APPLICATION TO GEORGIA POWER COMPANY FOR MAKE-READY WORK AND ATTACHMENT PERMIT

Pole Attachment Agreement #: _____

Georgia Power Company Tracking #: _____

Pre-Engineering Joint Ride Out Requested: ___ Yes ___ No (See Additional Condition 10)

Date: _____

In accordance with the terms of the Pole Attachment Agreement dated _____, an application is hereby made for _____ (Licensee) to make attachments to the following pole(s) as described below:

	Applied For	Inspected (GPC Use Only)
# of New Pole Attachments - GPC Owned Poles		
# of Pole Re-Attachments - GPC Owned Poles ****		
# Non-GPC Owned Poles W/ GPC Attachments		
Total # of Poles **(Maximum of 150 Poles per Permit)**		

Jointly Engineered Pole Line: _____ Yes _____ No - Advance Payment Not Required (See Additional Condition 12)

Licensee is prohibited from using this Application for attachments to any transmission towers.
Licensee must provide the applicable pole loading information requested on the attached spreadsheet.
Licensee must attach a map clearly indicating the poles upon which Licensee is making application for a permit.

***** Pre-Engineering Joint Ride Out Prepayment: _____ ($300.00)
***** Per Pole Advance Make-Ready Payment: _____ = $150.00 x Total # of Poles (From Table Above)
Total Prepayment: _____ (Note: Georgia Power Company may request additional advance Make-Ready Payments if engineering review indicates that $150.00 per pole is insufficient.)

Facility Information:
Facility is to provide service to new customers under contract: ___ Yes ___ No (See Additional Condition 11)
Licensee's Desired Construction Start Date: _____
Attached Pole Loading Work Sheet Must Be Filled Out Completely

Cable Markers:
NJUNS Member Code: _____ FIPS County Code: _____
Optional Field on Marker: _____

Location of Facilities:
UPC Grid: _____
Street Name(s): _____
Nearest City / County: _____ / _____ (1 County per Permit)
Name of Local Telephone Company: _____

Licensee's information:

_____ _____ _____
(Contact Name) (Contact Phone) (Contact E-mail)

Contract Control Number (GPC): _____ Licensee's Tracking Number: _____ (Optional)

***Note:** The Pre-Engineering Joint Ride Out and Per Pole Advance Make-Ready amounts are subject to change for future Applications.

****Note**: Overlashing requires the submission of this Application (because additional weight will be placed on poles). However, Licensee does not have to submit an Application for overlashing if it provides an Overlashing Safety Certification Form with location map to Georgia Power Company prior to beginning work signed by a PE stating that a pole loading calculation has been performed and that the existing attachments and the overlashing will be in compliance with the NESC. A copy of the pole loading calculations should be submitted with OSC Form.

Georgia Power Company Tracking #: _____

ADDITIONAL CONDITIONS

1. By the submission of this application, the applicant authorizes Georgia Power Company to proceed with the necessary engineering for the processing of this application. The Licensee shall be responsible for all cost incurred by Georgia Power Company as a result of this application.
2. Georgia Power reserves the right to reject this application due to insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes. For reasons of safety, no applications will be accepted for aerial conduits.
3. If there is no rejection of this application for the reasons set forth in Section 2, Georgia Power will grant Licensee a permit subject to the completion of all applicable engineering and make-ready work and payment of all Georgia Power cost. Following (i) Licensee's payment of all applicable charges (ii) Georgia Power's completion of make-ready work (iii) written notification from any applicable Third Party Licensees that all arrangements have been made for any work said Third Parties must perform on their facilities, Georgia Power will furnish Licensee a permit letter granting a permit and stating that Licensee is authorized to attach its equipment to the specified Georgia Power Poles. At all times while attaching equipment, Licensee's work crews shall keep a copy of the authorization letter on the work site to present to any Georgia Power representatives as evidence that the attachments have been authorized.
4. Any make-ready work and permit(s) arising from this application shall be subject to the terms and conditions of the Pole Attachment Agreement referenced on Page 1.
5. Licensee is responsible for any additional cost incurred by Georgia Power that exceeds the advanced estimated payment amount for make-ready work. Georgia Power will refund any advance payment amounts that exceed actual make-ready cost.
6. All attachment work by Licensee must be completed within a 120 calendar day period following the granting of a permit. A new permit application must be submitted for any remaining work without prior written approval from Georgia Power Company. This approval must be requested prior to the end of this 120-day period. After 120 calendar days from the permit release date Georgia Power Company may, without notice to the Licensee, perform a final inspection of the permitted poles. If any violations to applicable codes or Georgia Power Company specifications caused by the Licensee are found, the Licensee will be notified. Failure to mark the Licensee's facilities per the Georgia Overhead Marking Standard will be considered a violation. The Licensee will have 30 days from such notification to correct such violations. Failure to correct such violations may result in the revocation of any Licensee's Permit and / or the suspension of processing of any Licensee's permit applications. The Licensee will also be responsible for any additional cost incurred by Georgia Power Company due to your failure to make timely safety violation corrections, including the cost to adjust your facilities in order to correct the safety violations.
7. This Application must be submitted in duplicate with Licensee's Map (including a site location on a county map) clearly showing the locations of the requested attachments.
8. All fields of application must be completed prior to processing of this application.
9. **Prepayment must be paid prior to processing of this application.**
10. By indicating Yes for Pre-Engineering Joint Ride Out, the applicant is indicating a desire to ride a proposed route with a Georgia Power Company representative to identify potential high cost poles. An application should be submitted for each Joint Ride Out requested. Each joint ride out request is subject to the same limitations as the Complete Permit Application. A $300.00 prepayment is due prior to a Joint Ride Out. The applicant agrees to pay Georgia Power Company all cost incurred by Georgia Power Company due to the requested Joint Ride Out. A request for Joint Ride Out only needs to have Location and Licensee Information completed along with the below Authorization executed. The prepayment is due prior to scheduling of the Joint Ride Out. No engineering or cost estimates will be supplied as a result of this Joint Ride Out until the completed application has been submitted with the required per pole prepayment except by special written agreement with Georgia Power Company. The applicant shall indicate the GPC Tacking Number assigned as a result or the Joint Ride Out on the completed Application when submitted.
11. In order to expedite the application process, Georgia Power Company may provide special handling of this application under the following conditions: (i) the total number of GPC owned poles involved is 20 or less; (ii) this application is limited to providing service to new customers or service restoration, and (iii) this request is not associated with any other application. A separate written request for such special handling must accompany this application. Georgia Power Company reserves the right to deny special handling if it deems this application does not meet the above conditions or if Georgia Power resources are insufficient to provide special handling.
12. Jointly Engineered applications must be submitted with a Jointly Engineered Certification Statement signed by an authorized Georgia Power Company representative. Poles must have been recently installed and engineered by Georgia Power Company for the Licensee's attachments. Failure by the Licensee to install attachments in compliance with the NESC and Georgia Power Company specifications shall result in the forfeiture of the right to submit Jointly Engineered Pole Line Applications.

Authorization:

I do hereby authorize Georgia Power Company this _____ day of _____, 20___ to proceed with the processing of this application.

_____	_____	_____
(Authorization)	(Title)	(Company)

AMENDMENT, ASSIGNMENT AND ASSUMPTION AGREEMENT

This Agreement is executed to be effective as of Nov 14, 2017 by and between **PRINCETON BROADBAND MUNICIPAL LIGHT PLANT** ("PBMLP"), **PRINCETON MUNICIPAL LIGHT DEPARTMENT**, ("PMLD"), **CHARTER COMMUNICATIONS ENTERTAINMENT I, LLC** ("Charter"), and **VERIZON NEW ENGLAND INC.** ("Verizon"), collectively referred to herein as ("the Parties").

WITNESSETH

WHEREAS, Verizon's predecessor, The New England Telegraph and Telephone Company, and PMLD's predecessor, The Town of Princeton, entered into a pole attachment agreement, dated July 2, 1913, that allows the joint use of poles in the Town of Princeton; and

WHEREAS, Verizon and PMLD jointly own poles in the Town of Princeton, and Verizon and PMLD have agreed that Verizon administers pole attachment applications to the jointly-owned poles; and

WHEREAS, Charter Communications Entertainment I, DST (now, Charter Communications Entertainment I, LLC) and Verizon entered into a pole attachment agreement, dated March 3, 2008, related to the attachment of Charter's wires and appurtenant equipment on Verizon's poles in the State of Massachusetts, including with certain joint-owner electric companies ("Verizon-Charter Pole Attachment Agreement"); and

WHEREAS, on October 1, 2017, Charter and PMLD entered into a pole attachment agreement, related to the attachment of Charter's wires and appurtenance equipment on PMLD's poles and jointly-owned poles ("PMLD-Charter Pole Attachment Agreement"); and

WHEREAS, the Verizon-Charter Pole Attachment Agreement currently does not include PMLD as one of the joint-owner electric companies covered under the Verizon-Charter Pole Attachment Agreement; and

WHEREAS, PBMLP in late 2015/early 2016 submitted approximately 13 applications to attach to 2,179 of Verizon and PMLD jointly-owned poles (see Exhibit A) in order to provide broadband services to the Town of Princeton and received attachment licenses to install attachments ("Licenses") from Verizon, the administrator of the applications; and

WHEREAS, PBMLP now seeks to assign those Licenses to Charter.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto hereby agree as follows:

1. Amendment of Pole Attachment Agreement. Charter and Verizon agree that the Verizon-Charter Pole Attachment agreement is hereby amended to revise the Charter contracting entity to be Charter Communications Entertainment I, LLC, instead of Charter communications entertainment I, DST, and to amend the first Whereas clause to include PMLD as a joint-owner electric company.

2. Assignment and Assumption. PBMLP agrees to assign the Licenses to Charter, at no cost to Charter, and Charter agrees to assume those Licenses. Charter and Verizon agree that those Licenses will be covered under the Verizon-Charter Pole Attachment Agreement; and Charter and PMLD agree that those Licenses will be covered under the PMLD-Charter Pole Attachment Agreement. Upon assignment, PBMLP will have no further responsibility or liability for the Licenses or personal injury or property damage relating to poles or wires connected to the Licenses.

3. Indemnification. Further, Charter covenants and agrees to indemnify, hold harmless and defend PBMLP and its successors and assigns from and against any actions, suits, proceedings or claims, and all costs and expenses, including, without limitation, reasonable attorneys' and experts' fees, based upon or arising out of or relating to the assigned Licenses, including with regard to any damages caused by the construction of the attachments permitted by the Licenses and any annual pole attachment rental payments.

4. No Third Party Beneficiaries. Nothing in this agreement, express or implied, is intended or shall be construed to confer upon, or give to, any person other than the Parties hereto any remedy or claim under or by reason of any agreements, terms, covenants or conditions thereof, and all the agreements, terms, covenants and condition in this agreement contained shall be for the sole and exclusive benefit of the Parties and their permitted assigns.

5. Binding Effect. This Agreement and all of the provisions hereof shall inure to the benefit of and shall be binding upon the parties thereto and their successors and assigns, including without limitation the Town of Princeton.

6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and litigated if at all only in Massachusetts Courts in Worcester County.

IN WITNESS WHEREOF, this agreement has been duly executed and delivered by the duly authorized officers of the Parties thereto as of the date first above written.

THIS IS A BINDING LEGAL AGREEMENT

WITNESS:

Princeton Broadband Municipal Light Plant

By: _____

Nina Nazarian, Manager

Charter Communications Entertainment I, LLC

By: Charter Communications, Inc., its Manager

_____

Gregory A. Garabedian

Verizon New England, Inc.

By: _____

~~Manager~~ Director

Princeton Municipal Light Department

By: _____

Brian Allen, Manager

Exhibit A

AGREEMENT FOR USE OF POLES AND RIGHTS-OF-WAY

THIS AGREEMENT made and effective the 1st day of October, 2017, by and between Princeton Municipal Light Department, (hereinafter "The Department" of "Licensor") and Charter Communications Entertainment I, LLC (hereinafter called "Licensee").

WITNESSETH:

WHEREAS, The Department owns, operates and maintains poles, power lines and rights-of-way within its limits,

WHEREAS, Licensee desires to place certain lines, attachments and appurtenances on certain Poles of The Department, for purpose of providing all lawful communications services in compliance with any and all local, state or federal regulations,

WHEREAS, The Department is willing to issue Licensee a non-exclusive license, to the extent it may lawfully do so, to place, replace, relocate, modify, repair, maintain and remove its communications attachments for the provision of lawful communications services on The Department's poles and rights-of-way;

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

SECTION 1. THE DEPARTMENT'S GRANT OF LICENSEE TO ATTACH TO THE DEPARTMENT'S POLES AND OCCUPY RIGHTS-OF-WAY

1. Upon completion of the franchise agreement between the Town of Princeton and Licensee and after each renewal thereof, Licensee shall provide the franchise agreement to the Department. Licensee shall also secure any necessary consent from state or municipal authorities or from the owners of the property upon which the poles are located to construct and maintain Licensee's facilities thereon, and supply copies to Licensor upon request. Licensee shall continue to maintain all such required authorizations and consents during the term of this Agreement, and Licensee shall indemnify, protect, and save harmless Licensor from and against any and all damages (including any attorney and/or legal or expert fees or costs) incurred by Licensor to the extent that such arise due to Licensee's lack of a sufficient right or authority for placing and maintaining attachments on Licensor's poles.

2. No use, however extended, of Poles or Rights-of-Way under this Agreement shall create or vest in Licensee any ownership of property right in said Poles or Right-of-Way, but Licensee's rights in such Poles and Rights-of-Way shall be and remain a mere license. Nothing in this Agreement shall be construed to compel The Department to maintain any Pole or Right-of-Way or any Department attachment for any period of time.

3. The license granted to Licensee hereunder with respect to any Pole or Right-of-Way shall be non-exclusive in that The Department reserves the right to use any and all such

Poles for any lawful purpose of business or to lease or otherwise permit any other person or entity the right to lease or use any or all Poles for any lawful purpose.

SECTION 2. TECHNICAL REQUIREMENTS

1. Licensee's use of Poles covered by this Agreement shall at all times be in conformity with the requirements of the latest edition of the National Electric Safety Code (NESC), including any applicable grandfathering provisions, National Electric Code (NEC), Occupational Safety and Health Code (OSHA) and the requirements of The Department's written specifications or other public authorities in effect at the time of original construction or major change to Attachments ("Technical Requirements"). Any amendments to the Technical Requirements shall be applied on a prospective and nondiscriminatory basis.

2. In no event will Licensee be required to upgrade Attachments that were compliant with applicable standards when attached; nor shall Licensee have any liability for or be required to incur costs for the correction of any nonconformity or non-compliance caused by Department or a third party.

SECTION 3. ESTABLISHING JOINT USE OF POLES

1. Throughout the term of this Agreement, Licensee may designate a Pole or Poles on which it desires to place any attachment. Licensee shall not place any attachment on The Department's Pole(s) prior to receiving an approved Application for Permit from The Department, attached hereto as Exhibit A. Licensee may overlash up to three times on mainlines only without obtaining a new Permit.

2. Upon receipt of Licensee's Application for Permit, The Department may schedule a joint ride-out of the Poles designated in the Application for Permit, if necessary, in order to conduct a pre-construction survey to determine whether make-ready is necessary to accommodate Licensee's proposed attachments. Licensee shall participate in the pre-construction survey at Department's request.

3. Whether or not it was necessary to conduct a joint ride-out and pre-construction survey, within thirty (30) days of the receipt of Licensee's Application for Permit the Department shall approve, conditionally approve or deny each Application for Permit by returning one copy of it to Licensee reflecting its approval, conditional approval or denial in the appropriate space.

4. The Department shall not unreasonably withhold approval of Licensee's Permit Applications, and shall not withhold approval except on a nondiscriminatory basis for reasons of reliability, capacity, safety and generally applicable engineering purposes.

5. If make-ready is necessary to accommodate Licensee's Attachment, including the modification or rearrangement of the attachments of The Department or any other third party attacher on any Pole or the placement of new Poles or replacement of one or more existing Poles, The Department shall return a copy of the Application for Permit to

Licensee reflecting such conditional approval and detailing the required make-ready and the estimated cost associated with such make-ready. If Licensee is willing to accept The Department's modifications to the Permit Application, Licensee shall return the Permit Application to The Department signed by a duly authorized representative and reflecting Licensee's acceptance of the make-ready and payment of the estimated cost associated with such make-ready.

6. Upon receipt of written authorization and payment, The Department will proceed with the make-ready work according to the specific agreed upon installation plans, and shall make reasonable efforts to complete the make-ready work within sixty (60) days of payment. Upon completion of the make-ready work, The Department shall sign and return a copy of the approved Application for Permit authorizing Licensee to make its Attachment(s).

7. In the event the actual make-ready costs exceed the estimate, Licensee shall pay the balance upon invoicing. In the event actual make-ready costs are less than the estimate, The Department shall reimburse Licensee the balance immediately upon completion of the make-ready work.

SECTION 4. RELOCATION, REPLACEMENT OR MODIFICATION OF LICENSEE'S ATTACHMENTS AT THE DEPARTMENT'S REQUEST

1. Upon written notice from The Department, Licensee, within the period specified in the notice, shall replace, relocate or modify all and any portion of its Attachments on a Pole that The Department, in its reasonable discretion, requests in such notice. Should the replacement, relocation or modification of Licensee's attachments be due to the request and/or benefit of a third-party licensee or any other attacher, Licensee will be reimbursed by such attacher, for costs associated with the replacement, relocation or modification of Licensee's Attachments. If Licensee fails to perform such work within the period specified in the notice, The Department, in the exercise of its sole discretion, may perform all or any portion of such work and charge Licensee the costs thereof to the extent Licensee is responsible for such costs. Nothing in this paragraph shall require Licensee to bear the costs associated with rearranging facilities to accommodate attachments made by a third-party licensees or the owners of other facilities, or to accommodate attachments made by Licensor attributable to service requirements other than those attributable to Licensor's core electric utility business.

2. Whenever any Right-of-Way consideration or any Department, county or state regulation makes relocation of a Pole necessary, The Department shall bear the cost of relocation of such Pole, except Licensee shall bear the entire risk and expense of relocating its Attachments.

SECTION 5. MAINTENANCE AND REPAIR OF ATTACHMENT

1. Licensee shall exercise prudent utility practice to avoid damage to facilities of The Department and of others supported on Department Poles. Licensee shall make an

immediate report to The Department of the occurrence of any such damage and hereby agrees to reimburse The Department for the full expense incurred in making repairs and agrees to indemnify The Department as otherwise provided herein.

2. Licensee shall maintain all its Attachments on Poles in a safe condition, in accordance with the Technical Requirements specified in Section 2. Licensee will immediately cure any condition, which presents an imminent threat to safety of lives or property caused by Licensee. Any safety violations that are not threatening to life or property and are caused by Licensee will be corrected within 30 days' written notice. If the safety violation cannot be reasonably corrected within 30 days, the parties will establish an extended time frame based on the difficulty of making the correction and the number of parties and Department Poles involved. If Licensee fails to correct any safety violation within the agreed upon time frame, The Department, in the exercise of its sole discretion and without further notice or demand to Licensee and at the expense of Licensee, may perform such work as it deems necessary. If it is unclear which party on the pole, including The Department, caused a particular violation, the costs of correction shall be shared by all parties that could have been responsible for the violation. Licensee may perform emergency maintenance and repair work without giving prior written notice to The Department.

SECTION 6. REMOVAL OF ATTACHMENTS

1. Licensee, in the exercise of its sole discretion, may remove any Attachment on any Pole, with out the prior approval of The Department. Licensee shall, however, notify The Department within 30 days of removal and the Department shall adjust billing records accordingly.

2. If The Department is requested by a third party to remove its Pole(s), upon 30 days' notice from The Department, Licensee, within the period so specified in the notice, shall remove all or any portion of the Attachments on any Pole(s) that The Department, in the exercise of its reasonable discretion, requests in such notice. Notwithstanding the foregoing, if such request is by a private property owner and The Department's poles are legitimately on the third party's private property, The Department shall notify private property owner that it must pay Licensee to remove its attachments and for any accommodations necessary for the continued operation of Licensee's attachment (i.e., placing Licensee's facilities underground). Otherwise, Licensee shall not be required to remove its Attachments from the Pole(s).

SECTION 7. EMERGENCIES

1. In the event of an emergency, Licensee, at its sole risk and expense, shall have the right to place, replace, relocate or modify its attachments on any Pole without first obtaining The Department's approval for such work, however, Licensee will make all efforts to notify The Department. If such emergency placement, replacement, relocation or modification does not conform to the standards set forth in this agreement, Licensee, at

its sole risk and expense, shall remove, replace, relocate or modify all or any portion of such attachments -within the time period specified in the notice.

2. In the event of an emergency The Department should make every reasonable effort to notify Licensee, but, if under the circumstances it cannot, The Department may permanently or temporarily replace, relocate, remove, modify or perform any other work in connection with Licensee's attachments on any Pole. Licensee shall reimburse The Department for all the expenses that The Department may incur for such emergency work. In such event, the Department shall notify Licensee immediately of both the Poles affected and the work performed.

