

its statutory right to contest any denial of access pursuant to 47 U.S.C. § 224 and any applicable law.

d. Within sixty (60) days (unless agreed to otherwise by both parties) after Licensee has provided written notice of attachment or completion of modification of such attachment, Licensors may perform a Post-attachment Inspection at Licensee's expense. Licensors election to inspect Attachments is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensors part with respect to Licensee or its facilities that is not expressly set forth in this Agreement.

4. Attaching - Modifications Not Required

Following the pre-attachment inspection, Licensors will notify Licensee of the distribution pole lines to which Licensee's Attachments may be made without modifications. Upon payment of all costs identified in the Policies and Procedures, Licensors will notify Licensee that it may proceed with attaching its facilities to such distribution poles. Licensee shall be responsible for making its own Attachments and for performing its own guying and marking for its Attachments to Licensors distribution poles. Licensee shall install its own anchors and its own guys; Licensee is strictly prohibited from using Licensors anchors.

5. Attaching - Modifications Required

In cases where Licensee desires to make Attachments on any distribution poles in a pole line of Licensors which Licensors has determined require reasonable modifications to support Licensee's proposed Attachments, Licensors shall notify Licensee of the need for, the nature of, and the cost of such modifications necessary to support the proposed Attachments, as described in Licensors Policies and Procedures. If the modifications require expanding the capacity of one or more distribution poles, Licensors will also notify Licensee whether Licensors agrees, in its sole discretion, to make the requested modification. Nothing in this Agreement shall in any way be construed as a waiver of Licensors rights under 47 U.S.C. § 224 or applicable law to deny access for reasons of insufficient capacity, as well as safety, reliability or generally applicable engineering concerns or to deny modification on the grounds that such modifications constitute an expansion of capacity.

If Licensee does not wish to proceed with the modifications after receiving notice, then Licensee will pay Licensors the costs described in the Policies and Procedures. If Licensee does wish to make the proposed Attachments, it shall pay Licensors in advance the work order cost of Licensors to make the modifications. After Licensee has followed these procedures and made payment, Licensors shall make its modifications within a reasonable period of time. After the original work order cost is submitted by Licensors to Licensee, if there are any changes in scope of the work due to changes by Licensee or changes beyond Licensors reasonable control, Licensors shall submit a revised work order cost to Licensee and Licensee shall pay the revised amount before the modifications will be made. Costs to be paid by Licensee for modification work shall include, but not be limited to, all those incurred by Licensors in connection with transferring or rearranging facilities to accommodate the attachments of Licensee, including without limitation applicable taxes and overhead costs. Additionally, Licensee will pay the owner or owners of any other facilities attached to said distribution poles for any expense incurred by it or them

in transferring or rearranging said facilities. Licensee shall not make Attachment(s) to any pole in the pole line until the necessary agreed-upon modifications to all those poles in the pole line have been completed.

6. Service Area Maps

Licensee is responsible for ensuring that Licensors are provided up-to-date service area maps for all Attachments. With respect to Pre-existing Attachments, Licensee shall provide Licensors with service area maps within 120 days of the date of this Agreement, or such other time period within which the parties mutually agree. In the event Licensee purchases or otherwise acquires the assets of another attachor which include attachments to Licensors' poles, Licensee shall, within sixty (60) days of such purchase, submit service area maps to Licensors. In addition, Licensee shall update such maps as necessary, but no less often than by July 1 of every fourth year.

Licensee shall submit facilities location maps with its applications to install Attachments, in accordance with the Policies and Procedures. Should Licensors provide the maps to Licensee, under the circumstances described in the Policies and Procedures, the amount to be paid by Licensee for the maps shall be as set forth in Exhibit B.

7. Marking of Attachments

Licensee shall mark or tag every Attachment in accordance with the Policies and Procedures and shall maintain marks and tags in readable condition. New attachments shall be marked or tagged at the time they are placed on the pole. All Pre-existing Attachments shall be marked or tagged within one-hundred and eighty (180) days of the date of this Agreement.

8. Coordination with Joint Use Attachments

a. Licensors are a party to joint use agreements with various telephone companies that own poles throughout its service area. Distribution poles used jointly by Licensors and any telephone company under one of the joint use agreements are referred to as "joint use distribution poles", on which each joint use party is allocated certain pole space. Under the joint use agreements the telephone company is allocated the exclusive use of certain space (usually two and one half feet), measured upward from the lowest point of attachment required to provide NESC and/or Alabama Department of Transportation minimum clearance above ground.

b. Licensee's Attachment shall be mounted above the uppermost existing communications cable and shall be separated by the space required by the NESC and Licensors' Specifications. At times there may not be sufficient usable space on a joint use distribution pole for Licensee to place its Attachments within the Communication Space but outside the space allocated exclusively for use by the telephone company. In no event shall Licensee place its Attachments within such allocated space on the joint use distribution pole without proper permission of the party which has been allocated the space. If such permission is granted to Licensee by the telephone company, and at some later date the party to which the space is allocated needs to utilize the space occupied by Licensee's Attachment, Licensee either shall remove its Attachment or shall pay Licensors' cost to replace the pole or make other required modifications.

9. Coordination with Attachments of other Entities

Where Licensee desires to attach to a pole or poles already hosting attachments of other parties, it is essential that all parties communicate and coordinate (1) to maintain sound engineering practice and construction standards, and (2) for the fair allocation of costs. Corrections of existing safety violations and cost responsibility or sharing for any such corrections will be governed by Sections 5 and 10.

10. Compliance with Codes and Laws

Licensee shall be responsible for knowing and understanding the requirements of the Codes and Laws and the requirements of this Agreement, including (without limitation) the Specifications, and for ensuring that all such requirements are met throughout the term of this Agreement. Should there be any instance in which either the Codes and Laws or the Specifications is more stringent than the other, Licensee shall comply with the more stringent of the two to the extent consistent with Section 013.B of the NESC. Licensee shall periodically inspect its Attachments, including without limitation its guying and other facilities, to assure compliance with the requirements of the Codes and Laws and this Agreement. Licensee shall correct any safety violations that are caused by Licensee within thirty (30) days of Licensee receiving notice of such violations (or such longer period agreed to by Licensor), except for such violations creating a danger to persons or property, which must be corrected immediately upon discovery. Should Licensee fail to do so, Licensor may cure the non-compliance, and Licensee shall pay Licensor the costs of its doing so. To the extent that the cause of a violation cannot be established, then the cost of correcting the violation shall be shared by each attacher on the pole (including the Licensor and any joint user) whose facilities are involved in the violation at issue. Failure by Licensee to comply with the Codes and Laws and the requirements of this Agreement shall constitute a default of this Agreement.

11. Licensor's Right to Inspect

a. Licensor shall have the right, but shall not be obligated, to inspect each Attachment made by Licensee on its distribution poles subsequent to the date of this Agreement and to make periodic inspections of any of Licensee's Attachments for any reason, including (without limitation) identifying violations of the NESC or the Specifications and of any other generally applicable safety codes, and identifying unauthorized attachments, but not for any purpose of or reserved right of controlling the methods and manner of the performance of Licensee's business activities. Licensor's election to inspect Attachments is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensor's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement. Any costs Licensor incurs for periodic inspections shall be recovered under the annual attachment fees assessed under Sections 20 and 22. Licensee shall pay for special inspections in accordance with Exhibit E. Licensor's right to make periodic inspections and any other inspection made pursuant to such right shall not relieve Licensee of any responsibility, obligation, or liability imposed by law or assumed under this Agreement. Special inspections shall be handled in accordance with Exhibit E.

b. From time to time, Licensor or its contractor may inspect poles to which Licensee is attached, and may place tags or other markings on such poles

indicating the condition of the pole and/or whether the pole is safe to climb. LICENSEE SHALL INFORM ITS EMPLOYEES AND CONTRACTORS OF THE MEANING OF SUCH TAGS OR OTHER MARKINGS. Licensors election to inspect any pole is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensors part with respect to Licensee or its facilities that is not expressly set forth in this Agreement. The placement of an inspection tag or other marking, or lack thereof, on a pole shall not relieve Licensee of its responsibility to determine for itself whether any particular pole is safe for climbing.

12. Reservation of Poles by Licensors

a. Licensors reserves the right to identify, pursuant to a bona fide business plan, specific distribution poles for which Licensors projects a need for space in the provision of its core utility service. At the time of Licensees pole attachment request, Licensors shall notify Licensee if any of the requested poles are reserved for Licensors exclusive use. Licensee reserves its right to challenge Licensors reservation of space consistent with applicable law.

b. Licensors shall allow Licensee to install Attachment(s) on such distribution poles until such time as Licensors notifies Licensee of its need for those poles. Licensee acknowledges that Licensors need to use such distribution poles may arise on an emergency basis, for which Licensors need is immediate.

c. Licensors will provide sixty (60) days prior electronic or other written notification of its need for the reserved poles unless such notice is impractical under the circumstances, in which case Licensors will notify Licensee as soon as reasonably practicable, and Licensee shall remove its Attachments from the reserved distribution poles within the time required by Licensors or within such other time as the parties agree. Alternatively, Licensors may remove the Attachments and Licensee shall reimburse Licensors costs of doing so.

