

**MINUTES OF THE
JOHNSON CITY ENERGY AUTHORITY
D/B/A
BRIGHTRIDGE**

June 23, 2020

PRESENT: Dan Brant
Jenny Brock
Joe Grandy
B. J. King
Hal Knight
Gary Mabrey
James Smith
Robert Thomas
Guy Wilson
Jeffrey R. Dykes, Chief Executive Officer
Brian Bolling, CPA, Chief Financial Officer and Chief Customer Officer
Connie Crouch, Human Resources Manager
Mark Eades, Chief Engineering and Technology Officer
Eric Egan, Chief Data Officer
Stacy Evans, Chief Broadband Officer
Rodney Metcalf, Chief Operations Officer
Tim Whaley, Director of Public and Governmental Affairs
Joe Harvey, Hunter Smith and Davis, LLP
Robert Houk, Johnson City Press

ABSENT: Bonnie Donnolly, Chief Development & Market Strategy Officer
Brian Ellis, Service Department Manager
Donnie Hall, Safety/Environmental Manager
Angela Shrewsbury, Energy Services/Marketing Manager
David Spinnato, Physical Plant/Warehouse Manager
Tiphonie Watson, Customer Support Manager

Chairman B. J. King called the meeting to order.

CEO Jeff Dykes delivered the following statement:

Operating under authority of **Executive Order No. 16** signed on March 20, 2020 by Tennessee Governor Bill Lee, BrightRidge will be conducting all Board of Directors' meetings electronically, at least through the duration of the Order. BrightRidge, organized as a public political subdivision of the State of Tennessee, will conduct its meetings telephonically beginning Tuesday, March 24, 2020 at 4:15 PM. As required under **Executive Order No. 16**, a full audio recording of the meeting will

posted at **BrightRidge.com** under the "Community" section, along with a meeting agenda, within 48 hours of the meeting.

Area media are being offered the opportunity to listen live, but all follow-up questions should be directed to the BrightRidge Public Affairs Office after the meeting is concluded. Members of the public should also direct any questions to the Public Affairs office.

These measures are temporarily adopted by the BrightRidge Board of Directors to protect the health, safety, and welfare of the general public, staff, and Board members in response to the COVID-19 outbreak. BrightRidge is committed to full transparency and will continue to review the liability of other potential virtual meeting venues moving forward, with authority to conduct meetings electronically set to expire on May 18, 2020, unless renewed.

BrightRidge continues to respect the open meetings and open records laws and will work diligently to continue the free flow of information as protected under the **Tennessee Constitution** and the **Tennessee Open Meetings Act**.

Upon motion of Mr. Smith, seconded by Mr. Thomas, two items were added to the meeting agenda:

(a) Consideration of the purchase of transformer bushings for the Northeast Substation - added to the Electric Division Consent Agenda; and

(b) Consideration of the purchase of additional optical network terminal (ONT) units - added to the Broadband Consent Agenda.

The motion carried by roll call vote, with Ms. Brock being absent at the time of the vote.

Upon motion of Mr. Grandy, seconded by Mr. Mabrey, the monthly power distributor's report submitted to the Tennessee Valley Authority for May, 2020 was approved. The motion carried unanimously by roll call vote. Year-to-date income was \$128,186.17 less than last year's year-to-date figure. However, year-to-date actual net income was \$3,877,629.75 more than the budgeted figure, with TVA Partnership Credits amounting to \$2.5 million through May. The general fund balance stands at \$26,489,312.32, the reserve fund balance stands at \$6,728,879.78, the special reserve fund balance stands at \$5,985,777.20, the tax equivalent fund balance stands at \$5,170,114.28, the economic development fund balance stands at \$1,617,537.10, the 2017 bond and interest sinking fund balance stands at \$369,607.54, the renewal and replacement fund balance stands at \$6,263,644.95, and the self-insurance fund balance stands at \$2,041,972.40. BrightRidge is currently serving 79,764 customers, which is an increase of 784 customers since the same time last year.

Upon motion of Dr. Knight, seconded by Ms. Brock, the monthly financial statements for May, 2020 for the Broadband Division were approved. The motion

carried unanimously by roll call vote. The cash bank balance stands at \$784,838.89, and capital projects closed to plant through May totaled \$3,339,219.69 (plus construction work in progress since June, 2019 totaling \$4,117,245.71), with a \$1,466,428.60 capital budget remaining at this time. There were 1,329 total customers in the Broadband Division at the end of May.

Upon motion of Ms. Brock, seconded by Dr. Knight, the following items were approved on the Electric Division Consent Agenda:

(a) The minutes of the May 26, 2020 Board meeting.

(b) Base and finish stone at a cost not to exceed \$150,000.00 for the 25 MW GRIID Data Center project (to be reimbursed to BrightRidge through the aid to construction contract with GRIID). Once plans are approved by Washington County Zoning/Planning, competitive bids will be sought for the stone.

(c) Work Authorization #38 from Allen and Hoshall, Inc. at a cost not to exceed \$79,900.00 for professional services related to the complete redesign of the West Primary substation relay protective system.

(d) The quote of PCORE Electric Company, Inc. in the amount of \$85,992.00 for six 15 KV bushing assemblies (\$32,142.00) and six 69 KV bushing assemblies (\$53,840.00) for the Northeast Substation.

The motion carried unanimously by roll call vote.

Upon motion of Dr. Knight, seconded by Mr. Mabrey, the following items were approved on the Broadband Division Consent Agenda:

(a) The purchase of 2,700 803G GigaPoint optical network terminals (ONTs) from Calix, Inc. at a cost of \$229,500.00 (\$85.00 each). The equipment will be scheduled for delivery throughout the FY 2020-21 budget year.

(b) The purchase from Calix, Inc. of 50 700GE ONT units (\$11,750.00), 50 760GX ONT units (\$50,500.00), 75 800 GigaHub power interface units (\$9,525.00), and 150 800 GigaPoint Type A power adapters (\$12,750.00) at a total cost of \$84,575.00.

(c) The purchase from Calix, Inc. of 15 760GX ONT units (\$15,565.00) and 500 800 GigaPoint Type A power adapters (\$42,500.00) at a total cost of \$57,665.00.

Calix, Inc. was selected through an RFP process in 2018 as the sole source provider of BrightRidge Broadband's fiber optic network equipment.

The motion carried unanimously by roll call vote.

Mr. Grandy delivered the report of the Finance, Audit, Rates and Budget Committee, which had met recently to consider several items of business.

Upon motion of Mr. Grandy, on behalf of the Committee, the Board approved the Fiscal Year 2020-21 Electric Division Operating and Capital Budgets. The motion carried unanimously by roll call vote.

Upon motion of Mr. Grandy, on behalf of the Committee, the Board approved the Fiscal Year 2020-21 Broadband Division Operating and Capital Budgets. The motion carried unanimously by roll call vote.

Chairman King and Mr. Dykes expressed their appreciation to the Finance, Audit, Rates and Budget Committee members and to the BrightRidge staff for their hard work on these budgets.

Upon motion of Mr. Grandy, on behalf of the Committee, the Board approved revised standard terms and conditions for pole attachments of cables and associated wireline equipment to BrightRidge power poles, to become effective July 1, 2020. A copy of these terms and conditions is attached as Exhibit "A" to these minutes. The motion carried unanimously by roll call vote.

Upon motion of Mr. Grandy, on behalf of the Committee, the Board approved two lighting recommendations:

(a) A blended rate category referred to as the Standard LED lighting rate of \$6.55 per month (Summer Rate), \$6.47 per month (Winter Rate) and \$6.43 per month (Transition Rate).

(b) The addition of two options for decorative private area lights for lighting requested by subdivision Home Owners' Associations and business properties located outside city limits where no street lighting is available.

Rates for the Decorative Traditionaire LED lighting fixture would be \$5.35 per month (Summer Rate), \$5.27 per month (Winter Rate) and \$5.23 per month (Transition Rate). Rates for the Decorative Holphane LED lighting fixture would be \$5.23 per month (Summer Rate), \$5.17 per month (Winter Rate) and \$5.13 per month (Transition Rate).

The motion carried unanimously by roll call vote.