SECTION 8. POLE ATTACHMENT FEES, CHARGES AND RATES

1. The current pole attachment fee is $4.50 per pole. The Department may increase its pole attachment fee at the end of the first five (5) year term, upon sixty (60) days' notice, based on actual cost increases of its pole plant and pole carrying expenses, if any or as otherwise required by applicable law. Said rental shall be payable on an annual basis within forty-five (45) days after receipt of the rental invoice.

2. Equipment associated with Licensee's mainline attachments, such as power supplies, conduit, risers, cables, wires or other ancillary equipment necessary to the operation of Licensee's network shall be considered "associated equipment" included in the annual pole attachment fee and shall not incur additional rent when attached to a pole with a mainline attachment.

3. Whenever Licensee is required under this Agreement to reimburse The Department for The Department's expenses, such expenses shall include The Department's full and actual cost and expense therefor. Bills for expenses and other charges under this Agreement shall be payable within forty-five (45) days after receipt of a detailed invoice therefor.

4. Interest shall be charged at the rate of 6% annually or the maximum allowed by law, whichever is less, on the unpaid balance of delinquent, undisputed bills for each month or part thereof that any bill remains unpaid.

SECTION 9. UNAUTHORIZED ATTACHMENTS

1. Licensor may perform an inventory audit of Attachments no more frequently than once every five (5) years to determine the number of Licensee Attachments for rental rate purposes. Licensor shall provide ninety (90) days prior notice of any such audit so that Licensee may have an opportunity to participate. The cost of such pole audits shall be divided amongst the users of the pole (Licensee and any third party licensees) proportionately based upon the respective parties' number of occupied poles.

2. Upon verification by Licensee of any Licensee Attachments for which no Permit has been issued, Licensee shall submit a Permit Application for such unauthorized Attachments and pay an unauthorized Attachment charge.

3. The charge for each unauthorized Attachment shall equal an amount of the annual pole attachment fee per each unpermitted pole for the number of years the attachment has occupied the pole. If the parties cannot reasonably determine the date on which the attachment was installed, the fee shall be equal to the rental payments due since the last inventory The Department conducted or dating back 5 years whichever is less. The unauthorized Attachment charge shall be in lieu of back rent.

4. No inventory or inspection, or lack thereof, by The Department shall operate to relieve Licensee of any responsibility, obligation, or liability assumed under this Agreement.

SECTION 10. DEFAULTS

1. If Licensee shall fail to comply with the material provisions of this Agreement, or should default in any of its material obligations under this Agreement, The Department shall grant Licensee 30 days notice and opportunity to cure.

2. Should Licensee fail to either cure the default or present a plan for a timely cure of the default within 30 days, The Department, in exercise of its reasonable discretion, may terminate the agreement on 30 days' additional notice.

3. If Licensee defaults in the performance of any work, which it is obligated to do under this Agreement, the Department may elect to do such work, and Licensee shall reimburse The Department for all cost thereof.

4. Upon termination or cancellation of this Agreement, in whole or in part, for any reason, Licensee shall remain liable to The Department for any and all fees, other payments and damages that may be due or sustained prior to such termination or cancellation and continuing until all attachments are removed.

SECTION 11. INDEMNIFICATION AND INSURANCE

1. Indemnification of Licensor. Licensee shall indemnify, protect and save harmless Licensor from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employees' disability and death benefits, which may be caused by Licensee's negligence or willful misconduct. The foregoing indemnity shall not apply to the extent of Licensor's negligence or willful misconduct.

2. Indemnification of Licensee. Licensor shall indemnify, protect, and save harmless Licensee from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employees' disability and death benefits, which may be caused by Licensor's negligence or willful misconduct. The foregoing indemnity shall not apply to the extent of Licensee's negligence or willful misconduct.

3. The obligations of this Section 11 shall survive termination or non-renewal of this Agreement, to the extent of the applicable statute of limitations.

4. **NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR THE OTHER PARTY'S CUSTOMERS FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY THE OTHER PARTY OR BY ANY CUSTOMER OF THE OTHER PARTY FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY UPON WHICH ANY SUCH CLAIM MAY BE BASED.**

5. Licensee shall carry insurance at its sole cost and expense to cover its obligations under this Agreement. The amounts of such insurance against liability due to damage to property or to injury or death of persons as to any one occurrence shall be in the amount of $1,000,000.00 per injury or damage claim with a total of $2,000,000.00 against all damage claims. Licensee shall also carry such insurance as will protect it from claims under any Workers' Compensation Laws in effect that may be applicable to it. All insurance required shall be kept in force by Licensee for the entire life of the agreement and the company or companies issuing such insurance shall be licensed in the appropriate state. Licensee shall submit to The Department certificates by each company insuring Licensee to the effect that it has insured Licensee for all liabilities of Licensee under this agreement naming The Department as Additional Insured. Any cancellation of the policy will be in accordance with its terms.

SECTION 12. ASSIGNMENTS

1. Licensee shall not, without prior written consent of The Department in its sole discretion transfer, assign, delegate, or sublet any of its rights or obligations under this Agreement, Licensee may assign or transfer this Agreement and the rights or obligations under it, in whole or in part, upon notice, to any entity controlling, controlled by or under common control with said Party, or an entity that acquires or succeeds to ownership of all or substantially all of Licensee's assets, upon thirty (30) days notice.

2. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns where assignment is permitted by this Agreement.

SECTION 13. APPLICABLE LAW

1. This Agreement shall be governed by and interpreted and construed in accordance with the laws of the State of Massachusetts. The venue of any legal proceeding relative to this Agreement shall be in a court of competent jurisdiction or in the appropriate regulatory forum, as the case may be.

SECTION 14. ENTIRE AGREEMENT

1. This Agreement and all exhibits hereto shall constitute the entire Agreement of the Parties pertaining to the subject of this Agreement and supersedes all prior agreements, negotiations, undertakings, understandings, proposals, statements and representations, whether written or oral concerning such matters.

SECTION 15. NOTICE

1. Any notice required to be given or made in connection with this Agreement shall be in writing and shall be made by certified or registered mail, return receipt requested, express mail or other overnight delivery service by a reputable company with tracking capability, proper postage or other charges prepaid and addressed or directed to the respective representative of the Parties below:

To Department:
Mr. Brian Allen, General Manager
Princeton Municipal Light Department
168 Worcester Road, PO Box 247
Princeton, MA 01541

With a copy to:
John J. Ferriter, Esq.
FERRITER & FERRITER LLC
1669 Northampton Street
Holyoke, MA 01040

To Licensee:

Mr. Dave Poplawski, Director of Field Engineering
Charter Communications
301 Barber Avenue
Worcester, MA 01606

With a copy to:
Charter Communications
Legal Department - Operations
12405 Powerscourt Drive
St. Louis, MO 63131

2. Any notice given or made pursuant to or in connection with this Agreement shall be effective as of the time of delivery to or receipt by the Party to whom such notice is addressed.

SECTION 16. MODIFICATION AND WAIVER

1. Modifications to this Agreement shall only be effective when submitted in writing and signed by the duly authorized representatives of the Parties. Such modifications, to be effective, shall expressly be identified as a modification with specific references to the provisions of this Agreement to be modified. Any modification shall be effective on the date such modification is signed by the Parties, unless such modification expressly provides otherwise.

2. No duties or rights under this Agreement shall be waived except as expressly provided in this Agreement or unless the Party having the right expressly waives such duties or rights in writing so stating it is a waiver. No course of dealing, failure to enforce or insist upon compliance with any or the terms or conditions of this Agreement shall constitute or be construed as a waiver or relinquishment of any term, right or condition, but shall remain at all times in full force and effect.

SECTION 17. HEADINGS

1. The headings in this Agreement are inserted for convenience of reference only and shall in no way be considered in the interpretation of this Agreement.

SECTION 18. TERM

1. This Agreement shall continue in force and effect for a period of five (5) years from the date of execution and, if not terminated by either Party giving written notice of its intent to terminate not less than 180 days prior to the end of the first term, thereafter, year to year until terminated by either Party giving written notice of its intention to do so not less than 180 days prior to the end of the term. Licensee shall remove all its Attachments from The Department's Poles within 180 days after the effective date of termination, unless the Parties are in the process of negotiating a replacement Agreement.

SECTION 19. FORCE MAJEURE

1. Neither Party shall be held liable for any delay or failure in performance of the Agreement from any cause beyond its control and without its fault or negligence, such as, but not limited to, acts of civil or military authority, acts of nature, governmental regulations, embargoes, epidemics, riots, fires, wars, terrorists acts, insurrections, explosions, earthquakes, floods, strikes, power blackouts, unusually severe weather conditions, or the inability to secure products and supplies.

SECTION 20. EXISTING AGREEMENTS

1. All existing Agreements between the Parties hereto for the Joint Use of Poles are by mutual consent hereby abrogated and superseded by this Agreement.

2. Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by The Department, by contract, to other not parties to this

Agreement, to use any poles covered by this Agreement; and The Department shall have the right to continue and extend such rights and privileges on a nondiscriminatory basis.

SECTION 21. THIRD PARTY BENEFICIARIES

1. The Parties agree that the terms of this Agreement and the Parties' respective performance of obligations hereunder are not intended to benefit any person or entity not a party to this Agreement, that the consideration provided by each under this Agreement only runs to the respective parties hereto, and that no person or entity not a party to this Agreement shall have any rights hereunder nor the right to require the performance hereunder by either of the respective parties hereto.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed effective as of the date and year first written above.

Department:

By: _____
Signature

Name: BRIAN E ALLEN

Title: GENERAL MANAGER

Date: SEPTEMBER 28, 2017

Licensee:

Charter Communications Entertainment I, LLC
By: Charter Communications, Inc., its Manager

By: _____
Signature

Name: Gregory A. Gambedian

Title: Area Vice President

Date: 10-1-2017

2016 N.C. PUC LEXIS 211

North Carolina Utilities Commission

April 06, 2016

DOCKET NO. EC-55, SUB 70

Reporter
2016 N.C. PUC LEXIS 211 *

In the Matter of Time Warner Cable Southeast, LLC, Complainant v. Carteret-Craven Electric Membership Corporation, Respondent

Core Terms

pole, licensee, pole attachment, cable, electric, negotiate, notice, invoice, terms and conditions, terminate, interim agreement, notify, membership corporation, rental, space, mail, cooperatives, default, plant, ruse, install, methodology, overlash, protest, street, dear, notification, partnership, licensor, annual

Opinion

[*1]

ORDER SERVING COMPLAINT

BY THE COMMISSION: Notice is hereby given that on March 28, 2016, Time Warner Cable Southeast, LLC, (Complainant) filed a Verified Complaint and Petition for Relief (Complaint) against Carteret-Craven Electric Membership Corporation (Respondent) in the above-captioned docket. In accordance with the Commission's Rules of Practice and Procedure, service of the Complaint is hereby made on the Respondent by copy thereof attached to this Order Serving Complaint, by electronic mail, delivery confirmation requested. The Respondent is hereby directed to satisfy the demands of the Complainant or to file an answer on or before Thursday, May 5, 2016. The answer should comply with Rule R1-9 of the Commission's Rules of Practice and Procedure.

The mailing address for the Chief Clerk's Office is:

Chief Clerk-North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of April, 2016.

NORTH CAROLINA **[*2]** UTILITIES COMMISSION

March 28, 2016

VIA HAND DELIVERY

Ms. Gail Mount
Chief Clerk
North Carolina Utilities Commission
Dobbs Building, 5th Floor
Raleigh, North Carolina 27601

Re: Time Warner Cable Southeast LLC's Verified Complaint and Petition for Relief Against Carteret-Craven Electric Membership Corporation

Docket No. EC-55, Sub 70

Transmitted herewith for filing on behalf of Time Warner Cable Southeast LLC pursuant to *N.C. Gen. Stat. § 62-350* is the Verified Complaint and Petition for Relief against Carteret-Craven Electric Membership Corporation for filing in the above-referenced proceeding.

Should any questions arise in connection with this matter, please contact the undersigned.

Very truly yours,

Marcus W. Trathen

TIME WARNER CABLE SOUTHEAST LLC'S VERIFIED COMPLAINT AND PETITION FOR RELIEF

I. INTRODUCTION

Time Warner Cable Southeast LLC ("TWC") files this complaint with the North Carolina Utilities Commission ("NCUC" or "Commission") against Carteret-Craven Electric Membership Corporation d/b/a Carteret-Craven Electric Cooperative ("Carteret-Craven" or the "Cooperative") to resolve a dispute over the **[*3]** just and reasonable rate for attachments of TWC's facilities to the Cooperative's utility poles, pursuant to N.C.G.S. § 62-350 and Commission Rule R1-9.

Carteret-Craven currently charges TWC a pole attachment rate of $ 23.60 per pole attachment. TWC has long disputed the reasonableness of Carteret-Craven's pole rates, including by triggering in 2012 its right to negotiate a fair and reasonable rate under Section 62-350(b). But the Cooperative has refused to negotiate a mutually-acceptable rate, to justify the current rates it's charging, or to explain or provide any information about the methodology underlying its rate calculation, despite TWC's multiple requests over the years. Whatever the methodoly used by Carteret-Craven, if any, it yields a manifestly unreasonable rate. The Cooperative's rate is approximately four times higher than the pole attachment rates charged by investor-owned utilities ("IOUs") and telephone companies in the state, even though the Cooperative's cost of owning poles should be lower than that of investor-owned companies,

Carteret-Craven has answered TWC's requests **[*4]** to negotiate with pretext, delays, and coercion. FWC first attempted to terminate its pole attachment agreement with the Cooperative and engage in negotiations under Section 62-350 on January 5, 2010, The Cooperative refused to accept the termination, pointing to language in its 2007 pole attachment agreement that indicated the right to terminate did not become effective until August 31, 2012, even though the term of the agreement was only through December 31, 2009, TWC again provided notice of termination of the pole attachment agreement on September 5, 2012, and requested information relating to the cost of providing pole attachments. Carteret-Craven responded by offering a new pole attachment agreement in the same form as the previous agreement between the parties and including the unreasonably high annual rate of $ 23.25 per attachment. TWC's proposed revisions and rate were met by notification that the Board of Directors of the Cooperative had unilaterally approved a contract at the $ 23.25 rate, Carteret-Craven then refused to process TWC's applications to overlash its existing strand until TWC paid its unilateral rate. The Cooperative even

threatened to cut off the electric **[*5]** service necessary to power TWC's network by rolling TWC's allegedly past-due pole attachment payments into TWC's wholly unrelated electric service bill (a practice now prohibited by Section 62-350).

Despite TWC's efforts to negotiate a just and reasonable rate, the parties have reached an impasse. Accordingly, TWC seeks a determination by the Commission that Carteret-Craven has failed to negotiate in good faith under Section 62-350 and that the pole attachment rate imposed by the Cooperative is unjust and unreasonable, inconsistent with the public interest, and in violation of Section 62-350. TWC further seeks a determination of the just and reasonable rate the Cooperative may charge, based on its costs and the rates charged by IOUs in North Carolina. TWC requests that the Commission set such a rate with reference to the prevailing pole attachment rates charged by IOUs and telephone companies in the state--the well-settled federal rate methodology --and the public interest in promoting broadband infrastructure deployment, particularly in rural areas. TWC also requests that any over-payments made since 90 days after it triggered its rights under Section 62-350 be returned, with statutory **[*6]** interest. [1]

II. IDENTIFICATION OF PARTIES

1. Complainant TWC is a Delaware limited liability company and its principal place of business is located at 60 Columbus Circle, New York, New York 10023. FWC is a cable operator under federal law, *47 U.S.C. § 522*(5), and a communications service provider under state law, N.C.G.S, § 62-350(e). TWC provides cable television, video-on-demand. Internet, voice-over-Internet-protocol, and other communications services to residents throughout North Carolina. In order to provide its services, TWC has attachments on poles of numerous membership corporations across the state, including poles owed by the Cooperative.

2. The full names and addresses of the authorized representatives for **[*7]** TWC in this proceeding, and the persons to whom communications on behalf of TWC should be sent, are:

Marcus W. Trathen
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
Suite 1600, Wells Fargo Capitol Center
150 Fayetteville Street
P.O. Box 1800 (zip 27602)
Raleigh, NC 27601
(919) 839-0300, ext. 207 (phone)
(919) 8.39-0304 (fax)

mtrathen@brookspierce. com
Gardner F. Gillespie
J. Aaron George
Carrie A. Ross
Sheppard Mullin Richter & Hampton
2099 Pennsylvania Avenue NW, Suite 100
Washington, DC 20006
(202) 747-1900 (phone)
(202) 747-1901 (fax)
ggillespie@sheppardmullin. com
ageorge@sheppardmullin. com

[1] Except as specifically stated in the Requested Relief section infra, TWC does not seek at this lime any Commission decision on the non-rate terms and conditions of attachment, which TWC continues to attempt to negotiate.

cross@sheppardmullin. com

3. Respondent Carteret-Craven Electric Membership Corporation is an electric membership corporation organized and operating under the provisions of Article 2 of Chapter 117 of the North Carolina General Statutes. On information and belief, the Cooperative has its principal place of business at 1300 Highway 24, Newport, North Carolina. The Cooperative owns or controls poles in the areas where it provides service in North Carolina. On information and belief the regulatory contact and counsel for the Cooperative are as follows:

Craig Conrad

CEO & General **[*8]** Manager
Carteret-Craven Electric Cooperative
1300 Highway 24
Newport, NC 28570
craigc@ccemc. com
Pressly M. Millen
Womble Carlyle Sandridge & Rice LLP
P.O. Box 831
Raleigh, NC 27602
(919)755-2100 (phone)
(919)755-2150 (fax)

pmillen@wcsr. com

III. JURISDICTION

4. The Commission has jurisdiction over this matter pursuant to N.C.G.S. § 62-350.

5. Section 62-350 gives the Commission "exclusive jurisdiction over proceedings arising under this section" to "adjudicate disputes arising under this section on a case-by-case basis." N.C.G.S. § 62-350(c).

6. TWC brings this action pursuant to Section 62-350 to resolve a dispute concerning the rate for attachments to utility poles owned by Carteret-Craven. TWC has paid all undisputed fees for the use of the Cooperative's poles.

IV. BACKGROUND

A. Utility Poles Arc Critical Infrastructure for Cable Operators

7. Owing to economic, environmental, aesthetic, local zoning and rights-of-way restrictions, cable operators do not have a practical alternative to relying on existing utility pole networks owned and maintained by electric power and telephone utilities **[*9]** in order to construct their networks. This reality has long been recognized by courts, legislative bodies, and administrative agencies. *See, e.g.,* *Georgia Power Co. Teleport Commc'ns Atlanta, Inc., 346 F.3d 1033, 1036 (11th Cir. 2003)* (noting "lack of alternatives to these existing poles"); *Alabama Power Co. v. FCC, 311 F.3d 1357, 1362 (11th Cir. 2002),* cert. denied, *540 U.S. 937 (2003)* (utilities are "the owner of… 'essential' facilities" for cable operators); *Southern Co. v. FCC, 293 F.3d 1338, 1341 (11th Cir. 2002)* ("As a practical matter, cable companies have had little choice but to" attach "their distribution cables to utility poles owned and maintained by power and telephone companies."); *Southern Co. Servs., Inc. v. FCC, 313 F.3d 574, 576-77 (D.C. Cir. 2002)* ("Since building new poles was prohibitively expensive, cable operators instead leased existing space from utilities....").

8. The United States Supreme Court has observed that "[c]able television operators, in order to deliver television signals to their subscribers, **[*10]** must have a physical carrier for the cable; in most instances, underground installation of the necessary cables is impossible and impractical. Utility company[ies'] poles provide, under suck

circumstances, virtually the only practical medium for the installation of television cables. " *FCC v. Florida Power Corp., 480 U.S. 245, 247 (1987).*

9. Once cable operators have constructed their aerial networks on existing pole infrastructure, they axe essentially captive because it would be prohibitively expensive and impractical (or impossible) to rebuild those networks underground or to install their own poles. That is the case with TWC here.

B. Regulation of Pole Attachment Rates

10. The United States Supreme Court has found that cable operators' dependence on the use of existing pole infrastructure has led to abuses by utilities. Specifically, while cable operators have found it "essential" to lease pole space from utilities, "[u]tilities, in turn, have found it convenient to charge monopoly rents." *Nat'l Cable & Telecomms. Ass'n, Inc. v. Gulf Power Co., 534 U.S. 327, 330 (2002).*

11. Cable operators' dependence on existing **[*11]** poles and utilities' corresponding abuses of their "superior bargaining power" to impose monopolistic rates, terms and conditions led to federal regulation of pole attachments nearly 40 years ago. *See Alabama Power, 311 F.3d at 1362;* Pub. L. No. 95-234, *92 Stat. 33 (1978) (47 U.S.C. § 224).* Section 224 of the federal Pole Attachment Act vests the Federal Communications Commission ("FCC") with regulatory oversight over pole attachment relationships between cable operators and IOUs and telephone companies, including the IOUs and telephone companies that own poles in North Carolina. *See 47 U.S.C. § 224.* Congress directed the FCC to "regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable." *Id.* § 224(b)(1).