13. Compliance with Licensors Policies and Procedures

Licensee shall comply with all Policies and Procedures applicable to Licensees Attachments which are currently in force or subsequently established by Licensors at any time during the term of this Agreement, including (without limitation) Policies and Procedures to implement and allocate modification billing and to provide for an orderly process of attachment in the event that Licensee and one or more other parties desire to attach to the same distribution poles. Notwithstanding the above, any changes to the Policies and Procedures shall not be applied retroactively with regard to Licensees existing attachments and shall not apply to the cost schedule without Licensees consent. In the event of a conflict between the Policies and Procedures and the terms of this Agreement, the terms of this Agreement shall control. Licensors shall provide 60 days notice to Licensee of any subsequent change to Licensors Policies and Procedures.

14. Pre-Construction, Replacement and Modification Notification by Licensors

Licensors will endeavor to provide to Licensee such prior notification by electronic mail or other written notice of planned new construction of distribution poles to which Licensee is not attached as may be reasonable under the circumstances. However, the continuing practice of providing written

notifications shall not constitute an obligation on the part of Licensor to provide such notifications. Licensor will provide sixty (60) days prior electronic mail or other written notification to Licensee (unless such notice is impractical under the circumstances, in which case Licensor will notify Licensee as soon as reasonably practicable) of planned replacement or modification (other than routine maintenance) of any distribution poles to which Licensee is attached, provided that Licensee has marked or otherwise placed identification on such Attachments which will allow Licensor to ascertain the identity of the owner of the Attachments. Notwithstanding the provisions of this Section 14, Licensor reserves the right to decide not to construct, reconstruct or modify any distribution poles. Licensee reserves the right to challenge any such decision consistent with applicable law. Should such decision be made after Licensee has paid amounts for additional capacity, such amounts shall be reimbursed to Licensee.

15. Transfers of Licensee's Attachments

a. Whenever Licensor has need to replace, for any reason, any of its distribution poles to which an Attachment of Licensee is attached, Licensor shall have the right, but shall not in any way be obligated, to transfer the Attachments of Licensee from the replaced distribution pole to the replacement distribution pole. It is intended that transfers of Licensee's Attachments by Licensor will be limited to cables and service drops which are attached to distribution poles by tangent or dead-end type construction and for which the transfer can be accomplished without the requirement to cut or splice the cables or service drops. Down guys may also be transferred by Licensor, at its discretion.

b. Licensor shall not be required to provide advance notification to Licensee for the above-described transfer of Licensee's Attachment(s) by Licensor and such transfers may be performed by Licensor at its sole discretion.

c. Whenever Licensor needs to have Licensee remove its attachments from a distribution pole in a situation where a pole or entire pole line is being relocated or removed such that a transfer is not feasible, Licensor will so notify Licensee. Licensor will provide sixty (60) days prior electronic or other written notification of its need for the poles under these circumstances unless such notice is impractical under the circumstances, in which case Licensor will notify Licensee as soon as reasonably practicable, and Licensee shall remove its Attachments from the distribution poles within the time required by Licensor or within such other time as the parties agree. When Licensor notifies Licensee that recovery of the distribution pole is for an emergency use, Licensee shall immediately remove its Attachments affected by Licensor's emergency. Alternatively, Licensor may remove the Attachments and Licensee shall reimburse Licensor's costs of doing so.

d. Licensee shall pay, on receipt of invoice, to Licensor the amount stated in Exhibit B for each pole on which such transfer or transfers of Attachments are made by Licensor during the initial year this Agreement is in effect. After the initial year of this Agreement, this fee may be reviewed annually and may be adjusted upward or downward to more accurately reflect Licensor's actual cost of making such transfers, but any increases shall not exceed increases consistent with the Handy-Whitman Index, South Atlantic Region (FERC Account 364: Poles, Towers & Fixtures), unless otherwise agreed upon by the parties. Without limiting the foregoing provisions of this Section 15, Licensee shall, at any time, at its own expense, within thirty (30) days of the date of electronic or other written notice from Licensor, remove, relocate, replace or renew its

Attachments placed on said poles, or transfer them to substituted distribution poles or perform any work in connection with said Attachments that may be required by Licensor. Should Licensee fail to do so and such failure causes Licensor to incur expense or liability, Licensee shall reimburse any such expense and shall indemnify and hold harmless the Indemnified Parties against any damages or liability arising out of such failure. In the event Licensee fails to so remove, relocate, replace, renew, or transfer its Attachments within thirty (30) days of the date of such notice, Licensor may at its option itself or by contract with others remove, relocate, replace, renew, or transfer such Attachments, although Licensor is not required to do so, and Licensee shall be liable for the per-pole transfer cost for such work.

e. In the event of a storm or other emergency in which Licensor is performing work on its facilities for such reasons as restoration of electric service to its customers or safety, Licensor shall have the right, but not the obligation, in connection with the repair of its own facilities, to repair any Attachments of Licensee, and Licensee shall reimburse Licensor for the cost incurred by Licensor in making such repairs to Licensee's Attachments.

16. NJUNS

The parties recognize that improved coordination of activities such as pole attachments and pole attachment transfers by pole owners and pole attachers is to the benefit of all parties, and that Licensee's and Licensor's participation in the National Joint Utilities Notification System ("NJUNS"), a Web-based system developed for the purpose of improving the coordination of such joint activities, would improve their respective operations under this Agreement. Licensee will join NJUNS within 30 days of the execution of this Agreement and, during the term of this Agreement, will actively participate by entering field information into the NJUNS system within the times required by the system. Should Licensee fail to actively participate in NJUNS and should such failure cause Licensor to incur expense or liability to others, Licensee shall reimburse Licensor its expense and indemnify and hold harmless the Indemnified Parties from any damages or liability arising out of such failure.

17. Non-Reimbursed Reconstruction

In the event any third party entity necessitates the reconstruction of an existing pole or pole line where there is no reimbursement of cost from such third party to Licensor, Licensor shall pay the cost of replacing a like number of poles of like kind. In the event additional poles are required to complete the new pole line, Licensor will treat each such additional pole as new construction, and any requirements for pole height beyond what is required to meet Licensor's needs shall be billed to Licensee.

18. Interruption of Licensee's Service

Licensor reserves the right to maintain its distribution poles and to operate its facilities in such manner as will best enable it to fulfill its own service requirements. Licensor shall not be liable to Licensee for any interruptions to Licensee's service or for interference, however caused, with Licensee's operation of its cables, wires and

equipment, or for damage to Licensee's facilities, arising out of the use of Licensors distribution poles, except that Licensor shall be liable for damage caused solely by its wanton or willful wrongful act. Licensor also shall not be liable for any such interruption, interference or damage caused by its contractors or by any joint user or other attacher.

19. Licensee's Right-of-Way Obligations

Licensee shall, before installing any Attachment to Licensor's distribution poles or placing any anchors in connection therewith, secure any required permission or consent from federal, state, county, or municipal authorities, or from owners of property upon which the distribution poles may be located, to install and maintain Licensee's Attachments thereon. Licensee shall not infer any such permission or consent from Licensor from this Agreement.

20. Annual Attachment Fees

a. Licensee shall pay annual attachment fees to Licensor for each Attachment to distribution poles under this Agreement. Licensor shall send annual statements to Licensee notifying Licensee of the amounts it owes for Attachments for such Contract Year, and Licensee shall pay the corresponding amount. The amount of the annual attachment fee to be invoiced by Licensor shall be calculated in accordance with the formulas set forth in Exhibit A, attached hereto and made a part hereof.

b. The formulas set forth in Exhibit A are based on the FCC formulas for cable television and telecommunications attachments. There may be circumstances under which Licensor is entitled to a fee other than or in addition to the FCC rate. Licensor reserves its rights to charge and collect a per-Attachment fee that is higher than the FCC rate should Licensor determine that these circumstances are present on or after Licensor gives notice of its intent to charge such higher fee under paragraph (c) below. No action or inaction of Licensor shall constitute a waiver of Licensor's right to assert that it is lawfully entitled to collect such a higher fee and Licensor expressly reserves such right. No action or inaction on the part of Licensee shall constitute a waiver of the Licensee's right to dispute the existence of any alleged circumstances or the right to challenge the amount of any fee other than the FCC rate and Licensee expressly reserves such rights.

c. Licensor may revise the per-Attachment fees set forth in Exhibit A at any time without the necessity of an amendment to this Agreement; provided, however, that Licensor shall give Licensee at least sixty (60) days written notice of any increase in the per-Attachment fee, whether such increase is consistent or inconsistent with the rate calculation in Exhibit A or pursuant to the circumstances described in Paragraph (b) above. Neither party waives any of its legal rights, remedies, arguments or positions arising under the Act or otherwise with respect to any rate change or increase.

