

JOINT USE AGREEMENT

THIS AGREEMENT, MADE THIS 7th day of January, 2018, by and between the ELECTRIC PLANT BOARD OF THE CITY OF GLASGOW, incorporated under the laws of the State of Kentucky, hereinafter called the "Electric Company", party of the first part, and the Commonwealth of Kentucky, Finance and Administration Cabinet, hereinafter "Commonwealth", party of the second part (referred to collectively as "parties").

WITNESSETH:

WHEREAS, the Electric Company and Commonwealth desire to establish joint use of their respective poles when and where joint use shall be of mutual advantage;

WHEREAS, the parties agree and acknowledge that this Agreement shall be subject to the terms and conditions of the Tennessee Valley Authority (TVA)'s pole attachment regulation outlined in TVA Board resolution dated February 11, 2016, and further detailed in an amendment to the wholesale power contract executed between Electric Plant Board of the City of Glasgow and TVA on October 24, 2017, as amended, and incorporated herein by reference, and attached hereto and made a part hereof by reference, and labeled as Attachment 1; and

WHEREAS, the Commonwealth desires to erect and maintain aerial fiber optic cables, and associated appliances throughout the area to be served and also desires to install such cables and appliances to Electric Company's poles, and;

WHEREAS, subject in all instances to considerations of Electric Company's service requirements including considerations of economy and safety (which requirements, together with its obligations under joint-use agreements with companies or municipalities providing communication service to the public shall be paramount to any permits granted hereunder) Electric Company is willing to permit the attachment or installation of Commonwealth's cables, wires, and appliances to Electric Company's utility poles, provided the Electric Company shall have the right to refuse to issue any permit hereunder whenever the Electric Company determines that the issuance of such a permit is unsafe or is otherwise objectionable to the Electric Company.

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 I
DEFINITIONS

For the purpose of this Agreement, the following terms when used herein, shall have the following meanings:

A. **NORMAL SPACE** means sufficient space on a joint use pole for the use of each party, taking into consideration requirements of the National Electric Safety Code (“NESC”). Except only as to the portion of its said space which, by the terms of the NESC, may be occupied by certain attachments therein described of the other party, this space is specifically defined as follows:

(1) for the Electric Company, the uppermost eight (8) feet on normal distribution poles (not transmission poles), said space being only reserved in the area of the Glasgow Corporate Limits in which the Electric Company has electrical distribution lines;

(2) for Commonwealth, a space of one (1) foot at sufficient distance below the space of the Electric Company to provide at all times the minimum clearance required by the specifications referred to in Article IV, and at sufficient height above the ground to provide proper vertical clearance for the lowest horizontally run line wires or cables attached in such space.

B. **NORMAL JOINT USE POLE** - means a pole which meets the requirements of the NESC for support and clearance of supply and communication conductors under conditions existing at the time joint use is established, or is to be created under known plans of either party. Specifically, a normal joint use pole under this agreement shall be a 40 foot class 4 wood pole.

The foregoing definition of a “normal joint use pole” is not intended to preclude the use of joint poles longer or shorter or of greater or less strength than the normal joint use pole in locations where such poles will meet the known or anticipated requirements of the parties hereto.

C. **ATTACHMENTS** — mean materials or apparatus now or hereafter used by either party in the construction, operation or maintenance of its plant carried on poles.

D. **CLEARANCE ATTACHMENTS** - mean any attachment made to a pole of the Electric Company for the purpose of obtaining clearance between plant of the Commonwealth and that of the Electric Company or other permitted users of each pole, where, in general, a pole for the purpose of

supporting the Commonwealth's attachments would not be required if it were not for the presence of the other route. Guy poles are considered as part of the anchor and guy structure, and, as such, guy attachments are not considered as units to be counted but are given the same treatment as clearance attachments.

E. SUPPORTING ATTACHMENTS - mean attachments made on poles which, in general, relieve the Commonwealth of the necessity of providing a pole at or near the same location for the purpose of supporting its wires or cables.

F. OWNER means the Electric Company.

G. LICENSEE means the Commonwealth.

ARTICLE II

TERRITORY AND SCOPE OF AGREEMENT

This Agreement shall be in effect and shall cover all poles of each of the parties now existing, hereinafter erected or acquired, within the common operating areas served by the parties hereto, when said poles are brought hereunder.

ARTICLE III

PERMISSION FOR JOINT USE

Each party hereto hereby permits joint use by the other party of any of its poles when brought under this Agreement as herein provided, subject to the terms and conditions herein stated.

ARTICLE IV

SPECIFICATIONS

Joint use of poles covered by this Agreement shall at all times be in conformity with terms and conditions of the current issue of the NESC as to minimum requirements, and such revisions and amendments thereto from time to time as may be necessary by reason of developments and improvements in the art as may be mutually agreed upon and approved in writing by the Superintendent or Engineering Manager of the Electric Company and the Commonwealth.