12. Congress diet not place poles owned or maintained by cooperatively-organized or municipal utilities within the ambit of Section 224's protections. *See id.* § 224(a)(1) (exempting "any person who is cooperatively organized, or any person owned by… any State"). **[*12]** These utilities were excluded because their pole attachment rates historically were reasonable--among the lowest of all utilities at the time--and Congress believed that their rates would remain so, S. Rep. No. 95-580, at 16-18 (1977).

13. Congress' prediction remained true for a time. But, in the absence of a regulatory check on the rates, terms, and conditions of pole attachments, cooperatively-organized and municipal utilities have increasingly engaged in the same abusive practices that IOUs once engaged in, including attempts to extract the monopoly pole attachment rates that were ultimately remedied by Congress through Section 224.

14. To stem the potential for abuses by municipal utilities and membership cooperatives in this state, the General Assembly enacted N.C.G.S. § 62-350 in 2009.

15. Effective July 10, 2009, Section 62-350 requires municipal utilities and membership cooperatives to allow communications service providers access to critical infrastructure such as pole, ducts, and conduits, at just, reasonable, and nondiscriminatory rates, terms, and conditions adopted pursuant to negotiated or adjudicated agreements. N.C.G.S. § 62-350(a) **[*13]** .

16. Section 62-350 further provides a mechanism for resolving disputes between communications services providers and municipal utilities and membership cooperatives over access to this critical infrastructure. The law requires municipalities and membership cooperatives that own poles to negotiate reasonable rates, terms, and conditions for the use of such poles upon request by a communications service provider. *Id.* § 62-350(b). In the event that the parties are unable to reach an agreement within 90 days of a request to negotiate, or if either party believes in good faith that an impasse has been reached, either party may seek resolution of unresolved issues by filing an action subject to the exclusive jurisdiction of the Commission. *Id.* § 63-350(c). [2] To perfect its right to seek resolution of a dispute, the communications service provider must pay any undisputed fees related to the use of

[2] The General Assembly amended Section 62-350 in June 2015 to reassign exclusive jurisdiction from the North Carolina Business Court, which had raised concerns about its rate-setting authority, to the Commission. *See An Act to Assign Pole Attachment Disputes to the North Carolina Utilities Commission*, S.B. 88, N.C. Session Law 2015-119 (2015).

poles, ducts, or conduits which are due and owing under a preexisting agreement with the municipality or membership cooperative.

[*14]

17. The statute, as amended in 2015, directs tire Commission to resolve disputes arising under Section 62-350 on a case-by-case basis, consistent with the public interest and necessity to derive just and reasonable rates, terms, and conditions. *Id.* In so doing, the Commission may consider any evidence or ratemaking methodologies offered or proposed by the parties. *Id.* Although the 2015 amendments to Section 62-350 deleted an express reference to the federal pole attachment rate methodology applicable to IOUs in the state, the General Assembly emphasized that "the Commission may consider any evidence presented by a party, including any methodologies previously applied." S.B. 88, N.C. Session Law 2015-119 § 7 (2015).

18. Upon resolution of a dispute, the Commission shall apply any new rate adopted retroactively to the date immediately following the expiration of the 90-day negotiation period. N.C.G.S. § 62-350(c), If the dispute and new rate arises in the context of a negotiation for the continuation of an existing agreement, the Commission shall apply the new rate retroactively to the date immediately following the end of the existing **[*15]** agreement. *Id.*

C. North Carolina Business Court decisions Under Section 62-350

19. The Business Court resolved two cases arising under Section 62-350 prior to its amendment in June 2015. One case addressed the reasonableness of pole attachment rates imposed by a membership cooperative. *See Rutherford Elec. Membership Carp. v. Time Warner Entertainment-Advance/Newhouse P'ship*, No. 13- CVS-231, 2014 WL 2159382 (N.C. Super. Ct. May 22, 2014), aff'd 771 S.E.2d 768 (N.C. Ct. App. 2015). The other addressed pole attachment rates, terms, and conditions imposed by a municipal utility. *See Time Warner Entertainment/Advance-Newhouse P'ship v. Town of Landis*, No. 10- CVS-1172, 2014 WL 2921723 (N.C. Sup. Ct. June 24, 2014).

20. In *Rutherford*, after extensive discovery and a four day trial, the Business Court rejected the methodologies proposed by the membership cooperative and its experts, concluding that the methodologies were not supported by competent evidence. *See* Rutherford, 2014 WL 2159382, at *12-16. In so doing, the court rejected the cooperative's desired **[*16]** rates--ranging from $ 15.50 to $ 19.65--as unjust and unreasonable. *Id.* The court also found that the FCC's Section 224 "Cable Rate" provided just and reasonable compensation to the membership cooperative. *Id.* at *9. The court reasoned that the Cable Rate offers "an analytical structure that is well-understood, widely used, and judicially sanctioned," and that the state's reliance on established FCC precedent would "provide helpful guidance to parties involved in future negotiations over just and reasonable pole attachment rates, terms, and conditions." *Id.* at *10. The North Carolina Court of Appeals affirmed the Business Court's decision across the board. *See* 771 S.E.2d 768.

21. Similarly, in *Landis*, following a separate trial, the Business Court rejected the methodologies proposed by the Town and its expert as irrational and unsupported, concluding that the Town's proposed $ 18.00 rate was unjust and unreasonable. *See* Landis, 2014 WL 2921723, at *12-13. The court again found that the Cable Rate provided just and reasonable compensation to municipally owned utilities in North Carolina. *See id.* at *10. **[*17]** Referencing the reasoning of its *Rutherford* decision, the court explained that the Cable Rate "provides a reasonable means of allocating costs without creating a subsidy from the pole owner to the attacher." *Id.*

22. The Business Court's holdings were well-founded. The rate methodologies proposed by the membership corporation and the municipal utility were irrational, and not supported by the evidence. By contrast, the Cable Rate is straightforward, fair, well-settled, time-tested, judicially approved, and the basis of most pole attachment rates across the country, including for the more than one hundred thousand attachments to poles owned by IOUs in North Carolina. Regulatory agencies, federal and state courts (including the Business Court) and the United States Supreme Court have all concluded that the Cable Rate is fully compensatory to pole owners and does not cause electric companies to subsidize cable companies, repeatedly rejecting pole owner arguments to the contrary. *See, e.g., Florida Power Corp., 480 U.S. at 247;* Alabama Power, 311 F.3d at 1358; Gulf Power Co. v. United States,

998 F. Supp. 1386 (N.D. Fla. 1998), **[*18]** *aff'd*, 187 F.3d 1324 (11th Cir. 1999); *Implementation of Section 224 of the Act;* A National Broadband Plan for Our Future, 26 FCC Rcd 5240, 5322 (2011), *aff'd sub nom.* Am. Elec. Power Serv. Corp. v. FCC, 708 F.3d 183 (D.C. Cir. 2013) ("2011 Pole Rate Order"); Rutherford, 2014 WL 2159382, at *9 (rejecting the cooperative's subsidy arguments and concluding that "the FCC Cable Rate formula actually leaves the utility and its customers better off than they would be if no attachments were made to their poles"); *Landis*, 2014 2921723, at *10. The Cable Rate also provides a uniform and consistent methodology for all manner of utilities because it utilizes costs specific to each utility, including by relying on virtually the same system of accounts used by membership cooperatives. *See* Rutherford, 2014 WL 2159382, at *10.

D. Low and Uniform Rates Serve the Public Interest

23. Access to utility poles on just, reasonable and nondiscriminatory rates, terms and conditions is essential to the expansion of broadband and other advanced **[*19]** services throughout North Carolina, particularly in rural areas.

24. In its 2010 National Broadband Plan, the FCC found that "[t]he cost of deploying a broadband network depends significantly on the costs that service providers incur to access conduits, ducts, poles and rights-of-way on public and lands." National Broadband Plan (2010) at 109, *available at* http://transition.fcc.gov/national-broadband-plan/national-broadband-plan.pdf (last visited March 24, 2016) (finding that "the expense of obtaining permits and leasingpole attachments and rights-of-way can amount to 20% of the cost of fiber optic deployment"). The Plan concluded that the impact of higher pole attachment rates "can be particularly acute in rural areas, where there often are more poles per mile than households." *Id.* at 110. To promote broadband deployment, the National Broadband Plan thus recommended that the FCC establish rates for pole attachments "that are as low and close to uniform as possible." *Id.* at 110. Since that time, the FCC has taken meaningful steps to implement that recommendation, ensuring low and uniform pole attachment rates charged by IOUs in the North Carolina. *See 2011* Pole Rate Order, 26 FCC Rcd 5240; **[*20]** *Implementation of Section 224 of the Act;* A National Broadband Plan for Our Future, Order on Reconsideration, WC Docket No. 07-245, 2015 WL 7589371 (rel. Nov. 24, 2015). 24, 2015).

25. At the legislature's direction, North Carolina's Broadband Infrastructure Office is in the process of developing the state's own broadband plan. Consistent with the National Broadband Plan, the state's progress report released in December 2015 found that communities "in sparsely populated or economically distressed areas … continue to find themselves on the wrong side of the digital divide." *See* North Carolina Department of Information Technology, State Broadband Plan Progress Report (Dec. 1, 2015) at 5, *available at* http://ncbroadband.gov/wp-content//uploads/2016/02/Broadband-Plan-Progress-Report-12-1-2015.pdf (last visited Mar. 24, 2016). The report further identified "infrastructure cost" as one of the key challenges to broadband deployment in the state, particularly given the "significant infrastructure upgrades" necessary to keep pace with evolving technologies and demands for data.*See id.* at 4-5.

26. Consistent with the recommendations of the National **[*21]** Broadband Plan and the state's broadband objectives, low and uniform pole attachment rates throughout North Carolina (regardless whether the poles are owned by IOUs, telephone companies, municipal utilities, or membership cooperatives) will promote the expansion of broadband in rural areas and facilitate the infrastructure upgrades needed in the coming years.

V. THE PARTIES' DISPUTE

27. TWC depends on the use of poles owned by Carteret-Craven to deliver its services to its customers. TWC is attached to approximately 10,944 poles owned by the Cooperative.

28. ***The Parties' Pole Attachment Agreement***. Prior to the enactment of Section 62350, TWC attached its cable and other facilities to the Cooperative's poles pursuant to a pole attachment agreement executed by Carteret-Craven and TWC's predecessor in interest. Time Warner Entertainment-Advance/Newhouse Partnership in December 2007. Ex, 1 ("2007 Agreement"). By its terms, the agreement continued in force and effect through December 31, 2009. The Agreement stipulated that it would automatically extend on the same terms and conditions for successive one-year terms. Despite the 28-months specified as the term of the agreement, **[*22]** the

termination provision only allowed either party to terminate the agreement "after the initial five (5) year term by giving no less than 30 days written notice to the other party." *Id.* § 2.1.

29. The 2007 Agreement provided for an annual attachment fee per pole of $ 17.00 in 2005, increasing $ 1 each year through 2009. At that time, Carteret-Craven's rates were not subject to regulation under Section 62-350 or any other federal or state authority. The United States Court of Appeals for the Fourth Circuit had only just ruled that it did not have sufficient basis to assert jurisdiction over pole rates charged by North Carolina electric cooperatives, having determined that the state legislature or courts should resolve the issues presented. *Time Warner Entertainment-Advance/Newhouse P'ship v. Carteret-Craven Elec. Membership Corp., 506 F.3d 304, 315 (4th Cir. 2007)* ("[I]f any regulation or compulsion is to be applied to pole-attachment agreements, it should be done by the North Carolina legislature, the North Carolina Utilities Commission, [or] the North Carolina state courts."). The rate that TWC had little choice but to accept from Carteret-Craven **[*23]** in 2007 was the rate that had provided the basis for TWC's lawsuit against Carteret-Craven, and it did not reflect a market rate, as there was no functioning market for attaching to cooperatives' essential and monopoly facilities in North Carolina.

30. The 2007 Agreement allowed TWC to attach only to "excess" space on Carteret-Craven's poles. TWC was required to create space if there was no room for TWC's attachments on the poles, or if Carteret-Craven decided that it needed the space TWC occupied on a pole. For example, Section 1.6 authorized Carteret-Craven to "reject any application for an attachment" if there was insufficient space on the pole, unless TWC paid to create that capacity through the "make-ready" process. Ex. 1 §§ 1.6, 5.3. The make-ready process required TWC to pay for the work necessary to accommodate TWC's requested attachments, including the costs of rearranging existing facilities, adding to the pole, or replacing the existing pole with a taller or stronger pole. *Id.* § 5.3, Carteret-Craven also reserved the right to reclaim the space occupied by TWC, and to force TWC to rearrange its facilities, purchase a new, taller or stronger pole, or remove its facilities. **[*24]** *Id.* § 14.1. Indeed, even where TWC paid for a brand new pole as part of the make-ready process, that pole continued to belong to Carteret-Craven, Carteret-Craven could reclaim space on it, and TWC was required to pay an annual fee for its attachment to it. *See id.* §§ 1.3, 4.1.

31. The 2007 Agreement further established a procedure for confirming and tracking the number of TWC attachments to Carteret-Craven poles, including those for which TWC owned the annual attachment fee. The 2007 Agreement required Carteret-Craven to commence an actual inventory of TWC's attachments, at TWC's expense, "not less than one (1) year following" the commencement date of the contract. *Id.* § 4.3. Thereafter, the 2007 Agreement allowed Carteret-Craven to conduct an actual inventory "no more frequently than every five (5) years." *Id.*

32. The parties intended that the initial inventory contemplated in Section 4.3 would serve as a baseline audit. *Id.* § 12. The baseline audit would fix the number of TWC attachments at the outset of the 2007 Agreement to ensure that both parties were going forward with a clear understanding of the number of attachments subject to the 2007 Agreement. *Id.* **[*25]** Specifically, the 2007 Agreement stated that "[a]ny Attachment that existed prior to the Commencement Date… of this Agreement for which a Permit exists will be considered an Authorized Attachment. " *Id.* § 12.1. And, "[w]ithout Licensee making an application, [Carteret-Craven] shall issue a Permit for each pole found to be compliant during said audit. " *Id.* § 12.2.

33. Under the 2007 Agreement, any attachment except for overlashing requires a permit, and any attachment placed after the Commencement Date without a permit obtained pursuant to the terms of the agreement will be considered an unauthorized attachment. *Id.* 10.1. The 2007 Agreement further requires Carteret-Craven to notify TWC "of any Unauthorized Attachment when discovered." using a form set forth as an Exhibit to the agreement. *Id.* § 10.1, Ex. R-9. The form includes columns requiring Carteret-Craven to identify tire "Attachment Location" and the "Problem" associated with each attachment. *Id.* at Ex. B-9. Unauthorized attachments carry a steep penalty. Upon receiving notice of the unauthorized attachment, TWC is required to pay an unauthorized attachment fee of $ 75 per pole, and submit an application **[*26]** for a permit for the attachment. *Id.* § 10.2, Ex. C. TWC has 30 days from Carteret-Craven's notice to remove the unauthorized attachment or to submit an application for it, or else it is required to pay the "Unauthorized Attachment Daily Fee" of $ 5.00 until removing the attachment or obtaining a permit for it. *Id.* § 10.3, Ex. C. Carteret-Craven is permitted under the 2007 Agreement to remove the unauthorized

attachment if TWC does not take the specified corrective action 30 days after receiving notice of the unauthorized attachment. *Id.* § 10.4.

34. *The Parties' Negotiations and Dispute*. On January 5, 2010, TWC provided notice to Carteret-Craven of its intent to terminate the 2007 Agreement pursuant to Section 2.1 of the agreement. TWC also formally requested to negotiate rates, terms, and conditions of a new pole attachment agreement pursuant to Section 62-350 and requested information regarding Carteret-Craven's pole-related costs .so that the parties could negotiate a cost-based rate. *See* Ex. 2. Carteret-Craven refused to accept the termination, pointing to language in the 2007 Agreement that indicated the right to terminate did not become effective until August **[*27]** 31, 2012, even though the term of the agreement was only through December 31, 2009. *See* Ex 3. On September 5, 2012, TWC again notified Carteret-Craven of its decision to terminate the 2007 Agreement, pursuant to Section 2.1 of the agreement. And, again, TWC formally requested to negotiate rates, terms, and conditions of a new pole attachment agreement pursuant to the statute, and TWC requested cost information. *See* Ex. 4. Carteret-Craven provided no cost information in response. Despite months of fruitless discussions, the parties have been operating under the terms and conditions of the 2007 Agreement and TWC has been paying the rates unilaterally imposed by Carteret-Craven under protest and subject to its right of refund under Section 62-350.

35. After TWC terminated the 2007 Agreement and requested to negotiate a new one under Section 62-350, Carteret-Craven has consistently and unilaterally increased its pole attachment rate. TWC has paid the following rates, under protest, under this arrangement:

. Jan. -- Dec. 2013: $ 23.25 for 10,961 pole attachments = $ 254,843.25

. Jan. -- Dec. 2014: $ 23.48 for 10,944 pole attachments = $ 256,965.12

. Jan. -- Dec. 2015: $ **[*28]** 23.48 for 10,944 pole attachments = $ 256,965.12

. Jan. -- Dec. 2016: $ 23.60 for 10,944 pole attachments = $ 258,278,40

36. TWC attempted for years to negotiate changes to the pole attachment rate using a reliable and reasonable cost-based methodology. But despite TWC's invocation of Section 62-350, the Cooperative's obligation to negotiate rates, and the Business Court's 2014 decisions holding lower rates unjust and unreasonable, the Cooperative has refused to provide any information identifying or justifying its methodology for calculating its invoiced pole attachment rate. Instead of negotiating in good faith, Carteret-Craven's Board of Directors unilaterally adopted a contract with an annual rate of $ 23.25 per pole subject to annual increases, and ignored TWC's offer to pay $ 7.50 per pole or the rate calculated pursuant to the FCC's formula for cable attachments, whichever is higher. *See* Exs. 5-6. The Cooperative took the position that the rates as set forth in the 2007 Agreement represented an "arms' length" bargain that should simply be enforced, without even acknowledging the irony of arguing that a rate which had forced TWC to go all the way to the Fourth Circuit **[*29]** for relief had been negotiated at arms' length. If TWC did not execute an agreement virtually the same as the one that TWC had terminated, and agree to pay the $ 23.25 rate, Carteret-Craven threatened to treat pole attachment fees on a pro-rata basis with TWC's electric bills--the effect of which would have been to treat TWC's electric bills (which were current) as unpaid, and to shut off TWC's electricity. Rather than negotiating in good faith regarding a reasonable rate under Section 62-350, the Cooperative also halted all ongoing business, refusing to allow TWC to overlash cables to its existing strand. *See* Ex. 7. In order to get its business back on track, TWC proposed an interim agreement (to be effective until the parties could negotiate an agreement under Section 62-350) that incorporated the terms of the prior agreement and that provided for payment of Carteret-Craven's demanded rate under protest without waiver of TWC's rights to recover overcharges and subject to true-up. See Ex. 8. But Carteret-Craven refused even to allow TWC to reserve the right to pay under protest and seek judicial determination under Section 62-350 whether the rate charged is just and reasonable. **[*30]** *See* Exs. 8-11. Instead, Carteret-Craven advised TWC that if it did not pay all amounts due it would disconnect electric service in two weeks. Ex. 12. With the threat of disconnection of electric service looming. TWC processed payment for all outstanding invoices. *See* Ex. 13. TWC paid under protest and reserved all rights and requested that Carteret-Craven advise immediately if it intended to shut off TWC's electricity because the bills were paid "under protest. " Carteret-Craven never responded to this question, but it did not shut off TWC's powder. Because of Carteret-Craven's insistence on charging TWC as a holdover tenant and rolling the pole-attachment charges over to the electric bills, TWC ended

up overpaying, and the Cooperative had to make adjustments and credit TWC for its own billing mistakes. *See* Exs. 14-15. TWC has continued to pay Carteret-Craven's demanded pole rates, which have been increasing each year, under protest.

37. After the North Carolina Business Court's *Rutherford* and *Landis* decisions, TWC tried again to negotiate a reasonable rate with Carteret-Craven. *See* Ex. 16. But the Cooperative responded that the cases were on appeal and suggested **[*31]** again that TWC enter into the exact same agreement it had terminated two years prior and accept the attachment rate that was higher than both of the rates found unreasonable by the Business Court. *See* Exs. 17-18. TWC's proposal of a rate of $ 6.06, the highest average Investor-owned utility rate over the past few years as reflected in the Business Court's *Rutherford* decision, was flatly rejected. Ex. 19.

38. Rather than engage in good faith negotiations of a rate, in July 2015, Carteret-Craven advised that it intended to conduct a "system-wide census"--an inventory--of all TWC's attachments to its poles. *See* Ex. 20. To the best of TWC's knowledge, Carteret-Craven has never conducted the baseline audit provided for in the 2007 Agreement. But TWC understands that the purpose of Carteret-Craven's audit, like that of other North Carolina Cooperatives, is to generate unauthorized attachment fees. [3]

[*32]

39. The Cooperative's refusal to negotiate its rates (or provide any information related to its methodology) leaves the parties at an impasse, *See* N.C.G.S. § 62-350(c). That impasse, as well as the expiration of the 90-day period following TWC's request to negotiate, gives the Commission jurisdiction to resolve the parties' dispute regarding a just and reasonable pole attachment rate.