21. Periodic Field Counts

a. The number of Attachments to Licensor's distribution poles for which Licensee will pay attachment fees to Licensor will be determined by actual field count or alternative methods as set forth in this section. Any Service Drop that is within twelve inches (12") of Licensee's other Attachments on a pole

(consistent with applicable Codes and Laws) shall be counted as one Attachment for billing purposes. Licensor reserves the right to perform the field count with its employees or to contract the performance of the field count to an outside party. Licensee will be provided reasonable notice (not less than thirty (30) days, unless otherwise agreed upon) and given the opportunity to accompany Licensor or its contractor and to participate in the field count. Both the Licensee and the Licensor have a responsibility and an opportunity to participate in the field counts so that accuracy may be determined at the time of the field count. If the Licensee elects not to have its personnel participate in the actual field count, it shall so notify Licensor in writing, and it shall, prior to the scheduled beginning date of the field count, provide a written statement of its intent to accept the field count results as determined by the Licensor. Whether or not Licensee gives such written notice to Licensor, Licensee shall, on receipt of invoice, reimburse Licensor its cost, including without limitation applicable taxes and overhead to perform the field count, and Licensee shall in any event abide by the field count results as determined by Licensor.

b. Licensee shall indicate agreement with the field count results by having its representative at the field count sign the counter's summary sheet of all pole count documentation immediately following completion of the field count. At the time an invoice is submitted to Licensee for the field count, the summary sheets, and summary maps, if used, shall be provided in support of the count to enable Licensee to verify the accuracy of the count.

c. Should Licensor in the future adopt a process pursuant to which one or more third parties' attachments are counted in the same field count as Licensee's Attachments, the cost of the count will be allocated pro rata among Licensee and the third parties whose attachments are counted.

d. Licensor may at any time competitively bid a field count or utilize for the field count any contractor that it has used for such work in a prior field count. Should Licensor decide in its sole discretion to use a previously-hired contractor, and if that contractor's rates per pole quoted for the current field count have increased from the contractor's previous rates by a percentage greater than the percentage of cost increase identified in the Handy Whitman Index, South Atlantic Region (FERC Account 364: Poles, Towers & Fixtures), then Licensor shall have the option of either utilizing that contractor and absorbing that amount of the contractor's charges that exceed the Handy Whitman Index percentage increase or selecting a contractor by competitive bid. Should Licensor elect to use the competitive bid process, it shall provide Licensee the opportunity to submit the names of potential contractors for consideration in the bidding process.

e. A field count of Licensee's Attachments will be performed at various times (normally on a four-year interval). If Licensor elects to conduct periodic field counts more frequently than on a four-year cycle, it shall bear the cost of such additional field counts. However, if any such count is for the purpose of settling a dispute or in connection with an assignment issue, Licensee shall pay for the cost of such count. The year of the first field count to be performed under this provision will be determined by Licensor but will occur during the first four (4) years after the effective date of this Agreement. For Contract Years for which no actual field count is performed, the number of Attachments will be determined by Licensor based on previous counts or existing records, including applications and maps furnished by Licensee. Upon the performance of an actual field count, adjustments will be made, if appropriate, to the attachment fee amounts for those Contract Years for which an actual field count was not performed. The undocumented attachments reflected in the actual field count shall be deemed

unauthorized attachments, and such adjustments will be made in accordance with Section 23.

f. As an alternative to performance of the actual field count described herein, the parties may use existing maps, geographic information systems ("GIS"), and/or Attachment records; provided, however, that such maps, GIS, or records exist and provided that each party agrees that results with reasonable accuracy can be achieved. The results of attachment counts performed in this alternative manner shall be treated, for Annual Fee purposes, as if they were determined by actual count.

22. Fee Payments

a. Attachment fees are payable in advance at the beginning of each Contract Year, upon receipt of an invoice. The annual fees to be billed on each such invoice shall be determined by multiplying the appropriate annual fee per-Attachment for that Contract Year as described in Section 20 above by the number of Attachments as determined by actual field count or by procedures described in Section 21 above.

b. For Attachments made during a Contract Year, Licensee shall pay the full per Attachment annual fee for that year, which amount shall be included on Licensee's annual attachment fee invoice for the following Contract year.

c. Payment of all invoice amounts (including annual attachment fees, transfer fees and any other amounts due under the Agreement) shall be due upon receipt of the invoice and those not paid within forty-five (45) days after receipt shall be subject to interest from its due date to date of payment at a rate equal to the highest prime rate quoted in the Money Rates Section of the Wall Street Journal on the 45th day from the date of the invoice, plus five percentage points (5%), or the maximum rate of interest allowed by law, whichever is less (the "Interest Rate"), for each month or portion thereof that the payment is late. If for any reason attachments for which fees are paid in advance hereunder cease to exist or cease to be the property of Licensee, no portion of said fee shall be refundable. No portion of any fee shall be prorated. Failure to pay fees, expenses or any other charges under this Agreement within forty-five (45) days after presentation of the invoice or on the specified payment date, whichever is later, shall constitute a default of this Agreement.

23. Unauthorized Attachments

a. Except for those attachments for which this Agreement expressly states Licensor's grant of access is not required, the attachment of any cable, wire, appliance, equipment or facility to any pole, equipment, or facility owned or controlled by Licensor, or the use of such attachment for the provision of services/capabilities, which is not authorized by the terms of this Agreement, shall be deemed an unauthorized attachment and shall constitute a default of this Agreement. Licensee acknowledges that Licensor may not reasonably ascertain the date or the year in which an unauthorized attachment may be made, and Licensee agrees that each such unauthorized attachment shall be presumed to have existed for a period of four (4) years prior to its discovery. This presumption may be rebutted by documentation establishing, to Licensor's reasonable satisfaction, the actual date of attachment. With respect to all such unauthorized attachments, within forty five (45) days of demand by Licensor, Licensee shall pay to Licensor in a lump sum, plus interest at the Interest Rate (as defined in Section 22.b.), applicable attachment fees retroactive to the presumed date of unauthorized attachment. In the event Licensee has a bona fide claim that one or more attachments are not unauthorized, Licensee shall pay the undisputed amount of retroactive attachment fees, plus interest at the Interest Rate, within the above 45 day period and shall within such period identify in writing the specific poles, including without limitation the location of same (where practicable) that are the subject of the dispute, and shall submit within such period its reasons as to why each attachment is not unauthorized. Within 45 days after the dispute is resolved and an invoice rendered, Licensee shall pay for the unauthorized attachments no longer in dispute the applicable attachment fees in lump sum, plus interest at the Interest Rate, retroactive to the presumed date of unauthorized attachment.

b. In addition to the retroactive Attachment fees specified in paragraph 23.a., Licensee shall pay as a penalty fee the amount of fifty dollars (\$50) per unauthorized attachment, whether discovered in a field count or otherwise. The parties agree that no unauthorized attachment penalties shall apply for the first 2% of any variance identified in a field count as measured against existing records.

c. No act or failure to act by Licensor with regard to unauthorized attachments shall constitute a ratification of such attachments. In addition to payment of amounts as specified in this paragraph, Licensee shall submit an application for attachment within 30 days of notification that the unauthorized attachment has been discovered.

24. Damage to Licensor's Facilities Caused by Licensee

In conducting its operations under this Agreement, Licensee shall avoid causing damage to facilities of Licensor or of other parties attached to poles, equipment, or any other facilities of Licensor, and Licensee hereby assumes full responsibility for all such damage caused by it or its contractors. Licensee shall make an immediate report to the Licensor or to the other party in the event that such damage occurs and the Licensee hereby agrees to reimburse the Licensor or other party for the expense of making repairs.

25. Responsibilities Associated with Licensee's Work on Poles of the Licensors

a. With respect to the installation of its Attachments to Licensors's distribution poles or other work undertaken by Licensee pursuant to this Agreement, Licensee shall be solely responsible for ensuring that all work is performed in accordance with the requirements of this Agreement, the NESC, and other applicable Codes and Laws. Licensors shall not exercise any control over the manner in which such work is performed. Licensee shall not cause or permit any person, other than a qualified and authorized worker who knows and appreciates the character of electricity and the danger of working in proximity to wires and other electric distribution facilities which are or may be energized with electricity at the various voltages used in supplying electricity for public use, to climb any pole, or to work upon any of Licensee's cable, wire, appliance, equipment or facility attached to any pole, equipment, or facility owned or controlled by Licensors; and, as to any such person as may be authorized or permitted by Licensee to climb any such pole or to perform any such work, it shall not be Licensors's responsibility to warn him of the danger involved in working or being close to Licensors's wires and facilities, nor to provide supervision over the work being done by such person at any time. Before any person performs any work for Licensee on or near any poles, equipment or facilities owned or occupied by Licensors, Licensee must adequately warn such person of the dangers inherent in making contact with the electrical conductors of Licensors and of failing to maintain the distance from such conductors required by the Codes and Laws. IN NO EVENT SHALL A LICENSEE REPRESENTATIVE CLIMB OR WORK ABOVE THE COMMUNICATION SPACE ON THE POLE.

b. Prior to its employees or contractors climbing or performing other work on any Licensors poles, Licensee shall determine for itself whether such pole is safe to climb or safe for the performance of other work on or near the pole. As set forth in paragraph 11.b. above, Licensors or its contractor may from time to time inspect poles to which Licensee is attached, and may place tags or other markings on such poles indicating the condition of the pole and/or whether the pole is safe to climb. LICENSEE SHALL INFORM ITS EMPLOYEES AND CONTRACTORS OF THE MEANING OF SUCH TAGS OR OTHER MARKINGS. Licensors's election to inspect any pole is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensors's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement. The placement of an inspection tag or other marking, or lack thereof, on a pole shall not relieve Licensee of its responsibility to determine for itself whether any particular pole is safe for climbing or other work.