ARTICLE V

RIGHT OF WAY FOR LICENSEES ATTACHMENTS

A. Owner agrees to share easements and certain other property rights with Licensee, but only to the extent permitted by applicable law, such easements or similar rights as Owner may have on, over or under the property of third parties where the facilities of Licensor that are the subject of this Agreement may be located (“Utility Easements”); provided, however, that Licensee’s right to use such Utility Easements shall be at all times limited to such purposes and uses as such Utility Easements may permit and shall be subject and subordinate to Licensor’s prior rights. Owner makes no representation or warranty of any kind or description with respect to any such Utility Easement or to any right Licensee may or may not have to share the use of such Utility Easements. Owner shall not be liable should Licensee at any time be prevented from placing or maintaining its Attachments on Owner’s Poles because Licensee failed to obtain appropriate rights-of-way or easements. To the extent Licensee makes any use of such Utility Easements, Licensee assumes all risks associated with Licensee’s right to do so. To the maximum extent permitted by applicable law, including, without limitation, Section 177 of the Kentucky Constitution, Licensee shall indemnify Licensor for, any claims or liabilities of any kind or description associated with the grant made by Licensor hereunder. Prior to attaching to Licensor’s poles, Licensee shall provide to Licensor a copy of the fully executed Memorandum of Understanding between the Licensee and the City of Glasgow regarding use of the public right of way.

B. Each party shall be responsible for trimming its own circuits at its own expense where right of way is maintained by trimming (side growth, undergrowth or overhead growth).

C. As between the parties to this contract, the company performing the work shall assume all responsibility of claims and suits which may arise from this work.

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ARTICLE VI

PLACING, TRANSFERRING OR REARRANGING ATTACHMENTS

A. Whenever either party desires to reserve space on any pole of the other, for any attachments requiring space thereon, not then specifically reserved hereunder for its use, it shall make written application therefor, specifying in such notice the location of the pole in question, the number and kind of attachments which it desires to place thereon, and the character of the circuits to be used. Upon receipt of notice from the Owner that said pole is not one of those excluded, and after completion of any transferring or rearranging which is then required in respect to attachments on said poles, including any necessary pole replacements as provided in Article VII "A", the Applicant shall have the right as Licensee hereunder to use said space for attachments and circuits of the character specified in said application in accordance with the terms of this agreement. Service wire attachments or emergency construction can be placed in accordance with the specifications, upon verbal approval, subsequently approved in writing.

B. Except as herein otherwise expressly provided, each party shall place, maintain, rearrange, transfer and remove its own attachments, and shall at all times perform such work promptly and in such a manner as not to interfere with work being done by the other party.

C. On all lines, each party shall install suitable anchors for its own load requirements such that no unbalanced loading occurs to Owner's poles.

ARTICLE VII

ERECTING, REPLACING OR RELOCATING POLES

A. Whenever any jointly used pole, or any pole about to be so used under the provisions of this Agreement, is insufficient in size or strength for the existing attachments and for the proposed immediate additional attachments thereon, the Owner shall promptly replace such pole with a new pole of the necessary size and strength, and make such other changes in the existing pole line, in which such pole is included, as may be made necessary by the replacement of such pole and the placing of the Licensee's circuits as proposed.

B. Whenever it is necessary to change the location of a jointly used pole, by reason of any state, municipal or other governmental requirement, or the requirements of a property owner, the Owner shall, before making such change in location, give notice thereof in writing (except in cases of emergency when verbal notice will be given, and subsequently confirmed in writing) to the Licensee, specifying in such notice the time of such proposed relocation, and the Licensee shall at the time so specified, transfer its attachments to the pole at the new location.

C. Whenever, either party hereto is about to erect new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, or as the reconstruction of an existing pole line, it shall notify the other in writing, at least ten (10) days before beginning the work (shorter notice, including verbal notice subsequently confirmed in writing, may be given in case of emergency), and shall submit with such notice its plans showing the proposed location and size of the new poles and the character of circuits it will use thereon. The other party shall, within five (5) days after the receipt of such notice, reply in writing to the party erecting the new poles, stating whether such other party does, or does not, desire space on the said poles, and if it does desire space thereon, the character of the circuits it desires to use and the amount of space it wishes to reserve. This notice of desire to establish joint use should include detailed plans of any changes in the plans of the other party which are desired in order to permit the establishment of joint use. If such party requests space on the new poles, and if the character and number of circuits and attachments are such that the Owner does not wish to exclude the poles from joint use under the provisions of Article II, then poles suitable for the said joint use shall be erected in accordance with the provisions and the payment of costs as provided in paragraphs "D", "E" and "F" of this Article.

D. In any case where the parties hereto shall conclude arrangements for the joint use of any new poles to be erected, and the party proposing to construct the new pole facilities already owns more than its proportionate share of joint poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning less than its proportionate share of the joint poles so as to

work towards such a division of ownership of the joint poles. For the purpose of this Agreement, the proportionate share of ownership for the Electric Company shall be 50 percent of the total joint poles and for Commonwealth 50 percent of the total joint poles.

E. The cost of erecting joint poles coming under this Agreement, either as new pole lines, as extensions of existing pole lines, or to replace existing poles, either existing jointly used poles or poles not previously involved in joint use, shall be borne by the parties as follows:

1. A normal joint pole, or a joint pole shorter or smaller than the normal pole, shall be erected at the sole expense of the Owner, except as provided in Section "F" of this Article.

2. A pole taller or stronger than the normal pole, the extra height and strength of which is due wholly to the Owners' requirements, shall be erected at the sole expense of the Owner.

3. In the case of a pole taller or stronger than the normal pole, the extra height and strength of which is due wholly to the Licensee's requirements, the Licensee shall pay to the Owner a sum equal to the difference between the cost in place of such pole and the cost in place of a normal joint pole, the rest of the cost of erecting such pole to be borne by the Owner.

4. In the case of a pole taller or stronger than the normal pole, the extra height and strength of which is due to the requirements of both parties, the Licensee shall pay to the Owner a sum equal to one-half the difference between the cost in place of such pole and the cost in place of a normal joint pole, the rest of the cost of erecting such pole to be borne by the Owner.

