

LAW OFFICES  
**TISINGER VANCE, P.C.**  
100 WAGON YARD PLAZA  
CARROLLTON, GEORGIA 30117

DIRECT DIAL AND E-MAIL ADDRESS:  
(770)214-5108  
CELL (770)841-2854  
SMINOR@TISINGERVANCE.COM

[WWW.TISINGERVANCE.COM](http://WWW.TISINGERVANCE.COM)

TELEPHONE: (770) 834-4467  
FAX: (770) 834-5426

ROBERT D. TISINGER  
1909-1991

November 12, 2021

Ms. Sallie Tanner  
Executive Secretary  
Georgia Public Service Commission  
244 Washington Street, S.W.  
Atlanta, Georgia 30334

**PUBLIC DISCLOSURE DOCUMENT FILING**

Re: Diverse Power Incorporated ("DPI") Responses to Staff's Second Set of Data Requests  
Public Service Commission Docket No. 42744

Dear Ms. Tanner:

Please find the following documents filed in a CONFIDENTIAL TRADE SECRET FILING in accordance with the Alternative Electronic Filing Procedure:

1. DPI's Notice of Filing Under Trade Secret Protection Its Responses to Staff's Second Set of Data Requests;
2. DPI's Responses to Staff's Second Set of Data Requests;
3. Trade Secret Affidavit of Andrew Kilgore, Senior Vice President of DPI, providing the grounds for filing the following documents as confidential under Trade Secret protections:
  - A. Answers to Data Request STF 2-4, subparts (b) and (c);
  - B. Fiber Optic Network Map of Headquarters District; and
  - C. Fiber Optic Network Map of Pataula District.

A hard copy of the enclosed filing will be provided to the Georgia Public Service Commission in compliance with the Alternative Electronic Filing procedure.

Ms. Sallie Tanner  
November 12, 2021  
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An unredacted, trade secret version of items 3A, 3B and 3C will also be filed in a separate electronic filing for review by the Commission. We look forward to addressing any questions or concerns that the staff, the Commissioners, or other parties to this docket may have.

Very truly yours,

TISINGER VANCE, P.C.



Steven T. Minor

STM\khs\927853  
Enclosures



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**PUBLIC DISCLOSURE**

Additionally, the Data identifies the location of a fiber network and related facilities that provide vital utility services to the public. Consequently, the Data must also remain confidential to protect and secure these facilities from attack by criminals, terrorists, or others seeking to disrupt the delivery of public utility services.

Respectfully submitted, this 12<sup>th</sup> day of November, 2021.

TISINGER VANCE, P.C.

By: Steve Minor  
Steve Minor  
Georgia Bar No. 511325  
Attorney for Diverse Power Incorporated

100 Wagon Yard Plaza  
P. O. Box 2069  
Carrollton, Georgia 30117  
Phone: (770) 214-5108  
E-mail: [sminor@tisingervance.com](mailto:sminor@tisingervance.com)

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

IN RE: Consideration of Notice of Inquiry )  
to Implement Senate Bill 2 ) Docket No. 42744  
) )  
Diverse Power Incorporated & Kudzu )  
Networks, Inc. Cost Allocation Manual )

**DIVERSE POWER INCORPORATED'S  
RESPONSES TO STAFF'S SECOND SET OF DATA REQUESTS TO  
DIVERSE POWER INCORPORATED**

COMES NOW, Diverse Power Incorporated ("Diverse") and files the public disclosure version of its *Responses to Staff's Second Set of Data Requests to Diverse Power Incorporated*. Diverse employee Andrew Kilgore was responsible for obtaining and providing each response to the Data Requests set forth below.

STF 2-1 The SGRITA Purchase Agreement indicates that the only payment SGRITA received under the Purchase Agreement is from Diverse Power.

(a) Why did Diverse Power, as opposed to Kudzu, purchase the SGRITA fiber network?