Upon motion of Mr. Grandy, seconded by Mr. Smith, the Board voted to accept the option of the Tennessee Valley Authority to convey a 14.79-acre parcel of land adjacent to the Boones Creek Road BrightRidge facility to BrightRidge. The utility is currently leasing the property. BrightRidge would pay the sum of \$14,415.00 to TVA for title notes and land acquisition costs (\$7,500.00) and engineering and environmental

study costs (\$6,915.00) to purchase the parcel. The motion carried unanimously by roll call vote.

CEO Jeff Dykes advised the Board that the Tennessee Valley Authority had recently finalized a flexibility document favorable to solar power billing, which would allow BrightRidge to pursue further public/private development of solar generation capability.

Mr. Dykes informed the Board that the Governor's order regarding COVID-19 restrictions would expire on June 30th. He stated that operations in the lobby and customer service areas of the BrightRidge facility were going well, and that he looked forward to meeting in person with the Board at its July dinner meeting, to be held with appropriate social distancing in the facility auditorium. He commended BrightRidge employees and staff for their dedication to service and support of customers during this unprecedented time. Chairman King also expressed her appreciation to BrightRidge managers and staff for their work in preparing for the remote Board meetings held the past several months.

Mr. Dykes advised the Board that work was scheduled to begin in the near future for the remodeling of the outdoor entrance area to the Boones Creek Road facility.

There being no further business, the meeting was adjourned.

**TERMS & CONDITIONS FOR ATTACHMENTS OF CABLES
AND ASSOCIATED WIRELINE EQUIPMENT**

(EFFECTIVE JULY 1, 2020)

Applicability: These Terms & Conditions for Attachments of Cables and Associated Equipment ("Terms & Conditions") apply to any attachment of cable, telephone, Internet or similar wireline facilities ("Attachment") to overhead poles or other facilities of Johnson City Energy Authority d/b/a BrightRidge ("Owner") in the electric system service area ("Service Area") of Owner by a provider of communications or broadband services other than pursuant to a current contract between Owner and the licensed user of such facilities ("Licensee"). A Licensee that continues to use Attachments on Owner's facilities beyond the expiration or termination of a pole attachment agreement with Owner thereby accepts and consents to the applicability and enforceability of these Terms & Conditions. A Licensee that makes Attachments to Owner's facilities other than pursuant to a pole attachment agreement with Owner thereby consents to the applicability and enforceability of these Terms & Conditions. These Terms & Conditions establish the terms and conditions under which Attachments to Owner's facilities may be made or maintained, and the entire Terms & Conditions comprise an integral part of the Attachment fees provided in Article 4.

**ARTICLE 1
SCOPE OF TERMS & CONDITIONS**

1.1 As used herein, "Owner" shall mean not only BrightRidge but also all directors, board members, officers, employees, agents, predecessors, assigns and successors."

1.2 These Terms & Conditions apply to any Pre-Existing Attachment of Licensee, as defined in Article 13, below. Such attachments shall be deemed to be authorized Attachments under these Terms & Conditions and shall be subject to post-attachment terms and conditions under these Terms & Conditions on a going-forward basis, including but not limited to, any requirement to bring such attachment into compliance with the Code and other requirements under these Terms & Conditions.

1.3 Subject to the provisions of these Terms & Conditions, Owner may issue to Licensee, for any new Attachment(s) of Licensee's facilities to Owner's poles for the purpose of providing any and all lawful communication services, a revocable, non-exclusive license hereinafter referred to as "Permit" authorizing the attachment of Licensee's facilities to Owner's poles. These Terms & Conditions govern the fees, charges, terms, and conditions under which Owner issues such Permit(s) to Licensee. These Terms & Conditions are not in and of themselves a license, and before making any Attachment to any utility pole, Licensee must apply for and obtain a Permit for each Attachment it desires to make to any pole.

1.4 These Terms & Conditions shall govern all existing licenses, permits, and other forms of permission for Licensee's facilities to be attached to Owner's Poles in the Service Area as well as all Permits issued pursuant to these Terms & Conditions unless and until Owner and Licensee either enter into a written pole attachment agreement or other similar written license agreement governing Licensee's Attachments or Owner terminates the rights of Licensee to maintain such Attachments under these Terms & Conditions.

1.5 No use, however extended, of Owner's pole or payment of any fees or charges required under these Terms & Conditions shall create or vest in Licensee any ownership or property rights in such poles except as expressly provided by these Terms & Conditions.

1.6 Nothing contained in these Terms & Conditions shall be construed to require Owner to construct, retain, extend, place, or maintain any pole or other facilities not needed for Owner's own service requirements.

1.7 Nothing contained in these Terms & Conditions shall be construed as a limitation, restriction, or prohibition against Owner entering into agreements with other parties regarding the poles covered by these Terms & Conditions.

1.8 Nothing contained in these Terms & Conditions shall be construed to require Owner to grant a Permit where there is insufficient capacity or where access is not possible for reasons of safety, reliability, and generally applicable engineering requirements. Owner may reserve space on its poles for the projected need for its core utility service or the use of Owner's facilities by other parties, or to prevent a hazardous or unsafe condition. Owner may allow Licensee to attach to such reserved space until Owner has a need for that space, at which time, Licensee shall vacate that reserved space and Owner shall provide Licensee an opportunity to maintain its Attachment, at Licensee's expense. Notwithstanding the foregoing, Owner shall not arbitrarily deny or condition any Permit based upon Licensee's status as a provider of broadband cable communications services or other lawful communications services.

ARTICLE 2 TERMINATION

Licensee's rights to make and maintain Attachments under these Terms & Conditions are terminable, individually or in their entirety, with or without cause by Owner, upon ten (10) days' prior notice to Licensee, provided that except for termination for default under Article 24, Licensee may continue to use Owner's facilities for the then current month, if Licensee has paid the monthly pole rate for the then current month under Section 4.1. Upon termination of the license for an Attachment, Licensee shall immediately remove the terminated Attachment from the pole of Owner. If not so removed, Owner shall have the right to remove such Attachment at the full cost and expense of Licensee and without any liability therefor, and Licensee shall be deemed to have abandoned its facilities if Licensee has not removed such facilities within ninety (90) days following such termination. Notwithstanding any termination of the right to maintain an Attachment under these Terms & Conditions, the obligations (but not the rights) of Licensee under these Terms & Conditions shall continue to apply to any Attachment and shall further apply to any other authorized or unauthorized use of Owner's system, facilities or other property for so long as Licensee continues to such system, facilities or other property.

ARTICLE 3 SPECIFICATIONS

3.1 Licensee's Attachments on Owner's poles covered by these Terms & Conditions shall be placed and maintained at all times in accordance with the requirements, specifications, rules, and regulations of the latest edition of the National Electrical Safety Code (the "NESC") and

subsequent revisions thereof, any governing authority having jurisdiction, and these Terms & Conditions including the Rules and Practices of Owner for Attachments (the "Rules") as set forth in Exhibit B attached hereto and made a part hereof by reference and consistent with generally accepted industry standards.

3.2 Owner may specify in the Rules procedures consistent with industry standards for Licensee or Owner to place identification tags on Licensee's facilities to identify the property of Licensee.

3.3 Licensee acknowledges that other users have been granted and may hereafter be granted rights to use Owner's facilities, and that these Terms & Conditions do not provide any exclusive rights to use Owner's poles and related facilities. Licensee's use of Owner's poles shall not interfere with the rights or operations of other users. Licensee shall not move, remove, adjust, or change the attachments of others without the specific written consent of the other user and of Owner.

ARTICLE 4 ATTACHMENT FEES

4.1 Fees: Licensee shall pay a monthly fee equal to one-twelfth (1/12) of the annual rate described in Exhibit A, attached hereto and made a part hereof by reference, for each pole to which Licensee has one or more Attachments (the "Attachment Fee"). The annual rate is subject to annual change in accordance with Exhibit A, and the monthly Attachment Fee shall at all times equal one-twelfth of the then-applicable annual rate. In addition, Licensee shall pay the Attachment Fee for any pole, other than overlashing, for which the Make-Ready Construction Work has been requested and completed unless Licensee notifies Owner within 45 days that it will not attach. Upon such notification, the Permit Application(s) for the specified Attachment(s) will become void.

4.2 Invoicing: On or about the first day of each month, Owner shall invoice Licensee, in advance, the Attachment Fees and other charges due Owner that have not been previously invoiced. Licensee shall pay any invoice within thirty (30) days of receipt thereof. Any unpaid invoice shall be subject to interest accruing on the unpaid amount at twelve percent (12%) per annum beginning on the 31st day from the date of invoice until paid.

