

Pole Attachment Agreement Between
South Kentucky Rural Electric Cooperative
Corporation

And

The Commonwealth of Kentucky

South Kentucky Rural Electric Cooperative Corporation
Somerset, KY

POLE ATTACHMENT AGREEMENT BETWEEN SOUTH KENTUCKY RURAL ELECTRIC
COOPERATIVE CORPORATION AND THE COMMONWEALTH OF KENTUCKY

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POLE ATTACHMENT AGREEMENT BETWEEN SOUTH KENTUCKY RECC AND THE COMMONWEALTH OF KENTUCKY

INTRODUCTION

This Agreement for pole attachments dated _____ is established between South Kentucky Rural Electric Cooperative Corporation, P.O. Box 910, 925-929 North Main Street, Somerset, Kentucky 42502, hereinafter referred to as the "Cooperative", and The Commonwealth of Kentucky, Finance and Administration Cabinet, Office of the Secretary, 702 Capital Avenue, Room 383 Capital Annex, Frankfort, KY, 40601, hereinafter referred to as "KY".

APPLICABILITY

This Contract is applicable to all KY pole attachments on all plant owned by the Cooperative.

TERM OF AGREEMENT

- A. This Agreement shall become effective as of the aforementioned date herein stated and shall remain in effect for a period of fifteen (15) years (the "initial term").
- B. At the expiration of the initial term, this Agreement shall automatically renew for successive two (2) year periods and continue in force until the Cooperative and/or KY provides the other party six (6) months written notice of their intent to terminate this Agreement prior to the expiration of the initial term or then-existing renewal term.
- C. KY shall begin removal of all its pole attachments from the Cooperative's plant upon notification of either party's intent to terminate this Agreement as prescribed within Item (B) above.
- D. KY shall complete removal of all its attachments from the Cooperative's plant prior to the scheduled termination date of this Agreement as prescribed within Item (B) above, and/or as a result of any applicable Required Plant Changes provisions as described below, and/or other pursuant to other pertinent provisions of this Agreement.
- E. KY may remove any of its attachments at any time for any reason. KY shall provide ten (10) days' notice to the Cooperative of its intent to remove any of its attachments.

RIGHTS OF OTHER PARTIES

- A. The Cooperative shall possess the right to confer upon others not a party to this Agreement, rights or privileges to attach to any of its facilities. Nothing contained herein shall be construed as affecting enforceable rights or privileges with respect to existing or future attachments of such outside parties; provided that such rights or privileges conferred to outside parties after the date of this Agreement shall not interfere with the rights and privileges conferred to KY herein.
- B. The Cooperative shall retain all revenue accruing from the attachments of outside parties on the Cooperative's plant.

ANNUAL ATTACHMENT FEES

- A. Annual attachment fees or rental charges for all KY attachments shall be \$25.64 per attachment and escalate two-percent (2%) compounded per annum beginning January 1, 2016.
- B. The Cooperative shall invoice KY each January or thereafter annual attachment fees for the total

number of KY attachments existing at the end of the preceding calendar year. Annual attachment fees for KY attachments shall be the total number of pole attachments multiplied by the appropriate rate as prescribed in item (A) above of the Annual Attachment Fees provisions.

- c. The Cooperative shall reconcile the invoice for annual attachment fees prescribed in items (A) and (B) above of the Annual Attachment Fees provisions for any unauthorized and/or unreported KY attachments. Unauthorized and/or unreported KY attachments shall be invoiced at twice the rates prescribed in item (A) above that would have been due had the KY attachment(s) been installed the day following the Cooperative's previously scheduled system inspection.

DESIGN SPECIFICATIONS

- A. The Cooperative reserves the right to maintain, operate, upgrade, replace, relocate, retire and/or abandon any part of its plant at its discretion and expense at any time without compensation to KY.
- B. KY attachments on the Cooperative's plant shall at all times meet or exceed the requirements of the National Electric Safety Code (NESC), 2012 Edition, and subsequent revisions thereof, except where the requirements of the Rural Utilities Service (RUS), public authorities or the Cooperative may be more stringent, in which case the latter will govern.
- C. The Cooperative may review the adequacy of its plant to withstand additional vertical and transverse loads imposed by KY attachments using NESC design criteria.
- D. The Cooperative reserves the right to prohibit the use of anchors by KY where the strength and/or condition of anchors cannot be verified.

EASEMENTS AND RIGHT-OF-WAYS

- A. The Cooperative and KY shall be responsible for obtaining all easements or right-of-ways for their respective facilities. The Cooperative does not warrant and/or assign easements or right-of-ways to KY.
- B. KY shall promptly remove any KY attachments when any public authority or landowner forbids the use of the Cooperative's plant.
- C. The Cooperative shall not refund to KY any annual KY attachment fees or rental charges resulting from any forbidden use prescribed in item (B) above of the Easement and Right-of-Way provisions.