Response – Diverse Power, Inc.'s' ("Diverse") electric service territory is divided into two districts. The "Headquarters' District" serves portions of Coweta, Harris, Heard, Meriwether, Muscogee, and Troup counties (Georgia), and Chambers County, Alabama. The "Pataula District," which Diverse acquired in 2014, serves portions of Calhoun, Clay, Early, Quitman, Randolph, Stewart and Terrel counties. Administrative and operational services for the Pataula District are primarily delivered through Diverse's District office in Cuthbert, Georgia, and administrative and operational services for the Headquarters District are primarily delivered through Diverse's Headquarters in LaGrange, Georgia. The two offices are more than 100 miles apart, and during Hurricane Michael, catastrophic damage occurred in Diverse's Pataula District. During the period of restoration, Diverse lost its fiber network connection between its LaGrange Headquarters and its Pataula

District. The SGRITA fiber network acquisition was an economical way for Diverse to secure redundant fiber paths between the districts, and to enhance Diverse’s overall electric distribution system operation and related communications, especially for its Pataula District.

Initially, Diverse and an independent third-party responded to the public request for bids (RFB) to acquire SGRITA’s assets. The original bid consisted of Diverse bidding \$300,000 for the fiber network assets, while the independent third-party would acquire, maintain, and operate the wireless network that served over 600 families in exchange for its agreement to invest “up to” \$600,000 to make improvements to the wireless system. After the submission of the bid, the third-party withdrew from the bid commitment. Kudzu Networks took the place of the third-party and agreed to operate the wireless network.

- (b) Where were the funds for the purchase derived?  
Response – Diverse’s cash on hand.
- (c) Did Diverse Power receive any services from SGRITA prior to the purchase?  
Response – Yes.
- (d) If the answer to STF 2-1(c) is yes, what services was Diverse Power purchasing from SGRITA?  
Response – Diverse leased dark fiber from SGRITA through two Indefeasible Right of Use (IRU) agreements. These IRUs provided a single-path fiber connection between Diverse’ two district offices, and connections to some Pataula District electric substations.
- (e) If the answer to STF 2-1(c) is yes, how much was Diverse Power paying SGRITA for services rendered?  
Response – Diverse made a one-time payment of \$199,500 and a one-time payment of \$75,000. Each IRU provided use of the fiber for a term of twenty-five (25) years.
- (f) Is the RUS loan used to build the SGRITA fiber backbone an “assumed liability” under section 2.03 of the Purchase Agreement?  
Response – No.

STF 2-2

- Please provide a network map of the SGRITA fiber backbone, including
- (a) all SGRITA fixed wireless carrier-end antenna locations, and  
Response -See “SGRITA Fiber,” depicted on page 2, “Pataula District Fiber Map.”
  - (b) any Diverse Power facilities served by the SGRITA fiber backbone.  
Response – See page 2, “Pataula District Fiber Map.”

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- STF 2-3      How many fibers are in the SGRITA fiber backbone? Please provide by route.  
Response – See, “SGRITA Fiber” depicted on page 2 of the “Pataula District Fiber Map”.
- STF 2-4      The Revised CAM filed on July 16, 2021 indicates that “Diverse Power Incorporated maintains records that track how the fiber strands are utilized, either for electric use or retail broadband.” (CAM III(C)(d))
- (a) Does Diverse Power track the number of fibers that are unlit?  
Response – Yes.
- (b) Does Diverse Power or its affiliates lease dark fiber or offer other wholesale services over the fiber network? If yes, provide the number of fibers used for wholesale service and/or other leases to third parties by route.  
Response – Yes, Diverse leases dark fiber. For a response to the second portion of the request, please see page 1 of the “Pataula District Fiber Map” and page 1 of the “Headquarters District Fiber Map.”
- (c) To which entity are unlit fibers allocated? How many fibers are unlit (i.e., provide neither retail broadband service nor in use by the electric utility or accounted for by (b) above) by route?  
Response – “Unlit” fibers are allocated to Diverse Power. For a response to the second portion of the request, please see page 1 of the “Pataula District Fiber Map” and page 1 of the “Headquarters District Map.”
- STF 2-5      Please provide a map of the network described in Schedule 2.01(c) Attachment (Fiber Route/Assets) of the Disclosure Schedules with an overlay showing the Diverse Power service areas.  
Response -See “SGRITA Fiber” depicted on page 2 of the “Pataula District Fiber Map.”
- STF 2-6      During the hearing, Diverse Power’s counsel stated in a question to witness Joseph Gillan: “Well, let’s talk about the specific facts in this case. You heard the prior testimony, you’re aware that in terms of how, you know, this transaction happened that the broadband equipment, specifically the fiber backbone that we’ve talked about in this case, has been being built and used since 1997 solely for Diverse.” (Tr. 126).
- (a) Please confirm that the fiber network referenced in the question was not the SGRITA fiber network.  
Response – Diverse has been building and maintaining fiber network assets since the late 1990’s, and the “fiber backbone” referred to in the quote does not involve the network purchased from SGRITA. The testimony quoted above was provided almost two months before the SGRITA Purchase Agreement was executed.