4.3 Inventory: From time to time, an actual inventory of Attachments may be made by Owner or Owner's representative at the expense of Licensee. Owner shall provide reasonable notice to Licensee of such inventory so that Licensee has an opportunity to participate in the inventory. Owner agrees that the expense to Licensee shall be the normal market cost for such service and that work done at the same time for the benefit of Owner will not be charged to Licensee. Owner agrees that the inventory may be performed by a neutral contractor or through a joint field check with Licensee. If the Attachment inventory is made for the benefit of more than one Licensee, then each Licensee shall pay its proportionate share of the cost, such cost to be allocated based on the number of Attachments identified in the inventory. Inventory results will be made available to all Licensees included in the inventory.

4.4 Disputed Charge: Owner and Licensee shall promptly seek to resolve any invoice or payment dispute made in good faith and with reasonable basis that might arise from time to time. Any disputed claim must be presented within sixty (60) days of the day the alleged error was

found. In the event either party determines that there is an error or erroneous charge in the amount billed in any statement rendered by Owner to Licensee, the error or erroneous charge shall be adjusted within thirty (30) days of a final determination of whether an error has occurred and the parties will be made whole accordingly. Notwithstanding the above, neither party shall be liable to the other party for errors or erroneous charges in any bill or statement originally issued more than two years prior to the day on which the error is subsequently determined to have occurred.

ARTICLE 5 PROCESS FOR PERMITTING ATTACHMENTS

5.1 The Rules as set forth in Exhibit B provide procedures for implementing the process for permitting Attachments, except to Secondary Poles that are outlined in ARTICLE 6.

5.2 To obtain a Permit, Licensee must submit Exhibit B-1 Permit Application (the "Application") following the procedures in the Rules. Licensee shall at the same time pay the non-refundable Application Fee stated in Exhibit A. Licensee's Application shall be accompanied by Exhibit B-4, the Permit for Attachment form indicating the poles for which an attachment is being requested. Licensee shall also submit construction plans and drawings, which will, at a minimum, contain the information specified in the Rules. Application fees will not be refunded if Licensee chooses not to proceed; however, such fees paid will be credited toward the Make Ready Engineering Fee in those instances where engineering work continues and/or Licensee proceeds with attaching its facilities.

5.3 Within thirty (30) days after the receipt of the Application, Owner will notify Licensee of the charges (the "Make Ready Engineering Fee"), specified in the lower portion of Exhibit B-1, for engineering the required modifications to Owner's poles necessary to accommodate Licensee's Attachments. Owner shall also provide to Licensee an estimated timeframe for completing the make ready engineering work. Licensee and Owner may agree to complete a joint ride-out to assess the necessary modifications to accommodate Licensee's Attachments. Such joint ride-out shall occur as expeditiously as possible and in any event, Licensee will be notified of the Make Ready Engineering Fee no later than the thirty (30) days following submission of an Application.

5.4 After receipt of the Make Ready Engineering Fee, Owner will begin preparing engineering plans (the "Engineering Plans") for the Construction Work. Owner shall notify Licensee of Owner's Cost of any necessary Make Ready Construction Work (the "Make Ready Construction Cost Estimate") and shall provide Licensee a good faith estimate of the timeframe required to complete the Construction Work, as shown in Exhibit B-2. Owner shall provide Licensee with a copy of the Engineering Plans.

5.5 Licensee shall pay Owner the amount specified in the Construction Cost Estimate; and, after receipt of such payment, Owner shall proceed with the Construction Work as a part of its normal work schedule. Owner will make efforts to complete Construction Work within a reasonable time after payment for such work is received. Owner may give consideration to a request by Licensee for an expedited construction schedule. Licensee will be responsible for additional costs reasonably incurred by Owner if the work is expedited.

5.6 When the Construction Work is complete, Owner shall notify Licensee, by use of the top portion of Exhibit B-3, and Licensee shall then have the right to make the specified Attachments in accordance with the Engineering Plans. Licensee shall, at its own expense, make Attachments in such manner as not to interfere with the service of Owner or others who are attached to Owner's poles nor shall Licensee make any changes to the attachments of others unless authorized by Engineering Plans.

5.7 Licensee must make its Attachments to Owner's poles within one hundred twenty (120) days of receipt of notification that the Construction Work is complete. Such timeframe may be extended by Owner provided Licensee makes a written request for such extension and is diligently pursuing its work. If Licensee's work for any Attachment is not complete within the one hundred twenty (120) day period or its extension, then Owner may terminate its approval for Licensee's Attachment, and Licensee shall have no further right to place that Attachment except by following the procedures specified above for new Attachments.

5.8 No later than thirty (30) days after Licensee adds the last Attachment for the Permit Application, Licensee shall send to Owner a Certificate of Compliance signed by an authorized representative of the Licensee that the Attachments are of sound engineering design and fully comply with the Rules in these Terms & Conditions and the latest edition of the NESC and were constructed substantially as provided in the Engineering Plans. The form of Certificate of Compliance is illustrated as the lower portion of Exhibit B-3 of the Rules. Within thirty (30) days of receipt of said Certificate, Owner shall issue the Permit that will authorize Licensee's Attachments to the poles that were certified. The Permit form is illustrated in Exhibit B-4 of the Rules. If the Certificate of Compliance is not received within the thirty-day (30) period, Owner may declare the Attachment an Unauthorized Attachment, hereinafter defined in Article 11.

5.9 Within sixty (60) days of completion of the Construction Work for each Application, Owner may on its own, or in response to written request of Licensee, prepare a revised estimate to reflect the actual Owner's Cost of the Construction Work. If the revised estimate shows the actual Construction Cost is less than the Construction Cost Estimate, then the difference shall be refunded to Licensee. If the revised estimate shows the actual construction cost is more than the Construction Cost Estimate, the difference will be billed to the Licensee to be paid within thirty (30) days of the date of the billing. Interest at twelve percent (12%) per annum shall accrue on balances unpaid after thirty (30) days.

ARTICLE 6 SECONDARY POLE ATTACHMENTS

6.1 Definition: A "Secondary Pole" is a pole installed for the express purpose of providing required clearances for a service drop to a customer's location. A Secondary Pole typically services a single or a few customers or buildings as the case may be, does not have transformers or other electrical equipment on it, is located outside the main line, and supports Owner's wires with less than 600 volts. For all purposes and obligations of Licensee arising under this Article 6, a Secondary Pole shall not refer to or include a pole originally installed by Owner which otherwise fits the description herein but which is owned and maintained by the individual customer on who's private property the pole is located, as opposed to being continually owned and maintained by Owner.

6.2 Process: When in the process of installing service for a single or a few customers, Licensee may attach its drop wire to Owner's Secondary Pole without advanced notice to Owner or Permit first being issued.

6.3 Disclosure: Licensee will disclose all new Secondary Pole Attachment(s) to Owner no later than twenty-five (25) days after the end of the month in which the Attachment was placed by submitting a "Permit For Attachment" showing the Secondary Pole Attachment information, the form of which is illustrated in Exhibit B-4 of the Rules, with the required Application Fee.

6.4 Permit Issuance: Owner will, within thirty (30) days of receipt of the disclosure of Secondary Pole Attachments, issue a Permit as requested, unless prior to issuing the Permit, an inspection reveals that the Attachment does not meet the requirements of the Rules or the Code, then the provisions of Article 12 shall apply.

ARTICLE 7 ANCHORS

Anchors required by either party shall be placed by the party requiring the anchor at its own expense. Guy leads and anchors will possess the strength required by the Code. Notwithstanding the forgoing, Licensee shall pay the fee set forth in Exhibit A for existing shared anchors. From the date of these Terms & Conditions apply to Licensee's Attachments and going forward, sharing anchors is prohibited. If Licensee is found in violation, each new shared-anchor found shall result in a penalty equal to twice the annual attachment fee at the time of discovery.

ARTICLE 8 OVERLASHING

8.1 Process: Licensee may overlash its Attachments where such activity will not cause the Attachment to become Non-Compliant. Prior to any overlashing that would cause such facilities to become Non-Compliant, Licensee shall notify Owner of the Construction Work, and Licensee and Owner shall follow the requirements specified in Article 5 herein. If the Owner determines that overlashing resulted in the Attachment becoming Non-Compliant, then the requirements specified in Article 12 apply.