5. In the case of a pole taller or stronger than the normal pole, where height and strength in addition to that needed for the purpose of either or both of the parties hereto is necessary in order to meet the requirements of public authority or of property owners, one-half of the excess cost of such pole due to such requirements shall be borne by the Licensee; the rest of the cost of such pole to be borne as provided in one of the preceding paragraphs 1, 2, 3, or 4, within which it would otherwise properly fall.

F. In any case where a pole is erected hereunder to replace another pole solely because such other pole is not tall enough, or of the required strength to provide adequately for the Licensee's

requirements, or where such poles, whether it carry space reserved for the Licensee's use or not, had at the time of its erection, been pronounced by the Licensee as satisfactory and adequate for its requirements, the Licensee shall, upon erection of the new pole, pay to the Owner, in addition to any amounts payable by the Licensee under paragraphs 3, 4 or 5, of Section "E" of this Article, a sum equal to the sacrificed life of the pole which is replaced (then value in place of the pole replaced plus cost of removal less salvage), and the pole removed shall remain the property of the Owner. In any case where the other party by mutual consent erects and owns a joint pole to replace an existing pole of the Owner (instead of the Owner doing so as it is contemplated by Section "A" of this Article that the Owner will do), such other party shall pay to the Owner of the replaced pole a sum equal to the then value in place of the pole which is replaced, and the pole removed shall thereupon become the property of such other party which has erected the replacing pole.

G. Any payments made by the Licensee under the foregoing provisions of this Article for poles taller than normal shall not in any way affect the ownership of said poles.

H. Any payment as provided in the foregoing provisions of this Article shall be based on the Owner's actual complete cost to perform the work, including appropriate overhead costs, labor, material, and storage costs,

ARTICLE VIII

MAINTENANCE OF POLES AND ATTACHMENTS

A. The Owner shall, at its own expense, maintain its joint poles in a safe and serviceable condition, and in accordance with Article IV of this Agreement and the requirements of the NESC, and shall replace subject to the provisions of Article VII, such of said poles as become defective.

B. Each party shall, at its own expense, at all times maintain all of its attachments in accordance with Article IV of this agreement and the NESC and keep them in safe condition and in thorough repair. In all cases, the broadband and fiber optic communications plant owned by the Electric Company shall be considered "communications conductors used in the operation of supply lines" with respect to the

NESC and thus may be placed within 16 inches of supply cables meeting Rule 230C1; 2, or 3; or neutral conductors meeting Rule 230E1 of the 1990 Edition of the NESC or poles owned by the Electric Company.

ARTICLE IX

PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

When either party desires to change the character of its circuits on jointly used poles, such party shall give thirty (30) days' notice to the other party of such contemplated change, and in the event that the party agrees to joint use with such changed circuits, then the joint use of such poles shall be continued with such changes in construction as may be necessary to meet the requirements of the NESC, and the provision noted in Article VIII, Paragraph B, being made at the expense of the party desiring to make the change. In the event, however, that the other party fails within thirty (30) days from receipt of such notice to agree in writing to such change, then both parties shall cooperate in accordance with the following plan:

A. The parties hereto shall determine the most practical and economical method of effectively providing for separate lines, and the party whose circuits are to be moved shall promptly carry out the necessary work.

B. The ownership of any new line constructed under the foregoing provision in a new location shall vest in the party for whose use it is constructed. The net cost of establishing service in the new location shall be exclusive of any increased cost due to the substitution for existing facilities of a substantially new or improved type or of increased capacity but shall include, among other items, the cost of the new pole line, including rights of way, the cost of removing attachments from the old poles to the new location, and the cost of placing the attachments on the poles in the new location.

ARTICLE X

BILLS AND PAYMENTS FOR WORK

Upon completion of work performed hereunder by either party, the expense of which is borne wholly or in part by the other, the party performing the work shall present to the other party, within thirty

(30) days after completion of such work, a statement showing the amount due, and such other party shall, within thirty (30) days after such statement is presented, pay to the party doing the work the amount due.

ARTICLE XI

ABANDONMENT OF JOINTLY USED POLES

A. If the Owner desires at any time to abandon any jointly used pole, it shall give the Licensee notice in writing to that effect at least thirty (30) days prior to the date on which it intends to abandon such pole. If, at the expiration of such period, the Owner shall have no attachments on such pole, but the Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of the Licensee, and to the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, the Licensee shall save harmless the former Owner of such pole from all obligation, liability, damages, cost, expenses or charges incurred thereafter, because of, or arising out of, the presence or condition of such pole or any attachments thereon; and shall pay the Owner a sum equal to the then value in place of such abandoned pole, or poles, or such other equitable sum as may be agreed upon between the parties. Credit shall be allowed for any payments which the Licensee may have made under the provisions of Article VII, Sections 'E' and 'F', when the pole was originally set, provided the Licensee furnishes proof of such payment.

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

ARTICLE XII

RENTAL PAYMENTS

A. On or about December 1st of each year, each party, acting in cooperation with the other, subject to the provisions of the following paragraph of this Article, shall have ascertained and tabulated the total number of poles in use by each party as Licensee for which rental payment shall be made to the other party as Owner.

B. No rental will be paid if the ownership is equal.

C. If one party owns less than fifty per-cent (50%) of joint use poles it will do one of the following:

1. Purchase enough poles from the other party to bring its ownership within the specified range. Payment for such purchase shall be an amount equal to the then value in place of the poles so purchased.