(b) Are there any references in the transcript that referred to the SGRITA fiber backbone?

Response – Yes.

(c) Identify and explain how the testimony addressed the SGRITA fiber backbone.

Response – Georgia Cable Association’s counsel referred to the Diverse/Kudzu joint bid proposal made pursuant to SGRITA’s RFB, and questioned Mr. Nichols about how costs related to the proposed acquisition of network assets would be allocated under Diverse’s April 13, 2020, CAM (which has subsequently been revised). See, Hearing transcript, pages 47-60, 65-66 and 86-87.

STF 2-7 Please confirm that the pre-existing fiber network used by Diverse Power and discussed at the hearing will continue to be directly assigned to Diverse Power and will not, in any way, affect the allocation of costs associated with the SGRITA fiber network and associated costs.

Response – Confirmed. The pre-existing fiber network used by Diverse Power and discussed at the hearing will continue to be directly assigned to Diverse Power and will not, in any way, affect the allocation of costs associated with the SGRITA fiber network and associated costs.

STF 2-8 Are any Diverse Power customers benefiting from the SGRITA fiber today from power provisioning? If yes, explain how they are benefiting.

Response – Yes. Diverse Power consumers benefit from the SGRITA fiber because it provides Diverse redundant paths between its Headquarters and Pataula District offices, and it improves communications and operations throughout Diverse’s power grid. This improves system reliability, communications, safety, and the ability to provide electric meter reading and billing, reduces outage response times, and may support future technological grid enhancements.

STF 2-9 If the answer to STF 2-8 is yes, explain in detail the services Diverse Power is obtaining from the fiber acquired from SGRITA.

Response - Diverse Power consumers benefit from the SGRITA fiber because it provides Diverse with redundant communication and operational fiber paths between its Headquarters and Pataula District offices. The fiber acquired enhances system reliability, communications, data analysis, safety, and the ability to provide electric meter reading and billing, reduces outage response times, and may support future technological grid enhancements.

STF 2-10 (a) Does Diverse Power currently, and/or will it in the future provision power to the SGRITA network?

Response – No, not currently. If portions of the SGRITA network require electric service in the future, the electric service provider would be determined in accordance with the Georgia Territorial Electric Service Act (O.C.G.A. §§ 46-3-1, *et. seq.*).

(b) If the answer to either question in (a) is yes, please state what services are being provided to the SGRITA network currently, and please separately state what services Diverse Power will provide to the SGRITA network.

Response – Not applicable.

(c) If the answer to either question in (a) is yes, please state whether Diverse Power provisions or will provision the power pursuant to a tariff. If so, please identify the tariff and the purchasing entity.

Response – Not applicable.

STF 2-11 As part of the acquisition of SGRITA, did Diverse Power become the legal entity that adopts the loan used to build the fiber network? Was the loan transferred to Diverse Power or has the RUS forgiven the loan in its entirety?

Response – The RUS loan was not transferred to Diverse Power. Diverse Power did not assume any of SGRITA's debt. We do not know whether the loan was forgiven.

STF 2-12 Under Section 10.19 of the Purchase Agreement, does Kudzu believe it is legally compelled to invest \$600k to upgrade the former SGRITA network (given that the timing and amount is subject to its sole discretion)? At what point would Kudzu be in default of this provision if it has not yet made this investment (i.e., one-year, five years, ten years)?