26. Indemnification

a. The use of Licensors's distribution poles as provided for in this Agreement is not for the benefit of Licensors; rather, it is solely for the benefit of Licensee in carrying on its business of supplying the services authorized herein; and it is understood that the hazards of electricity transmitted at voltages necessary for public use over Licensors's facilities may be increased by the existence of any of Licensee's cables, wires, appliances, equipment or facilities which may be attached to Licensors's distribution poles, equipment, or facilities; and this Agreement is entered into with the explicit understanding that, except as set forth below, Licensee assumes sole responsibility and liability for all injuries and damages arising, or claimed to have arisen, by, through or as a result of any of its cables, wires, appliances, equipment or facilities (or of a third-party overlasher to Licensee's cables, wires, appliances, equipment or facilities) attached to Licensors's poles, equipment, or facilities, it being

understood, however, that Licensee shall have no liability for injuries and damages (a) caused by, through or as a result of the sole negligence of Licensor or its contractors; or (b) caused by, through or as a result of the willful or wanton misconduct of Licensor or its contractors; or (c) caused solely by, through or as a result of the facilities or activities of any third party (or parties) whose cables, wires, appliances, equipment or facilities are attached to the same poles as Licensee's cables, wires, appliances, equipment or facilities.

b. Accordingly, without limiting the effect of the provision of the immediately preceding paragraph, and except as set forth below, Licensee expressly agrees to indemnify, defend and save harmless Licensor and the Indemnified Parties from all third-party liability, claims, demands, actions, judgments, loss, costs and expenses (collectively, "Claims") arising or claimed to have arisen by, through or as a result of any of Licensee's cables, wires, appliances, equipment or facilities attached to Licensor's poles, equipment, or facilities, or as a result of the acts or omissions of any of the Licensee Entities, in respect to (a) damage to or loss of property (including but not limited to property of Licensor or Licensee); (b) injuries or death to persons (including but not limited to injury to or death of any Licensee Entities or members of the public); (c) any interference with the television or radio reception of, or with the transmission or receipt of telecommunications by, any person which may be occasioned by the installation or operation of Licensee's cables, wires, appliances, equipment or facilities; (d) the proximity of Licensee's cables, wires, appliances, equipment or facilities to the wires and other facilities of Licensor; (e) any claims upon Licensor for additional compensation for use of its distribution rights-of-way for an additional use; and (f) any injuries sustained and/or occupational diseases contracted by any of the Licensee Entities of such nature and arising under such circumstances as to create liability therefor by Licensee or Licensor under the Alabama Workers' Compensation Act and all amendments thereto, including also all claims and causes of actions of any character which any such employees, the employers of such employees, and all persons or concerns claiming by, under or through them or either of them may have or claim to have against Licensor resulting from or in any manner growing out of any such injuries sustained or occupational diseases contracted; it being understood, however, that Licensee shall have no liability for injuries and damages (a) caused by, through or as a result of the sole negligence of Licensor or its contractors; or (b) caused by, through or as a result of the willful or wanton misconduct of Licensor or its contractors; or (c) caused solely by, through or as a result of the facilities or activities of any third party (or parties) whose cables, wires, appliances, equipment or facilities are attached to the same poles as Licensee's cables, wires, appliances, equipment or facilities. In any matter in which Licensee shall be required to indemnify Licensor hereunder, Licensee shall control the defense of such matter in all respects, and Licensor may participate, at its sole cost, in such defense. Licensor shall not settle or compromise any matter in which Licensee is required to indemnify Licensor without the prior written consent of Licensee. Licensor shall seek indemnification from each attacher or joint user involved in causing any Claims against Licensor on a non-discriminatory basis.

c. Licensor expressly agrees to indemnify, defend and save harmless Licensee from all Claims (a) arising or claimed to have arisen by, through or as a result of the sole negligence of Licensor or its contractors, or (b) arising or claimed to have arisen by, through or as a result of the willful or wanton misconduct of Licensor or its contractors. In any matter in which Licensor shall be required to indemnify Licensee hereunder, Licensor shall control the defense of such matter in all respects, and Licensee may participate, at its sole cost, in such defense. Licensee shall not settle or compromise any matter in which Licensor is required

to indemnify Licensee without the prior written consent of Licensor.

27. Licensee's Insurance Requirements

a. Licensee shall obtain and maintain during the term of this Agreement, as long as Licensee's Attachments remain on Licensor's poles, and for a period of two (2) years after removal of Licensee's Attachments, insurance providing at a minimum the coverages and limits set forth in Exhibit C.

b. Licensee, by signing this Agreement waives, and will require its insurers to issue an endorsement to the above policy or policies to waive, all rights of subrogation against Licensor with respect to any claim or loss payable or paid under each of the above policies. Licensee shall cause its insurers to issue endorsements to add Licensor as an Additional Insured party on the policies set forth above, except for the workmen's compensation policy, arising out of the performance of operations or services by or on behalf of Licensee under this Agreement. The company or companies issuing such insurance shall be licensed to do business in the State of Alabama, acceptable to Licensor, and shall have an A.M. Best's rating of All or better (or equivalent).

c. Licensee's insurance shall be primary insurance with respect to activities and work related to this Agreement and insurance of Licensor shall be excess of Licensee's insurance and shall not contribute with it. To the extent that Licensee utilizes deductibles or self-insurance in connection with the insurance coverages required herein, all such deductibles and self-insured amounts shall be for the account and expense of Licensee and shall be considered the same as primary insurance and Licensor's insurance shall not contribute with same.

d. Licensee shall submit to Licensor certificates by each company insuring Licensee and Licensor signed by an authorized representative of such insurance company, certifying that the insurance coverages required hereunder are in effect for purposes of this Agreement, that the insurance policies cover Licensee's indemnity obligations in Section 26 of this Agreement, that Licensor is an additional insured party on each of the above-required policies, and that the right of subrogation against Licensor is waived with respect to the above policies. Such insurance certificates will certify that the insurer will not cancel, change, nor fail to renew any policy of insurance issued to Licensee except after thirty (30) days' written notice to Licensor. It is understood that the provisions requiring Licensee to carry insurance shall not be construed as in any manner waiving or restricting the liability of Licensee as to any obligations imposed under this Agreement or limit the liability of Licensee whether or not the same is covered by insurance.

e. Licensee, in its agreements with its contractors, shall incorporate all contractual requirements that are prescribed in this Section 27 or, alternatively, Licensee shall add such contractors to Licensee's policies of insurance to meet the coverage and minimum requirements of this Section 27. If contractors are required to obtain their own insurance coverage in compliance with the requirements of this paragraph, Licensee shall require the contractors to provide insurance certificates naming Licensor as an Additional Insured party. Should Licensee fail to require any one or more of its contractors to maintain such coverage and minimum requirements of this Section 27, and should such failure cause or contribute directly or indirectly to loss, damage or liability to Licensor, then Licensee shall, in accordance with the section hereof entitled "Indemnification", indemnify and hold harmless such person or entity.

f. Licensee and its contractors are absolutely prohibited from performing any work under this Agreement on or near any of Licensor's poles, including but not limited to removal of Attachments after termination of this Agreement, at any time during which Licensee does not have the insurance required by this Section 27.

28. Abandonment of Poles by Licensor

a. If Licensor desires at any time to abandon any distribution pole upon which an Attachment of Licensee is located, Licensor shall give Licensee notice in writing or electronically to that effect at least thirty (30) days prior to the date on which it intends to abandon such distribution pole. Licensor's prior written notice shall be given at least thirty (30) days after Licensee has received a 30-day notice to transfer or abandon certain poles. If at the expiration of such period, Licensor shall have no attachments on such pole but Licensee shall not have removed all of its Attachments therefrom, such distribution pole shall thereupon become the property of Licensee, and Licensee shall indemnify and save harmless Licensor and the Indemnified Parties from all obligation, liability, damage, costs, expenses, and charges incurred thereafter because of, or arising out of, the presence or condition of such pole or of any Attachments thereon; and shall in addition pay Licensor upon receipt of invoice a sum equal to the then value in place, as determined by the Licensor, of such abandoned distribution pole or poles, or such other equitable sum as may be agreed upon between the parties.

b. Nothing in paragraph 28.a. shall be construed to limit, in any way, Licensor's rights to require Licensee to remove its Attachments as set forth in paragraph 15.c.

29. Default of the Agreement

If Licensee shall fail to comply with any of the provisions of this Agreement, or shall default in any of its obligations under this Agreement, and shall fail to cure such default or non-compliance within thirty (30) days (or other such period as may be reasonably necessary in light of the nature of the default), after written notice from Licensor to correct such default or non-compliance, Licensor may, at its option, with an additional thirty (30) days written notice, terminate this Agreement covering the distribution poles as to which such default or non-compliance shall have occurred and remove such Attachments of Licensee at Licensee's expense, and no liability therefore shall be incurred by Licensor because of such action. In the event Licensee fails to meet its obligations under this Agreement, including but not limited to Licensee's payment, insurance, performance assurance and/or indemnification obligations, then, as an alternative to the foregoing, Licensor may, at its option, immediately terminate this Agreement without prior notice and/or forbid new attachments to any of its distribution poles by Licensee until such time as any failure to comply is corrected.