2. Pay to the other an annual rental fee based on the number of poles jointly used. The annual rental rate through calendar year 2018 is Thirty-Four Dollars and 72 cents (\$34.72). On or about December 31, 2018, and each year thereafter, the rate shall be set in accordance with the TVA regulations provided in Article XIII and Attachment 1.

ARTICLE XIII

PERIODICAL REVISION OF RENTALS

A. Annually after the Effective Date of this Agreement, the rentals applicable under this Agreement shall be subject to joint review and revision, as provided for under Section "B" of this Article, upon written request of either party, or upon notification that rental rates are subject to change due to the TVA regulatory requirements. In case of revision the new ownership ranges and rental agreed upon shall apply, starting with the annual bill next rendered and continuing until again adjusted.

B. Revisions of the rental payment shall be based on the Pole Attachment Regulation Amendment (Attachment 1), and the methodology set forth in Exhibit A thereof.

ARTICLE XIV

DEFAULTS

A. If either party shall make default in any of its obligations under this Agreement, and such default shall continue thirty (30) days after notice in writing from the other party, all rights of the party in default hereunder pertaining to the establishment of future joint use shall be suspended, and if such default shall continue for a period of ninety (90) days after such suspension, the other party may forthwith terminate

the right of both parties to make additional attachments. Any such termination of the right to make additional attachments by reason of any such default shall not, however, abrogate or terminate the right of either party to maintain the attachments theretofore made on the poles of the other, and all such prior attachments shall continue thereafter to be maintained pursuant to and in accordance with the terms of this Agreement, which Agreement shall, so long as said attachments are continued, remain in full force and effect solely and only for the purpose of governing and controlling the rights and obligations of the parties with respect to said attachments.

B. If either party shall make default in the performance of any work which it is obligated to do under this contract, 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 sixty (60) days upon presentation of bills therefor shall, at the election of the other party, constitute a default under Section "A" of this Article.

C. In the event of a default by Commonwealth under this Agreement which continues for a period of ninety (90) days after suspension as described in Paragraph A. above, or failure of payment required by Paragraph B. above, Owner may take necessary steps to disable the usage of Licensee's system placed upon Owner's poles.

D. The Commonwealth may terminate this contract pursuant to 200 KAR 5:312.

ARTICLE XV

LIABILITY AND DAMAGES

Owner shall fully and completely indemnify the Licensee, and to the extent permitted by law, including but not limited to Section 177 of the Kentucky Constitution, the Commonwealth shall indemnify Owner with respect to all liability, claims, actions and demands to the extent same arise from or are attributable to:

- A. The condition of the pole owned by such party, to the extent that such condition was attributable to the acts and/or omissions of such party;
- B. The condition of attachments of such party to such pole;
- C. "Condition" as used herein shall include clearances.

Prior to Licensee's placement of any attachments upon poles of Owner, Licensee shall provide Owner with evidence of its Contractor's liability insurance policy providing coverage for the liability undertaken herein by Licensee, naming Owner as an additional insured, with limits of not less than \$1,000,000, and shall maintain such coverage so long as Licensee exercises any of its rights hereunder.

ARTICLE XVI

EXISTING RIGHTS OF OTHER PARTIES

If either of the parties hereto has, prior to the execution of this Agreement, conferred upon others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any of its poles covered by this Agreement, nothing herein contained shall be construed as affecting said right or privileges, and either party hereto shall have the right, by contract or otherwise, to continue and extend such existing rights or privileges as to its poles; it being expressly understood, however, that for the purpose of this Agreement, the attachments of any such outside party shall be treated as attachments belonging to the party granting such rights, and the rights obligations, and liabilities hereunder of the party granting such rights in respect to such attachments shall be the same as if it were the actual Owner thereof.

ARTICLE XVII

SERVICE OF NOTICES

Wherever in this Agreement notice is provided to be given by either party hereto to the other, such notice shall be in writing and given by letter mailed, or personal delivery, to the Electric Company at its

official office at Glasgow, Kentucky, or to the Commonwealth at the Finance and Administration Cabinet, Room, 702 Capital Avenue, Room 383, Frankfort, KY 40601 or to such other address as either party may, from time to time, designate in writing for that purpose.

ARTICLE XVIII

TERMINATION OF AGREEMENT

This Agreement shall continue in full force and effect until the 1st day of January, 2027, and shall continue thereafter until terminated, insofar as the making of additional attachments is concerned, by either party, giving to the other one (1) year's notice in writing of intention to terminate the right of making additional attachments. Any such termination of the right to make additional attachments shall not, however, abrogate or terminate the right of either party to maintain the attachments theretofore made on the poles of the other, and all such prior attachments shall continue thereafter to be maintained, pursuant to and in accordance with the terms of this Agreement, which Agreement shall, so long as said attachments are continued, remain in full force and effect solely and only for the purpose of governing and controlling the rights and obligations of the parties with respect to said attachments.