Response – No, Kudzu is not legally compelled to invest \$600k. The Agreement states that “Kudzu agrees to spend up to six hundred thousand dollars...” We believe it is unlikely that Kudzu can ever be deemed in default of this provision.

STF 2-13 What is “the network” referred to in Section 10.19 of the Purchase Agreement? Is it the fiber network owned by Diverse Power or the wireless network owned by Kudzu?

Response – The network referred to in Section 10.19 of the Purchase Agreement refers to the wireless network.

STF 2-14 Please provide the percentage allocation of the SGRITA fiber cost that would be allocated to Kudzu using each of the following:

(a) The CAM filed by Diverse Power in Docket 42744 on March 9, 2020.

Response – 10.9%. The calculation is as follows:

- The number of electric consumers in the Pataula District as of October 2021 = 5,451.
- The number of broadband (Kudzu) consumers within the SGRITA network as of October 2021 = 598.
- The allocation percentage of the SGRITA fiber would be  $598/5,451 = 10.9\%$

(b) The Revised CAM filed by Diverse Power in Docket 42744 on July 16, 2021.  
Response – 8.33%. The calculation is as follows:

- Number of Fiber Strands Utilized for Retail Broadband per Mile (used by Kudzu) = 12
- Total Number of Fiber Strands Utilized per Mile (total number of fibers owned by Diverse Power) = 144
- The allocation percentage of the SGRITA fiber would be  $12 / 144 = 8.33\%$ .

STF 2-15 Has the loan for \$5,000,000 million from CoBank in which Diverse Power will serve as Guarantor of Kudzu Networks Inc. been consummated?  
Response – Yes. Kudzu made one draw of \$3 million. Written notice of consummation was provided to the PSC in Docket No. 42744 on November 2, 2020 (PSC Doc. No. 183011). No other draws have been made.

# **CONFIDENTIAL TRADE SECRET**

**Docket No. 42744**

## **Fiber Network Maps and Related Route Data provided in response to Public Service Commission Staff's Second Set of Data Requests to Diverse Power, Inc. (Diverse)**

In partial response to Staff's Second Set of Data Requests to Diverse, Diverse prepared maps depicting Diverse's fiber optic network assets and related data ("the Maps"). The Maps, and all data depicted on the Maps (collectively, the "Data"), are trade secrets. The undersigned hereby swears and affirms that the legal and factual basis for Diverse's assertion that the Data are trade secrets includes, among other things, the following:

- (1) The information contained in each of the Maps is of great economic value to Diverse by virtue of not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Specifically, maintaining the confidentiality of the trade secrets is of commercial value to Diverse because, among other reasons:
  - i. The information could be used by competitors to determine the location of Diverse's facilities or planned future facilities, and to better understand Diverse's technological capabilities, all of which may provide Diverse's competitors an advantage by better understanding Diverse's plans for future expansion and customer service capabilities.
- (2) Other persons can obtain economic value from the disclosure of the Data by, among other things:
  - i. Disclosure would permit other electric service providers and retail broadband providers to better understand Diverse's facilities and related service capability, and knowledge of operational capabilities gleaned from this information would provide Diverse's competitors a competitive advantage.
  - ii. Disclosure would permit other electric service providers and retail broadband providers to know exactly where Diverse has network assets, and the used and unused capacity of individual network route. This information provides knowledge of Diverse's capability to provide broadband facilities to retail providers, and to support its electric grid operation, and would provide competitors a competitive advantage in strategic planning.

(3) Diverse uses the following procedures, among others, to maintain the secrecy of the Data:

- i. Diverse has limited the distribution of the Data to only those who need the information for the benefit of Diverse, and those persons are subject to confidentiality agreements or have otherwise agreed not to use or distribute the information to others.

IN WITNESS WHEREOF, the undersigned has duly executed the Affidavit this 11<sup>th</sup> day of November, 2021.

  
\_\_\_\_\_  
Andrew Kilgore, SVP, Chief Financial Officer  
Diverse Power, Inc.

Sworn to and subscribed before me this  
11<sup>th</sup> day of November, 2021.

  
\_\_\_\_\_  
Notary Public



Headquarters District Fiber Map

REDACTED

Pataula District Fiber Map

REDACTED