ESTABLISHING KY ATTACHMENTS

- A. For the purposes of this agreement, an attachment shall be defined as a single point of wireline contact utilizing no more than one foot of vertical space on each pole and no more than twenty percent (20%) of each pole's loading capacity.
- B. KY shall comply with all attachment application procedures established by the Cooperative consistent with all provisions of this Agreement prior to installation of all new or proposed KY attachments.
- C. KY shall provide the Cooperative detailed construction plans, prints and/or drawings of all new or proposed KY attachments prior to their construction or installation. Said plans, prints and/or drawings shall include any maps necessary to illustrate the location of the Cooperative's poles plus the number and character of the proposed KY attachments. Any anticipated adjustments,

additions, relocations and/or replacements of the Cooperative's facilities will be noted within KY's plans, prints, maps and/or drawings. Said plans shall be signed and stamped by a licensed engineer of the state of Kentucky specifying that proposed specifications shall meet or exceed design specification as stipulated within the DESIGN SPECIFICATIONS section of this agreement. Said plans shall take into consideration clearances and other relevant design factors of all parties attached to the Cooperative's facilities at the time KY performs engineering studies for proposed attachments.

- D. The Cooperative may perform any make-ready or walk-through inspection necessary to review KY's plans, prints, maps and/or drawings and provide a cost estimate of all anticipated plant changes required for the proposed KY attachments. Cost estimates for all anticipated plant changes prepared by the Cooperative shall include overhead and material salvage costs.
- E. KY incurs the cost of any make-ready, walk-through and/or review inspections required by the Cooperative as prescribed within item (D) above of the Establishing KY Attachments provisions. KY shall incur said costs regardless of any plant changes that may or may not be required by the Cooperative. KY shall pay the Cooperative's invoiced cost of expenses and overhead associated with any make-ready, walk-through and/or review inspections.
- F. The Cooperative shall proceed with all necessary electric plant changes prescribed by item (D) above of the Establishing KY Attachments provisions upon receipt of written acceptance by KY of said cost estimate and payment of a deposit equal to the cost estimate. KY shall pay the Cooperative or the Cooperative shall refund to KY the difference between any deposit and actual as-built costs. Alternately, the Cooperative may proceed with necessary plant changes without cost estimates and deposits and invoice KY all actual as-built costs provided such arrangements are mutually agreeable.
- G. KY may install its attachments on the Cooperative's plant after items (A) through (F) above of the Establishing KY Attachments provisions and all other pertinent provisions of this Agreement are satisfied. All KY attachments shall be installed at the expense of KY and not interfere with the activities or service of the Cooperative.
- H. KY shall not adjust, modify, replace and/or remove any plant of the Cooperative during the construction or installation of KY attachments.
- I. KY shall provide any clearing of existing right-of-ways and/or trimming necessary to install KY attachments at its own expense. All clearing debris shall be disposed of by KY in a manner agreeable to landowners and in no case create inconvenient access to the Cooperative's plant.
- J. KY incurs the cost of any walk-through and/or review inspection that is required by the Cooperative after the installation of KY attachments is completed. Any walk-through inspection shall review as-built KY attachments consistent with the Design Specification provisions of this Agreement and verify the quantity of as-built attachments. KY shall pay the Cooperative's invoiced cost of expenses and overhead associated with any walk-through and/or review inspections of as-built KY attachments.
- K. Any remedial changes required of the Cooperative's plant identified during item (J) above shall be administered per the Required Plant Changes provisions of this Agreement.

OPERATIONS AND MAINTENANCE OF KY ATTACHMENTS

- A. KY acknowledges that the poles licensed hereunder have energized facilities installed upon them and that working in the vicinity of energized facilities poses serious potential dangers. At all times KY shall consider the electric wires of the Cooperative to be energized and shall take all necessary precautions to protect all persons and property of injury or damages occurring by

reason of KY's attachments and activities involving the Cooperative's facilities.