40. Accordingly, TWC requests that the Commission find the rates charged by the Cooperative to be unjust and unreasonable, and adopt a just and reasonable rate that aligns with the rates charged by IOUs in North Carolina.

VI. JUST AND REASONABLE RATES

41. TWC requests that the Commission find the rates charged by Carteret-Craven to be unjust and unreasonable, and adopt a just and reasonable rate that aligns with the rates charged by IOUs in North Carolina.

42. IOUs in North Carolina follow the FCC's Cable Rate methodology. That methodology determines the maximum just and reasonable per-pole rate that an TOU may charge a cable operator for pole attachments. *See* *47 U.S.C. § 224*(d); *47 C.F.R. § 1.1409(e)(1)* **[*33]** .

43. Section 224 directs the FCC to regulate pole attachment rates based on the costs of the pole owner to make attachment space available to cable operators. Under Section 224(d), therefore, a rate is just and reasonable if it falls within a zone of reasonableness between the incremental and the fully allocated costs of providing attachments: "[A] rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space . . . which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way." *Id.* § 224(d)(1).

44. On the low end of the range of reasonable rates is a rate based only on a utility's incremental costs owing to pole attachments. Incremental costs are those costs incurred by the utility due to the presence of attachments, consisting primarily of the make-ready charges that attachers typically pay when they first make an attachment to a pole, as TWC does here. *See* Ex. 1 §§ 1.6, 5.3.

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[3] *See, e.g., Time Warner Cable Southeast LLC v. Jones-Onslow Electric Cooperative Corporation* (N.C.U.C.) (filed March 28, 2016); *Time Warner Cable Southeast LLC v. Energy United Electric Cooperative Corporation* (N.C.U.C.) (filed March 28, 2016). TWC does not seek relief here from Carteret-Craven's pole audit, as the audit has not yet been completed and the matter is not yet ripe.

45. On the high end **[*34]** of the range of reasonable rates is a fully allocated rate that allows the pole owner to recover the cable operator's fair share of the total costs of owning and maintaining a pole. The FCC decades ago established its Cable Rate formula at this upper bound of the statutory zone of reasonableness.

46. The Cable Rate derives the maximum allowable pole attachment rate by determining the annual cost of owning and maintaining a bare utility pole and then multiplying this pole cost by a space allocation factor based on the amount of usable pole space the attacher uses. The FCC Cable Rate formula can be expressed as follows;

Maximum Rate = Space Occupied by Attachment/ Total Usable Space x Annual Cost of Pole

47. Under this formula, the cable operator pays for the costs of the entire pole in the proportion that it uses the space on the pole which is usable for attachments. Assuming that an average pole has 13.5 feet of usable space, and assuming that TWC's attachment uses one foot of that space, the FCC method assigns 1/13.5 or 7.4 percent, of the annual costs of the entire pole to the attacher. *Amendment of Rules and Policies Governing Pole Attachments, 15 FCC Rcd 6453, 6529,* **[*35]** Appendix C-2 (2000) ("*Fee Order*"), *Implementation of Section 703(e) of the Telecommunications Act of 1996, 16 FCC Rcd 12103, 12108, 12174,* & Appendix D-2 (2001) ("*Reconsideration Order*") (affirming use of rebuttable presumptions of 1 foot of occupied space and 13.5 feet of total usable space) .

48. The Cable Rate formula requires that the attaching entity pay for the space it actually uses on the pole, while fairly allocating the "unusable" space that benefits all of the parties attached to the pole. This unusable space includes the portion of the pole buried in the ground, and the portion extending from the ground to the lowest attachment to ensure adequate clearances.

49. The Cable Rate formula's allocation of costs based on the cable operator's direct occupancy of space and its proportionate use of common space follows cost causation principles in a manner analogous to the common and widely-accepted practice in the leasing of property and other facilities throughout the private and public sectors of the economy. For example, in enacting the Act, Congress explained the reasonableness of this allocation using the example of an apartment house **[*36]** with 10 floors and common areas, such as the lobby, elevators and a garage. *See* 123 Cong. Rec. 5080 (1977) (Statement of Rep. Wirth). A family renting one of the floors would expect to pay one tenth of the costs of the common areas, even if the landlord had reserved use of the other nine floors. *Id.* The renter would not be asked to pay one-third or one-half the cost of those common areas.

50. In part because it is based on sound economic principles, the Cable Rate methodology is widely accepted and applied. Nearly every state that has "reverse preempted" the FCC to exercise its own pole attachment regulation, including the District of Columbia, uses either the Cable Rate or a state-equivalent that follows the Cable Rate to determine maximum just and reasonable pole attachment rates. [4] The nearby states of Kentucky and Ohio, for example, either have adopted a rate methodology based largely on the FCC method (Kentucky), or have adopted the FCC rate methodology across the board (Ohio). *See Adoption of a Standard Methodology for Establishing Rates for Cable Television Pole Attachments, 49 P.U.R. 4th 128,* No. 251 (Ky. PSC 1982); *Re: Columbus & Southern Electric Co., 50 PUR 4th 37 (Pub. Util. Comm. Oh. 1982).* **[*37]**

51. Aligning the Cooperative's rates with the prevailing rates charged in North Carolina (and elsewhere in the United States) would promote consistency, uniformity, and predictability in rates across the stale. Consistent, uniform, and predictable rates, in turn, would serve the public interest and necessity by reducing competitive incongruities, market distortions, and market disputes that negatively affect communications service providers' investment decisions to expand their networks and services, while promoting broadband investment, particularly in rural areas. *See Rutherford, 2014 WL 2159382,see also 2011 Pole Rate Order, 26 FCC Rcd at 5244 P 157;* **[*38]**

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[4] Twenty-one states have displaced FCC jurisdiction with their own pole attachment regulation. *See 47 U.S.C. § 224*(c); *States That Have Certified That They Regulate Pole Attachments, Public Notice, WC Docket No. 10-101, 25 FCC Rcd 5541, 5541-42 (2010).*

VII. REQUESTED RELIEF

WHEREFORE, the Complainant TWC requests that the Commission issue an order granting the following relief:

1. Finding that Respondent Carteret-Craven's proposed pole attachment rates of $ 23.25 for 2012 and 2013, $ 23.48 for 2014, and $ 23.60 for 2015 unjust and unreasonable;

2. Finding that, consistent with the public interest and precedent, Respondent Carteret-Craven's pole attachment rate should be based on its pole-related costs in the same manner as IOUs in the state and in the manner previously determined to be just and reasonable by the North Carolina Business Court;

3. Adopting a just and reasonable rate for TWC's attachment to Respondent Carteret-Craven's utility poles based on its pole related costs and the rates paid by IOUs in North Carolina;

4. Applying the new rate adopted as a result of this proceeding retroactively to the date immediately following the expiration of the 90-day negotiating period triggered by TWC's September 5, 2012 request for negotiations under Section 62-350;

5. Providing for statutory interest under North Carolina law for all overpayments made to Carteret-Craven starting 90 days after TWC's **[*39]** triggering its rights under Section 62-350 on September 5, 2012;

6. Requiring Respondent Carteret-Craven to pay the total sum of the overpayments plus statutory interest to TWC or allow TWC to take a credit against future pole attachment fees ill those amounts;

7. Finding that Respondent Carteret-Craven has failed to negotiate in good faith as required by N.C.G.S. § 62-350;

8. Assessing the costs of this proceeding to the Respondent Carteret-Craven; and

9. Awarding Complainant such other relief as the Commission deems just, reasonable and proper.

Respectfully submitted, this 28th day of March, 2016.

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Attorneys for Complainant **[*40]** *Time Warner Cable Southeast LLC*

VERIFICATION

STATE OF New York

COUNTY OF Onondaga

Noel Dempsey, first being duly sworn, deposes and says that he is the Group Vice President, Network Exp. & OSP Design, Technology Operations/Engineering for Time Warner Cable, that he has read the foregoing Complaint and Petition for Relief and the same is true of his personal knowledge, except as to any matters and things therein stated on information and belief, and as to those, believes them to be true; and that he is authorized to sign this verification on behalf of Time Warner Cable Southeast LLC.

Noel Dempsey

NOEL DEMPSEY

Printed Name

WITNESS my hand and notarial seal, this 28th day of March, 2016.

My Commission Expires: 1/5/2019

Signature of Notary Public

Joyce E. Goodman
Name of Notary Public -- Typed or Printed Notary Steal

EXHIBIT 1

POLE ATTACHMENT LICENSE AGREEMENT

Between

Carteret-Craven Electric Membership Corporation

("Owner")

and

Time Warner Entertainment/-Advance Newhouse Partnership

("License")

POLE ATTACHMENT LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is effective this day of September, 2007 (the "Commencement Date") by and **[*41]** between Carteret-Craven Electric Membership Corporation, having its principal offices at 1300 Highway 24, Newport, N.C. (hereinafter called "Owner") and Time Warner Entertainment-Advance/Newhouse Partnership, a New York General Partnership with its principal offices at 290 Harbor Drive, Stamford, CT (hereinafter called "Licensee").

WHEREAS, Licensee furnishes services to residents in the state of North Carolina as depicted in Exhibit "A" (the "Service Area") attached hereto and made a part hereof by reference and desires to place and maintain aerial cables, wires and associated facilities and equipment on the poles of Owner in the area to be served, and

WHEREAS, Owner is willing to permit, to the extent it may lawfully and contractually do so, the attachment of said aerial cables, wires, and facilities (the "Attachment (s)") to its poles in the Service Area subject to the terms and conditions of this Agreement in the Service Area.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions herein contained the parties hereto do hereby mutually covenant and agree as follows:

ARTICLE 1

SCOPE OF AGREEMENT

1.1. Subject to the provisions of this **[*42]** Agreement, Owner agrees to issue-to Licensee, for the Attachment (s) of Licensee's facilities to Owner's poles for the purpose of providing any and all lawful communications services, a revocable, non-exclusive license(s) hereinafter referred to as "Permit(s)" authorizing the attachment of Licensees Facilities to Owner's poles. This Agreement shall govern the fees, charges, terms and conditions under which Owner may issue such Permits to Licensee. This Agreement is not in and of itself a license, and before making any Attachment, other than overlashing or attachments to drop poles to any Utility Pole, Licensee must apply for and obtain a Permit for each pole to which it desires to attach.

1.2 This Agreement supersedes all previous agreements between Owner and Licensee for the attachment of Licensee's facilities to the poles of Owner in the Service Area. This Agreement shall govern all existing Licenses, Permits, and other forms of permission for pole attachments of Licensee's facilities to Owner's Poles in the Service Area as well as all Permits issued subsequent to execution of this Agreement.

1.3 No use, however extended, of Owner's pole or payment of any fees or charges required **[*43]** under this Agreement shall create or vest in Licensee any ownership or property rights in such poles except as expressly provided by this Agreement.

1.4 Nothing contained in this Agreement 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.

1.5 Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against Owner entering into agreements with other parties regarding the poles covered by this Agreement.

1.6 The Licensee shall not install facilities on the Owners' poles if such installation will violate die National Electric Safety Code. Furthermore, if, an attachment by Licensee cannot be accommodated because of documented insufficient capacity, Owner shall have the right to reject any application for an attachment. Notwithstanding the foregoing, Owner shall not arbitrarily deny or condition any Permit based upon Licensee's status as a provider of cable service, broadband cable communications services or other lawful communications services.

ARTICLE 2

TERM OF AGREEMENT

2.1 This Agreement shall continue in force and **[*44]** effect through December 31, 2009. The Agreement shall automatically extend under the same terms and conditions for successive one-year terms. Either party may terminate this Agreement at any time after the initial five (5) year term by giving no less than 30 days written notice to the other party. All days referenced herein are calendar days. The Licensee is subject to the rental rates set forth in Exhibit "C" attached hereto throughout the first five years this Agreement remains in effect. Thereafter, the rental rates shall be adjusted by an amount equal to the annual percentage change in the Consumer Price Index (CPI) for the duration of this agreement.

ARTICLE 3

SPECIFICATIONS

3.1 Any Licensee's Attachments constructed on Owner's poles after the Commencement Date of this Agreement shall be placed and maintained at all times in accordance with the most stringent requirements, specifications, rules and regulations of the latest edition of the National Electrical Safety Code (the "NESC") and subsequent revisions' thereof, and this Agreement including the Rules and Practices of Owner for Attachments (the "Rules") as set forth in Exhibits "1 through 8" attached hereto and **[*45]** made a part hereof by reference. In the event that Owner should wish to change or adopt a rule or practice or rules and practices, Owner shall give Licensee written notice of such proposed, change or adoption and, following good faith negotiations of the proposed amendments, the Licensee agrees to make such changes or alterations in its installation or maintenance of its facilities as may be required in order to fully comply with revisions of such change or adoption as long as the newly proposed amendments are not discriminatory as to similar service providers. In the absence of a contrary provision in said notice, Licensee agrees to make all required changes or alterations within thirty (30) days after receipt of notice, which will be given to all similar service providers.

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

3.3 Licensee acknowledges that other users, that have similar licensing agreements and services, have been granted and may hereafter be granted rights similar to those granted in this Agreement, and that this Agreement is not **[*46]** an exclusive contract for the grant of those rights. Owner will maintain such Agreements without favor to any particular party or Licensee except Licensor's core utility service. Licensee's use of Owner's poles shall not interfere with the rights or operations of such other users. No party shall move, remove, adjust or change the attachments of others without the specific written consent of all other users and of Owner.

ARTICLE 4

ATTACHMENT FEES

4.1 Licensee shall pay a fee in the amount stated in Exhibit "C", attached hereto and made a part hereof by reference, for each pole to which Licensee has one or more Attachments (the "Attachment Fee"). In addition, Licensee shall pay the Application Fee for any poles, other than drop/lift poles or overlashing, for which the Make-Ready Construction Work, as defined in Article 5.3, has been completed unless Licensee notifies Owner within 45 days that it will not attach and the Permit Application shall be void.

4.2 On or about the first day of each January, Owner shall invoice Licensee, in advance, for Attachment Fees and other charges due Owner that have not been previously invoiced. The rental period shall cover the following twelve-month **[*47]** period between January 1 and December 31. Licensee shall pay any invoice within thirty (30) days of receipt thereof. Interest shall accrue on die unpaid Attachment Fees and charges at twelve percent (12%) per annum.

4.3 Commencing not less than one (1) year following the Commencement Date of this Agreement and no more frequently than every five (5) years thereafter, an actual inventory of Licensee's Attachments may be made by Owner or Owner's representative at the expense of Licensee. Owner agrees that the expense to Licensee shall be the normal market cost for such service or Owner's representative at the expense of Licensee. Owner agrees that the expense to Licensee shall be the normal market cost for such service through a joint field check with Licensee and that work done at the same time for the benefit of Owner or others will not be charged to Licensee. Inventory results will be made available to the Licensee.

Exhibit D reflects Owner's records of the current inventory of Licensee's Attachments as of the Commencement Date of this Agreement.

ARTICLE 5

PROCESS FOR PERMITTING ATTACHMENTS

5.1 The Rules as set forth in Exhibit "B"' provide procedures for implementing **[*48]** the process for permitting Attachments, except as to Secondary Poles which are outlined in Article 6.

5.2 To obtain a Permit, Licensee must submit a request on a form shown as 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 "C". Licensee's Application shall be accompanied by Licensee's construction plans and drawings, which will, at a minimum, contain the information specified in the Rules.

5.3 As expeditiously as possible after the receipt of the Application and completion of the ***joint ride-out*** but in no event later that thirty (30) days following submission of an Application, Owner will notify Licensee of the charges (the "Make Ready Engineering Fee") for engineering the required modifications to Owner's poles necessary to accommodate Licensee's Attachments. The Make Ready Engineering Fee shall be determined from the make-ready survey conducted as part of the ride through by the parties. Licensee and Owner shall agree upon the appropriate analysis reasonably necessary' to determine whether the proposed attachment may be made. Owner shall also **[*49]** provide to Licensee a schedule for completing the make ready engineering work. The term "make ready" is any addition to, pole replacement or rearrangement of existing facilities that is done to prepare an existing pole line or pole for use by Licensee or other joint use attachments, or to maintain a pole in compliance with this Agreement.

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, using a form similar to Exhibit Owner shall provide Licenses with a copy of the Engineering Plans, which specify how and where Licensee's Attachments are to be made on Owner's poles.

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. For make ready projects consisting of thirty (30) or less poles, Owner **[*50]** will make reasonable efforts to complete Construction Work within ninety' (90) days after payment for such work is received. For make ready projects consisting of more than thirty (30) poles, Owner will make all reasonable efforts to complete construction as expeditiously as possible. Owner may give consideration to a request by Licensee for an expedited construction schedule. Licensee will be responsible for additional costs incurred by Owner if the work is expedited.

5.6 When the Construction Work is complete. Owner shall notify Licensee and Licensee shall then have the right to wake 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 core utility service of Owner or others who are attached to Owner's poles and Licensee shall not make any changes to the attachments of others unless authorized by Engineering Plans and by Licensee obtaining written authority from others who have attachments.

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 as set forth in Exhibit **[*51]** "B-3". Such time frame 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 it's approval for Licensee's Attachment, and Licensee shall have no further right to place that Attachment on those Attachments except by following the procedures specified above for new Attachments.

5.8 No later than thirty (30) days after Licensee adds the last Attachment covered by the Permit Application, Licensee shall send to Owner a Certification (the "Certification' ') by a Registered Professional Engineer in the State of North Carolina that the Attachments are of sound engineering design and fully comply with the Rules in this Agreement and the latest edition of the NESC and were constructed substantially as provided in the Engineering Plans. The form of Certification is illustrated as Exhibit "B-4" of the Rules. Within thirty (30) days of receipt of Certification, Owner shall issue the Permit that will authorize Licensee's Attachments to the poles that were Certified. The Permit form is **[*52]** illustrated as Exhibit "B-5 of the Rules. If Certification is not received within the thirty-day (30) period, Owner may declare the Attachment an Unauthorized Attachment, as hereinafter defined.

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 the actual construction cost is more than the Construction Cost Estimate, then the difference will be billed to the Licensee to be paid within thirty (30) days of the date of the billing. Interest at twelve (12%) per centum per annum shall accrue on balances unpaid after thirty (30) days.

ARTICLE 67

SECONDARY ROLE ATTACHMENTS

6.1 A Secondary Pole is a pole installed for the express purpose of providing required clearances for a service loop to a customer's location. A Secondary Pole typically services only one customer or building as the case may be, does not have **[*53]** transformers or other electrical equipment on it, is located outside the main line, and supports Owner's wires carrying less than 500 volts.

6.2 During the time when a service for a single customer is being installed, Licensee may attach its drop wire to Owner's Secondary Pole without advanced notice to Owner and without a Permit being issued.

6.3 Licensee will notify Owner of all new Secondary Pole Attachment (s) no later than twenty-five (25) days after the end of the month in which the Attachment was placed by completing an application, the form of which is illustrated in Exhibit "B-7" of the Rules, with the required Application Fee.

6.4 Owner will, within thirty (30) days of receipt of the Application for Permit of Secondary Pole Attachment, issue a Permit as requested. Owner will not be responsible for any line clearance or tree trimming required for drop wires connected to Secondary Poles.

ARTICLE 7

OVERLASHING

7.1 Licensee may overlash its Attachments where such activity will not cause the Attachment to become Non-Compliant. The Licensee must provide certification from a Registered Professional Engineer in the State of North Carolina stating that the new attachments **[*54]** are compliant and that the overlashing did not cause such facilities to become Non-Compliant. If the Licensee's Engineer or the Owner determines that overlashing resulted in the Attachment becoming Non-Compliant, then the requirements specified in Article 11 apply.

7.2 There shall be no additional annual Attachment Fee for overlashing of Licensee's existing facilities.

7.3 Licensee shall disclose the identification of any third party that desires to overlash to its facilities on Owner's poles and obtain Owner's prior approval in writing. Licensee may not overlash to the facilities of a third party on Owner's poles without first obtaining the consent of Owner.

7.4 Excepting disconnected service drops, Licensee agrees to remove non-working cables from Owner's poles.

7.5 Licensee will notify Owner in writing of all new overlashings no later than thirty (30) days after the end of the month in which the Attachment was overlashed. The notice shall contain the pole number, location, type of overlash, any of the facilities overlashed, and date of overlash.

ARTICLE 8

EASEMENTS AND RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

8.1 Owner does not warrant or assure to Licensee any **[*55]** 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 necessary and 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.

8.2 Licensee will defend and hold harmless Owner against any claims by third parties that the necessary easements were not obtained, for trespass or any other cause of action. Should a final order be entered by a count of competent jurisdiction requiring Licensee to remove its Application, Licensee shall do so forthwith, and upon its failure to do so within seven (7) days of such final order, Owner may remove Licensee's facilities without incurring any obligation to Licensee of that responsibility for loss or damage.