8.2 Fees: There shall be no additional annual Attachment Fee for overlashing of Licensee's facilities existing at the time of the overlashing.

8.3 Third Party: Licensee shall disclose the identification of any third party that desires to overlash to its facilities on Owner's poles and obtain Owner's approval in writing. Licensee may not overlash to the facilities of a third party on Owner's poles.

8.4 Non-Working Cables: Licensee agrees to remove existing non-working cables from Owner's poles if requested to do so by Owner.

8.5 Disclosure: Licensee will notify Owner in writing of all new overlashings no later than twenty-five (25) days after the end of the month in which the Attachment was overlashd.

**ARTICLE 9
EASEMENTS AND RIGHTS-OF-WAY**

9.1 Owner does not warrant or assure to Licensee any right-of-way privileges, uses, or easements. Licensee shall be responsible, as required by law, for obtaining its own governmental permits and lawful easements from the owner(s), any lien holders, and other appropriate parties. Under no circumstances shall Owner be liable to Licensee or any other party in the event Licensee is prevented from placing and/or maintaining its Attachments on Owner's poles. Accordingly, Owner's acceptance of Licensee's application and issuance of a Permit shall never be construed otherwise.

9.2 Licensee will fully indemnify and hold Owner harmless, including payment of reasonable attorneys' fees and expenses, as to any claims, damages, causes of action, claims for relief or charges by third parties that the necessary easements and governmental permits were not obtained or were negligently obtained by Licensee. Owner will retain the right to choose counsel.

**ARTICLE 10
MAINTENANCE AND TRANSFERS**

10.1 Maintaining Poles: Owner shall, at its own expense, maintain its poles in a serviceable condition in accordance with industry standards and practices and shall replace, reinforce, or repair poles as necessary to keep all poles compliant with such standards, codes and practices, as they become actually known by Owner to be unserviceable.

10.2 Training: Licensee shall insure that all employees, contractors, or employees of contractors who work on Owner's poles are properly trained in climbing and working on Owner's poles safely. Licensee shall specifically and adequately warn, by reasonable means, each and every employee of the inherent dangers of making contact with Owner's electrical conductors and/or electrical equipment before employees are permitted to perform work on or near Owner's facilities. Licensee shall require, as a part of its process for qualifying contractors, that said contractors demonstrate their awareness of such inherent dangers.

10.3 No Warranty of Pole Condition: Owner disclaims any warranty or representation regarding the condition and safety of Owner's poles. Licensee expressly assumes responsibility for determining the condition of all poles to be climbed or otherwise worked on by its employees, agents, contractors, or employees of contractors whether for the placement of Attachments, maintaining or rearranging Attachments, or for other reasons. Except for performing transfer work from unserviceable poles to replacement poles, Licensee shall not permit its employees or contractors to work on poles that are unserviceable until Owner has corrected the unserviceable condition or has determined that the pole is serviceable. Licensee will notify Owner if any of Licensee's employees, agents, contractors, or employees of contractors become aware of unserviceable poles or other condition, whether hazardous or otherwise, that requires the attention of Owner for evaluation and possible correction. Such notification will be provided to Owner in the manner specified in Exhibit B-5 of the Rules. Owner agrees that, upon written notification, it will replace any pole that has become unserviceable at Owner's Cost when Owner has actually determined that the pole in question is unserviceable for its intended purpose.

10.4 Transfer of Attachment: The Owner shall notify Licensee of the need to transfer its Attachment(s) and Licensee shall do so within thirty (30) days of such notice. Licensee shall advise Owner when the transfer is complete in the manner specified in the Rules. In the event of extraordinary circumstances, Owner may elect to grant an extension of the 30-day period to Licensee. Permit(s) shall remain valid for any Attachment transfers to new poles when replacement or relocation is necessary.

10.5 Failure to Transfer: If the transfer is not completed by the end of the sixty (60) day period or the extended time period granted by Owner, Owner may make the transfer and Licensee shall reimburse Owner the full cost of the work. In the event Owner does such work, except for gross negligence or willful misconduct, Owner shall not be liable for any loss or damage to Licensee's facilities, which may result therefrom or for any liability, loss, or damage to Licensee or any other party claiming actual damages.

10.6 Emergency: During the repair and restoration of utility power as a result of a car wreck, storm event, or from other damages to the Owner's facilities or emergency situation, the Owner may elect, but is in no way obligated, to re-attach downed cables and/or conductors of the Licensee in a temporary fashion to the Owner's poles. In the event Owner does such work, except for gross negligence or willful misconduct, Owner shall not be liable for any loss or damage to Licensee's facilities, which may result therefrom or for any liability, loss, or damage to Licensee or any other party claiming actual damages. The Owner will notify the Licensee's designated Emergency Response Contact through the National Joint Use Notification System (NJUNS) ticket system or email or facsimile of such instances. Such a transfer or placement made under emergency conditions shall not be considered permanent by either party. Licensee is required to take immediate action to permanently restore such cables and/or conductors. Owner may invoice Licensee actual costs for each cable or conductor re-attached to each pole by Owner.

ARTICLE 11 UNAUTHORIZED ATTACHMENTS

11.1 Definition: An "Unauthorized Attachment" is an Attachment placed during the period that these Terms & Conditions are in effect or prior to such time (such as under a prior pole attachment agreement, if applicable) without a Permit having been issued under these Terms & Conditions or a prior agreement or that is not part of the work performed pursuant to Article 5, Article 6 or Article 8. When discovered, Owner will notify Licensee of any Unauthorized Attachment, as set forth in Exhibit B-6.

11.2 Fees: Licensee agrees to pay Owner an Unauthorized Attachment Discovery Fee, per pole, in the amount stated in Exhibit A. Licensee shall, within thirty (30) days after being notified, remove such Unauthorized Attachment or will submit Application for a Permit following the provisions of Article 5.

11.3 Failure to Act: If Licensee fails to remove the Unauthorized Attachment or to submit Application within the thirty (30) day period, then Licensee shall also pay to Owner an Unauthorized Attachment Daily Fee as specified in Exhibit A, which shall begin accruing on the 31st day after notification and shall continue until a Permit is issued or the Unauthorized Attachment is removed and Owner has been notified in writing.

ARTICLE 12
NON-COMPLIANT ATTACHMENTS

12.1 Definition: A Non-Compliant Attachment is a Permitted Attachment found to be in violation of Owner's Rules, or the NESC, or is not attached in accordance with the Make Ready Engineering Plans. Owner will notify Licensee of the Non-Compliant Attachment as provided in Exhibit B-7. Compliance with the NESC and Owner's Rules will be determined with reference to the date the Attachment(s) was made as documented by available records maintained by Owner and/or Licensee. Attachments made prior to the date of these Terms & Conditions will be considered compliant if they were NESC compliant when installed. Licensee will not be responsible for the cost of correcting Non-Compliant Attachment(s) resulting from "build downs."

12.2 Process: Licensee will submit to Owner its plans for corrective action, including the schedule for completion of all work (the "Correction Plan") for Owner's approval, within forty-five (45) days of notification. The time period may be extended by Owner if Licensee is diligently pursuing development of a plan and implementation of corrective action. If Licensee does not provide the Correction Plan within the forty-five (45) day period, Owner may revoke the Permit and declare the Attachment(s) Unauthorized and the provisions of Article 11 apply.

12.3 If Owner rejects the Correction Plan, Owner and Licensee will work together in good faith so that Licensee can develop a Correction Plan that is satisfactory to Owner. If, after ninety (90) days of Owner's rejection of the initial Correction Plan, Owner and Licensee have not agreed on a Correction Plan, then Owner may revoke the Permit(s) for the attachments involved and declare the Attachment(s) Unauthorized, invoking the provisions of Article 11.

12.4 Rearrangements and changes to Licensee's Attachments required by the approved Correction Plan shall be made by Licensee at Licensee's expense unless the Non-Compliant Attachment results from the attachment of other licensees or Owner.

12.5 All work described in the approved Correction Plan must be completed within ninety (90) days of the schedule or, in the event of extraordinary circumstances, the time granted by Owner. If Licensee fails to complete such work within said timeframe, Owner may revoke the Permit(s) and declare the Attachment(s) as Unauthorized Attachment(s), invoking the provisions of Article 11.

12.6 Notification: Licensee shall notify Owner of completion of such corrections using the form of Exhibit B-8 attached hereto; and, Owner will issue a Permit for such corrected Pre- Existing Attachment(s) without Licensee making further application.