- B. KY shall have the right to operate and maintain its attachments on the Cooperative's plant after satisfying the Establishing KY Attachments provisions and all other pertinent provisions of this Agreement.
- C. KY shall provide any clearing of existing right-of-ways and/or trimming incidental to the operations and maintenance of KY attachments on the Cooperative's plant. All clearing debris shall be disposed of by KY in a manner agreeable to landowners and in no case create inconvenient access to the Cooperative's plant.
- D. KY shall not adjust, modify, relocate and/or remove any plant of the Cooperative during the course of operations and maintenance of KY attachments.
- E. Any KY attachments determined by the Cooperative not to be operated or maintained as prescribed by the Design Specifications provisions and all other pertinent provisions of this Agreement shall be brought into conformity by KY at its expense.
- F. Any KY attachments requiring remedial correction as prescribed by item (E) above of the Operations and Maintenance of KY Attachments provisions shall be administered per the Required Plant Changes provisions of this Agreement.
- G. Within 10 days after the execution of this contract and at least 30 days before KY shall make an attachment, KY shall furnish the Cooperative with a document listing names, telephone numbers, pager numbers, e-mail addresses, and mailing address of all personnel who the Cooperative may contact for emergency, billing, operating, and other purposes associated to the activities agreed to herein. For emergency and operational purposes, KY shall have qualified, competent, and equipped personnel available by telephone who are able to respond in a reasonable period of time. KY shall be responsible for providing the cooperative with an updated document in the event of any changes that would affect the Cooperative's ability to make necessary contact with appropriate personnel. The updated document shall be furnished in a timely manner and as soon as reasonably practicable.

REQUIRED PLANT CHANGES

- A. Excepting an emergency, unusual, or special situation, the Cooperative shall provide KY thirty (30) days prior written notification of required KY plant changes as prescribed within the Design Specifications, Operations and Maintenance of KY Attachments, Term of Agreement or any other pertinent provisions of this Agreement. Said notification will specify when KY must adjust, replace, relocate and/or remove existing KY attachments.
- B. KY shall incur the cost to adjust, replace, relocate and/or remove any KY attachments as prescribed within item (A) above of the Required Plant Changes provisions.
- C. The Cooperative may elect to perform any work required, as prescribed within item (A) above of the Required Plant Changes provisions, if KY is unwilling or unable to perform said work within a time specified by the Cooperative. KY, in such cases, shall reimburse the Cooperative's expenses inclusive of overhead and material salvage costs.
- D. Any work performed by the Cooperative, as prescribed within the Required Plant Changes provisions, involving unauthorized and/or unreported KY attachments, the repair of any damages to the Cooperative's plant caused by the installation, operation, maintenance and/or removal of KY attachments will be invoiced KY double the total cost calculated in item (C) above of the Required Plant Changes provisions. The Cooperative, at its discretion, may elect to remove any unauthorized and/or unreported KY attachments from the Cooperative's plant at

the expense of the KY.

LIABILITY

- A. The Cooperative shall not incur liability for any damages or costs associated with any service interruption and/or interference of KY cable, equipment and/or appurtenances arising in any manner out of KY's use of the Cooperative's plant, except to the extent such damages or costs are the result of the Cooperative's gross negligence or willful misconduct.
- B. The Cooperative shall not incur liability for any damages or costs involving KY's facilities or operations arising in any manner from any work performed by the Cooperative as prescribed within the Establishing KY Attachments, Operations and Maintenance of KY Attachments, Required Plant Changes, and/or Liability Insurance provisions of this Agreement, except to the extent such damages or costs are the result of the Cooperative's negligence or willful misconduct, or KY performing such work in a manner mandated by the Cooperative.
- C. The Cooperative shall not incur liability for any damages or costs should KY be prevented at any time from establishing or maintaining KY attachments as prescribed within the Easements and Right-of-Ways provisions of this Agreement.
- D. Inspections by the Cooperative of KY attachments as prescribed in the Establishing KY Attachments provisions and other pertinent provisions of this Agreement, shall not relieve KY of any responsibility, obligation and/or liability assumed under this Agreement.
- E. To the extent permitted by law, including but not limited to Section 177 of the Kentucky constitution, KY agrees to defend, indemnify and save harmless the Cooperative from any damage, loss, claim, demand, suit, liability, penalty or forfeiture of every kind and nature including, but not limited to, costs of defending against the Cooperative, including attorney fees, and payment of any settlement or judgment therefrom, by reason of (1) injuries to or the deaths of persons, (2) damages to or destruction of property, (3) contamination, pollution and/or other adverse environmental effects or (4) violations of governmental laws, regulations and/or orders whether suffered directly by the Cooperative itself or indirectly by reason of claims, demands and/or suits against the Cooperative by third parties, resulting or alleged to have resulted from acts and/or omissions of KY, its employees, agents or other representative or from their presence on the premises of the Cooperative, either solely or in concurrence with any alleged joint negligence of the Cooperative. The Cooperative shall be liable only for its negligence or willful misconduct.