ARTICLE 9

MAINTENANCE AND TRANSFERS

9.1 Owner shall, at its own expense, maintain its poles in accordance with industry standards, **[*56]** codes and practices including the NESC, and shall replace, reinforce, or repair poles, as necessary to keep all poles compliant with such standards, codes and practices.

9.2 Licensee shall insure that all employees, contractors or employees of contractors who work on Owner's poles are properly qualified, trained in climbing and working on Owner's poles safely, and will abide by the clearance and safe work practices as outlined in NESC and OSHA regulations, Licensee shall specifically and adequately warn, by reasonable means, each and every employee and contractor of the inherent dangers of making contact with Owner's electrical conductors and/or electrical equipment before they 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 notify their employees of the inherent dangers of making contact with electrical facilities.

9.3 Licensee expressly assumes responsibility for determining the condition of all poles to be worked on whether for the placement of Attachments, maintaining or rearranging Attachments, or for any other reasons. Except for performing transfer work from **[*57]** unserviceable poles to replacement poles, Licensee shall not permit its employees or contractors to work or poles that are known to be unserviceable until Owner has corrected the unserviceable condition or has determined that the pole is serviceable. Licensee will notify Owner if any of Licensee 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-8" of the Rules or by any other reasonable means in the circumstances. 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 actually is unserviceable for its intended purpose unless the pole has been damaged by Licensee or its agents, servants, employees or contractors, in which case the cost of replacement of the pole, will be borne by Licensee.

9.4 Existing Permit(s) shall remain valid for any Attachment transfers to new poles when replacement or relocation is necessary.

[*58]

9.5 Owner may transfer Licensee's Attachment (s) at the time of the pole replacement or relocation and Licensee shall pay Owner's cost upon invoice. 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 damages.

9.6 If Owner elects not to transfer Licensee's Attachment (s), Owner shall notify Licensee of the need to transfer its Attachment (s) and Licensee shall do so within thirty (30) days of the date of such notice. Licensee shall advise Owner in the manner specified in the Rules when the transfer is completed. In the event of extraordinary circumstances, Owner may elect to grant an extension of the thirty (30) day period to Licensee upon request. In case of necessity, Owner may shorten the period to ten (10) days.

9.7 If the transfer Is not completed by the end of the thirty (30) day period or the extended time period granted by Owner, the Unauthorized Attachment Discovery Fee shall apply and the Unauthorized Attachment Daily Fee shall also apply from the date on which **[*59]** the thirty (30) day period or the extended time period expires and shall continue until Owner receives notification that Licensee has transferred or removed its Attachment. These fees are referenced in Exhibit "C". In addition, if Licensee does not transfer or remove its Attachments within the thirty (30) day period or the extended time period and the delay forces Owner to make a special return trip to the job site to remove the old pole, the cost incurred by the Owner to return to the job site and remove the old pole will be paid by the Licensee.

ARTICLE 10

UNAUTHORIZED ATTACHMENTS

10.1 An Unauthorized Attachment is an Attachment placed after the Commencement Date without a Permit having been issued or which is net part of the work performed pursuant to Article 5 or Article 6 or Article 7. When discovered, Owner will notify Licensee of any Unauthorized Attachment in the form as set forth. in Exhibit "B-9"

10.2 Licensee agrees to pay Owner an Unauthorized Attachment Fee, per pole, in the amount stated' in Exhibit "C". Licensee shall, within thirty (30) days after being notified, remove such Unauthorized Attachment or submit Application for a Permit following the previsions **[*60]** of Article 5.

10.3 If Licensee fails to remove the Unauthorized Attachment or to submit an Application within the thirty (30) day period, Licensee shall also pay to Owner an Unauthorized Attachment Daily Fee as specified in Exhibit "C", which shall continue until a Permit is issued or the Unauthorized Attachment is removed and Owner has been notified in writing.

10.4 At any time after the thirty (30) day period, Owner may do either of the following: (1) Remove the Unauthorized Attachment without liability and Licensee shall pay Owner's Cost of such removal and the Unauthorized Attachment Daily Fee shall terminate as of the date of the removal, or (2) Declare Licensee in Default in which event the provisions of Article 23 shall apply.

ARTICLE 11

NON-COMPLIANT ATTACHMENTS

11.1 A Non-Compliant Attachment is an Attachment found to be in violation of the Rules, or the NESC in effect on the date of the Attachment, or is not attached as provided on the Make Ready Engineering Plans. Owner will notify Licensee in the manner specified in Exhibit "B-10" of the Non-Compliant Attachment. Compliance with the NESC and the Rules will be determined with reference to the date the Attachment (s) **[*61]** was made as shown by available records maintained by Owner and/or Licensee. Licensee will net be responsible for the cost of correcting Non-Compliant Attachment (s) resulting from "build downs" or which otherwise were or could have been created by Owner.

11.2 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 10 will apply.

11.3 If Owner rejects the Correction Plan, in its reasonable judgment, 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 Permits for the poles involved **[*62]** and declare the Attachment (s) Unauthorized, and the provisions of Article 10 will apply.

11.4 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.

11.5 All work described in the approved Correction Plan must he completed within ninety (90) days of the schedule or, in the event of extraordinary circumstances, the time granted by Owner upon request. If Licensee fails to complete such work within said time frame, Owner may revoke the Permit(s) and declare the Attachment (s) as Unauthorized Attachment (s), invoking the provisions of Article 10.

11.6 In the case of an Attachment that is not in compliance with the NESC and is in Owner's reasonable judgment a safety hazard, the thirty (30) day period described in Article 10 & 11 may be changed to seven (7) days.

11.7 No act or failure to act by Owner with regard to any Attachment that does not conform to the NESC or other requirements of this Agreement shall be deemed as ratification of the Non-Compliant Attachment.

ARTICLE 12

ATTACHMENTS EXISTING [*63] AT COMMENCEMENT DATE

12.1 Owner requires a formal written Permit for any and all Attachments excepting overlashing. Any Attachment that existed prior to the Commencement Date ("Pre-Existing Attachment") of this Agreement 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 of the preexisting Permit or Permits in the Owner's possession.

12.2 Owner may complete one (1) NESC compliance audit of Licensee's Attachments at Licensee's expense, as shown in Exhibit "C". Without Licensee making an application. Owner shall issue a Permit for each pole found to be compliant during said audit. Pre-Existing Attachment (s) found to be Non-Compliant with the NESC in effect as of the date of the initial Attachment will require a Permit Application from the Licensee to correct the compliance problem unless the non-compliance resulted from the attachment of other Licensees or Owner. Upon notification of correction using the form shown as Exhibit "B-11", Owner will provide a Permit. Licensee shall be required to apply for such Permit(s) within **[*64]** sixty (60) days of the date of written notice from Owner to Licensee of such non-compliance and the provisions of Article 5 shall apply.

12.3 Should Licensee fail to make application within the sixty (60) day period required Owner may declare the Attachments to be Unauthorized Attachments, and the provisions of Article 10 shall apply.

ARTICLE 13

ATTACHMENTS NOT REMOVED AT END OF TERM

13.1 Licensee may make additional Attachments to Owner's poles after the Agreement has been terminated provided that Owner and Licensee are engaged in good faith negotiations to enter into a new Agreement

13.2 If either party terminates this Agreement without intent to negotiate a new Agreement or if good faith negotiations fail to produce a new Agreement within 180 days following termination, Licensee shall remove its Attachments from the poles of Owner within a mutually agreed upon schedule. If the parties are unable to agree upon a schedule for removal after seven (7) consecutive days following the termination of this Agreement or following the end of the 180 day period, Owner shall specify the schedule for removal.

ARTICLE 14

RECOVERY OF SPACE BY OWNER

14.1 Owner may, at any **[*65]** time, reasonably require for its own use the space occupied by Licensee's Attachments on Owner's poles for core utility 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 utility service to one of its customers, the forty-five (45) day period shall be changed to ten (10) days. If the work is not completed within the specified time period. Owner may declare the Attachment an Unauthorized Attachment and the provisions of Article 10 will apply. Costs of replacing existing poles or placing new poles to accommodate the Owner's business needs shall be borne by Owner.

ARTICLE 15

ABANDONMENT OF POLES

15.1 Owner may abandon pole (s) upon thirty (30) days notice to Licensee using the form provided as Exhibit "B-12". Licensee must remove all Attachments from abandoned poles within the same thirty (30) days unless granted additional time by Owner. If Owner has no Attachment (s) on said poles and Licensee has not removed its Attachment (s) **[*66]** 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 except in the case of gross negligence or willful misconduct. Neither rebate nor apportionment of fees shall be precipitated by abandonment of a pole or poles.

15.2 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-6" of the Rules.

15.3 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 this Agreement and the Rules.

ARTICLE 16

RIGHTS OF OTHER PARTIES

16.1 Nothing herein shall be construed to limit the right of Owner, by contract or otherwise, to confer upon others, not parties to this Agreement, rights or privileges to use the poles covered by this Agreement.

16.2 If Licensee's new Attachment requires rearranging any other user's Attachment on Owner's pole (s), Licensee shall give notice **[*67]** 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 and are no more than the actual cost of doing the work. 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.

16.3 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 17

ASSIGNMENT OF RIGHTS

17.1 Licensee shall not permit any other user to use its Attachment (s) and may not **[*68]** sublicense any of its rights under this Agreement to any other user without the disclosure of such user and prior written approval of the Owner.

17.2 Licensee shall not assign or otherwise dispose of this Agreement, or of any of its rights or interests hereunder without the prior written consent of Owner, which consent shall not be unreasonably withheld. Provided, however, Licensee may assign or transfer this Agreement and the rights and obligations hereunder to any entity controlling, controlled by, or under common control with Licensee without the consent of Owner, but only after thirty (30) days prior written notice to Owner detailing the assignment including the relationship. No such permitted assignment shall relieve Licensee, the permitted assignee, or any other party liable to Owner from any obligations, duties, responsibilities, or liabilities to Owner under this Agreement and the use shall be in strict compliance with this Agreement. This Agreement shall be binding upon the successors and/or assigns of both parties.

17.3 Nothing contained herein is intended to interfere with Licensee's leasing fibers or capacity in its facilities, if such use is in strict compliance with **[*69]** the provisions of this Agreement 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 Owner's poles or otherwise working on the facilities that are attached to Owner's poles unless Licensee's customer is working as a competent, qualified and licensed contractor for Licensee under the terms of a written agreement.

ARTICLE 18

WAIVER OF TERMS OR CONDITIONS

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

ARTICLE 19

PAYMENT OF TAXES

19.1 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 **[*70]** be paid by Licensee.

ARTICLE 20

INSURANCE

20.1 Licensee shall take out and maintain throughout the period during which this Agreement 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 this Agreement with limits for bodily injury or death in any one event of not less than $ 2,000,000.00 and $ 1,000,000.00 for property damage. There shall be no aggregate limit on either property damage or injury without the prior written consent of Owner.

C. Automobile liability **[*71]** insurance for owned and un-owned automobiles with limits of not less than $ 2,000,000.00 for injury or death and property damage limits of not less than $ 1,000,000.00. There shall be no aggregate limit without the prior written consent of Owner.

20.2 The policies of insurance shall be in such form and issued by such insurer as shall be consistent with industry practices..

20.3 Licensee shall furnish to Owner at the beginning of this Agreement and at least annually thereafter (and more frequently at the request of Owner) evidence of insurance complying with the requirements of this Article 20. The certificate will list Owner as an additional insured and will provide that in the event of cancellation of any of the policies of insurance, the insurance company shall give all parties named as insureds thirty (30) days prior notice of such cancellation.

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

ARTICLE 21

SERVICE OF NOTICES

21.1 It is expressly agreed and understood between Owner and Licensee that any Notice required to be given to either **[*72]** Owner or Licensee pursuant to this Agreement 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.

21.2 Notices shall be sent addressed as follows:

If to Licensee: System Manager
Time Warner Cable
500 Tune Warner Drive
Newport, NC 28570
If to Owner: Carteret-Craven EMC
c/o Director of Engineering Services
P.O. Box 1490
Newport, NC 28570

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 22

SUPPLEMENTAL AGREEMENTS

22.1 Neither Owner nor Licensee is under any obligation, express or implied, to amend, supplement or otherwise change or modify any of the provisions of this Agreement. However, if Owner agrees to amend, supplement or otherwise change or modify any of the provisions of this Agreement, then any such amendment, supplement, change or modification, to be enforceable, must be evidenced by written documentation duly executed by both parties. Without such **[*73]** duly executed, written, documentation of any amendment, supplement, change or modification, any oral discussions relating thereto shall not be binding upon Owner or Licensee.

22.2 Nothing in the foregoing shall preclude the parties to this Agreement from preparing in writing such supplemental operating routines or working practices as they mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement so long as each party has at least one copy of such operating routines and/or working procedures.

ARTICLE 23

DEFAULT

23.1 The following shall be an event of Default:

(1) If Licensee defaults in the payment of any fees or other undisputed sums due and payable to Owner under this Agreement and such default continues for a period of fifteen (15) days after Notice of such default has been given by Owner to Licensee or,

(2) With regard to Licensee in a matter that does not involve safety, and with regard to Owner in any matter, 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 ten (10) **[*74]** 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 ten (10) days, if such defaulting party shall fail to commence to cure the same within ten (10) days and proceed diligently until corrected, or,

(3) In a matter that does involve safety, (i) Licensee shall violate or default in the performance of any covenants, agreements, stipulations or other conditions contained herein and fails to commence to cure the same immediately upon Notice and thereafter proceed to pursue diligently until corrected or (ii) if the correction takes longer than thirty (30) days.

(4) The final adjudication by any court of Licensee as an insolvent, unable to pay its debts.

(5) The assignment by Licensee with all or part of its property or assets for the benefit of creditors.

(6) The levy of execution, attachment or other taking of property, assets, or the interest of Licensee under this Agreement by process of law or otherwise in satisfaction of any judgment, debt or claim.

23.2 In the event of Default, Owner may at any time thereafter for so long as the default condition exists do any one or all **[*75]** of the following: (1) Declare this Agreement 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 or those set out herein and in Section 23.3.

Whenever Owner finds that Licensee is allegedly in Default of this Agreement, a written notice shall be given to Licensee. The written notice shall describe in reasonable detail the alleged Default so as to afford the Licensee an opportunity to remedy the violation. Licensee shall have 30 days subsequent to receipt of the notice in which to correct the Default before Owner may exercise any of the above-referenced remedies. Licensee may, within 10

days of receipt of notice, notify Owner that there is a dispute as to whether a Default has, in fact, occurred. Such notice by Licensee shall specify with particularity the matters disputed by Licensee and shall stay the running of the above-described time.

I. Owner and Licensee shall then schedule a meeting to resolve the issues **[*76]** within 10 days of notice of dispute. If resolution cannot be met, default will be declared and Owner may enforce any options available under this article.

The time for Licensee to correct any alleged violation may be extended by Owner if the necessary action to correct the alleged violation is of such a nature or character as to require more than 30 days within which to perform provided Licensee commences corrective action within 15 days and thereafter exercises due diligence to correct the violation.

23.3 If Licensee defaults in the performance of any work which it is obligated to do under this Agreement, Owner may elect to do such work, and Licensee shall reimburse Owner of Owner's Cost. If Owner elects to do such work, accept 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.

23.4 The remedies set forth in this Article are cumulative and in addition to any and all other remedies Owner may have at law or in equity.

23.5 The existence of a Default shall not relieve Licensee of the requirements **[*77]** provided in Article 10 or Article 11 unless the Agreement is terminated in its entirely.

23.6 Where Owner's reasonable approval or consent is required, it shall be reasonable for Owner to withhold consent if Licensee is in default of this Agreement and has not cured same within the timeframe provided in the Agreement (or is not diligently pursuing if allowed for in the element of default) .

ARTICLE 24

INDEMNIFICATION

24.1 Licensee agrees to indemnify Owner fully against and to defend and hold Owner harmless from any and all claims, demands, damages, penalties, costs, liabilities, expenses and losses to the full extent arising from or based upon any act, omission or negligence of Licensee or Licensee's contractors, agents or employees or arising from or based upon any breach of Licensee's covenants under this Agreement.

24.2 Owner agrees to indemnify and hold Licensee harmless and to not seek damages, costs or expenses of any kind from Licensee arising from or based upon any alleged act, omission or negligence of Owner or Owner's agents ox employees.

ARTICLE 25

CONSEQUENTIAL LOSS OR DAMAGE

25.1.1 Notwithstanding any provision contained herein to the contrary, **[*78]** neither party shall be liable to the other in any way for indirect or consequential losses or damages, or damages for pure economic loss, however caused or contributed to, in connection with anything in this Agreement or with any equipment or service governed hereby.

ARTICLE 26

FORCE MAJEURE

26.1 Neither Party shall be liable for any delay or failure in performance of any part of this Agreement resulting from acts of God, acts of civil or military authority, embargoes, epidemics war, terrorist acts, riots, insurrections, fires, explosion, earthquakes, nuclear accidents, flood, power blackouts, or unusually severe weather. In the event of any such excused delay in the performance of a party's obligation(s) under this Agreement, 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.

ARTICLE 27

OWNER'S COST

27.1 "Owner's Cost" and "Cost" when used in this Agreement shall include, reasonable material and labor costs, equipment, engineering, permits, right-of-way, land clearing, insurance and reasonable overhead.

ARTICLE 28

NO WARRANTY OF RECORD INFORMATION

23.1 From time to **[*79]** 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 rights-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 omissions contained therein.

ARTICLE 29

MISCELLANEOUS PROVISIONS

29.1 If Owner requests, Licensee shall become a member of the National Joint Use Notification System ("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 this Agreement. The waiver by either party of any such breach shall not be construed as a waiver of subsequent or different breaches or as a continuing waiver of such breach.

29.3 Should any court of law or administrative or governmental **[*80]** entity with jurisdiction declare any provisions of this Agreement to be void or unenforceable, the remaining provisions of the Agreement 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 and strictly in accordance with its written provisions.

29.5 Each party represents that it has the full power and authority to enter into this Agreement and to convey the rights herein conveyed.

29.6 This Agreement is deemed executed in and shall be construed under the lavs of the State of North Carolina.

29.7 The terms "notify" , "notification" and "advise" as used in this Agreement **[*81]** reflect communications between Owner and Licensee in administering its terms. The methodology for such communication shall be in writing which may include email, facsimile or other method as specified in the Rules. These terms are not to be confused with the term "Notice" in Article 21, Service of Notices.

29.8 Within this Agreement, words in the singular number shall be held and construed to include the plural, the plural, the singular and the use of any gender shall be applicable to all genders 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 this entire Agreement and not to any particular paragraph or provision. The term "person" and words importing persons as used in this Agreement shall include firms, associations, partnerships (including limited partnerships), limited liability companies, joint ventures, trusts, **[*82]** 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 this Agreement 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 either party should bring any suit, action, or other legal proceeding against the other party on account of any matter arising under this Agreement, the prevailing party (as determined by the Court or presiding tribunal) shall be entitled to recover, 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, except that this provision **[*83]** shall not apply to any matter pending as of the date of this Agreement..

ARTICLE 30

CONFIDENTIALITY

30.1 In the absence of a separate Confidentiality Agreement between the parties, if either party provides confidential information to the other in writing and identified as such, the receiving party shall protect the confidential information from disclosure, to third parties with the same degree of care accorded his own confidential and proprietary information. The parties agree to use then best efforts to avoid disclosing to each other confidential information that is not reasonably required for the administration of this Agreement. Neither party shall be required to hold confidential any information which (1) becomes publicly available other than through the recipient, (2) is required to be disclosed by a government or judicial order, rule or regulation, (3) is independently developed by the recipient, or (4) becomes available to the recipient without restriction from a third party.

30.2 The obligations set forth in Article 30 shall survive the expiration or termination of this Agreement for a period of two (2) years.

CARTERET CRAVEN ELECTRIC

MEMBERSHIP CORPORATION **[*84]**

BY:

Print Title:

Date:

Attest:

TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP

By:

Print Title: Division President

Date: 11/29/2001

Attest: BJ Stephens

EXHIBIT A

SERVICE AREA

Carteret, Craven, Jones, Onslow Counties

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). Those procedures are subject to modification by owner from time to time in consultation with Licensee.

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

If to Owner:

Carteret-Craven Electric Membership Corporation
P.O. Box 1490
Newport, NC 28570
Tel: 252-247-5107
Pax: 252-247-0235

and if to Licensee shall be directed to:

System Manager
Time Warner Cable
500 Time Warner Drive
Newport, NC 28570
Tel: 252-223-6401
Fax: 252-223-6459

The above addresses are for administrative matters only and do not modify the addresses for Notice pursuant to Article 21.

[*85]

A. Process for Permitting Attachments (Make Ready)

1. Application for Permit shall be made on the "Application" attached as Exhibit "B-1". Licensee shall also indicate the poles to which it desires to attach by including a drawing made on system maps of Owner, which 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.

b) Size and type Attachments.

c) Specifications 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 time frame provided in Article 5 by sending a Response to Application in be form attached hereto as Exhibit "B-1.

4. The Make Ready Construction Cost Estimate and Invoice for Make Ready Construction Work will be sent to Licensee using the form attached hereto as Exhibit "B-2".