12.7 Safety Hazard: In the case of an Attachment that is not compliant with the NESC and, in Owner's reasonable judgment, is a safety hazard, Licensee must take immediate action to correct the hazard upon notification by Owner.

ARTICLE 13
EXISTING ATTACHMENTS

13.1 Owner requires a formal written Permit for any and all Attachments. Any Attachment that existed prior to the applicability of these Terms & Conditions ("Pre-Existing Attachment") for

which a Permit exists will be considered an Authorized Attachment. Licensee will be given an opportunity to produce such Permits and will receive the cooperation of the Owner with respect to documentation in the Owner's possession.

13.2 NESC Audit: Owner may, from time to time, complete an NESC compliance audit of Licensee's Attachments at Licensee's expense, as shown in Exhibit A. If Licensee's Attachments are found to be ninety percent (90%) compliant or better on each circuit audited, then no expenses will be charged to Licensee. Owner shall not be responsible in any way for the compliance level of Licensee's facilities based solely on having ordered such an audit, nor shall Owner be liable for any loss or damage to Licensee's facilities, which may result therefrom or for any liability, loss, or damage to Licensee or any other party claiming any damages, charges, losses, claims for relief, causes of action, or claims except in the case of gross negligence or willful misconduct.

13.3 Attachments having Permit: Pre-Existing Attachment(s) having a Permit that are found to be Non-Compliant with the NESC will require a Correction Plan from the Licensee to correct the compliance problem. Licensee is required to submit such plan within forty-five (45) days of notification of discovery. Licensee shall make all rearrangements, modifications, and changes necessary to correct the Non-Compliant Attachment consistent with the provisions of Article 12 at its own expense. Provided, however, that if Licensee can reasonably demonstrate that such Pre-Existing Attachments were NESC complaint when installed, Owner shall deem the Attachments compliant.

13.4 Attachments without Permit: Owner shall issue a Permit for each pole found to be compliant during said audit without Licensee making application. For each Pre-Existing Attachment without Permit found to be non-compliant with the NESC, Licensee shall make application for Permit and pay the Engineering Fee, as shown in Exhibit A, within sixty (60) days of written notice from Owner to Licensee of such non-compliance and the provisions of Article 5 apply. Should Licensee fail to make application within the sixty (60) day period required, then Owner may declare the Attachments as Unauthorized Attachments and the provisions of Article 11 apply.

ARTICLE 14 [RESERVED]

ARTICLE 15 RECOVERY OF SPACE BY OWNER

Owner may, at any time, reasonably require the space occupied by the Licensee's Attachments on Owner's poles be surrendered to Owner for Owner's business purposes Licensee shall rearrange its Attachments to other available space on such poles at Licensee's expense or, at Licensee's option, remove such Attachments within forty-five (45) days after receipt of notification from Owner of Owner's need for such space. If Owner requires the space in order to provide service to one of its customers, the forty-five (45) day period is changed to ten (10) days. If the work is not completed within the specified time period, Owner may rearrange or remove the Attachment at Licensee's expense. Costs of replacing existing poles or placing new poles to accommodate

Owner's business needs shall be borne by Owner. Owner shall not be liable for any loss or damage to Licensee's facilities, which may result therefrom or for any liability, loss or damage to Licensee or any other party claiming actual damages except in the case of gross negligence or willful misconduct.

ARTICLE 16 ABANDONMENT OF POLES

16.1 Pole Abandoned by Owner: Owner may abandon pole(s) upon fifteen (15) days' notice to Licensee using the form provided as Exhibit B-9. Licensee must remove or transfer all Attachments from abandoned poles within thirty (30) days of notification unless granted additional time by Owner. In the event of extraordinary circumstances, Owner may elect to grant an extension of the 30-day period to Licensee. Owner will not unreasonably withhold consent of such request for additional time. If Owner has no Attachment(s) on said poles and Licensee has not removed or transferred its Attachment(s) therefrom, Owner may 1) revoke Licensee's Permit for that pole and declare the Attachment to be Unauthorized, or 2) remove Licensee's Attachment(s) at Licensee's expense, with no liability falling on Owner except in the case of gross negligence or willful misconduct.

16.2 Pole Abandoned by Licensee: Licensee may, at any time, discontinue use of a pole by removing therefrom any and all Attachments it may have thereon. Billing shall cease when Owner has been notified in writing in accordance with the form provided as Exhibit B-10 of the Rules. Following such removal, no Attachment shall again be made to such pole until Licensee submits a Permit Application and receives a new Permit as provided in Article 5 of these Terms & Conditions and the Rules.

ARTICLE 17 RIGHTS OF OTHER PARTIES

17.1 Nothing herein shall be construed to limit the right of Owner, by contract or otherwise, to confer upon others rights or privileges to use the poles covered by these Terms & Conditions.

17.2 If Licensee's new Attachment requires rearranging any other user's Attachment on Owner's pole(s), Licensee shall give notice thereof to such user prior to making its own Attachment and shall cooperate with the other user in the rearrangement of facilities. Licensee hereby acknowledges that it shall bear the expense of necessary rearrangement of Attachment(s), provided such costs are reasonable. Licensee does not have the right to rearrange the facilities of other users except with written permission from such user. Any Attachment privileges granted to Licensee hereunder shall be subject to any rights or privileges heretofore granted by Owner to any user previously attaching.

17.3 If other users require the rearrangement of Licensee's Attachments in order to attach their facilities under the authority of Make Ready Construction plans approved by Owner for their work, Licensee agrees to reasonably cooperate with such user in scheduling and performing the work and the other user shall bear the expense of such rearrangement, provided that any cost charged to the other user shall be reasonable and shall be no more than Licensee's actual cost of doing the work.

**ARTICLE 18
ASSIGNMENT OF RIGHTS**

18.1 Licensee shall not permit any other user to use its Attachment(s) and may not sublicense any of its rights under these Terms & Conditions to any other user without the disclosure of such user and written approval of the Owner.

18.2 [RESERVED]

18.3 Nothing contained herein is intended to interfere with Licensee's leasing fibers or capacity in its facilities, if such use is disclosed in strict compliance with the provisions of Paragraph 18.1. The renting or leasing of fibers or capacity in its facilities specifically does not give Licensee's customer the right to any kind of access to Owner's poles, and Licensee's customer is specifically prohibited from climbing or otherwise working on the facilities that are attached to Owner's poles unless Licensee's customer is working as a contractor for Licensee under the terms of a written agreement.

**ARTICLE 19
WAIVER OF TERMS OR CONDITIONS**

The failure of Owner to enforce or insist upon compliance with any of the terms or conditions of these Terms & Conditions including the Rules 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 20
PAYMENT OF TAXES**

Each party shall pay all taxes and assessments lawfully levied on its own property attached to poles. Taxes and the assessments which are levied on its poles shall be paid by Owner thereof, but the portion of any tax (except income taxes), fee, or charge levied on Owner's poles solely because of their use by Licensee shall be paid by Licensee.

**ARTICLE 21
INSURANCE**

21.1 Licensee shall take out and maintain throughout the period during which these Terms & Conditions shall remain in effect the following minimum insurance:

A. Workers' compensation insurance covering all employees of Licensee. Contractors, employees of contractors, subcontractors, and employees of subcontractors who shall perform any of the obligations of Licensee hereunder, shall be required by Licensee to take out and maintain such insurance, whether or not such insurance is required by the laws of the state governing the employment of any such employee. If any employee is not subject to the workers' compensation laws of such state, such insurance shall extend to such employee voluntary coverage to the same extent as though such employee were subject to such laws.

B. Public liability and property damage liability insurance covering all operations under these Terms & Conditions limits for bodily injury or death not less than \$1,000,000 for one person and \$500,000 for each accident for property damage, not less than \$2,000,000 for each accident and \$2,000,000 aggregate for accidents during the policy period.

C. Automobile liability insurance on all self-propelled vehicles used in connection with these Terms & Conditions, whether owned, non-owned, or hired; public liability limits of not less than \$1,000,000 for one person and \$2,000,000 for each accident; property damage limit of \$1,000,000 for each accident.

21.2 The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to Owner.

21.3 Licensee shall furnish to Owner, at the request of Owner, a certificate evidencing compliance with the foregoing requirements. This certificate will list Owner as an additional insured (provided that such coverage shall exclude events arising from Owner's own acts or omissions) and will provide that in the event of cancellation of any of the said policies of insurance, the insuring company shall give all parties named as insureds thirty (30) days prior notice of such cancellation.

