caused by the undersigned, its employees, agents, subcontractors or any other parties whether connected to the undersigned or not, which are in any way attributable to the performance and prosecution of any work under the Joint Use Agreement. This release and indemnification shall specifically cover, but not be limited to, any liabilities arising out of any injury or damage due to working in the vicinity of or contacting Electric Co.'s electric power lines and facilities.

The undersigned agrees to expressly waive the undersigned's immunity as a complying employer under the workers' compensation law of the jurisdictional state from indemnification. With respect to the contractors based in the State of Ohio, this waiver applies to Section 35, Article II of the Ohio Constitution and Ohio Revised Code 4123.74. The undersigned shall also hold Indemnities harmless from any workers' compensation claims by the undersigned's employees, agents, and contractors in accordance with the indemnity set forth in the first paragraph.

The undersigned hereby acknowledges that he has been warned that working in the vicinity of Electric Co.'s facilities poses potential dangers and that the undersigned is aware of said dangers and will furthermore warn all employees, agents, subcontractors, or any other parties who may be working on behalf of the undersigned, of the potential dangers.

I have fully read this release and understand and consent to it in its entirety.

Name of Telephone Company Contractor



KY Discovery Verification - Cash.docx

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E-Signature Summary

E-Signature 1: Jason Cash (JAC)

May 26, 2022 12:05:38 -8:00 [77647500D229] [167.239.221.107]
jacash@aep.com (Principal) (Personally Known)

E-Signature Notary: S. Smithhisler (SRS)

May 26, 2022 12:05:38 -8:00 [A1FCC8390D0B] [161.235.221.102]
srsmithhisler@aep.com
I, S. Smithhisler, did witness the participants named above electronically sign this document.



VERIFICATION

The undersigned, Pamela F. Ellis, being duly sworn, deposes and says she is the Director, Energy Delivery Engineering Services for American Electric Power Service Corporation, that she has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of her information, knowledge, and belief.

Pamela F. Ellis

Pamela F. Ellis

Commonwealth of Kentucky)

County of Boyd)

) Case No. 2022-00105

Subscribed and sworn before me, a Notary Public, by Pamela F. Ellis this 1st day of June, 2022.

Scott E. Bishop

Notary Public

My Commission Expires June 24, 2025

Notary ID Number: KYNP 32110