30. Waiver of Terms

Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect. No such failure or enforcement of any term or condition hereunder by either party shall be deemed to be a waiver unless the same is waived in

writing by the other party.

31. Rights of Other Parties

Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by Licensor, by contract or otherwise, to others, not parties to this Agreement, to use any distribution poles covered by this Agreement; and Licensor shall have the right to continue and extend such rights and privileges. The access privileges herein granted are non-exclusive and shall at all times be subject to such existing contracts and arrangements to the extent consistent with applicable law.

32. Assignment; Leasing; Overlapping

a. Under no circumstances shall Licensee assign or transfer the whole or any part of this Agreement without the prior consent in writing of Licensor. Unless Licensor gives express written consent to assignment or transfer, the original counterparty (Licensee) shall remain fully liable to Licensor under this Agreement. Licensee shall give prompt notice to Licensor of any intended assignment and with such notice shall submit substantiating documentation of such proposed assignment. Any assignment or transfer attempted without Licensor's prior written consent shall be null and void. Licensee's successor in interest must provide adequate proof, at least sixty days prior to the effective date of any proposed assignment or transfer, that it can fulfill the contractual obligations under this Agreement. Consent to assignment shall not be unreasonably withheld.

b. In the event Licensee sells or transfers any attachments subject to this Agreement, Licensee agrees to execute and provide to Licensor at least sixty (60) days prior to the sale, transfer, or assignment, Exhibit F hereto. If Licensor grants consent to any requested assignment, execution of Exhibit F shall not be required.

c. Under no circumstances shall Licensee sub-license its rights under this Agreement, or sub-license its Attachments made pursuant to this Agreement.

d. At least fifteen (15) days prior to any overlapping of Licensee's facilities, Licensee shall provide written notice to Licensor of its intent to overlap, along with sufficient information to allow Licensor to determine whether the proposed overlapping can be completed without overloading the pole or otherwise violating the Codes and Laws and Licensor's Specifications. If the proposed overlapping cannot be completed without make-ready work, Licensee shall not proceed with the proposed overlapping until such make-ready work is completed.

33. Reorganization; Buyout; Change of Name; Transfer of Assets

a. Licensee shall give written notice to Licensor within thirty (30) days of the effective date of any reorganization, buyout, sale or change of name of Licensee, or the purchase by Licensee of or merger with any other telecommunications carrier or cable television system. Such notice shall include, at a minimum, the name of the new company, the new contact information required in the "Notices" section of this Agreement, and the effective date of such transaction.

b. In the event Licensee sells some or all of its assets covered by this Agreement to another entity, Licensee shall remain liable for any and all obligations arising out of such Attachments until such time as the purchaser has executed a new pole license agreement with Licensor (unless Licensor has consented to an assignment of this Agreement) and provided to Licensor the proof of insurance and performance assurance required by Sections 27 and 37 of this Agreement.

34. No Ownership Rights of Licensee

No use, however extended, of Licensor's distribution poles under this Agreement shall create or vest in Licensee any ownership or property rights in said distribution poles, but Licensee's rights shall always be and remain a mere license. Nothing herein contained shall be construed to compel Licensor to maintain any of said distribution poles for a period longer than demanded by its own service requirements.

35. Term of the Agreement

This Agreement shall become effective upon the date stated above and shall continue in effect for an initial term of three (3) years. Upon completion of the initial term and unless earlier terminated as set forth herein, this Agreement shall continue in effect until terminated by either party, upon at least six (6) months' prior written notice to the other.

36. Removal of Attachments upon Termination

Upon termination by either party, Licensee shall remove all of its cables, wires, appliances, equipment and any other facilities from the poles, equipment, and facilities of Licensor within ninety (90) days of termination, unless the Parties agree to extend the time within which the facilities must be removed while they are in the process of negotiating a new agreement. If not so removed within the required time, Licensor shall have the right to remove them at the cost and expense of Licensee, in any manner Licensor chooses (including a "wreck out" of the system) and without any liability therefore. However, if this Agreement is terminated for any reason, the obligations of Licensee under this Agreement shall remain in full force and effect until such time as Licensee's cables, wires, appliances, equipment and facilities are removed from the poles, equipment, and facilities of Licensor.

37. Licensee's Performance Assurance Requirements

Licensee shall furnish a surety bond or a letter of credit ("Performance Assurance"), in a form reasonably acceptable to Licensor, to guarantee the payment of any sums which may become due to Licensor under any of the provisions of this Agreement including without limitation annual attachment fees; costs of transfers, inspections, maps, work order preparation/engineering/revision, curing non-compliance with Codes and Laws and Licensor's Specifications, removal of Attachments upon termination of this Agreement, periodic field counts, and other reimbursable costs incurred by Licensor. The list of items in the preceding sentence is not intended to be an exclusive list of the sums to be guaranteed by the Performance Assurance. The Performance Assurance shall be in the amount as specified in Exhibit D and shall

remain in effect throughout the term of this Agreement and thereafter as long as Licensee has Attachments on Licensors distribution poles or until such time as all outstanding obligations of Licensee under this Agreement are satisfied.

38. Entire Agreement

This Agreement supersedes all previous agreements, representations, and understandings between Licensor and Licensee for placement and maintenance of Attachments of Licensee on distribution poles of Licensor, and may not be modified except in writing upon the mutual agreement of both parties hereto, evidenced by the signature of an authorized representative of each party hereto. All Pre-existing Attachments shall be subject to the terms and conditions of this Agreement.

39. Unenforceable Provisions

Should any provision of this Agreement be held unenforceable or invalid by any court or agency of competent jurisdiction, Licensor and Licensee shall negotiate in good faith for replacement language, so long as the unenforceability of such provision is not being appealed by either party.

40. Cumulative Remedies

The remedies reserved to Licensor and Licensee in this Agreement are cumulative and shall be in addition to any other further remedies provided at law.

41. Limitation of Liability; Warranty Exclusion

a. Licensor shall not be liable for indirect, incidental, special, consequential or punitive damages of any kind, including without limitation lost profits, savings or revenues, and claims of customers. Licensee agrees that any claim brought against Licensee shall be subject to and covered by the insurance policy or policies Licensee acquires pursuant to its obligations to do so under this Agreement.

b. LICENSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE REGARDING THE CONDITION, SAFETY, OR ANY OTHER ASPECT OF ANY POLE OR ANY SERVICE MADE AVAILABLE TO LICENSEE UNDER THIS AGREEMENT.

42. No Publicity

Neither party shall publish or use any advertising, sales promotions, or other publicity materials that use the other party's logo, trademarks or service marks without the prior written approval of the other party. Nothing in this Agreement establishes a license for either party to use any of the other party's brands, marks or logos without the prior written approval of the other party.

43. Survival of Terms

The provisions, including (but without limitation) the indemnification, Performance Assurance and other security and insurance provisions, that by their

sense and context are intended to survive the completion of performance by either or both parties shall so survive such completion of performance. At a minimum, all such provisions of the Agreement will remain in effect so long as Attachments remain on Licensor's poles.

44. Governing Law and Venue

The execution, interpretation, construction, performance and enforcement of this Agreement and the rights and obligations of the parties shall be governed by Alabama law to the extent not superseded by federal law. Any disputes arising out of this Agreement shall be resolved in the state and federal courts of Alabama, the Alabama Public Service Commission or the Federal Communications Commission consistent with applicable law. Nothing in this paragraph, or any other part of the Agreement, shall be construed to vest jurisdiction or venue in the Federal Communications Commission where it otherwise does not exist.

45. Notices

a. All notices associated with the administration of the Agreement (including but not limited to insurance certificates, Performance Assurance and other financial security, requests to assign, notices of reorganization and abandonment) shall be in writing and shall be delivered in person or shall be sent by certified mail or Express Mail service, postage prepaid and return receipt requested, or by nationally utilized overnight delivery service, addressed to the parties as follows:

If to Licensor:

Alabama Power Company
600 N. 18th Street
P.O. Box 2641
Attention: Dwight Mullis
Birmingham, Alabama 35291-0757
Attn: Manager-Power Delivery Business Processes
(205) 257-4733 (phone)
dpmullis@southernco.com (email)

If to Licensee:

Redacted

With a copy at the same address to:

Redacted

Invoices to Licensee shall be sent to the following address:

Redacted

b. All notices associated with Operational, Engineering, or Construction matters, Electronic Notices, Applications to Attach and other notices in accordance with this Agreement and the Policies and Procedures shall be sent to each party's local offices or other designated locations. Any notice shall be deemed received when delivery is made to the above address or to any other address designated in writing and delivered to the other party in accordance with this provision.

46. No Third-Party Beneficiaries

This Agreement is for the benefit of the parties hereto, and not for the benefit of any third party. No provision of this Agreement should be construed to inure to the benefit of any third party, unless expressly stated herein.