21.4 To the extent allowed by applicable law, Licensee shall not be prohibited from self-insuring and will provide Owner with proof of self-insurance.

21.5 Licensee shall post a \$15,000 performance bond to secure Licensee's performance of its obligations hereunder, specifically including the payment of fees to Owner.

ARTICLE 22 SERVICE OF NOTICES

22.1 It is expressly agreed and understood between Owner and Licensee that any Notice required to be given to either Owner or Licensee pursuant to these Terms & Conditions shall be in writing and sent by US Mail, or by recognized national overnight delivery service and shall be deemed received upon actual delivery or refusal of delivery as evidenced by the records of the US Postal Service or delivery service as the case may be.

22.2 Notices shall be sent addressed as follows:

If to Licensee: Licensee's billing address for electric service from Owner.

If to Owner: Johnson City Energy Authority dba BrightRidge
2600 Boones Creek Road
Johnson City, TN 37615
Attn: Authorized Agent

Or to such other address as either party may designate by Notice to the other party from time to time in accordance with the terms of this Article.

ARTICLE 23
SUPPLEMENTAL AGREEMENTS; AMENDMENT AND TERMINATION

23.1 Neither Owner nor Licensee is under any obligation, express or implied, to amend, supplement or otherwise change or modify any of the provisions of these Terms & Conditions. However, if the parties agree to amend, supplement or otherwise change or modify any of the provisions of these Terms & Conditions, then any such amendment, supplement, change or modification, to be enforceable, must be evidenced by written documentation duly executed by both parties. Without any such duly executed, written documentation of any amendment, supplement, change or modification, any oral discussions relating thereto shall not be binding upon Owner or Licensee.

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

23.3 Owner may, in its sole discretion, amend or terminate these Terms & Conditions from time to time upon at least ten (10) days' prior written notice to Licensee

ARTICLE 24
DEFAULT

24.1 The following shall be an event of Default:

A. If Licensee defaults in the payment of any fees or other sums due and payable to Owner under these Terms & Conditions and such default continues for a period of thirty (30) days after notice of such default has been given by Owner to Licensee or,

B. If either party shall violate or default in the performance of any covenants, agreements, stipulations, or other conditions contained herein (other than the payment of fees and other sums) for a period of thirty (30) days after Notice of such violation or default has been given by the non-defaulting party to such defaulting party or, in the case of a default not curable within thirty (30) days, if such defaulting party shall fail to commence to cure the same within thirty (30) days and proceed diligently until corrected.

24.2 In the event of Default, the non-defaulting party may at any time thereafter for so long as the default condition exists upon Notice of Default do any one or all of the following: 1) declare these Terms & Conditions to be terminated in its entirety; 2) terminate the Permits covering the pole or poles in respect to which such default or non-compliance shall have occurred; 3) refuse to issue any more Permits; or, 4) stop all Make Ready Construction Work and retain any monies that have been paid, or any combination of these remedies and those set out herein and in Section 24.3.

24.3 Whenever one party finds the other party in Default of these Terms & Conditions, a written notice shall be given to defaulting party. The written notice shall describe in reasonable detail the alleged Default so as to afford the defaulting party an opportunity to remedy the violation. Defaulting party shall have 30 days subsequent to receipt of the notice in which to correct the Default before any of the above-referenced remedies are exercised.

24.4 If Licensee defaults in the performance of any work, which it is obligated to do under these Terms & Conditions, Owner may elect to do such work, and Licensee shall reimburse Owner of Owner's Cost. If Owner elects to do such work, except for gross negligence or willful misconduct, Owner shall not be liable for any loss or damage to Licensee's facilities, which may result therefrom or for any liability, loss or damage to Licensee or any other party claiming actual damages.

24.5 The remedies set forth in this article are cumulative and in addition to any and all other remedies which may exist in law or in equity.

24.6 The existence of a Default shall not relieve Licensee of the requirements provided in Article 11 or Article 12 for so long as Licensee's attachments remain attached to Owner's system.

24.7 Where Owner's reasonable approval or consent is required, it shall be reasonable for Owner to withhold consent if Licensee is in Default of these Terms & Conditions and has not cured same within the timeframe provided in the Terms & Conditions (or is not diligently pursuing if allowed for in the element of Default).

ARTICLE 25 INDEMNIFICATION

Licensee agrees to fully indemnify, including payment of reasonable attorneys' fees and expenses, and defend and hold Owner harmless from any and all claims, demands, damages, charges, penalties, costs, liabilities, and losses, to the full extent allowed by applicable law, from and based upon any fault, alleged acts, omissions, or negligence of Licensee or Licensee's directors, officers, employees, agents, assignees or successors or arising from or based upon any breach of Licensee's covenants under these Terms & Conditions. Owner will retain the right to select its own counsel.

ARTICLE 26 FORCE MAJEURE

Neither Party shall be liable for any delay or failure in performance of any part of these Terms & Conditions resulting from acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, or unusually severe weather. In the event of any such excused delay in the performance of a party's obligation(s) under these Terms & Conditions, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delaying party shall perform its obligations at a performance level no less than that which it uses for its own operations.

ARTICLE 27 OWNER'S COST

"Owner's Cost" and "Cost" when used in these Terms & Conditions shall include reasonable material and labor costs, the cost of outside contractors and consultants, equipment, engineering, permits, right-of-way, land clearing, insurance, and overhead. Owner intends that the costs of outside contractors and consultants shall be at fair market value.

ARTICLE 28
NO WARRANTY OF RECORD INFORMATION

From time to time, Licensee may purchase or otherwise obtain from Owner records and other information relating to Owner's outside plant facilities. Licensee acknowledges that such records and information provided by Owner may not reflect field conditions and that physical inspection is necessary to verify presence and condition of outside plant facilities and Right-of-Way. In providing such records and information, Owner does so as a convenience to Licensee and Owner assumes no liability or responsibility to Licensee or any Third Party for errors and or omissions contained therein.

ARTICLE 29
MISCELLANEOUS PROVISIONS

29.1 If Owner requests, Licensee shall become a member of the National Joint Use Notification System (the "NJUNS") and maintain the capability of receiving messages from NJUNS and shall utilize such capability.

29.2 Neither party, by mere lapse of time, shall be deemed to have waived any breach by the other party of any terms or provisions of these Terms & Conditions. The waiver by either party of any such breach shall not be construed as a waiver of subsequent breaches or as a continuing waiver of such breach.

29.3 Should any court of law or administrative or governmental entity with jurisdiction declare any provisions of these Terms & Conditions to be void or unenforceable, the remaining provisions of the Terms & Conditions shall remain in full force and effect.

29.4 Nothing contained in this document, or in any amendment or supplement thereto or inferable herefrom, shall be deemed or constructed to (1) make Licensee the agent, servant, employee, joint venturer, associate, or partner of Owner, or (2) create or establish any partnership, joint venture, agency relationship, or other affiliation or association between Owner and Licensee. The parties hereto are and shall remain independent contractors. Neither party shall have the right to obligate or bind the other party in any manner to any third party. It is understood that this document enables only a license in favor of Licensee strictly in accordance with its written provisions.

29.5 Each party represents that it has the full power and authority to enter into these Terms & Conditions and to convey the rights herein conveyed.

29.6 These Terms & Conditions shall be construed under the laws of the State of Tennessee without regard to its choice of law principles.

29.7 The terms "notify," "notification" and "advise" as used in these Terms & Conditions reflect communications between Owner and Licensee in administering its terms. The methodology for such communication shall be in writing which may include NJUNS, email, facsimile, or other method as specified in the Rules. These terms are not to be confused with the term "Notice" in Article 22, Service of Notices.

29.8 Within these Terms & Conditions, words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. Titles appearing at the beginning of any subdivisions hereof are for convenience only. They do not constitute any part of such subdivisions, and shall be disregarded in construing the language contained in such subdivisions. The use of the words "herein", "hereof", "hereunder", and other similar compounds of the word "here" shall, unless the context dictates otherwise, refer to the entire Terms & Conditions and not to any particular paragraph or provision. The term "person" and words importing persons as used in these Terms & Conditions shall include firms, associations, partnerships (including limited partnerships), limited liability companies, joint ventures, trusts, corporations, and other legal entities, including public or governmental bodies, agencies, or instrumentalities, as well as natural persons.