5. When the Make Ready Construction Work is complete, Owner shall notify Licensee that any Make Ready Construction Work has been completed and request Certification using the form attached hereto as Exhibit "B-3".

6. Licensee's Certification **[*86]** shall be the form attached hereto as Exhibit "B-4".

7. Owner shall provided a Permit to Licensee using the form attached hereto as Exhibit "B-5".

B. Secondary Poles

In connection with Article 6 of the Agreement, Licensee shall use Application for Secondary Pole Attachment Permit attached hereto as Exhibit "B-8" for the notification.

C. Procedures for Notification of Pole Transfers

It is expressly agreed and understood between Owner and Licensee that any Notice required to be given to either Owner or Licensee pursuant to this Agreement shall be in writing and sent by US Mail as registered or certified with return receipt requested, 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.

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 and the Owner's Rules in effect at the time of the installation as clarified by Owner's Specifications **[*87]** as shown on Exhibits numbered 1 through 8.

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 Agreement. If Licensee finds that it cannot make an Attachment on a pole and be in compliance with die Agreement 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. All Attachments, cabinets and enclosures, that are separated by a distance of six (6) feet or less, must be grounded by bonding to the existing pole ground with # 6 solid, bare, soft drawn copper wire.

Bonding must be provided between all above ground metallic power and communications apparatus (pedestals, terminals, apparatus cases, transformer cases, etc.) 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 then 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 **[*88]** 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 content which maybe 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 guylead 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 markets shall be installed on every guy attached to owner's pole.

9. Licensee shall not attach **[*89]** any down guy to Owner's anchors or to other attaching user's anchors without prior written permission from Owner or such other user as the case may be.

10. All down guys, head guys or messenger dead ends installed by Licensee shall be attached to the pole by tire 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. All Attachments installed after the effective date of the Agreement shall have at least forty (40) inches and, preferably seventy-two (72) inches as shown in Exhibits 1-8, vertical clearance under the effectively grounded neutral of Owner at supports. Owner may increase the seventy-two (72) inch clearance if, in Owner's judgment, Owner may require additional space on the pole for its future service requirements.

13. Owner requires strand maps to be furnished which show all attachment poles (excluding secondary and service poles **[*90]** for individual service drops except when such poles are depicted on maps prepared by Licensee in the ordinary course of its business.)

E. Removing Attachments from Owners Poles

Prior to Licensee's removing Attachments from Owner's Poles, Licensee shall send to Owner "Notice of Discontinuance of Attachment to Poles" in the form attached as Exhibit "B-6".

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 notify owner by completing the Notification of Plant Condition in the form attached hereto as Exhibit "B-8" or any other reasonable means in the circumstances as soon as possible.

EXHIBIT B-1

PERMIT APPLICATION

TO: Cartaret-Craven BMC

c/o Director of Engineering Services

P.O. Box 1490

Newport, Nc 28570

DATE:

LICENSEE'S TRACKING NUMBER:

This is to request a Permit to attach to certain of your poles under the terms and conditions of our License Agreement dated .

The poles, including proposed construction by Owner, if necessary, for which permission is requested are listed by pole number on the attached and further **[*91]** 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:

Name:

Tel:

Company:

Title:

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 Agreement.

The Make Ready Engineering Fes is $. Please remit this amount so that Make Ready Engineering Plans can be prepared. A detailed schedule for completion **[*92]** of the Make Ready Engineering Plans (not to exceed ninety (90) days for applications involving 30 or fewer poles) is attached.

Name:

Signed:

CARTERET-CRAVEN EMC

EXHIBIT B-2

MAKE READY COST ESTIMATE AND INVOICE FOR MAKE READY CONSTRUCTION WORK

TO:

DATE:

TRACKING NUMBER:

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

Please remit payment for Make Ready Construction Work in the amount of $ so that we may schedule the work.

It is estimated that the completion of the Make Ready Construction work will require weeks following receipt of payment of the Make Ready Construction Cost Estimate provided that payment is received by . If it is received afterward, this schedule is subject to revision.

Name:

Title:

Tel:

Email:

Signed:

CARTERET-CRAVEN EMC

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. **[*93]** Attachments in connection with Job Number may be made. Monthly rental for the poles will begin on (date).

So that a Permit can be issued, please forward the Certification (Exhibit B-4).

[] A review has shown that no construction work is necessary. Attachments in connection with Tracking Number may be made immediately. Monthly rental for the poles will begin on (date).

So that a Permit can be issued, please forward the Certification (Exhibit B-4).

Name:

Title:

Tel:

Email:

Signed:

CARTERET-CRAVE EMC

EXHIBIT B-4

CERTIFICATION

(To be made within thirty (30) days of completion of construction)

TO: Carteret-Craven EMC

c/o Director of Engineering Services

P.O. Box 1490

Newport, NC 28570

DATE:

LICENSEE:

JOB NUMBER:

[] PRIMARY POLE ATTACHMENT

[] SECONDARY POLE ATTACHMENT

I hereby certify that the Attachments made under the above Job Number are of sound engineering design and fully comply with the National Electrical Safety Code (NESC), latest edition, Article 3 of the Agreement and the Rules and were constructed substantially as provided in the Make Ready Engineering **[*94]** Plans.

Note: If this is a Certification for a portion of the poles under this Request Number, please include a list of the poles to which this Certification applies and the number of Attachments on each pole being Certified.

ENGINEER'S SIGNATURE:

Name:

Title:

Registration No. & State:

Date:

EXHIBIT B-5

PERMIT FOR ATTACHMENT

TO:

DATE:

JOB NUMBER:

[] PRIMARY POLE ATTACHMENT

[] SECONDARY POLE ATTACHMENT

The poles designated below are hereby Permitted for Attachment: Pole Identification

Pole Identification	Number of Attachments Licensed on this Pole as of the Above Date

Note: Attachments permitted automatically as a result of an NESC audit are indicated with an asterisk (*),

Name:

Title:

Tel:

Email:

Signed:

CARTERET-CRAVEN EMC

EXHIBIT B-6

NOTICE OF DISCONTINUANCE OF ATTACHMENT TO POLES

TO: Carteret-Craven EMC DATE:

c/o Director of Engineering Services

P.O. Box 1490

Newport, KC 28570

DATE:

This is to notify you that Licensee's Attachments have been removed from the fallowing poles and that billing for those Attachments should cease as of the indicated **[*95]** date.

Pole Identification	Date Attachment was Removed	Date Billing Ceases

Name:

Title:

Tel:

Email:

Signed:

CARTERET-CRAVEN EMC

EXHIBIT B-7

APPLICATION FOR PERMIT OF SECONDARY POLE ATTACHMENT

TO: Carteret-Craven EMC

c/o Director of Engineering Services

P.O. Box 1490

Newport, NC 28570

DATE:

This is to notify you that Licensee has placed Attachments on the following Secondary Poles and **CERTIFIES** that all requirements of the Agreement have been met: (If no Attachments were placed during the month, indicate by entering "None" under the Address of Customer Served.

Address & Meter No. of Customer Served	Map No. of Owner's Pole to which Attachment is Being Made OR Map No. of the Primary Pole from which Line Extends	Date Attachment Made

Name:

Title:

Tel:

Signed:

CARTERET-CRAVEN EMC

EXHIBIT B-8

NOTIFICATION OF PLANT CONDITION AND/OR REQUESTS FOR SECONDARY POLE CHANGEOUT

TO: Canevet-Craven EMC

c/o Director of Engineering Services

P.O. Box 1490

Newport, NC 28570

DATE:

This is to notify you that the following plant condition has been observed **[*96]** and requires Owner's attention:

Person to Contact for additional information:

Name:

Title/Employer:

Contact Number:

Name:

Company:

Title:

Tel:

Email:

Signed:

EXHIBITED B-9

NOTIFICATION OF UNAUTHORIZED ATTACHMENT

TO:

DATE:

This is to notify you that, the following Attachments to Owner's poles are Unauthorized and require Licensee's immediate attention. Licensee has thirty (30) days from the date of this notice to submit Application for a Permit. An invoice is attached for the Unauthorized Attachment Fee and an additional charge, the Unauthorized Attachment Daily Fee, will be incurred until the issue in question is resolved, pursuant to Article 10 of the Agreement.

Attachment Location Problem

Name:

Title:

Tel:

Email:

Signed:

CARTERET-CRAVEN EMC

EXHIBIT B-10

NOTIFICATION OF NON-COMPLIANT ATTACHMENT

TO:

DATE:

This is to notify you that the following Attachments to Owner's poles are Non-Compliant and require Licensee's immediate attention. Licensee has forty-five (45) days from the date of this notice to submit a Correction Plan **[*97]** pursuant to Article 11 of the Agreement.

[] The Attachments listed were found on Permitted poles.

[] The Attachments listed were found as a result of a National Electric Safety Code Audit.

Attachment Location Problem

Name:

Title:

Tel:

Signed:

CARTERET-CRAVEN EMC

EXHIBIT B-11

CERTIFICATION OF CORRECTION

(To be made within thirty (30) days after correction of non-compliance by circuit and section)

TO: Carteret-Craven EMC

c/o Director of Engineering Services

P.O. Box 1490

Newport, NC 28570

DATE:

LICENSEE:

I hereby certify that Licensee's attachments to the poles of Carteret-Craven EMC, which were found to be non-compliant as a result of an audit performed by Carteret-Craven EMC, 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 in response to the audit finding.

ENGINEER'S SIGNATURE:

Name:

Title:

Registration No. & State:

Date:

EXHIBIT **[*98]** B-12

NOTICE OF ABANDONMENT OF POLES

TO:

DATE:

This is to notify you that Owner's Attachments have been removed from the following poles and that Licensee has thirty (30) days from the date of this notice to remove its Attachments pursuant to Article 15 of the Agreement.

Pole Identification Date Abandon

Name: Signed:

CARTERET-CRAVEN EMC

CARTERET-CRAVENT EMC

Title:

Tel:

Email:

EXHIBIT C

SCHEDULE OF FEES

Application Fee:

- for new attachments $ 15.00 Per pole

- for notification of $ 25.00 Per submission (Exhibit B-7) secondary attachments

Audit Fee:

$ 15.00 Per pole

(with 1 year advance notice)

Make Ready Engineering $ Fee:	To be provided for Each Permit request based on level of effort

Attachment Fee per Pole

2005 -- $ 17.00

2006 -- $ 18.00

2007 -- $ 19.00

2008 -- $ 20.00

2009 -- $ 22.00

Other Fees

Unauthorized Attachment Fee:	$ 75.00	Per pole.
Unauthorized Attachment Daily Fee:	$ 5.00	Per pole.

Attachment fees shall not be adjusted for any attachments added or removed during a billing period and fees shall be paid for the entire billing period if the Attachment **[*99]** occupied a pole for any part thereof. Failure of Licensee to give written notice to Owner of the removal of any Attachment will result in charges being continued until such notice is given.

EXHIBIT D

Owner's record of current inventory of Licensee's Attachments as of the Commencement Date of this Agreement.

9,988

EXHIBITS 1-8

OWNER'S DRAWINGS

[SEE FORM IN ORIGINAL]

[SEE Manual Check Request Form IN ORIGINAL]

November 27, 2007

Time Warner Entertainment-Advance/Newhouse Partnership
500 Time Warner Drive
Newport, North Carolina 28570

Attention: Mr. Ed Palumbo, Area General Manager

Re: *Resolution of Pole Attachment Issues*

Dear Ed:

This letter agreement is intended to resolve all of the outstanding issues relating to pole attachments between Carteret-Craven Electric Membership Corporation ("CCEMC") and Time Warner Entertainment-Advance/Newhouse Partnership ("TWEAN"). In order to resolve those issues, CCEMC and TWEAN hereby agree to the following:

1. On or before close of business on December 17, 2007, TWEAN shall deliver to the offices of CCEMC two fully executed originals of the Pole Attachment Agreement in the form and substance as last discussed between Craig Conrad **[*100]** of CCEMC and Ed Palumbo of TWEAN on November 21, 2007.

2. At that same time, TWEAN shall deliver its check for back pole attachment rental amounts, interest and costs in the amount of $ 612,559.83, representing $ 539,352.00 in principal amount of rent owed, 7% interest on all unpaid rental amounts accrued from a date 30 days after the issuance of CCEMC's invoices in the amount of $ 73,035.83, and costs in the amount of $ 172.00 in connection with TWEAN's unsuccessful appeal in the matter of *Time Warner Entertainment-Advance/Newhouse Partnership v. Carteret-Craven Electric Membership Corporation*, No. 1974 (U.S. Cl. of App., 4th Cir.).

3. After compliance with nos. 1 & 2, above, CCEMC'S Board of Directors will execute the Pole Attachment Agreement and return one signed original to TWEAN for its files.

If the foregoing is acceptable to TWEAN, please sign and return on original of this letter agreement to me no later than close of business on December 3, 2007.

[SEE TIME WARNER CABLE SHARED SERVICES IN ORIGINAL]

EXHIBIT 2

January 5, 2010

Gardner F. Gillespie
Partner
+ 1.202.637.8796

gfgillespie@hhlaw. com

By Facsimile and First Class Mail

Jake Joplin

Director **[*101]** of Engineering Services
Cartaret-Craven EMC
P.O. Box 1490
Newport, NC 28570

Re: Pole Attachment License Agreement

Dear Mr. Joplin:

Time Warner Entertainment -- Advance/Newhouse Partnership ("Time Warner") hereby gives its notice to terminate the Pole Attachment License Agreement currently in effect between Time Warner and Cartaret-Craven EMC, in accordance with Articles 2 and 21 of the agreement.

As you may be aware, North Carolina recently adopted a new statute governing pole attachment agreements with municipal utilities. I have attached a copy of the new law for your convenience. The statute provides for a period of 90 days (from the date of request) for a cable operator and municipal authority to negotiate rates, terms and conditions of a pole attachment agreement, and for review by a Business Court if either party believes that an impasse has been reached prior to the expiration of this period. Time Warner Cable hopes to be able to come to agreement that is acceptable to both parties and hereby requests an opportunity to negotiate subject to the provisions of the new statute.

In order for us to negotiate what we believe is a fair pole attachment rate under the new **[*102]** statute, we would like to have a better idea of Cartaret-Craven's pole-related costs. While the new statute may not mandate application of the "FCC formula, " it does provide for "consideration … [of] the rules and regulations applicable to attachments by each type of communications service provider under Section 224 of the Communications Act of 1934, as amended ...." One cannot take those rules and regulations properly into consideration without knowing the pole owner's pole-related costs. I have attached a form listing the information that we will need. Please provide us with that information as soon as possible, along with any other information you may have relating to the cost of providing pole attachments.

Please let me know if you have any questions about what we need. We look forward to working with you to come to a mutually beneficial agreement.

Sincerely,

Gardner F. Gillespie

Kimberly Reindl

BASIC POLE ATTACHMENT QUESTIONNAIRE -- ELECTRIC DISTRIBUTION

Please provide all information, calculations and backup data supporting the rental rate for poles as calculated by you.

In addition, please provide the following as of year-end 2008:

. Total Number of all **[*103]** Distribution Poles owned *
. Gross (original) Investment in all distribution poles owned
. Gross Investment in utility plant
. Accumulated Depreciation in utility plant
. Gross Distribution Plant investment
. Accumulated Depreciation Distribution Plant
. Total General and Administrative Expenses
. Maintenance Expense for Poles and Overhead Plant
. Gross investment in Overhead Conductors
. Gross investment in Service Drops
. Accumulated Depreciation related to Distribution Pole Investment
. Accumulated Depreciation related to Overhead Conductors
. Accumulated Depreciation related to Investment in Service Drops
. Depreciation Rate for Poles **
. Cost of Money **

[*104]

Please also provide a copy your annual report reflecting your costs and expenses for the last year, as of year end 2008.

---

* If you use any kind of "equivalent pole" number, provide full details and back up regarding how the number is derived. If jointly-owned poles are owned in percentages other than 50/50, please indicate the percentage owned by you and the percentage owned by other owners.

** Please specify how this rate was determined.

[SEE Confirmation Report - Memory Send IN ORIGINAL]

EXHIBIT 3

[SEE FORM IN ORIGINAL]

January 12, 2010

By Facsimile and First-Class Mail
Gardner F. Gillespie, Esq.
Hogan & Hanson L.L.P.
Columbia Square
555 Thirteenth Street. N.W.
Washington, D.C. 20004-1109

Re: *Pole Attachment License Agreement between Carteret-Craven Electric Membership Corporation & Time Warner Entertainment-Advance/Newhouse Partnership*

Dear Mr. Gillespie:

I am writing on behalf of our client, Carteret-Craven Electric Membership Corporation ("CCEMC"), and in connection with the above-referenced Agreement and your letter to Mr. Joplin of CCEMC, dated January 5, 2010, which purports to constitute a notice to terminate the Agreement.

I have reviewed the Agreement at issue and based on its terms we are of the view that the putative termination is not effective. The first paragraph of the Agreement defines its Commencement Date as September **[*105]** 1, 2007. Thereafter, Article 2 -- entitled "Term of Agreement" -- indicates that the Agreement is to remain in force and effect through December 31, 2009, but goes on to state that it "shall automatically extend under the same terms and conditions for successive one-year terms." The parties' right to terminate the Agreement does not become effective until "after the initial five (5) year term." Thus, your client may not terminate the Agreement upon notice until on or after August 31, 2012.

For the foregoing reasons, CCEMC will not negotiate a new agreement at this time or return the requested form. CCEMC also expects that your client will continue to make timely payments according to the terms of the Agreement.

If you have any questions, please do not hesitate to contact me.

Best regards,

WOMBLE CARLYLE SANDRIDGE & RICE

A Professional Limited Liability Company

Pressly M. Millen

cc: System Manager
Time Warner Cable
500 Time Warner Drive
Newport, NC 28570
(by first-class mail)

Mr. Craig Conrad
(by conformed email)

EXHIBIT 4

September 5, 2012

By Certified Mail

Carteret-Craven EMC
c/o Director of Engineering Services
P.O. Box 1490
Newport, NC 28570

Re: [*106] Notice of Termination of Pole Attachment License Agreement

Dear Sir or Madam:

Time Warner Entertainment -- Advance/Newhouse Partnership hereby gives its notice to terminate the Pole Attachment License Agreement currently in effect between Time Warner and Carteret-Craven Electric Membership Corporation, in accordance with Articles 2 and 21 of the agreement.

North Carolina's pole attachment statute (N.C.G.S. 62-350) provides for a period of 90 days (from the date of request) for a cable operator and membership corporation to negotiate rates, terms and conditions of a pole attachment agreement, and for review by a Business Court if either party believes that an impasse has been reached prior to the expiration of this period. Time Warner Cable hopes to be able to come to agreement that is acceptable to both parties and hereby requests an opportunity to negotiate subject to the provisions of the statute.

In order for us to negotiate what we believe is a fair pole attachment rate under the statute, we would like to have a better idea of Carteret-Craven's pole-related costs. While the statute may not mandate application of the "FCC formula, " **[*107]** it does provide for "consideration … [of] the rules and regulations applicable to attachments by each type of communications service provider under Section 224 of the Communications Act of 1934, as amended . . . ." One cannot take those rules and regulations properly into consideration without knowing the pole owners pole-related costs. I have attached a form listing the information that we will need. Please provide us with that information as soon as possible, along with any other information you may have relating to the cost of providing pole attachments.

Please let me know if you have any questions about what we need. We look forward to working with you to come to a mutually beneficial agreement.

Sincerely,

Gardner F. Gillespie

Ray Rutngamlug

BASIC POLE ATTACHMENT QUESTIONNAIRE -- ELECTRIC DISTRIBUTION

Please provide all information, calculations and backup data supporting the rental rate for poles as calculated by you.

In addition, please provide the following as of year-end 2011:

. Total Number of all Distribution Poles owned *

. Gross (original) Investment in all distribution poles owned

. Gross Investment in utility plant

. **[*108]** Accumulated Depreciation in utility plant

. Gross Distribution Plant Investment
. Accumulated Depreciation Distribution Plant
. Total General and Administrative Expenses
. Maintenance Expense for Poles and Overhead Plant
. Gross investment in Overhead Conductors
. Gross investment in Service Drops
. Accumulated Depreciation related to Distribution Pole Investment
. Accumulated Depreciation related to Overhead Conductors
. Accumulated Depreciation related to Investment in Service Drops
. Depreciation Rate for Poles **
. Cost of Money***

[*109]
Please also provide a copy your annual report reflecting your costs and expenses for the last year, as of year end 2011.

REFERENCE:

EXHIBIT 5

December 26, 2012

By Federal Express

Pressly M. Mitten
Womble Carlyle Sandridge & Rice
150 Fayetteville Street
Suite 2100
Raleigh, NC 27601

Re: Negotiation of New Pole Attachment Agreement between Time Warner Cable and Carteret Craven Electric Membership Corporation

Dear Mr. Millen:

We write in response to your offer of a new pole attachment agreement in the form of the previous agreement between Time Warner Cable and CCEMC at the rate of $ 23.35. We continue to hope that our ongoing discussions with the North Carolina Association of Electric Cooperatives on a template pole agreement for cooperatives will prove fruitful and we appreciate CCEMC's willingness to consider this template as we negotiate a new agreement under the North Carolina pole attachment statute (N.C.G.S. 62-350).