47. Confidentiality

Licensee and Licensor agree to keep in strict confidence and prevent disclosure to others any Confidential Information without prior written consent of the other. "Confidential Information" is information furnished by one of the parties to, or developed under, this Agreement that is not generally known to the public. Such information is proprietary to and may take the form of documentation, drawings, specifications, technical or engineering data, business information, facilities location maps, and other forms, and may be communicated orally, in writing, by electronic or magnetic media, by visual observation, and by other means. Any question as to the confidential nature of information transferred from

one party to the other shall be addressed to an authorized representative of the other party for clarification. Licensee and Licensor agree to limit the disclosure of Confidential Information only to their employees who have a need to know in order to perform their jobs, and to advise those employees of their obligation with respect to the Confidential Information. Licensee and Licensor agree to ensure that any contractors used by the Licensee or Licensor will comply with this provision. Failure of any third party to comply with the confidentiality provision shall not negate the obligations hereunder with respect to any and all Confidential Information to which Licensee or Licensor has access. Nothing in this provision shall be interpreted to interfere or impede, in any way, with Licensor's reasonable and necessary communication with other attachers for the purposes of transferring attachments, correcting safety violations, performing make-ready work, or conducting routine or special maintenance.

48. Exhibit B

Except for the initial term of this Agreement, Licensor may revise Exhibit B from time to time, without the necessity of a formal amendment to the Contract, to reflect additions to, deletions from and other changes in Licensor's reimbursable activities and costs. Such revision shall become effective on the date it is submitted to Licensee's address designated in the "Notices" provision. The substitute Exhibit B shall, on its effective date automatically supersede all previous Exhibits B and shall become a part of this Agreement by reference.

49. Good Faith Negotiation

The parties acknowledge that the rates, terms and conditions set forth in this Agreement were agreed to voluntarily after good faith negotiations at arm's length and contain concessions, valuable consideration, benefits and burdens for and from both parties.

Witness:

Redacted

Redacted

Witness:



ALABAMA POWER COMPANY

Licensor

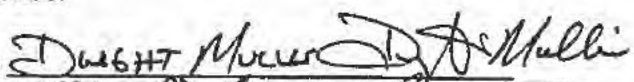
By: 
Title: MGR. AD BUSINESS PROCESSES
Its: _____

EXHIBIT A

ANNUAL ATTACHMENT FEES

The Annual Attachment Fee under the Pole License Agreement between Licensee, **Redacted** and Licensor, Alabama Power Company, shall be computed as follows:

1. For cable television attachments (which are not used to provide telecommunications services), the fee shall be computed using the FCC's Cable Formula, with the following clarifications and modifications:
 - a. accumulated depreciation for Accounts 364, 365, and 369 to be calculated using Licensor's gross to net ratio for total electric plant.
 - b. one-half of Licensor's investment in overhead grounds (booked in FERC Account 365) to be included in the per pole investment calculation; and
 - c. Accumulated Deferred Income Taxes to be treated as zero cost item in the cost of capital.

By way of example, the rate for cable television attachments (which are not used to provide telecommunications services) as calculated under this Exhibit A formula for the July 1, 2016 through June 30, 2017 billing period (based on year end 2015 data) is **Redacted**

2. For attachments by telecommunications carriers, or otherwise used to provide telecommunications services, the fee shall be computed using the FCC's Telecom Formula, with the following clarifications and modifications:
 - a. accumulated depreciation for Accounts 364, 365, and 369 to be calculated using Licensor's gross to net ratio for total electric plant.
 - b. one-half of Licensor's investment in overhead grounds (booked in FERC Account 365) to be included in the per pole investment calculation; and
 - c. Accumulated Deferred Income Taxes to be treated as zero cost item in the cost of capital.

By way of example, the rate for telecommunications attachments as calculated under this Exhibit A formula for the July 1, 2016 through June 30, 2017 billing period (based on year end 2015 data) is **Redacted**

PUBLIC VERSION

Exhibit A-1: Modified / Clarified Cable Rate Formula

$$\text{Annual Rate per Pole} = \frac{\text{Space Occupied}}{\text{Usable Space}} \times \frac{\text{Net Pole Investment}}{\text{Total Number of Poles}} \times \text{Carrying Charge Rate}$$

Where:

Space Occupied = 1 foot

Usable Space = 13.5 feet

And:

Net Pole Inv. = ((Gross Pole Inv. (Account 364) x .85) + Half Grounds in Acct. 365) x (Net Elec. Inv. / Gross Elec. Inv. (Acct. 101))

Where: Net Electric Investment = Gross Electric Inv. (Account 101) – Accumulated Elec. Plant Depreciation (Account 108)

Carrying Charge Rate = Administrative + Maintenance + Depreciation + Taxes + Return

Administrative = Total General and Administrative (Accts. 920-931, 935)

Element Gross Electric Plant Investment (Account 101) - Accumulated Electric Plant Depreciation (Account 108)

Maintenance = Account 593
Element Gross Inv. in Accts 364, 365, and 369 x (Net Elec. Inv. / Gross Elec. Inv. (Acct. 101))

Where: Net Electric Investment = Gross Electric Inv. (Account 101) – Accumulated Elec. Plant Depreciation (Account 108)

Depreciation Element = Dep. Rate for 364 x (Gross Elec. Investment / Net Elec. Investment)

Where: Net Electric Investment = Gross Elec. Inv. (Account 101) – Accumulated Elec. Plant Depreciation (Account 108)

Taxes = Acct. 408.1 + Acct. 409.1 + Acct. 410.1 + Acct. 411.4 - Acct. 411.1
Element Gross Total Plant Investment - Accumulated Total Plant Depreciation

Return = Applicable Rate of Return that encompasses the weighted return on equity component, as set by the Alabama PSC
Element

Exhibit A-2: Telecom Rate Formula

Annual Rate per Pole =	$\frac{\text{Space Occupied} + \left(\frac{2 \times \text{Unusable Space}}{3 \times \text{No. of Attaching Entities}} \right)}{\text{Pole Height}}$	X	$\frac{\text{Net Pole Inv.}}{\text{Total Poles}} \times$	Carrying Charge Rate
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Where:

Space Occupied = 1 foot

Unusable Space = 24 feet

Number of Attaching Entities = 2, 3, 4, or 5

Pole Height = 37.5 feet

And:

Net Pole Investment and Carrying Charge Rate are calculated as specified on Exhibit A-1 of this Agreement in the Modified / Clarified Cable Rate Formula.

For purposes of the Telecom Rate Formula only, Net Per Pole Investment shall be multiplied by 0.66, 0.56, 0.44, or 0.31 depending on the average number of attaching entities in the service area (5 = 0.66 multiplier, 4 = 0.56 multiplier, 3 = 0.44 multiplier, 2 = 0.31 multiplier)*

* This rate formula was adopted by applying the rate formula enumerated in the FCC's 2016 *Order on Reconsideration*. Licensor reserves the right to adjust the aforementioned formula in the event there is any subsequent change in the applicable law or regulations.

EXHIBIT B

COST SCHEDULE

During the process of applying for pole attachment authorization, and during the term of this Agreement, Licensee is required to reimburse Licensor's costs incurred in connection with Licensee's request to attach. These activities, and the amount of costs to be reimbursed, are shown below. These items and amounts are subject to change as provided in the Agreement.

Facilities Location Maps.....	\$25.00 for first sheet, \$5.00 for each copy of the first sheet
Pre-attachment inspection.....	Total APC Cost
Work order preparation/engineering for modifications of existing poles (including rearrangement of existing attachments) or new construction.....	Total APC Cost
Revised work order, if in excess of original (less amount previously paid).....	Total APC Cost
Post-attachment inspection.....	Total APC Cost
Transfers of Attachments.....	\$50.00
Curing Attachments' noncompliance with Codes and Laws.....	Total APC Cost
Special inspections.....	Total APC Cost
Periodic Field Counts.....	Total APC Cost

EXHIBIT C

INSURANCE SCHEDULE

Commercial general liability insurance on an Occurrence basis, the amounts of which shall be at least \$2,000,000 for each Occurrence, and \$2,000,000 for products-completed operations, except where Licensee has 1,500 or fewer Attachments on Licensee's poles, in which case Licensee shall carry at least \$1,000,000.

Business Automobile Liability insurance covering autos of Licensee, including owned, hired and non-owned automobiles, for Bodily Injury and Property Damage with a combined single limit of at least \$1,000,000 each Occurrence for any year in which Licensee has more than 7,500 attachments. For any year in which Licensee has 7,500 or fewer attachments, Licensee shall carry at least the amount of Business Automobile Liability insurance required by law.

Excess Liability Insurance in Umbrella, follow form coverage with a limit of at least \$8,000,000 each Occurrence for any year in which Licensee has more than 7,500 Attachments on Licensor's poles under this Agreement, or

Excess Liability Insurance in Umbrella, follow form coverage with a limit of at least \$3,000,000 each Occurrence for any year in which Licensee has 1,501 to 7,500 Attachments on Licensor's poles under this Agreement, or

Excess Liability Insurance in Umbrella, follow form coverage with per-Occurrence limits such that the aggregate amounts of insurance (primary + excess) equals not less than \$5,000,000 for any year in which Licensee has 1500 Attachments or less on Licensor's poles under this Agreement.

Workmen's Compensation Laws in statutory amounts, and Employers Liability coverage in an amount of at least one million dollars (\$1,000,000) combined single limit.