29.9 Unless the context clearly indicates otherwise, as used in these Terms & Conditions, the term "Licensee" means the party or parties named on the first page hereof or any of them. The obligations of Licensee hereunder shall be joint and several. If any Licensee, or any signatory who signs on behalf of any Licensee, is a corporation, partnership, limited liability company, trust, or other legal entity, Licensee and any such signatory, and the person or persons signing for Licensee, represent and warrant to Owner that this instrument is executed by Licensee's duly authorized representatives.

29.10 If Owner should bring any suit, action, or other legal proceeding against the Licensee on account of any matter arising under these Terms & Conditions and if Owner is the prevailing party (as determined by the Court or presiding tribunal), Owner shall be entitled to recover from Licensee, in addition to any judgment or decree for costs, such reasonable attorney's fees as it may have incurred in such suit, action, or other legal proceeding, including appeals thereof. The venues for any said suits, actions, or other legal proceedings will be the Circuit or Chancery Courts of Washington County, Tennessee, at Jonesborough, Tennessee or the United States District Court for the Eastern District of Tennessee, at Greeneville, Tennessee.

APPENDICES

- Exhibit A: Schedule of Fees
- Exhibit B: Rules and Practices of Owner for Attachments
- Exhibit B-1: Permit Application and Response to Application
- Exhibit B-2: Make Ready Cost Estimate and Invoice for Make Ready Construction Work
- Exhibit B-3: Notification of Consent to Attach and Request for Certification
- Exhibit B-4: Permit for Attachment
- Exhibit B-5: Disclosure of Secondary Pole Attachments and Request for Permit
- Exhibit B-6: Notification of Plant Condition
- Exhibit B-7: Notification of Unauthorized Attachment
- Exhibit B-8: Notification of Non-Compliant Attachment
- Exhibit B-9: Certificate of Correction
- Exhibit B-10: Notice of Abandonment of Poles
- Exhibit B-11: Notice of Discontinuance of Attachment to Poles

**EXHIBIT A
SCHEDULE OF FEES**

Application Fee.
for New Attachments: \$15.00 per pole.

Audit Fee: \$15.00 per pole

Annual Attachment Fee per Pole

Date

Year 2020 \$36.00 (this is an initial point of reference and not a committed rate for the term of the Terms & Conditions)

The annual pole attachment fees are established each year using a formula from the Tennessee Valley Authority (TVA), our regulatory body. Each year, TVA approves the calculation and regulates the application of the pole attachment rate. Licensee should expect the pole attachment rate to change annually. On or before April 1, 2021 and on or before April 1 of each year thereafter, the annual pole attachment rate will be adjusted to the most recent pole attachment rate approved by TVA.

Other Fees

Unauthorized Attachment Discovery Fee	\$150.00	per attachment, upon discovery.
Unauthorized Attachment Daily Fee	\$5.00	per attachment, accruing until remedied.
Anchor Attachment Fee*	\$8.00	per anchor attached to Owner's facilities prior to June 30, 2020, annually.

*This fee is for shared anchors existing prior to the applicability of these Terms & Conditions. Anchor sharing is prohibited after June 30, 2020, except for such shared anchor arrangements as have been approved by Owner prior to June 30, 2020.

EXHIBIT B
RULES AND PRACTICES OF OWNER FOR ATTACHMENTS

This Exhibit provides implementation details in connection with the process for Licensee's applying for and ultimately receiving a Permit to attach to Owner's pole(s). These procedures are subject to modification by Owner from time to time.

For purposes of administering these Terms & Conditions, notification and/or advice shall be sent by email followed by U.S. Mail. Following is contact information for the parties:

If to Owner:

Johnson City Energy Authority
dba BrightRidge
2600 Boones Creek Road
Johnson City, TN 37615
Attn: Authorized Agent

and for Licensee shall be directed to:

Licensee's billing address for electric service

The above addresses are for administrative matters only and do not modify the addresses for Notice pursuant to Article 22.

A. Process for Permitting Attachments (Make Ready)

1. Application for Permit shall be made on the Permit Application attached as Exhibit B-1. Licensee shall also indicate the poles to which it desires to attach on Exhibit B-4, the Permit For Attachment. Licensee shall also include a drawing made on system maps of Owner in the Tennessee State Plane Coordinates in U.S. Survey feet format. Licensee may purchase from Owner at reasonable cost.
2. Licensee's Construction Plans shall contain full specifications of the facilities to be installed including:
 - a) Size and type of messenger including weight/ft and design tension.
 - b) Size and type Attachments including weight/ft and diameter.
 - c) Specification drawings depicting type of bolt attachments and bolt patterns.
 - d) Specification drawings of the installation rating and type of guy and anchor assemblies proposed to be used by Licensee.
3. Owner shall respond to Licensee within the timeframe provided in Article 5 by sending Response to Application, attached hereto as the lower portion of Exhibit B-1.

4. The Make Ready Construction Cost Estimate and Invoice will be sent to Licensee using the form attached hereto as Exhibit B-2. When Owner receives payment, the Make Ready Construction Schedule will be sent to Licensee using the lower portion of Exhibit B-2.
5. When the Make Ready Construction Work is complete or if an inspection reveals no work is needed, Owner shall send Licensee Notification of Consent to Attach and Request for Certification using the form attached hereto as Exhibit B-3.
6. Licensee's Certificate of Compliance shall be the lower portion of the form attached hereto as Exhibit B-3.
7. The Permit for Attachment shall be the form attached hereto as Exhibit B-4.

B. Secondary Poles

In connection with Article 6 of the Terms & Conditions, Licensee shall use the Permit for Attachment form attached hereto as Exhibit B-4 for the notification concerning Secondary Pole Attachments.

C. Procedures for Notification of Pole Transfers

NJUNS protocol to be utilized if available.

D. Supplemental Rules Regarding Licensee's Attachments

1. All Licensee's Attachments to poles shall be installed in a manner to ensure compliance with the requirements of the National Electric Safety Code in effect at the time of the installation as clarified or exceeded by Owner's specifications below:
 - (a) If Licensee has made any Attachments which would otherwise have been in compliance with the requirement above, and after which Owner has made any enhancements or improvements to Owner's system that have placed such Attachments in non-compliance with this requirement, any steps necessary to bring such Attachments back into compliance shall be the responsibility of Owner at its sole expense.

Attachments shall meet the minimum vertical clearance under the conductor temperature and loading conditions specified in Rule 232A of the NESC and in State and local clearance requirements, whichever is greater, over all areas which are subject to truck traffic. These areas would allow and be susceptible to truck traffic under the line because of a lack of any type of physical obstruction, even though truck traffic under the line would not be a normal occurrence. This requirement includes, but is not limited to, roads, streets, driveways, unpaved vehicular passages, parking lots, open areas where it would be possible for a truck to pass under the line, etc.

- (b) Attachments shall meet the minimum vertical clearance under the conductor temperature and loading conditions specified in Rule 232A over areas that would not normally be susceptible to truck traffic. These are areas that are accessible by truck traffic, but the access is not easy or normally anticipated because of a physical obstruction, such as fences, hillsides, ditches, embankments, maintained lawns, wood lines, hedges, etc. These areas do include the ground under lines that would be accessible by Owner's equipment for the purpose of line maintenance, restoration work, and right-of-way maintenance.
 - (c) Attachments shall meet the minimum vertical clearance under the conductor temperature and loading conditions specified in Rule 232A over areas that are impossible for a vehicle to travel under the line and only a person on foot can walk under the line. These areas are defined as having permanent impediments that would prohibit the passage of a vehicle, including Owner's equipment.
- 2. It shall be the responsibility of Licensee to attach at proper height, to achieve proper clearance, and to construct their facilities in accordance with the Terms & Conditions. If Licensee finds that it cannot make an Attachment on a pole and be in compliance with the Terms & Conditions then it shall be immediately brought to the attention of Owner in writing and by telephone so the pole can be re-surveyed and appropriate measures taken to make it ready for attachment.
- 3. Bonding must be provided between all above ground metallic power and communications apparatus (pedestals, terminals, apparatus cases, transformer cases, etc., as well as underground equipment such as pad mount transformers) that are separated by a distance of six (6) feet or less.
- 4. No bolt used by Licensee to attach its facilities shall extend or project more than two (2) inches beyond its nut.
- 5. All Attachments or facilities of Licensee shall have at least two (2) inches clearance from unbonded hardware.
- 6. The location of all power supplies and connecting wires and cables on Owner's poles shall be approved in writing by Owner. No Attachments shall be made without prior approval of Owner. No power supply service connections shall be made by Owner until Licensee has completed installation of an approved fused service disconnect switch or circuit breaker, and, if required, following an electrical inspection from appropriate government officials. An application for service must be made by Licensee to Owner before service is connected.
- 7. All communications protective devices will be designed and installed with operating limits sufficient for the voltage and current, which may be impressed on the communications plant in the event of a contact with the supply conductors.