However, in the interest of reaching a new agreement with CCEMC in an expeditious manner, Time Warner Cable is witling to consider your proposal, albeit with some limited revisions. Please find attached **[*110]** a copy of Time Warner Cable's revisions to the proposed CCEMC agreement in redline format.

With regard to the attachment rate under the new agreement, Time Warner Cable proposes to pay CCEMC either a negotiated rate of $ 7.50 per pole or the rate calculated pursuant to the FCC's formula for cable attachments, whichever is higher. As you know, the previous agreement was executed prior to the effective date of the North Carolina statute, which provides for consideration of the rules and regulations applicable to pole attachments under Section 224 of the Communications Act in evaluating an agreement's rates, terms and conditions. It is our position that use of the FCC's cable formula will generate a reasonable rate under the North

Carolina statute for use with this new agreement, but Time Warner Cable is willing to agree to a negotiated rate of $ 7.50 to expedite completion of a new agreement.

In the event that CCEMC believes that the FCC formula would yield a higher rate, we request that CCEMC provide the pole-related cost data to support such a rate for Time Warner Cable's review. We requested this information from CCEMC in our letter of September 5, 2012, and we provided a questionnaire **[*111]** listing the information we need to evaluate such a rate under the FCC's rules and regulations We are enclosing another copy here for your convenience.

We look forward to reviewing your response and to reaching a mutually beneficial agreement.

Sincerely,

Gardner F. Gillespie

Ray Rutngamlug

EXHIBIT 6

April 25, 2013

By Email and First Class Mail
Gardner F. Gillespie, Esq.
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Re: *Proposed Pole Attachment License Agreement between Carteret-Craven Electric Membership Corporation & Time Warner Entertainment-Advance/Newhouse Partnership*

Dear Gardner:

It was good to see you and Paul the other day in court in Raleigh.

I wanted to inform you concerning the status of the above-referenced contract negotiation.

The Board of Directors of CCEMC, at its meeting on Monday, April 22, approved a resolution adopting as its final offer the format of contract which I had sent to you on April 9, 2013. In addition, the Board approved a per-pole rental amount of $ 23.25, the same amount as in the last contract between CCEMC and TWEAN.

Finally, the Board resolved to give TWEAN 30 days to accept **[*112]** the contract as proffered. If TWEAN does not do so, CCEMC will begin to charge TWEAN an amount to reflect the past due rental amounts and the current rental amounts on a pro rata basis with respect to TWEAN's accounts with CCEMC.

As always, please let me know if you have any questions concerning the foregoing.

Sincerely,

Pressly M. Millen

cc: Mr. Craig Conrad
(by email)

EXHIBIT 7

By Email and First Class Mail

Gardner F. Gillespie, Esq.
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Re: *CCEMC - Time Warner Cable Overlashing Request*

Dear Gardner:

Our client, Carteret Craven Electric Coop ("CCEMC) , received yesterday from the Construction Coordinator of TWC's Newport/Jacksonville System a request to overlash TWC's existing strand with a new fiber on several poles.

CCEMC is unwilling to allow this work to proceed when there is no contract in place between the parties. Therefore, in order to undertake this work, TWC will need to enter into the contract approved by the CCEMC Board on April 22, 2013 and that I provided to you on April 25.

Under the terms of that new contract, CCEMC will require a formal application and, if the **[*113]** new additional fiber is adding weight and size to the total, then a engineering study will need to be performed by TWC.

We look forward to your response to this letter, as well as my letter of April 25. Please let me know how your client wishes to proceed.

Sincerely,

Pressly M. Millen

cc: Mr. Craig Conrad
(by email)

EXHIBIT 8

May 24, 2013

VIA E-MAIL AND U.S. MAIL

Mr. Pressly Millen
Womble Carlyle Sandridge & Rice, LLP
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601

Re: CCEMC-Time Warner Cable Pole Attachment Agreement

Dear Press:

As we discussed on the phone the other day, this letter is in response to your correspondence dated April 25, 2013 and May 14, 2013 regarding the recent discussions between CCEMC and TWC about a new pole attachment agreement. You notified us in your April 25 letter that CCEMC's Board of Directors has unilaterally adopted the contract offered to Time Warner Cable on April 9 at the annual rate of $ 23.25 per pole, and that CCEMC would begin to charge TWC past and current amounts on a pro rata basis with respect to TWC's electric and pole attachment accounts with CCEMC if TWC does not accept that contract as proffered. Further, **[*114]** you notified us in your May 14 letter that CCEMC will not allow the overlash requested by TWC in its permit application of May 9, 2013 until TWC has executed the agreement adopted by CCEMC's board.

CCEMC's refusal to allow TWC to overlash cables to its existing strand has damaged TWC's ability to carry on its business, and threatens further disruption and significant injury to TWC. CCEMC's implicit threat to shut off electric power unless TWC pays in full CCEMC's unilaterally-mandated pole attachment rate obviously would shut down TWC's business.

It is our position that the North Carolina pole attachment statute (N.C.G.S 62-350) does not permit a pole owner to unilaterally impose terms, conditions, and rates for attachment to its poles. You will recall that construction personnel from both TWC and CCEMC engaged in a series of discussions in April regarding the requirements stated in CCEMC's agreement so that both parties could reach consensus on a negotiated agreement. It appears, however, that CCEMC's Board of Directors has adopted its form of contract without giving TWC a reasonable opportunity to provide its feedback on the contract. We **[*115]** have enclosed a copy of our proposed revisions to the agreement for your review.

SheppardMullin

Mr. Pressly Millen

May 24, 2013

Page 2

In the meantime, we propose to continue operating on an interim basis under the previous pole attachment agreement with CCEMC until a new adjudicated or negotiated agreement is in place. A temporary agreement to this effect is attached. To the extent that the parties have not yet been able to reach agreement on a new contract by the time that additional pole rental payments are due, in order to avoid further disruption to TWC's operations and the need to seek immediate judicial relief, TWC will pay the pole attachment charges at CCECM's $ 23.25 rate when invoiced. Please note, however, that TWC will make any such payment under protest and subject to true-up, and TWC will keep an accounting to permit it to make any appropriate future adjustments in accordance with applicable court rulings regarding the determination of pole attachment rates under the North Carolina statute.

Please confirm to us by May 31, 2013 that CCEMC will resume processing TWC's permit applications and will otherwise permit TWC to access its attachments to CCEMC's poles **[*116]** under the attached temporary agreement and payment proposal. These arrangements, while far from ideal from our perspective, will allow us to avoid seeking immediate judicial relief and will preserve the positions of the parties for later resolution - hopefully by agreement.

We look forward to resolving this matter. I will be out of the country next week, but if you have any questions, please feel free to contact my co-counsel, Ray Rutngamlug, at *weecha.rutngamlug@hoganlovells*. com or by phone at 202-637-6430.

Sincerely,

Gardner F. Gillespie

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

GFG/gs

Enclosure

cc: Ray Rutngamlug

INTERIM AGREEMENT FOR ATTACHMENT TO POLES

THIS INTERIM AGREEMENT FOR ATTACHMENT TO POLES ("Interim Agreement") is made and entered into on the last date executed below (the "Effective Date") by and between Carteret Craven Electric Membership Corporation ("Licensor") and Time Warner Cable ("TWC") (Licensor and TWC collectively the "Parties").

WHEREAS, TWC has attached its equipment to utility poles owned by Licensor, and

WHEREAS, the previous agreement setting forth the terms and conditions applicable to TWC's attachment of its equipment to Licensor's **[*117]** utility poles (the Pole Attachment License Agreement of September 2007, or the "Previous Pole Attachment Agreement") was terminated by TWC in a letter dated September 5, 2012;

WHEREAS, TWC has requested and the Parties intend to negotiate a new agreement pursuant to N.C.G.S 62-350 setting forth the terms, conditions, and rates applicable to TWC's attachment of equipment to Licensor's utility poles (the "New Pole Attachment Agreement"); and

WHEREAS, the Parties wish to ensure that interim terms and conditions for the attachment of equipment to Licensor's poles by TWC are in effect while the Parties negotiate the New Pole Attachment Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties do hereby mutually covenant and agree as follows:

1. Notwithstanding the termination described above, the terms and conditions of the Previous Pole Attachment Agreement shall be extended on an interim month-to-month basis until the execution of the New Pole Attachment Agreement. During this period, the attachment of TWC's equipment to Licensor's poles shall be permitted and governed by the terms and **[*118]** conditions of the Previous Pole Attachment Agreement.

2. For attachments made during the term of this interim Agreement, TWC shall pay Licensor the annual rate invoiced by Licensor. Such payment shall be made under protest, without waiver of TWC's rights, with a reservation of TWC's rights to recover any overcharges, and subject to true-up to the rate mutually agreed upon by the parties in the New Pole Attachment Agreement or as set by a court.

3. This Interim Agreement shall expire upon the effective date of the New Pole Attachment Agreement.

4. This interim Agreement represents the complete and exclusive statement of the mutual understanding of the Parties with regard to the subject matter hereof and supersedes all previous written and oral agreements and communications relating to any of the subject matter of this Interim Agreement.

IN WITNESS WHEREOF, the parties hereto have their respective officers who are duly authorized to execute this Interim Agreement below.

LICENSOR:

Carteret Craven Electric Membership Corporation

Date:

By

Name

Title

LICENSEE:

Time Warner Cable

Date:

By:

Name

Title

EXHIBIT 9

June **[*119]** 4, 2013

By Email
Gardner F. Gillespie, Esq.
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW, 11th Floor East
Washington, D.C. 20005-3314

Re: *CCEMC - Time Warner Cable Pole Attachment Agreement*

Dear Gardner:

I am writing in follow-up to our telephone conversation of yesterday and with respect to our recent exchange of correspondence - your letter of May 24, 2013 and my response of May 29, 2013 - concerning an interim agreement between Time Warner Cable ("TWC") and our client, Carteret Craven Electric Coop ("CCEMC").

After consultation with our client, I have determined that CCEMC is not willing to accept a conditional "under protest" lease payment from TWC as a part of an interim agreement. CCEMC is prepared to move forward with, an interim agreement as outlined in my May 29 letter. Otherwise, CCEMC's position is as outlined in my letter of May 10, 2013.

With respect to our discussion yesterday and the prospect you mentioned that TWC may-seek recourse to the courts. I would request that we be given notice of any filing made by TWC.

Thanks for your attention to this matter and please let me know if you have any questions.

Sincerely,

Pressly M. Millen

cc: Mr. Craig **[*120]** Conrad

(by email)

EXHIBIT 10

Carrie Ross

From:	Gardner Gillespie
Sent:	Wednesday, June 12, 2013 9:40 AM
To:	Mccausland, Trish; Nestor M. Martin (nestor.martin@twcable.com); Ray Rutngamlug
Subject:	FW: Interim Agreement
Attachments:	Carteret Craven Interim Agreement for Attachment to Poles 6.11.13.pdf

FYI. (I got an automatic response saying that Millen is out until Friday, so we may not hear back until then or early next week.)

Gardner F. Gillespie
Partner
202.466.4916 | direct

202.312.3453 | direct fax
703.626.4639 | cell

GGillespie@sheppardmullin. com | Bio

SheppardMullin
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW, 11th Floor East
Washington, DC 20005-3314
202.218.0000 | main

http://www.sheppardmullin.com/

From: Gardner Gillespie

Sent: Wednesday, June 12, 2013 9:38 AM

To: Pressly M. Millen *(PMillen@wcsr*. com)

Subject: Interim Agreement

Press,

Attached is an interim agreement executed by TWC. We have revised the Time Warner Cable entity to the current operating entity in the Carolinas and Paragraph 2 to reserve TWC's rights to pay under protest. Please let me know ASAP if CCEMC will execute this agreement and allow TWC's work **[*121]** related to its attachments to CCEMC's poles to proceed. Thanks. Feel free to call me if you have any questions.

Gardner

Gardner F. Gillespie
Partner
202.469.4916 | direct
202.312.9453 | direct fax
703.626.4638 | cell

GGillespie@sheppardmullin. com | Bio

SheppardMullin

Sheppard Mullin Richter & Hampton LLP
1300 I Street NW, 11th Floor East
Washington., DC 20005-3314
202.2180000 | main

www.sheppardmullin.com

INTERIM AGREEMENT FOR ATTACHMENT TO POLES

THIS INTERIM AGREEMENT FOR ATTACHMENT TO POLES ("Interim Agreement") is made and entered into on the last date executed below (the "Effective Date") by and between Carteret Craven Electric Membership Corporation ("Licensor") and Time Warner Cable Southeast LLC ("TWC") (Licensor and TWC collectively the "Parties").

WHEREAS, TWC has attached its equipment to utility poles owned by Licensor; and

WHEREAS, the previous agreement setting forth the terms and conditions applicable to TWCs attachment of its equipment to Licensor's utility poles (the Pole Attachment License Agreement of September 2007, or the "Previous Pole Attachment Agreement") was terminated by TWC in a letter dated Septembers, 2012; and

WHEREAS, TWC has requested **[*122]** that the Parties negotiate a new agreement pursuant to N.C.G.S 62-350 setting forth the terms, conditions, and rates applicable to TWCs attachment of equipment to Licensor's utility poles (the "New Pole Attachment Agreement"); and

WHEREAS the Parties wish to ensure that interim terms and conditions for the attachment of equipment to Licensor's poles by TWC are in effect while the Parties negotiate the New Pole Attachment Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties do hereby mutually covenant and agree as follows:

1. Notwithstanding the termination described above, the terms and conditions of the Previous Pole Attachment Agreement shall be extended, from the date of the termination described above on an interim month-to-month basis until the execution of the New Pole Attachment Agreement. During this period, the attachment of TWC's equipment to Licensor's poles shall be permitted and governed by the terms and conditions of the Previous Pole Attachment Agreement.

2. During the term of this Interim Agreement, TWC shall pay Licensor the annual rate invoiced by Licensor under **[*123]** the terms of the Previous Pole Attachment Agreement. TWC reserves its rights to Day under protest and to seek a judicial determination under Section 62-350 of whether the rate charged pursuant to this Interim Agreement is just and reasonable.

3. This Interim Agreement shall expire upon the effective date of the New Pole Attachment Agreement.

4. This Interim Agreement represents the complete and exclusive statement of the mutual understanding of the Parties with regard to the subject matter hereof and supersedes all previous written and oral agreements and communications relating to any of the subject matter of this Interim Agreement.

IN WITNESS WHEREOF, the parties hereto have their respective officers who are duly authorized to execute this interim Agreement below.

LICENSOR:

Carteret Craven Electric Membership Corporation

Date:

By

Name

Title

LICENSEE:

Time Warner Cable Southeast LLC

Date: June 11, 2013

By:

Name Susan L. Reinhold

Title Vice President-Field Engineering Operations

EXHIBIT 11

June 14, 2013

By Email
Gardner F. Gillespie, Esq.
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW, 11th Floor East

Washington, D.C. 20005-3314 **[*124]**

Re: *CCEMC - Time Warner Cable Pole Attachment Agreement*

Dear Gardner:

Further to your email of June 12 enclosing a signed Interim Agreement in this matter, CCEMC is not wilting to enter into an agreement which allows TWC to reserve its rights to pay under protest.

Therefore, I am attaching an executed Interim Agreement from CCEMC which reflects what it will agree to.

Thanks for your attention to this matter and please let me know if you have any questions.

Sincerely,

Pressly M. Millen

cc: Mr. Craig Conrad

(by email)

INTERIM AGREEMENT FOR ATTACHMENT TO POLES

THIS INTERIM AGREEMENT FOR ATTACHMENT TO POLES ("Interim Agreement") is made and entered into on the last date executed below (the "Effective Date") by and between Carteret Craven Electric Membership Corporation ("Licensor") and Time Warner Cable ("TWC") (Licensor and TWC collectively the "Parties").

WHEREAS, TWC has attached its equipment to utility poles owned by Licensor, and

WHEREAS, the previous agreement setting forth the terms and conditions applicable to TWC'S attachment of its equipment to Licensor's utility poles (the Pole Attachment License Agreement of September 2007, or the "Previous Pole Attachment Agreement") **[*125]** was terminated by TWC in a letter dated September 5, 2012; and

WHEREAS, TWC has requested that the Pa-ties negotiate a new agreement pursuant to N.C.G.S 62-350 setting forth the terms, conditions, and rates applicable to TWC's attachment of equipment to Licensor's utility poles (the "New Pole Attachment Agreement'); and

WHEREAS, the Parties wish to ensure that Interim terms and conditions for the attachment of equipment to Licensor's poles by TWC are in effect while the Parties negotiate the New Pole Attachment Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties do hereby mutually covenant and agree as follows:

1. Notwithstanding the termination described above, the terms and conditions of the Previous Pole Attachment Agreement shall be extended on an interim month-to-month basis until the execution of the New Pole Attachment

Agreement During this period, the attachment of TWCs equipment to Licensor's poles shall be permitted and governed by the terms and conditions of the Previous Pole Attachment Agreement.

2. During the term of this Interim Agreement, TWC shall pay Licensor **[*126]** the annual rate invoiced by Licensor under the terms of the Previous Pole Attachment Agreement.

3. This Interim Agreement shall expire upon the effective date of the New Pole Attachment Agreement.

4. This Interim Agreement represents the complete and exclusive statement of the mutual understanding of the Parties with regard to the subject matter hereof and supersedes ail previous written and oral agreements and communications relating to any of the subject matter of this Interim Agreement.

IN WITNESS WHEREOF, the parties hereto have their respective officers who are duly authorized to execute this Interim Agreement be few.

LICENSOR:

Carteret Craven Electric Membership Corporation

Date: June 14, 2013

By Thom Styron

Name Thom Styron

Title President

LICENSEE:

Time Warner Cable

Date:

By:

Name

Title

EXHIBIT 12

September 11, 2013

By Email and First Class Mail
Gardner F. Gillespie, Esq.
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW, 11th Floor East
Washington, D.C. 20005-3314

Re: *CCEMC - Time Warner Cable Invoices*

Dear Gardner:

Further to our discussion of yesterday morning (and your later email) , I can provide the following information: **[*127]**

As we communicated to you on April 25, 2013, the Board of Carteret Craven Electric Coop ("CCEMC") adopted a resolution stating that if Time Warner Cable ("TWC") did not accept the proffered contract, CCEMC would charge

TWC, as a holdover, an amount reflecting past due rental amounts and current rental amounts on a pro rata basis with respect to TWC's accounts with CCEMC. On May 29, 2013, I sent another letter to you reiterating that policy and providing CCEMC's invoice for pole attachments for 2013 in the amount of $ 254,843.25 (reflecting the holdover rental amount of $ 23.25 per pole as provided in the parties' most recent contract).

As I understand it, TWC accounts are billed in four separate cycles depending on the location of the meters. The first cycle of those invoices was sent out in early August and the amounts owed were calculated by dividing the total amount of the 2013 pole rental by the total number of TWC accounts for each, of the five remaining months of 2013, *i.e.* August through December. As I understand it, the first-cycle invoices are past due and accounts billed in that cycle have had a standard late fee of $ 5.00 applied to them. The remaining accounts in the **[*128]** later cycles will become past due over the course of the next three weeks on the dates printed on the bills.

In accordance with CCEMC's standard Service Rules & Regulations as adopted by its Board and applicable to all customers, if the first-cycle invoices to TWC remain unpaid on September 25, 2013, those accounts are subject to disconnection for non-payment. The later-cycle invoices will be similarly subject to disconnection if unpaid. I suspect that that policy is similar to TWC's policy with respect to customers who do not pay their cable bills.

TWC should also know that service fees will be assessed for disconnection and any reconnection and overtime charges may be added if the account is worked on after normal business hours. Again, these terms are all outlined on the reverse side of the bill and applicable to all CCEMC customers.

As for payment "under protest, " I do not believe that such a reservation will create any additional legal rights for TWC and it would be CCEMC's intention to apply all TWC payments to outstanding amounts owed as it would do with any customer.

As always, please let me know if you have any questions concerning the foregoing.

Sincerely,

Pressly M. Millen **[*129]**

cc: Mr. Craig Conrad

(by email)

EXHIBIT 13

September 13, 2013

By E-Mail and FedEx

Mr. Presley Millen
Womble Carlyle Sandridge & Rice, LLP
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601

Re: Carteret-Craven Electric Cooperative Electric Service Invoices

Dear Press:

As stated in my e-mail from yesterday, Time Warner Cable has processed payment under protest for the Carteret-Craven electric service invoices received on August 30, 2013 by Mr. Nestor Martin of Time Warner Cable in order to avoid disconnection of Time Warner Cable's electric power by Carteret-Craven. I have enclosed a copy of Time Warner Cable's Check No. 0003926963 in the amount of $ 62,998.00. Mr. Martin has overnighted the original check to Carteret-Craven for delivery on Monday, September 16.