EXHIBIT D

PERFORMANCE ASSURANCE SCHEDULE

Number of Attachments		Rate	Cumulative Coverage Amount
From	To		Up to
1	3,000	\$100/Attachment	\$300,000
3,001	6,000	\$75/Attachment	\$525,000
6,001	25,000	\$50/Attachment	\$1,475,000
More than 25,000		\$25/Attachment	---

The minimum amount of coverage is \$50,000.

For the purpose of determining the amount of coverage required, the number of Attachments shall be the total number for which annual attachment fees were billed at the beginning of the current Contract Year. Maximum coverage is \$2,500,000.

EXHIBIT E

SPECIAL INSPECTIONS

If during the course of performing periodic inspections, or through any other means, Licensor finds a pattern of recurring violations (at least ten violations of Licensee's Attachments for every 100 Licensee Attachments inspected), Licensor shall have the right, but not the obligation, to perform a special inspection at the Licensee's expense. Licensor shall notify Licensee at least thirty (30) days in advance of performing the special inspection of the location, nature and number of violations. Licensee shall participate in the special inspection. The special inspection will be limited to the substation on which the violations are found and to no more than approximately 20% of the Licensee's system in a calendar year, provided Licensee's system exceeds 1,000 attachments, unless agreed upon otherwise. Special inspections will be performed by Licensor personnel or, if contracted to a third party, will be competitively bid every third year. Licensor shall provide Licensee written notice at least 30 days in advance of issuing requests for information in order that Licensee may provide suggestions for contractors to be included on bid lists for special inspection contracts. However, all contractors must meet Licensor's bidder qualification requirements to be included on the bid list. To be considered for an award of a contract, a bidder must be a responsible bidder and must submit a responsive bid. Nothing in this Exhibit or Section 11 shall require Licensor to deviate from its normal bid procedures, nor shall anything in this Exhibit or Section 11 prohibit Licensor from conducting any special inspections at its own expense.

EXHIBIT F

**AGREEMENT TO ASSUME
RIGHTS AND OBLIGATIONS OF POLE LICENSE AGREEMENT
(1 of 2)**

[NEW ENTITY] and [LICENSEE], Licensee to Pole License Agreement No. _____, have entered into an agreement whereby [NEW ENTITY] will assume ownership of the following pole attachments attached to Licensor's poles:

[IDENTIFY ATTACHMENTS AT ISSUE BY NUMBER AND LOCATION]

The above-identified attachments are currently governed by Pole License Agreement No. _____. [NEW ENTITY] is not currently a party to a pole license agreement with Alabama Power Company ("Licensor"). Licensee and [NEW ENTITY] recognize that Licensor has not consented to the assignment of Pole License Agreement No. _____.

In recognition of the above, [NEW ENTITY] agrees to be bound by all the terms of Pole License Agreement No. _____, as though it is an original counterparty to same, until such time as [NEW ENTITY] enters a new and independent Pole License Agreement with Licensor for the above-identified attachments. [NEW ENTITY] and Licensee expressly recognize and agree that should [NEW ENTITY] at any time fail to comply with the terms of Pole License Agreement No. _____ prior to entering into a new and independent Pole License Agreement with Licensor, Licensee shall remain fully liable under the terms of Pole License Agreement No. _____ with respect to the above-identified attachments.

[NEW ENTITY] agrees to provide a written copy of this Exhibit F, executed by representatives from both [NEW ENTITY] and [LICENSEE], to Licensor no less than sixty (60) days prior to assumption of ownership of the above-identified attachments. [NEW ENTITY] expressly agrees to provide all necessary contact information and documentation (including proof of insurance and performance bond) required by Pole License Agreement No. _____ to Licensor no less than fifteen (15) business days prior to assumption of ownership of the above-identified attachments. [NEW ENTITY] and Licensee recognize, understand and agree that [NEW ENTITY]'s failure to provide all necessary contact information and documentation to Licensor's satisfaction shall void this Exhibit F and render Licensee responsible for all obligations of Pole License Agreement No. _____ with respect to the above-identified attachments.

EXHIBIT F

AGREEMENT TO ASSUME
RIGHTS AND OBLIGATIONS OF POLE LICENSE AGREEMENT
(2 of 2)

[NEW ENTITY]

Name

Title

Signature

Date

Mailing Address and Phone Number

[LICENSEE]

Name

Title

Signature

Date

EXHIBIT 7

Agreement No. _____
Effective Date: _____

Pole License Agreement

by and between

and

ALABAMA POWER COMPANY

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POLE LICENSE AGREEMENT

THIS AGREEMENT, effective as of this ____ day of _____, 2017, is made by and between Alabama Power Company, ("Licensor"), and _____ ("Licensee").

WHEREAS, Licensee proposes to provide telecommunications, cable television, information service and/or other communication services ("Services") in the State of Alabama, and desires to attach and maintain cables, wires and associated equipment owned by Licensee for provision of such Services on Licensor's poles in accordance with the "Act" (as defined below); and

WHEREAS, Licensor is required by the Act, under certain circumstances, to provide mandatory access to its distribution poles to telecommunications carriers and cable television systems; and,

WHEREAS, to fulfill its obligations under the Act, Licensor will allow the installation of Licensee's Attachments (as defined below) on its distribution poles subject to the terms and conditions set forth herein.

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

1. Definitions

- i. The term "**Act**" means the Pole Attachment Act, 47 U.S.C. §224, as amended by Section 703 of the Telecommunications Act of 1996, and any future amendments thereto.
- ii. The term "**Affiliate**" means an entity that owns, is owned by, or is under common ownership with Licensor or Licensee.
- iii. The term "**Attachment**" means overhead cables, wires, and associated equipment or facilities of Licensee that are attached to distribution poles of Licensor in accordance with the terms and conditions of this Agreement. The term "Attachment" does not include, among other things, any wireless antenna and associated equipment, video surveillance equipment, or camera.
- iv. The term "**Codes and Laws**" refers collectively to all applicable terms and provisions of the current revision of the National Electrical Safety Code, any successor codes, and all applicable statutes, regulations, ordinances, rules or orders issued by any authority having jurisdiction over Licensor's distribution poles and attachments thereto, including without limitation rules and regulations promulgated by the Occupational Safety and Health Administration.
- v. The term "**Communications Space**" means the space on Licensor's poles above minimum ground clearance and below the Communication Worker's Safety Zone (as defined by the NESC) within which Licensee may place its Attachments.

- vi. The term “**Contract Year**” means each twelve-month period between July 1 and June 30 that this Agreement is in effect after the first Contract Year. The first Contract Year shall run from the effective date of the Agreement to the following June 30.
- vii. The term “**Drop Pole**” means a pole used to support Licensor’s service drop conductors.
- viii. The term “**Indemnified Parties**” refers to Licensor, its present and future affiliates, and its representatives, agents, officers and employees of each of them. For purposes of this Agreement, the term shall also include any contractor, electric utility or other entity authorized by Licensor to perform work on its poles on its behalf.
- ix. The term “**Licensee**” refers to the entity that has been granted access to Licensor’s poles under the terms of this Agreement.
- x. The term “**Licensee Entities**” refers to Licensee, its parent, Affiliates, contractors and subcontractors, and the representatives, agents, officers and employees of each of them.
- xi. The term “**Licensor**” refers to Alabama Power Company.
- xii. The term “**NESC**” refers to the current revision of the National Electrical Safety Code.
- xiii. The term “**Policies and Procedures**” shall refer to Licensor’s policies and procedures described in Section 13.
- xiv. The term “**Pre-existing Attachment**” refers to Attachments currently owned by Licensee that were installed on Licensor’s poles by Licensee or any other entity prior to the execution of this Agreement.
- xv. The term “**Post-attachment Inspection**” refers to an inspection by Licensor of Licensee’s installation of new Attachments, or modification of Attachments, that have otherwise been approved by Licensor in accordance with this Agreement.
- xvi. The term “**Service Drop**” refers to the overhead conductors between the Licensee’s existing Attachment and the building or structure being served by Licensee.
- xvii. The term “**Specifications**” refers to the specifications for Attachments provided to Licensee by Licensor.

2. Authorized Attachments

a. Licensor hereby grants to Licensee access rights to make Attachments to certain of Licensor’s distribution poles in accordance with the terms and conditions hereof and applicable law. Licensee shall provide written notification to Licensor within 30 days after the initial offering

of telecommunications services over any of its Attachments, whether directly or through an affiliate or through a third-party overlasher or lessee.

b. Attachment to Licensor's distribution poles may be made in accordance with the provisions of Sections 3 through 7 below. Under no circumstances is Licensee authorized to attach aerial conduit to Licensor's distribution poles. Licensee is expressly prohibited from placing any Attachment above the Communications Space and from placing any Attachment on transmission poles and facilities of Licensor. For purposes of this Agreement, a transmission pole is one on which an electric power line having voltage of 40kV or higher is attached, including all poles used as guy stub poles for 40kV or higher lines. If the electric line is less than 40kV, it is a distribution line.

c. All Attachments made by Licensee shall be made and maintained at Licensee's sole expense.

d. Licensee acknowledges that the requirements of this Agreement (other than the requirement of requesting to attach), including but not limited to the requirement that all Attachments comply with Codes and Laws and Specifications, shall govern Pre-existing Attachments. Pre-existing Attachments shall be maintained in accordance with the above requirements and specifications that were in effect at the time when the Attachment was made consistent with NESC 013.B.

e. Service Drops shall be installed in accordance with all Codes and Laws and Specifications.