LIABILITY INSURANCE

- A. KY, or its contractors, will provide and maintain insurance coverage for the protection of its employees to the extent required by workers compensation laws of the Commonwealth of Kentucky.
- B. KY, or its contractors, will provide and maintain public liability insurance coverage with a minimum aggregate amount of \$2,000,000 (\$2 Million) and \$1,000,000 (\$1 Million) for each occurrence involving injury or death of persons and/or damage or destruction of property.
- C. KY shall provide the Cooperative a certificate of insurance evidencing insurance coverage for items (A) and (B) above of the Liability Insurance provisions. The certificate of insurance shall contain the following contractual endorsement:

"The insurance provided herein shall also be for the benefit of the Cooperative so as to guarantee,

within the coverage limits, the performance by the insured of any indemnity agreement set forth in the Pole Attachment Agreement. This insurance or bond may not be cancelled for any cause without six (6) months advance notice being first given to the Cooperative.

- D. All insurance coverage prescribed within items (A) through (C) above of the Liability Insurance provisions shall specify that said coverage shall not be terminated within six (6) months after receipt by the Cooperative of a written notice from the insurance company of the intent to terminate said coverage.
- E. Upon receipt of a notice to terminate insurance coverage prescribed within items (A) through (C) above of the Liability Insurance provisions, the Cooperative shall provide KY with written notice that it will require KY to remove its attachments from the Cooperative's plant unless KY provides satisfactory evidence of renewed insurance coverage within fifteen (15) days. If KY fails to complete removal of its attachments from the Cooperative's plant within six (6) months after receipt of such request from the Cooperative, the Cooperative shall have the right to remove all of KY's attachments at the expense of KY.

PAYMENT OF TAXES

The Cooperative and KY shall pay all taxes, fees and assessments lawfully levied on their respective properties or plant. Any taxes, fees and assessments levied on the Cooperative's plant solely because of KY's use of the Cooperative's plant for KY attachments shall be reimbursed the Cooperative by KY.

PAYMENT OF FEES AND CHARGES

- A. Payments by KY to the Cooperative for any invoice of expenses, costs and/or fees as prescribed within any provisions of this Agreement shall not entitle KY to ownership of any part of the Cooperative's plant to which KY has contributed in whole or in part.
- B. All fees and charges invoiced by the Cooperative to KY are net and payable within thirty (30) days from the date of the bill or invoice. An amount equal to one percent (1%) per month of the past-due amount shall be added to all invoices, bills and/or accounts that are in a past-due condition. Late payment fees shall apply to the net bill, exclusive of special charges, taxes and other assessments.

CONDITIONS OF DEFAULT

- A. KY shall be in default of this Agreement should KY fail to fulfill its obligations and responsibilities with respect to any of the provisions of this Agreement.
- B. The Cooperative may suspend and terminate the rights of KY with respect to any of the provisions of this Agreement should KY continue to remain in default thirty (30) days after due notice thereof in writing by the Cooperative to KY.
- C. Suspension and termination of the rights of KY by the Cooperative as prescribed within item (B) above of the Conditions of Default provisions shall only prohibit KY from establishing new or proposed KY attachments on the plant of the Cooperative except as prescribed within the Liability Insurance provisions of this Agreement.
- D. Suspension and termination of the rights of KY by the Cooperative as prescribed within item (B) above of the Conditions of Default provisions shall not abrogate or terminate the right of KY to maintain existing attachments on the Cooperative's plant except as prescribed within the Liability Insurance provisions of this Agreement. KY may continue to operate and maintain its

existing attachments on the Cooperative's plant except as provided herein. All provisions of this Agreement shall remain in full force and effect so long as existing KY attachments are continued, solely for the purpose of administering the rights and obligations of KY with respect to said attachments.

- E. Any failure of the Cooperative or KY to enforce or insist on compliance with all provisions of this Agreement shall not constitute a relinquishment or general waiver of any Agreement terms and/or conditions. All provisions of this Agreement shall be and remain in full force and effect.

ASSIGNMENT OF RIGHTS

KY shall not assign or otherwise dispose of this Agreement or any of its rights or interests herein to any firm, corporation, or individual without the written consent of the Cooperative, which shall not be unreasonably withheld.

SUPPLEMENTAL ROUTINES AND PRACTICES

Nothing in the foregoing shall preclude the Cooperative and KY from preparing supplemental operating routines, working practices, or amendments to this Agreement as mutually agreed to be necessary or desirable to effectively administer the provisions of this Agreement.

In witness whereof, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, on the day and year first above stated.

Commonwealth of Kentucky

South Kentucky Rural Electric Cooperative Corporation

Robin Fields Kinney
Printed Name

Allen Anderson
Printed Name

Robin Fields Kinney
Signature

Allen Anderson
Signature

Deputy Secretary
Title

President & CEO
Title

This 23rd day of October, 2015

This 14th day of Oct., 2015

[Signature] Kentucky Franklin
Notary Public State County

[Signature] Kentucky Pulaski
Notary Public State County

My Commission Expires 5/16/17
APPROVED AS TO

My Commission Expires 12/7/17

FORM & LEGALITY

[Signature]
APPROVED
FINANCE & ADMINISTRATION CABINET