ARTICLE XIX

ASSIGNMENT OF RIGHTS

Except as otherwise provided in this Agreement, neither party hereto shall assign or otherwise dispose of this Agreement, in whole or in part, without the written consent of the other party; except that either party shall have the right to mortgage any or all of its property, rights, privileges and franchises, or lease or transfer any of them to another corporation organized for the purpose of conducting a business of the same general character as that of such party, or to enter into any merger or consolidation; and, in case of the foreclosure of such mortgage, or in case of such lease, transfer, merger, or consolidation, its right and obligations hereunder shall pass to such successors and assigns; and provided, further, that subject to all of the terms and conditions of this Agreement, either party may permit any corporation conducting a business of the same general character as that of such party, with which it is affiliated, or connecting with it, the

rights and privileges of this Agreement, in the conduct of its said business; and for the purpose of this Agreement, all such attachments maintained on any such pole by the permission as aforesaid of either party hereto shall be considered as the attachments of the party granting such permission and the rights, obligations and liabilities of such party under this Agreement, in respect to such attachments, shall be the same as if it were the actual owner thereof.

ARTICLE XX

WAIVER OF TERMS OR CONDITIONS

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, but the same shall be and remain at all times in full force and effect.

ARTICLE XXI

EXISTING CONTRACTS

In the event of any inconsistency between this Agreement, and the terms of Attachment 1, the provisions of Attachment 1 shall prevail.

ARTICLE XXII

SUPPLEMENTAL ROUTINES AND PRACTICES

Nothing in the foregoing shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as they mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these present to be executed in duplicate, and their corporate seals to be affixed thereto by their respective officers thereunder duly authorized, on the day and year first above written.

**ELECTRIC PLANT BOARD OF THE CITY
OF GLASGOW, KENTUCKY**

By:


William J. Ray, Superintendent

Attest: Cheryl Berry
Board Secretary

Attest:

Approved as to form and legality

By William M. Landrum III

William M. Landrum III
Secretary, Finance and Administration Cabinet

APPROVED AS TO
FORM & LEGALITY

Patrick M. De

APPROVED
FINANCE & ADMINISTRATION CABINET

Attachment 1

POLE ATTACHMENT REGULATION AMENDMENT

TV-55359A, Supp. No. 98

This agreement is between the ELECTRIC PLANT BOARD OF THE CITY OF GLASGOW, KENTUCKY ("Distributor") and TENNESSEE VALLEY AUTHORITY ("TVA").

Distributor purchases all of its power requirements from TVA for resale under contract number TV-55359A, effective September 22, 1980, as amended ("Power Contract").

As detailed in Section 10 of the TVA Act, the TVA Board is authorized to provide for such rules and regulations in the Power Contract as in its judgment may be necessary or desirable for carrying out the purposes of the TVA Act.

As Distributor's exclusive retail rate regulator, TVA seeks to ensure that Distributor's electric system operates for the benefit of electric consumers, and that rates are kept as low as feasible.

So that Distributor's electric system assets and funds are not used to subsidize non-electric activities, Distributor's electric system must be properly compensated for the use of electric system assets, including use by cable and telecommunication providers making or maintaining wireline attachments on Distributor's electric system poles. Rates for such pole attachments that fail to appropriately recover Distributor's costs cause the electric system ratepayers to subsidize other lines of business.

In February 2016, the TVA Board refined its pole attachment rate regulation to include a fully-allocated cost methodology for determining the pole attachment rate to be applied by Distributor ("Pole Attachment Rate Methodology"). The fully-allocated cost methodology is designed to ensure both the proper recovery of Distributor's costs and that electric system ratepayers are not subsidizing other lines of business that have a non-electric purpose. The Board also determined that such pole attachment regulation will not include regulation of the rates charged in Reciprocal Agreements between Distributor and any Attaching Party, and this Amendment will not apply to such Reciprocal Agreements.

Distributor and TVA want to amend the Power Contract to memorialize TVA's regulation of pole attachment rates, and to agree to the Pole Attachment Rate Methodology to be applied by Distributor.

In consideration of the premises and the agreements below, the parties therefore agree:

SECTION 1 - TERM

This Amendment will be effective on the date of TVA's signature below ("Effective Date") and will remain in effect until the expiration or termination of the Power Contract unless sooner terminated as provided below.

SECTION 2 - DEFINITIONS

"Attaching Party" - A provider of telecommunications, cable television, internet access, or other information services (except those providers in a Reciprocal Agreement), who attaches to Distributor's distribution poles.

"Collectively Negotiated Agreement" - An agreement that was negotiated in good faith by multiple distributors with a single Attaching Party (which is also an ILEC), and which contains a pole attachment rate that is identical within all such Collectively Negotiated Agreements.

"Current Rate" - The Pole Attachment Rate Distributor charged an Attaching Party before executing this Amendment.

"DARS" - TVA's Distributors Annual Reporting System.

"Evergreen Party" - An Attaching Party whose pole attachment contract with Distributor automatically renews on a periodic basis without further action by either party

"Incumbent Local Exchange Carrier" (ILEC) - With respect to a particular geographic area, the local exchange carrier that, as of February 8, 1996, both provided telephone exchange service in such area; and either was a member of the National Exchange Carrier Association (NECA), or is a person or entity that became a successor or assignee of a NECA member after February 8, 1996.

"Guideline Adjustment Scale" - Sets forth how Distributor must transition from the Current Rate to the Pole Attachment Rate by providing for a period of time for Distributor to adjust its pole attachment rates, based on the degree of variance between the Current Rate and the Pole Attachment Rate. The TVA Board-approved Guideline Adjustment Scale is attached as Exhibit B

"One-Foot Attaching Party" - An Attaching Party occupying up to one-foot of usable space on Distributor's distribution poles

"Pole Attachment" - The attachment of wires and related wireline equipment to an electric distribution pole, owned or controlled by Distributor, for the purposes of telecommunication service; cable television service; internet access service; or other related information services. This definition does not include attachments to transmission poles or streetlight poles.