8. All anchors and guys shall be installed and in effect prior to the installation of any of Licensee's messenger wires or cables. Licensee's guy lead must be of sufficient length and strength to accommodate loads applied by the Attachments. No anchor shall be placed within five (5) feet of any existing anchor unless approved in writing by the Owner. Guy markers shall be installed on every guy attached to Owner's pole.
9. Licensee shall not attach any down guy to Owner's anchors or to other attaching user's anchors.
10. All down guys, head guys, or messenger dead ends installed by Licensee shall be attached to the pole by the use of "through" bolts. Such bolts placed in a "bucking" position shall have at least three (3) inches vertical clearance. Under no circumstances shall Licensee install down guys, head guys, or messenger dead ends by means of encircling poles with such attachments.
11. Owner shall perform all Make Ready Work required for the preparation of Owner's poles for proper Attachment by Licensee.
12. Owner may in its reasonable judgment and in its Response to Application (see Exhibit B-1) and its Make Ready Construction Work, require an Attachment installed after the effective date of the Terms & Conditions to have at least seventy-two (72) inches vertical clearance under the effectively grounded neutral of Owner at supports for Owner's future service requirements. Owner may, at its cost, increase the forty (40) inch clearance requirement of the Code for Attachments placed prior to the effective date of these Terms & Conditions if, in Owner's reasonable judgment, Owner may require additional space on the pole for its future service requirements.

E. Removing Attachments from Owner's Poles

Prior to Licensee's removing Attachments from Owner's Poles, Licensee shall notify Owner by sending the Notice of Discontinuance of Attachment to Poles form attached as Exhibit B-10.

F. Plant Conditions Requiring Attention

If Licensee becomes aware of an unsafe plant condition or other condition that requires the attention of Owner, then Licensee shall as soon as possible notify Owner by completing the Notification of Plant Condition attached hereto as Exhibit B-5

**EXHIBIT B-1
PERMIT APPLICATION**

TO: _____ DATE: _____

LICENSEE'S TRACKING NUMBER: _____

This is to request a Permit to attach to certain of your poles under Owner's Terms & Conditions.

The poles, including proposed construction by Owner, if necessary, for which permission is requested, are listed by pole number on the attached and further identified on the attached map, which also bears the above date and Tracking Number.

(For identification of attachments to be installed, please include on your list Owner's pole number, size and type of strand, size and type of cable, and the number of existing cables and strands.)

This Company understands the need to obtain all authorizations, permits, and approvals from all Municipal, State, and Federal authorities to the extent required by law for Licensee's proposed service and to obtain all easements, licenses, rights-of-way, and permits necessary for the proposed use of these poles and will do so prior to providing any service that involves your poles.

Signed: _____ Company: _____

Name: _____ Title: _____

Tel: _____ Email: _____

RESPONSE TO APPLICATION

TO: _____ DATE: _____

LICENSEE'S TRACKING NUMBER: _____

This is to advise you that the above request for Permitting Attachments to certain poles of this system is approved for the poles shown on the attached, subject to the terms of the Terms & Conditions.

The Make Ready Engineering Fee is \$ _____. Please remit this amount so that Make Ready Engineering Plans can be prepared. A schedule for completion of the Make Ready Engineering Plans (not to exceed ninety (90) days for applications involving 30 or fewer poles) is attached.

Name: _____ Signed: _____

**EXHIBIT B-2
MAKE READY CONSTRUCTION COST ESTIMATE
AND INVOICE FOR MAKE READY CONSTRUCTION WORK**

TO: _____ DATE: _____

JOB NUMBER (Tracking Number):_

In connection with the above referenced work request, attached is the Make Ready Construction Cost Estimate for attaching Licensee's facilities to Owner's poles pursuant to the plans submitted by Licensee and reviewed by Owner.

Please remit payment for the cost estimate in the amount of \$_____ so that the Make Ready Construction Work can be scheduled for the poles requiring make ready work.

No. of poles: _____ *Location:* _____

Name: _____ Signed: _____

Title: _____

Tel: _____

MAKE READY CONSTRUCTION SCHEDULE

To: _____ Date: _____

Job Number (Tracking Number): _____

It is estimated that the completion of the Make Ready Construction Work will require _____ weeks beginning on the _____ day of _____, 20____.

Name: _____ Signed: _____

Title: _____

Tel: _____

**EXHIBIT B-3 NOTIFICATION OF CONSENT TO ATTACH
AND REQUEST FOR CERTIFICATION**

To: _____ Date: _____

The Make Ready Construction Work for the approved poles is complete. Attachments in connection with Job Number may be made within 120 days of the date above. Monthly rental for the poles will begin on _____ (date).

A Permit for these attachments will be issued upon receipt of the Certification below.

Name: _____ Signed: _____

Title: _____

Tel: _____

CERTIFICATE OF COMPLIANCE

To: _____ Date: _____

Job Number: _____

-Or-

Tracking Number: _____

I HEREBY CERTIFY that the Attachments made under the above Job / Tracking Number are of sound engineering design and fully comply with the National Electrical Safety Code (NESC), latest edition, Article 3 of the Terms & Conditions and the Rules and were constructed substantially as provided in the Make Ready Engineering Plans.

Note: If this certifies only a portion of the poles under this Request Number, please include a list of the poles to which this Certificate applies and the number of Attachments on each pole being certified.

By: _____ Title: _____

(Signature)

Print Name: _____

**EXHIBIT B-4
PERMIT FOR ATTACHMENT**

*Application will be provided to Licensee in spreadsheet form for easier submittal.

		POWER	ATTACHER
APPLICATION AND PERMIT FOR JOINT USE			
DATE: _____		AREA: _____	
TO: _____		JOB: _____	
BY: _____	MAP: _____		
FROM: _____	TITLE: _____	ENGINEER: _____	

In accordance with the current contract agreement, application is hereby made for joint use of your poles described below.

POLE NUMBERS		LOCATION	PRESENT		PROPOSED		ATTACHMENTS		BILLING		
Power	Attacher		Height Class	Age of Pole	Height Class	Type of Attachment	Existing	New	Old Poles	Transfer Cost	New Poles

	TOTAL			
	TOTAL BILLING			

TO: _____ DATE: _____ <i>Permit for joint use of poles is hereby granted.</i>	TO: _____ DATE: _____ <i>Billing on above basis is hereby accepted.</i>
BY: _____ TITLE: _____	BY: _____ TITLE: _____

**EXHIBIT B-7
NOTIFICATION OF NON-COMPLIANT ATTACHMENT**

TO: _____

DATE: _____

THE FOLLOWING ATTACHMENTS TO OWNER'S POLES ARE NON-COMPLIANT AND REQUIRE LICENSEE'S IMMEDIATE ATTENTION.

- The attachments listed were found on permitted poles.
Licensee has forty-five (45) days from the date of this notice to submit a Correction Plan pursuant to Article 12 of the Terms & Conditions
- The attachments listed were found on non-permitted poles.
Licensee has forty-five (45) days from the date of this notice to apply for a Permit and submit a Correction Plan pursuant to Article 12 of the Terms & Conditions.

Attachment Location	Problem

Name: _____

Signed: _____

Title: _____

Tel: _____

Email: _____

EXHIBIT B-8 CERTIFICATE OF CORRECTION

TO: _____

DATE: _____

LICENSEE: _____

I HEREBY CERTIFY that Licensee's attachments to the poles of Owner, _____
_____ which were found to be non-compliant, have been corrected.

These attachments were corrected according to sound engineering design principals and fully comply with the National Electrical Safety Code (NESC), latest edition.

All corrections were constructed substantially as provided in the proposed correction plan presented by Licensee.

Name: _____

Signed: _____

Title: _____

Tel: _____

Email: _____