As you know, Time Warner Cable disputes Carteret-Craven's pole attachment fee pursuant to N.C.G.S. $ 62-350, and makes this payment under protest with respect to the pole rental balances stated on these electric invoices, in particular, the amount paid under protest totals $ 39,391.38, and Time Warner Cable makes this payment without waiver of Time Warner Cable's rights and with a reservation of Time **[*130]** Warner Cable's rights to recover any overcharges and to dispute amounts pursuant to applicable law.

SheppardMullin

Mr. Presley Millen
September 13, 2013
Page 2

If Carteret-Craven will not accept this payment made under protest or if Carteret-Craven intends to shut off Time Warner Cable's electric power due to Time Warner Cable's payment under protest, please notify me immediately.

Sincerely,

Gardner F. Gillespie
Partner
ggillespie@sheppardmullin. com
202.469.4916

Ray Rutngamlug
Special Counsel
rrutngamlug@sheppardmullin. com
202.772.5305

GFG/gs

Enclosure

[SEE ATTACHMENT IN ORIGINALS]

EXHIBIT 14

October 8, 2013

VIA E-MAIL AND FEDERAL EXPRESS

Mr. Pressly Millen
Womble Carlyle Sandridge & Rice, LLP
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601

Re: Time Warner Cable Payment of Carteret-Craven Electric Cooperative Electric Service and Pole Attachment Invoices

Dear Press:

As you know, Time Warner Cable has recently made payment under protest to Carteret-Craven for invoices received for pole attachment and electric power charges. In particular Time Warner Cable sent the following checks to Carteret-Craven:

1) Check No. 003926963 dated September **[*131]** 13, 2013, in the amount of $ 62,938.00 for invoices containing charges for electric power and pole attachment charges:

2) Check No. 003931391 dated September 20, 2013, in the amount of $ 18,554.89 for invoices containing charges for electric power and pole attachment charges;

3) Check No. 0003928420 dated September 17, 2013 in the amount of $ 254,843.25 for an invoice for pole attachment charges.

Despite my request to you that Carteret-Craven stop the practice of combining pole attachment charges on its electric bills, Time Warner Cable received yet another batch of invoices with combined power and pole attachment charges on September 30. Time Warner Cable was advised on October 2 by Mr. Craig Conrad of Carteret-Craven not to pay this batch because Carteret-Craven intends to adjust the invoice amounts to reflect Time Warner Cable's recent payments, but Time Warner Cable received yet another batch of invoices on October 3. It is unclear whether the invoices received on October 3 are the revised invoices described by Mr. Conrad, or whether they are yet another set of new power invoices containing pole attachment charges.

Given that Time Warner Cable's recent payments have resulted **[*132]** in overpayment to Carteret-Craven for pole charges, even beyond the charges stated in Carteret-Craven's 2013 pole attachment invoice (Time Warner Cable's records indicate an overpayment of at least $ 76,949.94), and given the lack of detail regarding the method used by Carteret-Craven to calculate the pole charges on the electric bills or an explanation of what those charges represent, please treat this as a second request that Carteret-Craven provide a full explanation of the pole charges stated on the electric invoices, including how the charges were determined as well as the justification for such charges. This is also a second request that you also instruct your client to stop combining pole attachment and electric power charges on its electric bills to Time Warner Cable.

If you have questions about the requests above, please contact me.

Sincerely,

Gardner F. Gillespie
Partner
ggillespie@sheppardmullin. com
202.469.4916

EXHIBIT 15

October 14, 2013

By Email and First Class Mail
Gardner F. Gillespie, Esq.
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW, 11th Floor East
Washington, D.C. 20005-3314

Re: *CCEMC -- Time Warner Cable Invoices*

Dear Gardner:

This **[*133]** letter will respond to yours of October 8, 2013 concerning CCEMC's invoices. As an initial matter, I would point out that none of this would have been necessary if TWC had simply paid the pole rental invoice when CCEMC initially sent it. In any case, the following information may be useful to you in understanding the circumstances described in your letter.

In every case, the pole rent was applied to the electric bills consistent with the calculations as we described in our earlier correspondence with you and the *pro rata* rental amounts were only applied because of TWC's earlier failure to pay the invoice for pole rental amounts. The first electric bills including pole rent were mailed in August and were billed, according to CCEMC's standard policy, on various days within August, namely August 7, 14, 21, and 28. Thereafter, in September, TWC accounts were billed on September 11, 18, 25 and 30. Because of the timing of TWC's payment of the full pole rental amount, pole rental charges were included on the bills dated September 11 and 18, but not on the bills dated September 25 and 30.

With respect to TWC's payments, payment of $ 62,998.00 was received and posted on September 16. **[*134]** Those reflected payments only for the accounts billed on August 14, 21, and 28, but not accounts billed on August 7, which TWC failed to pay. After we notified TWC that it had failed to pay accounts billed on August 7, payment of $ 18,554.89 representing the accounts billed August 7 was received and posted on September 23. Payment of $ 254,843.25 was mailed to me under cover of letter dated September 17, representing full payment of pole rent for the year 2013. Although that payment was made late, CCEMC determined to waive late fees after CCEMC finally received that payment on September 20.

Thereafter, pole rental charges were removed and not included on any TWC electric bills after receipt of that pole rental payment. Thus, bills dated September 25 and 30 were not billed for pole rental for September and were credited the pole charge payment for August. Thus, all bills mailed on September 25 and 30 were accurate and reflected all appropriate adjustments. Excess payments resulting from pole rentals were adjusted and credited to each remaining electric account with respect to all electric bill dated in August, as well as those dated September 11 and 18. As a result, there were credit **[*135]** balances on most accounts, and those amounts satisfied the amounts due for most electric bills mailed in September.

On October 1, Craig Conrad of CCEMC notified Stan Ramsay at TWC of receipt of the pole rental payment, and that billing adjustments created excess balances on many TWC accounts. Therefore, Mr. Conrad asked TWC not to pay invoices dated in September and indicated that he would make all TWC accounts late-fee exempt for September invoices. Mr. Conrad stated that the October electric accounts will reflect current balances with some accounts showing a credit balance and others a debit balance. Mr. Conrad indicated that TWC should pay the balance due, if any, beginning with the October electric bill (which will be calculated and mailed on or about October 9, 16, 23, 30 and will be accurate and net of all adjustments).

In addition to the foregoing, TWC should know that in September CCEMC returned capital credits to its all of its members, including TWC. TWC's capital credits were spread across the following accounts:

> 09/09 Transferred Capital Credits $ 2,248.29 to Subs: 01 ($ 186.51); 425 ($ 220.31); 074 ($ 220.20); 007 ($ 220.07); 155 ($ 220.00); 336 ($ 219.86); 101 **[*136]** ($ 219.66); 344 ($ 219.60); 343 ($ 218.90); 301 ($ 218.59); 112 ($ 84.59).

Those capital credits were shown as a credit on bills mailed in September.

Going forward, CCEMC would like to suggest that for ease of processing future payments, TWC pay each bill individually. A single check mailed with each single account's bill stub would ease processing. This action would clarify TWC's payments and provide adequate support to reflect each payment for each account. If TWC has any suggestions for an improved process, we would welcome it.

Finally, the two attached files include all active TWC accounts and their balances as of October 1.

Please let me know if you have any further questions. Thanks for your attention to this matter.

Sincerely,

Pressly M. Millen

cc: Mr. Craig Conrad

EXHIBIT 16

July 25, 2014

By Certified Mail

Pressly M. Millen
Womble Carlyle
150 Fayetteville Street
Suite 2100
Raleigh, NC 27601

Re: Time Warner Cable - Carteret Craven Electric Membership Cooperation Pole Attachment Agreement

Dear Mr. Millen:

Because of recent legal developments that clarify certain aspects of the North Carolina pole attachment statute (N.C.G.S. § 62-350 **[*137]**), TWC is reviewing the pole attachment rates that it pays to North Carolina cooperative and municipal utilities. In particular, the North Carolina Business Court has ruled that application of the FCC's formula for calculating pole attachment rates under Section 224 of the Communications Act results in just and reasonable rates under the North Carolina statute. [1] As you know, TWC requested negotiation of a new agreement with Carteret Craven EMC pursuant to § 62-350 on September 5, 2012.

In order to ascertain whether Carteret Craven Electric Membership Cooperation's rates are consistent with North Carolina law as clarified by the North Carolina Business Court, TWC requests that Carteret Craven Electric Membership Cooperation provide the **[*138]** cost data specified in the attached questionnaire. We also ask that you provide copies of the primary materials from which the source data was taken. We ask, furthermore, that you provide your response within 20 days from the date of this Setter in order to enable us to process your invoices for payment in a timely manner and at the appropriate rate.

Please let us know if you have any questions. Thank you for your attention to this matter.

Sincerely,

Gardner F Gillespie
Ray Rutngamlug
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

GFG/gs

cc: Trish McCausland, Time Warner Cable

Enclosure

BASIC POLS ATTACHMENT QUESTIONNAIRE - RUS ELECTRIC DISTRIBUTION

Please provide your most recent year-end figures for the following RUS Accounts:

. Total Number of Poles in RUS Account 364

. Gross Pole Investment in RUS Account 364

---

[1] *See Rutherford Elec. Mem. Corp. v. Time Warner Entertainment/Advance-Newhouse P'ship*, 13-CVS-231, Order & Opinion (N.C. Sup. Ct. May 22, 2014); *Time Warner Entertainment/Advance-Newhouse P'ship v. Town of Landis*, 10-CVS-1172, Order & Opinion (N.C. Sup. Ct. June 24, 2014).

. Gross Plant Investment (Total Plant In Service Year End) in RUS Account 101
. Accumulated Depredation in RUS Account 108 for Plant
. Gross Distribution Plant investment (Distribution Plant Year End)
. Accumulated Depredation Distribution Plant (RUS Account 108.6)

. Accumulated Deferred Income **[*139]** Taxes (Company) in RUS Account 190
. Accumulated Deferred income Taxes (Company) in RUS Accounts 281-283
. Total General and Administrative Expenses (RUS Accounts 920-931 and 935)
. Maintenance Expanse in RUS Account 593
. Gross investment in RUS Account 365
. Gross investment in RUS Account 369
. Accumulated Depreciation related to RUS Account 364
. Accumulated Depreciation related to RUS Account 365
. Accumulated Depredation related to RUS Account 369
. Depreciation Rate for Poles in RUS Account 364 [2]
. RUS Account 408.1
. RUS Account 409.1
. RUS Account 410.1
. RUS Account 411.4
. RUS Account 411.1
. Overall Rate of Return or Cost of Money [3]
. Please also provide a copy of your annual year-end RUS operation and financial report.

EXHIBIT [*140] 17

August 11, 2014

By Email & First-Class Mail
Gardner F. Gillespie, Esq.
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW
11th Floor East
Washington, D.C. 20005-3314

Re: *CCEMC - Time Warner Cable Pole Attachment Agreement*

Dear Mr. Gillespie:

I am writing on behalf of our client, Carteret-Craven Electric Membership Corporation ("CCEMC"), and in response to your letter to me (presumably as CCEMC's representative), dated July 25, 2014, seeking certain information from CCEMC in connection with prospective negotiations of a new pole attachment agreement with Time Warner Cable ("TWC").

I have discussed the matter with our client, CCEMC is of the view that a searching information inquiry is not called for here. (As I understand it, the Business Court cases are presently on appeal and the statute, in any event, describes the FCC formula as one of any number of non-exclusive factors.)

---

[2] Please specify how this rate was determined.

[3] Please explain in detail how this number was determined.

Instead, I have been authorized to offer a new Agreement in the form of the agreement currently in place between the parties and at the current rate. Thus, both the form of agreement at issue and the rats structure represent the terms negotiated by the parties at arms' length some seven years **[*141]** ago and which have remained in force since then.

Under the circumstances, we think that this offer is eminently fair and - because it represents the product of an arms'-length negotiation after the parties' respective rights were established in litigation - something that the Business Court would be reluctant to re-visit as somehow unjust, unreasonable, or discriminatory in the context of N.C.G.S. § 62-350. [1]

If that offer is acceptable to TWC, I will send copies of the agreement for execution.

If you have any questions, please fed free to contact me.

Best regards,

WOMBLE CARLYLE [*142] SANBRIDGE & RICE

A Limited Liability Partnership

Pressly M. Millen

cc: Mr. Craig Conrad

(by first-class mail)

EXHIBIT 18

October 6, 2014

By E-Mail and FedEx

Mr. Pressly Millen
Womble Carlyle Sandridge & Rice, LLP
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601

Re: CCEMC-Time Warner Cable

Dear Mr. Millen:

We have received your interesting letter dated August 19, 2014. You are well aware, of course, that the rate and the terms of agreement from seven years ago were not "negotiated at arms' length." Indeed, it was that rate which started the cooperatives and municipal utilities on the journey that resulted in passage of Section 62-350 and the *Rutherford* case. I am not sure what more TWC could have done to make dear it did not accept Carteret Craven's rate than litigate the issue through the Fourth Circuit. The Fourth Circuit said that this was an issue for the General Assembly, which weighed in by passing Section 62-350. Accordingly, we certainly do not share your view that the Business Court would be "reluctant to revisit" a contract and rate agreed to after the Fourth Circuit decision but prior to the legislation that, for the first **[*143]** time, gave TWC a clear right to seek relief from the unjust and

[1] I am not sure what you mean when you state that "TWC requested negotiation of a new agreement with Carteret Craven EMC pursuant to § 62-350 on September 5, 2012." Our records indicate that TWC's predecessor gave notice of termination of its five-year agreement CCEMC on that date, but that TWC has entered into two successive one-year agreements since then and that an agreement is currently in place.

unreasonable pole attachment rates, terms and conditions imposed by CCEMC. In this context, your "offer" of a new agreement on those same rates, terms and conditions is insulting.

While we reject your "offer," therefore, in an effort to exhaust efforts to resolve these matters, we respond with the following:

. A draft revised agreement is enclosed. We are willing to consider good-faith revisions proposed by your client to the terms and conditions contained in this draft. We have made an effort to move toward CCEMC's prior positions on the agreement.

. As for a rate, you are aware that the Court in *Rutherford* found that the appropriate rate based on Rutherford's costs ranged from $ 2.56-$ 2.68 for the years 2010-2013. Evidence in the case also established that the highest average investor-owned electric utility ("IOU") rate in North Carolina for the years 2010-2013 was $ 6.06, based on the costs of these utilities. While, as you know, we are not privy to CCEMC's costs, we would expect the actual cost-based rate for CCEMC to be substantially lower than $ 6.05. Based on Section 62-350, TWC is entitled to an adjudicated **[*144]** just and reasonable rate effective 90 days after September 5, 2012, the date it triggered its rights under the statute. TWC would be willing to apply the $ 6.06 rate as of November 4, 2012 through the end of 2014, rather than the lower rate that would likely result from application of the rate methodology the Court applied in the Rutherford case to CCEMC's actual costs. Rates for 2015 and beyond would be subject to further negotiation pending the result of the *Rutherford* appeal. This offer of a $ 6.06 rate will remain open for thirty days from the date of this letter.

If you have questions please let me know. We hope that this generous offer will allow the parties to put these issues behind them.

Sincerely,

Gardner F. Gillespie

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

GFG/gs

Enclosure

EXHIBIT 19

October 30, 2014

By Email & First-Class Mail
Gardner F. Gillespie, Esq.
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW
11th Floor East Washington, D.C. 20005-3314

Re: *CCEMC - Time Warner Cable Pole Attachment Agreement*

Dear Mr. Gillespie:

I am writing on behalf of our client, Carteret-Craven Electric Membership Corporation ("CCEMC"), and in response **[*145]** to your letter of October 6, 2014 which responded to my letter of August 19, 2014 concerning a possible new contract between CCEMC and Time Warner Cable ("TWC").

At some level, I think that our clients have a fundamental difference of opinion concerning the operation of N.C.G.S. § 62-350. In CCEMC's view, the statute only serves to permit pole attachments on terms which are just and reasonable. The statute was not, in our view, intended to enshrine any particular rate or tilt the playing field in favor of attachers.

Similarly, we do not believe that the statute was in any way intended to give attachers the right to dictate non-monetary terms which our client finds objectionable for safety or other reasons. Along those lines, we have significant problems with various aspects of your client's draft agreement including, but not limited to:

. Removal of the right to audit attachments for safety at TWC's expense.

. Allowing TWC to overlash without application and engineering certification that considers pole loading issues.

. Payment in arrears for rent.

. Elimination of audit/ inventory of attachments by cooperative participation at TWC **[*146]** expense.

. TWC's purported establishment of its own rules for clearances.

. Elimination of the requirement for professional engineering review of construction plans and subsequent certification of completed work.

. Allowing the installation of antennas.

. A purported retention of TWC rights to make attachments even without a valid agreement.

In addition to the foregoing, the rental rate suggested by TWC is unacceptable.

One overarching factor which could change or ameliorate CCEMC's views toward TWC's proposal would be an agreement on the part of TWC to build out its cable system to benefit all of CCEMC's members. Please let me know whether TWC would be willing to undertake that project.

If you have any questions, please feel free to contact me.

Best regards,

WOMBLE CARLYLE SANDRIDGE & RICE

A Limited liability Partnership

Pressly Millen

cc: Mr. Craig Conrad

(by email)

EXHIBIT 20

July 15, 2015

By Email & First-Class Mail
Gardner F. Gillespie, Esq.
Sheppard Mullin Richter & Hampton LLP
1300 I Street NW
11th Floor East
Washington, D.C. 20005-3314

Re: *CCEMC - Time Warner Cable Pole Attachments*

Dear Mr. Gillespie:

I am writing on behalf of our client, **[*147]** Carteret-Craven Electric Membership Corporation ("CCEMC"), and concerning the issue of the pole attachments of your client Time Warner Cable ("TWC").

Specifically, CCEMC is beginning a process of a system-wide census. As a part of that process, I am hereby requesting that TWC provide CCEMC with, documentation sufficient to describe the number and nature of each of its attachments to CCEMC's poles.

For the purposes of our timing, we would request that this documentation be provided to us no later than fourteen (14) days from the date of your receipt of this letter.

If you have any questions, please feel free to contact me.

Best regards,

WOMBLE CARLYLE SANDRIDGE & RICE

A Limited Liability Partnership

Pressly M. Millen

cc: Mr. Craig Conrad

End of Document

LUMOS
NETWORKS

June 19, 2014

VIA HAND DELIVERY

04:28 PM JUN 19 2014 PSC EXEC SEC DIV

Ingrid Ferrell
Executive Secretary
Public Service Commission
201 Brooks Street, P.O. Box 812
Charleston, WV 25323

Re: Case No. 13-0899-T-C
Lumos Networks LLC and Lumos Networks of West Virginia Inc. v. Frontier West Virginia Inc.

Dear Ms. Ferrell:

In reference to the pole attachment dispute that was the subject of the above-captioned formal complaint proceeding, Lumos Networks LLC and Lumos Networks of West Virginia Inc. (collectively "Lumos") wish to provide a status update to the Commission. This status update will be twofold: first, it will update the current status of the NESC violations that were initially alleged against Lumos as detailed in Exhibit B of Frontier West Virginia Inc.'s ("Frontier") Answer filed with the Commission on July 19, 2013, and second, it will update the process and procedures that have since been agreed to and implemented by Lumos and Frontier in order to minimize future pole attachment application disagreements.

With regard to the 125 NESC violations originally documented by Frontier in Exhibit B to its Answer in this case, 49 of the alleged violations have been successfully cleared by Lumos. In another 16 situations, Lumos has resolution of the alleged violations currently in process subject to further internal discussion and evaluation scheduled to take place in the next two weeks. The 60 remaining alleged violations will require joint Lumos/Frontier field meetings as well as the completion of make ready work and/or other related activities by Frontier before final resolution can be successfully achieved.

Recently, Lumos had a meeting with Frontier regarding these joint field situations. As a result of this meeting, Lumos and Frontier agreed to a process whereby Lumos will identify situations requiring a joint field collaboration between Lumos and Frontier outside plant personnel. Lumos and Frontier will then work cooperatively to arrange the required joint field evaluation in order to determine next steps. Lumos is of the belief that the aforementioned process is reasonable and will ultimately result in the successful resolution of the 60 remaining pole attachment situations.

In addition to the alleged NESC violations that were initially identified by Frontier in this case, as noted previously in other documents filed in this case, Lumos and Frontier held an executive level meeting in late September 2013 in which pole attachment application issues were generally discussed. As a result of that executive level meeting, Lumos and Frontier agreed to certain procedures that were intended to permit the pole attachment application process to go more smoothly. For example, Lumos and Frontier agreed to continue joint walk outs/ride outs to assess prospective Lumos pole attachment applications. These joint walk outs/ride outs will allow Lumos and Frontier outside plant personnel to observe, identify and address in advance any potential issues identified with pending and/or anticipated Lumos pole attachment applications.

In closing, as further progress is made addressing these ongoing pole attachment issues, Lumos will provide additional closed entry status updates in this docket. In the interim, if you have any questions or concerns, please feel free to contact me at your earliest convenience.

Sincerely yours,

STEVEN HAMULA
Director of Regulatory Affairs
Lumos Networks

SH/s

cc: Joseph J. Starsick, Jr., Esquire
Christopher Howard, Esquire