"Pole Attachment Rate" - The rate the Distributor charges an Attaching Party for a Pole Attachment using the Pole Attachment Rate Methodology.

"Pole Attachment Template" - The worksheet annually submitted by Distributor to TVA that details items impacting Distributor's cost of pole ownership, and that allocates space to Attaching Parties based on their physical location on a pole.

"Reasonable Efforts" - With respect to section 5(G), the efforts that a reasonable person in the position of the Distributor would use so as to collect the TVA-approved Pole Attachment Rates from Attaching Parties.

"Reciprocal Agreement" - An agreement between Distributor and an Attaching Party (which is also an ILEC), under which the parties each own poles within a shared area, where Distributor can demonstrate that:

- 1) the pole attachment rate is based on a full-cost recovery approach, and
- 2) Distributor receives sufficient Reciprocal Benefits to justify the rate applied.

In situations where either: a) one party to the agreement is not on at least 10% of the poles owned by the other party; or b) there is a Collectively Negotiated Agreement, Distributor must provide information, in a form acceptable to TVA, to demonstrate that such agreement meets the two requirements enumerated above. TVA will determine, in its sole discretion, whether such agreement will be considered a Reciprocal Agreement for the purposes of this Amendment, and will provide to Distributor written notification of its determination. In the case of Collectively Negotiated Agreements, TVA may consider both the full-cost recovery approach and the Reciprocal Benefits in the aggregate.

"Reciprocal Benefits" - The identifiable and quantifiable benefits that are unique to, and which stem from, the efficiency and economy of joint use or other similar reciprocal arrangements between a distributor and an Attaching Party, and that are relevant to TVA for purposes of determining the reasonableness of the pole attachment rate in any joint use or other similar reciprocal agreement. Examples include, but are not limited to: pole ownership, operational support, sharing of other property or personnel, and standardization of operating terms.

"Renewing Party" - An Attaching Party whose pole attachment contract with Distributor will terminate if neither party takes further action.

"Two-Foot Attaching Party" - An Attaching Party occupying greater than one foot and up to two feet of usable space on Distributor's distribution poles.

SECTION 3 - SCOPE OF REGULATION

TVA regulates Pole Attachment Rates within Distributor's service territory pursuant to the TVA Act, the Power Contract, and the Pole Attachment Rate Methodology. TVA's regulation includes but is not limited to establishing, reviewing, and enforcing a rate calculation methodology, along with its implementation guidelines and periodic reporting requirements.

SECTION 4 - POLE ATTACHMENT RATE METHODOLOGY

A) **Fully-Allocated Cost Methodology.** Distributor will use the below formula to calculate pole attachment rates to be charged. Exhibit A includes a more detailed explanation of the formula components and other associated terms, and provides guidance for Distributor data input for Pole Attachment Rate calculation.

Pole Attachment Rate: (Space Allocation) x (Net Cost of Bare Pole) x (Carrying Cost)

B) **Assumptions.** The Pole Attachment Rate Methodology for each Attaching Party uses certain assumptions which are set forth in Exhibit A to this Amendment.

It is recognized that there may be circumstances in which it is appropriate for Distributor to use its actual system data, where such data is available. If Distributor provides sufficient justification to TVA supporting the use of actual data, TVA may approve the use of such data.

Further, TVA may re-evaluate the assumptions used in the formula periodically, as well as the appropriateness of using assumptions or actual data in the formula, and may make adjustments as it deems appropriate, provided that any such changes are consistent with the Pole Attachment Rate Methodology. Whenever TVA deems it necessary to modify or replace the assumptions as outlined in this section and in Exhibit A, either party (or its representative) may request that the parties (or their representatives) meet and endeavor to reach agreement on

such changes. If the parties' representatives have not reached agreement on the changes within 90 days after any request for such changes, then TVA may make its proposed modifications effective by modifying or replacing Exhibit A, with at least 30 days' prior written notice to Distributor.

SECTION 5 - APPLICATION OF POLE ATTACHMENT RATE

A) Rate Approval. Prior to Distributor applying a Pole Attachment Rate, such Pole Attachment Rate must be approved by TVA in the manner described as follows:

Following both the execution of this Amendment and Distributor's submittal of its Pole Attachment Template, TVA will provide Distributor with a letter documenting its TVA-approved Pole Attachment Rate.

Beginning in 2018 and thereafter, between January 1 and March 31 of each calendar year, TVA will provide Distributor its most updated TVA-approved Pole Attachment Rate.

B) Rate Implementation. Following the Effective Date of this Amendment and TVA's approval of Distributor's Pole Attachment Rate as provided for in section 5(A), Distributor will apply the Pole Attachment Rate to all new Attaching Parties and Renewing Parties until Distributor receives its new Pole Attachment Rate in accordance with section 5(A) above.

Following the Effective Date of this Amendment and TVA's approval of Distributor's Pole Attachment Rate as provided for in section 5(A), Distributor will terminate its pole attachment agreements with Evergreen Parties at the earliest opportunity that is permissible under and in accordance with the termination provisions of those agreements.

Nothing in TVA's regulation should be interpreted to supersede or modify any rate of a voluntarily-negotiated written agreement regarding the rates for Pole Attachment entered into by Distributor and an existing Attaching Party prior to the Effective Date of this Amendment.

