

under the name of
the pole rent.

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

November 23, 1990

IN REPLY REFER TO:

Diana J. Harter, Esq.
Southwestern Bell Telephone
1010 Pine Street
St. Louis, Missouri 63101

Dear Ms. Harter:

We have received your November 8, 1990, letter regarding Mr. Glist's questions on the treatment of rental expense in pole attachment rates.

In your letter you state that for pole attachment rates charged to cable television companies, Southwestern Bell includes the pole rental expense it pays to power companies in the numerator of the maintenance expense ratio established by the Commission in Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles, 2 FCC Rcd 4387 (1987). You contend that the basis for that procedure is our June 22, 1990, letter to Mr. Glist which states that Part 31 Account 602.1 is comparable to Part 32 Account 6411 and the attachment to that letter which shows that Part 31 Account 602.1 is converted to Part 32 Account 6411.

Moreover, your letter asserts that Mr. Glist desires Southwestern Bell to selectively return to the Part 31 accounting system for calculating a single maintenance expense ratio for pole attachment rates while ignoring the offsetting effect the change to Part 32 had on other pole attachment rate expense ratios, such as the administrative expense ratio.

We do not agree with Southwestern Bell's interpretation of our June 22, 1990, letter to Mr. Glist, as it relates to pole rental expense. We believe that this letter clearly states in the section entitled "Account 6411, Poles expense" that Account 6411 is comparable to Part 31 Account 602.1 if the benefit component and the rent component of the expense matrix are eliminated. Thus, it is our opinion that in computing the maintenance expense ratio you would not include in the numerator the amounts reported in Account 6411 columns (ad) benefits and (ae) rents.

We also do not believe that Mr. Glist's request ignores the offsetting effect the Part 32 change had on other pole attachment rate expense ratios. He does not object to including all telephone company rent expense in the numerator of the administrative expense ratio nor does his letter object to the inclusion of benefits in this ratio as our June 22, 1990, letter advised.

Should you have further questions concerning this matter, please contact me on (202) 634-1861.

Sincerely,



Kenneth P. Moran
Chief, Accounting and Audits Division

cc: Paul Glist, Esq.

file

COLE, RAYWID & BRAVERMAN

JOHN P. COLE, JR.
 ALAN RAYWID
 BURT A. BRAVERMAN
 ROBERT L. JAMES
 JOSEPH R. REIFER
 FRANCES J. CHETWYND
 MARGARET E. HAERING
 JOHN D. SEIVER
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 MAURITA K. COLEY
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 SUSAN WHELAN WESTFALL
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ATTORNEYS AT LAW
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 1919 PENNSYLVANIA AVENUE, N. W.
 WASHINGTON, D. C. 20006-3458
 (202) 659-9750

CRAIG S. MCCOY
 (1843-1878)

CABLE ADDRESS
 "CRAB"

TELECOPIER
 (202) 452-0067

June 24, 1991

* ADMITTED IN PENNSYLVANIA ONLY

Ms. Jan J. Curtis
 South Central Bell
 P. O. Box 771
 Birmingham, AL 35201

Re: Pole Attachment Rates

Dear Ms. Curtis:

Thank you for the information you provided with your letter of June 19, 1991. A signed confidentiality agreement is enclosed. There are several calculations with which I differ, but I will focus only on three matters of substance.

South Central Bell's calculations are, in summary:

Net Investment Per Bare Pole		\$163.04
Carrying Charges		
Maintenance	16.85%	
Depreciation	10.56%	
Administration	7.11%	
Taxes	7.68%	
Cost of Capital	<u>11.99%</u>	
	54.19%	
Use Ratio		x 54.19%
		<u>x 1/13.5</u>
		\$ 6.55

Our first area of difference is in the calculation of the maintenance component of the carrying charge. In the FCC's Accounting and Audits Division letter of June 22, 1990 to me (copy enclosed), Mr. Moran explained that only columns (ac) and (af) of the Account 6411 matrix under Part 32 may be included

Ms. Jan J. Curtis
 June 24, 1991
 Page 2

when computing pole rents. (The reason is that in the Part 31 to Part 32 conversion, pole rents paid by SCB to a power company may not be charged to cable.) In his November 23, 1990 letter to Southwestern Bell, he reiterates that (ad) and (ae) must be excluded.