3. Attachment Authorization Procedure

a. Licensee shall make application to Licensor before making or allowing to be made any Attachment or modifications to an Attachment, except in the case of routine maintenance or Service Drops as provided for in subsection (b). Under no circumstances shall Licensee attach any facilities to a distribution pole of Licensor unless Licensee has first: (i) contacted Licensor to obtain a copy of the Policies and Procedures; (ii) submitted an application and a service area map (see Section 6 below) to Licensor that adequately identifies the location of each specific pole to which Licensee intends to attach; (iii) submitted payment of applicable costs including applicable modification costs; and (iv) received authorization to attach from Licensor. Attachments not made in accordance with this Section 3 shall be unauthorized attachments.

b. Service Drops may be attached to service or Drop Poles without prior notification so long as all provision of the Codes and Laws and Specifications are met. All Service Drops attached to service or Drop Poles for which application is not made shall be accumulated by area and submitted monthly with location address to the same Licensor engineering office to which applications for that area are submitted. Licensee shall also submit an application for all such Service Drops along with the itemized listing of Service Drop Attachments.

c. After Licensee has provided the information required in a.(ii) above, Licensor shall make a field inspection of each distribution pole to which Licensee proposes to make its Attachments and shall determine whether modifications of any of Licensor's distribution poles (including without limitation rearrangements of facilities on existing poles) are required to

accommodate the proposed Attachments of Licensee in compliance with Codes and Laws and Specifications and the other requirements contained in this Agreement. Licensor reserves its statutory right under the Act to deny, on a non-discriminatory basis, any Attachment to its distribution poles to the extent allowed by 47 U.S.C. § 224(f)(2) and any applicable law. Any denial shall be in writing, stating the reasons for the denial and setting forth a process of appeal. Licensee reserves its statutory right to contest any denial of access pursuant to 47 U.S.C. § 224 and any applicable law.

d. Within sixty (60) days (unless agreed to otherwise by both parties) after Licensee has provided written notice of attachment or completion of modification, Licensor may perform a Post-attachment Inspection at Licensee's expense. Licensor's election to inspect Attachments is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensor's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement.

4. Attaching – Modifications Not Required

Following the pre-attachment inspection, Licensor will notify Licensee of the distribution pole lines to which Licensee's Attachments may be made without modifications. Upon payment of all costs identified in the Policies and Procedures, Licensor will notify Licensee that it may proceed with attaching its facilities to such distribution poles. Licensee shall be responsible for making its own Attachments and for performing its own guying and marking for its Attachments to Licensor's distribution poles. Licensee shall install its own anchors and its own guys; Licensee is strictly prohibited from using Licensor's anchors.

5. Attaching - Modifications Required

In cases where Licensee desires to make Attachments on any distribution poles in a pole line of Licensor which Licensor has determined require reasonable modifications to support Licensee's proposed Attachments, Licensor shall notify Licensee of the need for, the nature of, and the cost of such modifications necessary to support the proposed Attachments, as described in Licensor's Policies and Procedures. If the modifications require expanding the capacity of one or more distribution poles, Licensor will also notify Licensee whether Licensor agrees, in its sole discretion, to make the requested modification. Nothing in this Agreement shall in any way be construed as a waiver of Licensor's rights under 47 U.S.C. § 224 or applicable law to deny access for reasons of insufficient capacity, as well as safety, reliability or generally applicable engineering purposes or to deny modification on the grounds that such modifications constitute an expansion of capacity.

If Licensee does not wish to proceed with the modifications after receiving notice, then Licensee will pay Licensor the costs described in the Policies and Procedures. If Licensee does wish to make the proposed Attachments, it shall pay Licensor in advance the work order cost of Licensor to make the modifications. After Licensee has followed these procedures and made payment, Licensor shall make its modifications within a reasonable period of time. After the original work order cost is submitted by Licensor to Licensee, if there are any changes in scope of the work due to changes by Licensee or changes beyond Licensor's reasonable control, Licensor shall submit a revised work order cost to Licensee and Licensee shall pay the revised amount

before the modifications will be made. Costs to be paid by Licensee for modification work shall include, but not be limited to, all those incurred by Licensor in connection with transferring or rearranging facilities to accommodate the attachments of Licensee, including without limitation applicable taxes and overhead costs. Additionally, Licensee will pay the owner or owners of any other facilities attached to said distribution poles for any expense incurred by it or them in transferring or rearranging said facilities. Licensee shall not make Attachment(s) to any pole in the pole line until the necessary agreed-upon modifications to all those poles in the pole line have been completed.

6. Service Area Maps

Licensee is responsible for ensuring that Licensor is provided up-to-date service area maps for all Attachments. With respect to Pre-existing Attachments, Licensee shall provide Licensor with service area maps within 120 days of the date of this Agreement, or such other time period within which the parties mutually agree. In the event Licensee purchases or otherwise acquires the assets of another attacher which include attachments to Licensor's poles, Licensee shall, within sixty (60) days of such purchase, submit service area maps to Licensor. In addition, Licensee shall update such maps as necessary, but no less often than by July 1 of every fourth year.

Licensee shall submit facilities location maps with its applications to install Attachments, in accordance with the Policies and Procedures. Should Licensor provide the maps to Licensee, under the circumstances described in the Policies and Procedures, the amount to be paid by Licensee for the maps shall be as set forth in Exhibit B.

7. Marking of Attachments

Licensee shall mark or tag every Attachment in accordance with the Policies and Procedures and shall maintain marks and tags in readable condition. New attachments shall be marked or tagged at the time they are placed on the pole. All Pre-existing Attachments shall be marked or tagged within one-hundred and eighty (180) days of the date of this Agreement.

8. Coordination with Joint Use Attachments

a. Licensor is a party to joint use agreements with various telephone companies that own poles throughout its service area. Distribution poles used jointly by Licensor and any telephone company under one of the joint use agreements are referred to as "joint use distribution poles", on which each joint use party is allocated certain pole space. Under the joint use agreements the telephone company is allocated the exclusive use of certain space (usually two and one half feet), measured upward from the lowest point of attachment required to provide NESC and/or Alabama Department of Transportation minimum clearance above ground.

b. Licensee's Attachment shall be mounted above the uppermost existing communications cable and shall be separated by the space required by the NESC and Licensor's Specifications. At times there may not be sufficient usable space on a joint use distribution pole for Licensee to place its Attachments within the Communication Space but outside the space allocated exclusively for use by the telephone company. In no event shall Licensee place its Attachments within such allocated space on the joint use distribution pole without proper permission of the party which has been allocated the space. If such permission is granted to

Licensee by the telephone company, and at some later date the party to which the space is allocated needs to utilize the space occupied by Licensee's Attachment, Licensee either shall remove its Attachment or shall pay Licensor's cost to replace the pole or make other required modifications.

9. Coordination with Attachments of other Entities

Where Licensee desires to attach to a pole or poles already hosting attachments of other parties, it is essential that all parties communicate and coordinate (1) to maintain sound engineering practice and construction standards, and (2) for the fair allocation of costs. Corrections of existing safety violations and cost responsibility or sharing for any such corrections will be governed by Sections 5 and 10.

10. Compliance with Codes and Laws

Licensee shall be responsible for knowing and understanding the requirements of the Codes and Laws and the requirements of this Agreement, including (without limitation) the Specifications, and for ensuring that all such requirements are met throughout the term of this Agreement. Should there be any instance in which either the Codes and Laws or the Specifications is more stringent than the other, Licensee shall comply with the more stringent of the two to the extent consistent with Section 013.B of the NESC. Licensee shall periodically inspect its Attachments, including without limitation its guying and other facilities, to assure compliance with the requirements of the Codes and Laws and this Agreement. Licensee shall correct any safety violations that are caused by Licensee within thirty (30) days of Licensee receiving notice of such violations (or such longer period agreed to by Licensor), except for such violations creating a danger to persons or property, which must be corrected immediately upon discovery. Should Licensee fail to do so, Licensor may cure the non-compliance, and Licensee shall pay Licensor the costs of its doing so. To the extent that the cause of a violation cannot be established, then the cost of correcting the violation shall be shared by each attacher on the pole (including the Licensor and any joint user) whose facilities are involved in the violation at issue. Failure by Licensee to comply with the Codes and Laws and the requirements of this Agreement shall constitute a default of this Agreement.

11. Licensor's Right to Inspect

a. Licensor shall have the right, but shall not be obligated, to inspect each Attachment made by Licensee on its distribution poles subsequent to the date of this Agreement and to make periodic inspections of any of Licensee's Attachments for any reason, including (without limitation) identifying violations of the NESC or the Specifications and of any other generally applicable safety codes, and identifying unauthorized attachments, but not for any purpose of or reserved right of controlling the methods and manner of the performance of Licensee's business activities. Licensor's election to inspect Attachments is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensor's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement. Any costs Licensor incurs for periodic inspections shall be recovered under the annual attachment fees assessed under Sections 20 and 22. Licensee shall pay for special inspections in accordance with Exhibit E. Licensor's right to make periodic inspections and any other inspection made pursuant to such right