C) Guideline Adjustment Scale. In instances when there is a variance between the Current Rate and the TVA-approved Pole Attachment Rate, as outlined in Exhibit B, then Distributor must use the Guideline Adjustment Scale to transition from the Current Rate to the TVA-approved, fully-allocated Pole Attachment Rate, according to the degree of variance between the two rates.

D) Maximum Pole Attachment Rate. The Pole Attachment Rate derived from the fully-allocated cost methodology is subject to a cap that TVA will calculate from time to time for One-Foot Attaching Parties and Two-Foot Attaching Parties.

TVA may modify, adjust, or remove any mechanism or methodology related to addressing rates that fall outside of certain statistical parameters. Whenever TVA deems it necessary to make any such changes to this mechanism or methodology, either party (or its representative) may request that the parties (or their representatives) meet and endeavor to reach agreement on such changes. If the parties' representatives have not reached agreement on the changes within 90 days after any request for such changes, then TVA may make its proposed modifications effective with at least 30 days' prior written notice to Distributor.

E) Escalation Options. Once Distributor's Current Rate reaches the TVA-approved Pole Attachment Rate, after any necessary application of the Guideline Adjustment Scale, Distributor must adjust its Pole Attachment Rate in accordance with either of the options below. Distributor

will not apply either option to any Pole Attachment Rate for as long as it is subject to the Guideline Adjustment Scale.

Distributor will use one of the following options to adjust the Pole Attachment Rate during the term of the pole attachment contracts with its Attaching Parties:

- 1) the Handy-Whitman Index, on a monthly, semi-monthly, or yearly basis (as determined by agreement between Distributor, Attaching Parties, or Distributor's electric, broadband, and any other legally-affiliated divisions), and up to any maximum rate that may be established by TVA in accordance with the TVA Board's Determination on Pole Attachment Rate Regulation and communicated to Distributor from time to time; or
- 2) the most recent TVA-approved Pole Attachment Rate.

In the event that the Handy-Whitman Index decreases, Distributor will adjust its Pole Attachment Rate accordingly.

If adjustment of the Pole Attachment Rate using the Handy-Whitman Index results in a rate that exceeds the most recent TVA-approved Pole Attachment Rate by 15% or more, based on the most current available data ("Escalated Pole Attachment Rate"), then Distributor must submit the Escalated Pole Attachment Rate to TVA for a new Pole Attachment Rate. In these cases, Distributor will then use the new TVA-approved Pole Attachment Rate in its agreements with those affected Attaching Parties. Any subsequent increase that results in a rate that exceeds the most recent TVA-approved Pole Attachment Rate by 15% or more will also require a new TVA-approved Pole Attachment Rate.

Distributor must include in any pole attachment contracts with new Attaching Parties and Renewing Parties provisions to ensure compliance with this section.

Notwithstanding the above, after the Effective Date of this Amendment, if:

- 1) Distributor chooses to adjust using the TVA-approved Pole Attachment Rate; and
- 2) Distributor enters into a contract with an Attaching Party prior to January 1 of a calendar year and said contract has an effective date of sometime after January 1 of that same calendar year; then

Distributor will only be able to adjust its Pole Attachment Rate after TVA approves and provides the Pole Attachment Rate between January 1 and March 31 of the following calendar year. Thereafter, Distributor will continue adjusting its Pole Attachment Rate annually using the TVA-approved Pole Attachment Rate.

F) Distributor's Non-Electric Service Fiber. Distributor is responsible for calculating and allocating Pole Attachment Rates for Pole Attachments owned, controlled, or utilized by Distributor – which includes Distributor's electric, broadband, and any other legally-affiliated divisions – by applying the following framework:

- 1) Each Attaching Party is responsible for the space it occupies on a pole plus its share of the support space (not to exceed one share);
- 2) The safety space is shared by all Attaching Parties within the communications space on an equal basis (not to exceed one share);

- 3) Upon any proportional allocation of Distributor's Pole Attachment Rate, Distributor will be required, at a minimum, to allocate to the Attaching Party utilizing fiber for any non-electric purpose the amount required to appropriately compensate the electric system. However, Distributor may charge more than the required amount to its broadband division, as may be necessary to comply with any applicable state law.

G) Collection of Rate Payments. Distributor will undertake Reasonable Efforts to collect the TVA-approved Pole Attachment Rates from Attaching Parties, in accordance with any and all agreements between the parties setting forth same.

SECTION 6 - DISTRIBUTOR REPORTING

Distributor must submit to TVA its Pole Attachment Template within 15 days of submitting its annual report, as required by subsection 1(C) of the Power Contract's Schedule of Terms and Conditions, by using DARS (or in such form as may be requested).

SECTION 7 - INCORPORATION OF ATTACHMENTS

The attachments entitled "Exhibit A" and "Exhibit B" are made a part of this Amendment. In the event of any conflict between the body of this Amendment and either attachment, the former controls. Any modification or replacement of either exhibit will not affect the existing contracts between Distributor and an Attaching Party prior to the effective date of the modification or replacement.

SECTION 8 - CHOICE OF LAW AND VENUE

Federal law governs the validity, interpretation, and enforceability of this Amendment. To the extent there is no body of Federal law for guidance, the laws of the State of Tennessee, but not its choice of law provisions, will govern. Any action against TVA under or on account of this Amendment will be brought only in the United States District Court for the Eastern District of Tennessee, and the parties waive any right to trial by jury in any such action.

SECTION 9 - COMPLIANCE WITH LAWS

Each party will comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party. Neither party will take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party.