South Central Bell's Annual Report to the Mississippi PSC shows the following breakdown:

<u>Matrix</u>	<u>Amount</u>
(ac) salaries	291,929
(ad) benefits	67,902
(ae) rents	6,532,065
(af) other	709,591
(ab) total	7,601,487

Thus, the chargeable amount of maintenance expenses are only 291,929 + 709,591. The computation becomes

$$\frac{1,001,520}{72,194,010.47 - 23,599,952 - 3,510,862} = 2.17\%$$

Our second area of difference is in the administrative component. The same A&A letters indicate that only a portion of the 13,515,371 account 6535 may be charged. Absent an appropriate Part 31 to Part 32 conversion, the proper computation would be

$$\frac{70,893,140}{2,321,480,485.51 - 903,001,393 - 230,485,063} = 5.96\%$$

Our third area of difference is in the cost of capital component. The FCC has ruled that when a range of return is specified by a PSC, the pole rents are set against the midpoint. Teleprompter Corp. v. Tampa Electric Co., PA 81-0041, Mimeo 6683 at ¶8 (Sep. 26, 1983) (attached). The PSC's 1990 order establishes a range of 10.74-11.74% return on average investment base (p.6). Thus, the cost of capital should be 11.24%.

Our calculations are, in summary:

Net Investment per Bare Pole	\$163.04
Carrying Charges	
Maintenance	2.17%

Ms. Jan J. Curtis
June 24, 1991
Page 3

Depreciation	10.56%	1
Administration	5.96%	
Taxes	7.68%	
Cost of Capital	<u>11.24%</u>	
	37.61%	x37.61%

Use Ratio x1/13.5
\$ 4.54

On behalf of VACC Midwest and the Mississippi Cable Television Association, I am requesting that South Central Bell voluntarily reform its pole attachment rates to \$4.54. Please let me know your decision within the next fifteen days.

Sincerely yours,


Paul Glist

Enclosures

cc: Fred McCallum (w/o enclosures)
Frances Permenter (w/o enclosures)
Suzy Hensley (w/o enclosures)
Madlyn Bloom (w/o enclosures)



South Central Bell

P.O. Box 771
Birmingham, Alabama 35201

August 22, 1991

Mr. Paul Glist
Cole, Raywid & Braverman
Second Floor
1919 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-3458

RE: Pole Attachment Agreement Between UACC Midwest d/b/a United Artists Cable MS G.C. and South Central Bell

Dear Paul:

We have completed our review of your June 24, 1991 letter concerning pole attachment rates for UACC Midwest. As we are all aware, the introduction of the Part 32 accounting rules has caused some confusion and disagreement regarding calculation of the pole attachment rates for cable TV companies. In calculating these rates, South Central Bell ("SCB" or the "Company") substituted the Part 32 accounts that it believes to be comparable to the former Part 31 accounts. Each component included in the current calculation covers costs associated with providing pole space to cable TV companies. Likewise, the Company has received no direction from the Federal Communications Commission ("FCC") that the calculation is improper.

The FCC accounting changes caused joint use rentals to be accounted for in the maintenance component rather than the administrative component of the carrying charge. Joint use rentals represent a portion of the total expense SCB incurs in providing pole space to cable TV companies. Thus, those costs are appropriately recovered in the pole attachment rates. Absent FCC direction to SCB to exclude these costs from the calculation, the Company will continue to include them as a legitimate cost of service.

We are not certain what portion of account 6535 you believe should be excluded from the calculation of the administrative component. Nevertheless, each of the components of the engineering account are legitimate expenses of providing service and, therefore, are recoverable in the pole attachment rates. Likewise, absent direction from the FCC, the Company is not inclined to modify the calculation as you suggest.

We agree with your analysis of the calculation of the cost of capital component. For purposes of calculating cable TV pole attachment rates, we agree that the proper cost of capital is the midpoint of the range specified by the Public Service Commission. Therefore, we have revised the calculation and have enclosed updated material reflecting this change. We do not believe, however, that a modification of the \$6.55 rate is required. In calculating rates for this year, SCB used the tax component from last year because current numbers were not available at that time. Inclusion of the updated tax numbers in the calculation would more than offset the \$.09 difference occasioned by the change in the cost of capital component.

In summary, the exclusion from the calculation of any component that is an actual cost of providing pole space to cable TV companies is not appropriate. To do so would require the Company to pass that cost on to another customer. If you wish to discuss this matter further, please call me at (205) 321-4740.

Best regards.

Very truly yours,

A handwritten signature in cursive script that reads "Jan Curtis".

Jan J. Curtis
Attorney

MISSISSIPPI
DEVELOPMENT OF ANNUAL CHARGE FACTORS FOR
POLE LINES USING FCC METHODOLOGY
FORM M YEAR END DECEMBER 31, 1990

NET FACTOR

(A) MAINTENANCE (6411)

Exhibit A, Paragraph C, Ln. 4 / Net Pole Investment =
(See Note 1.)
Maintenance / Net Pole Investment =
7601487.00 / 45123196.00 = 0.1685

(B) TAXES (NORMALIZED)

Exhibit C, Paragraph C, Ln. 4 / Net Plant Investment =
(See Note 2.)
Taxes Normalized / Net Plant Investment =
91183247.00 / 1187994030.00 = 0.0768