SECTION 10 - CHANGE OF LAW, TERMINATION, AND INDEMNIFICATION

If a change in applicable Federal law ultimately becomes final law, and such final law materially alters the essential terms negotiated and agreed upon by the parties under this Amendment, then the parties will endeavor to negotiate and agree upon new terms and provisions that are consistent with said final Federal law. If the parties are unable to reach agreement on new terms within 180 days from the effective date of the final Federal Law, then this Amendment will automatically terminate at the end of that time period.

Notwithstanding the above, this Amendment may be terminated by TVA upon 60 days' written notice to Distributor if TVA determines, in its sole judgment, that a change in Federal law will result in an impairment of TVA's essential obligations under this Amendment.

Termination of this Amendment will not terminate any existing agreements between Distributor and its Attaching Parties.

Neither Distributor nor TVA will be held responsible for any failure to perform any part of this Amendment to the extent such delay or failure is a result of a change in Federal law.

For purposes of this Section, a change of law will include, but will not be limited to, a change in regulation, including a change in regulatory requirements of TVA under the Pole Attachment Rate Methodology.

SECTION 11 - ENTIRE AGREEMENT

This Amendment represents the final expression of the parties' intent and agreement between the parties relating to the subject matter of this Amendment. This Amendment contains all the terms the parties agreed to relating to the subject matter, and replaces all the parties' previous discussions, understandings, and agreements relating to the subject matter.

SECTION 12 - NOTICE

Written notice will be deemed properly given if provided electronically, either by electronic mail or by posting electronically on a computer-based information system designated by TVA for such purpose.

SECTION 13 - RATIFICATION OF POWER CONTRACT

The Power Contract, as amended by this Amendment, is agreed to be the continuing obligation of the parties.

The remainder of this page is intentionally blank.

The parties are signing this Amendment to be effective on the date of TVA's signature.

**ELECTRIC PLANT BOARD OF THE
CITY OF GLASGOW, KENTUCKY**

By  _____

Title: Supervisor

Date: 10.25.17

TENNESSEE VALLEY AUTHORITY

By  _____
Rebecca L. Jones

Director
Power Customer Contracts

Date: October 27, 2017

EXHIBIT A

POLE ATTACHMENT RATE METHODOLOGY

Formula: (Space Allocation) x (Net Cost of Bare Pole) x (Carrying Cost)

- Where "Space Allocation" is the sum of:
 - 1) Support Spaca/number of pole users;
 - 2) Safety Space/number of pole users in the communications space; and
 - 3) Space Occupied by Attaching Party.
- Where "Net Cost of Bare Pole" is the pole investment as shown in Distributor's FERC Account 364, net of depreciation, multiplied by 1 minus the Discount Factor, divided by the total number of Distributor utility poles included in the FERC Account 364.
- Where "Carrying Costs" is sum of the Administrative Charge, the Depreciation Charge, the Maintenance Charge, the Rate of Returns, and the Tax-Equivalent Charge, all of which will be stated as a percentage of net plant.

OTHER DEFINITIONS

Other definitions applicable to the above formula:

"Administrative Charge" means the total of all of the Distributor's administrative and general expenses shown in all of the Sample Distributor's FERC Account 625 (which is a totaling account for FERC Accounts 920, 921, 923-926, 929, & 930), divided by the total of all of the Distributor's electric plant, net of accumulated depreciation.

"Depreciation Charge" means the median depreciation rate for the Distributors, multiplied by the quotient of the Distributor's gross FERC Account 364 plant, divided by the Distributor's net FERC Account 364 plant.

"Maintenance Charge" means the three-year average of the Distributor's FERC Account 593 plant expenses, divided by the sum of the Sample Distributor's plant shown in FERC Accounts 364, 365, and 369, net of accumulated depreciation.

"Discount Factor" represents the percentage of distribution pole plant items (only) in FERC Account 364 (excluding cross arms, anchors, etc.).

"Return on Investment" means 8.5%.

"Space Allocation" is based on a standard average 37.5-foot-tall pole and the actual number of Attaching Parties per pole, including the pole owner.

"Tax and Tax-Equivalent Charges" means the quotient of the Distributor's tax and/or tax-equivalent payments shown in FERC Account 408.1, divided by all of the Distributor's electric plant, net of accumulated depreciation.

(continued on next page)

ASSUMPTIONS

The Pole Attachment Rate Methodology uses the following assumptions:

- "Average Pole Height" is assumed to be 37.5 feet;
- "Safety Space" is assumed to be 3.33 feet;
- "Support Space" is assumed to be 24 feet;
- "Discount Factor" is assumed to be 15%;
- "Return on Investment" is assumed to be 8.5%;
- "Space Occupied by a Cable or Telecommunications Attaching Party" is assumed to be 1 foot; and
- "Space Occupied by a Telephone Attaching Party" is assumed to be 2 feet

These assumptions and their appropriateness are subject to change in accordance with Section 4(B) of the Pole Attachment Regulation Amendment

EXHIBIT B

Guideline Adjustment Scale:

Dollar Variance	Transition Period*	Monthly - Adjustment (+/-)	
		Low	High
\$0 - \$5	Immediate action	\$ -	\$0.42
\$6 - \$10	No more than 2 years	\$0.21	\$0.42
\$11 - \$20	No more than 3 years	\$0.31	\$0.56
\$21 - \$30	No more than 4 years	\$0.44	\$0.63
\$31 or greater	No more than 5 years	\$0.52	\$ >0.52

*Transition period begins upon effective date of new or updated contract with Attaching Party.