(C) DEPRECIATION

Exhibit B, Paragraph A, Ln. 4 x (Exhibit A,
Paragraph A, Ln. 4 / Net Pole Investment) =
Depreciation Rate x (Gross Pole Investment /
Net Pole Investment) =
0.066 x (72194010.00 / 45123196.00) = 0.1056
0.066 x 1.59993

(D) ADMINISTRATION (6710 + 6720 + 6535)

Exhibit D, Paragraph C, Ln.4 / Net Plant Investment =
Administration / Net Plant Investment =
84408511.00 / 1187994030.00 = 0.0711

(E) COST OF CAPITAL 0.1124

TOTAL ANNUAL CHARGE FACTOR = (A + B + C + D + E) = 0.5344

NOTE 1: Net Pole Investment =
Gross Pole Investment - Accumulated Depreciation for Poles -
Accumulated Deferred Income Taxes for Poles
Exhibit A, Paragraph A, Ln. 4 - Exhibit B, Paragraph B,
Ln. 4 - Exhibit C, Paragraph B, Ln. 4
72194010.00 - 23559952.00 - 3510862.00 = 45123196.00

NOTE 2: Net Plant Investment =
Gross Investment - Accumulated Depreciation - Accumulated
Deferred Income Taxes
Exhibit A, Paragraph B, Ln. 4 - Exhibit B, Paragraph C,
Ln. 4 - Exhibit C, Paragraph A, Ln. 4
2321480486.00 - 903001393.00 - 230485063.00 = 1187994030.00

1990 CATV POLE RENTAL RATES
SOUTH CENTRAL BELL

REVISED

8-15-91

MISSISSIPPI

(Net Book Investment X Bare Pole) / Number of Poles = Bare Pole Cost
Factor In Service

(\$45,123,196 X .95) / 262,687 = \$163.19

Bare Pole X Usage X Annual Cost = Rental Rate
Cost Factor

\$163.19 X (1 / 13.5) X .5344 = \$6.46



South Central Bell

P.O. Box 811
Jackson, Mississippi 39205

March 5, 1991

United Artists Entertainment Company
Attention: Madalyn Bloom
5619 DTC Parkway
Englewood, CO 80111

Dear Madam:

Enclosed is an executed copy of the document listed below:

Amendment No. 1 to the License Agreement for Pole Attachments
between UACC Midwest, Inc. d/b/a United Artists Cable
Mississippi Gulf Coast and South Central Bell Telephone
Company in Biloxi and Ocean Springs, Mississippi to include
Vancleave, Mississippi.

If you have any questions please call me at 601-961-2737.

Sincerely,

Karex D. McBride

for Henry Christy
Staff Manager-OSPE

Enclosures

HRC/kdm

Amendment No. 1

Effective 03-01-91

This Agreement amends the License Agreement for Pole Attachment, dated June 14, 1990 between South Central Bell Telephone Company, a corporation organized and existing under the laws of the State of Georgia, having its principal office in the city of Birmingham, Alabama, hereinafter called Licensor, and UACC Midwest, Inc. d/b/a United Artists Cable Mississippi Gulf Coast, hereinafter called Licensee.

Whereas, by License Agreement for Pole Attachments dated June 14, 1990, Licensor agreed to permit to the extent it may lawfully do so, the placement of cables, equipment and facilities on Licensor's poles where reasonably available in the town of Biloxi and Ocean Springs, Mississippi where such use will not interfere with Licensor's service requirements, or the use of Licensor's facilities by others.

Now therefore, Licensee desires and Licensor agrees to extend the limits of coverage of said License Agreement to include Vancleave, Mississippi as shown on the attached map.

This agreement modifies and amends the aforementioned License Agreement only so above stated, and when executed by both parties, will be attached to and made a part thereof.

Executed this 25th day of February, 1991.

LICENSEE
UACC Midwest Inc. d/b/a
United Artists Cable MS G.C.
(Name of Licensee)

LICENSOR
SOUTH CENTRAL BELL TELEPHONE COMPANY

By [Signature]

By [Signature]

Title Vice President

Title General Mgr.-Ntwk. Provisioning

Date 2-15-91

Date 2-25-91

ATTEST:

file
SCB7CO
Contract
File



South Central Bell

P.O. Box 811
Jackson, MS 39205

RECEIVED

JUL 26 1990

U. A. CABLESYSTEMS
BILOXI, MISS.

July 19, 1990

Madalyn Bloom
Corporate Paralegal
c/o United Artists Entertainment Company
2930 East Third Avenue
Denver, Colorado 80206

RE: License Agreement for Pole Attachments and Amendment Number 2
- Biloxi and Ocean Springs, Mississippi

Dear Ms. Bloom:

As requested in your letter of June 12, 1990, a fully executed copy of the above referenced documents is being forwarded for your file. I am also enclosing a copy of the letter that transmitted an original of the executed documents to the Biloxi, Mississippi office.

I regret the delay in forwarding your copies. If you have any questions, please contact me at 601-961-2737.

Yours truly,


Henry Christy
Staff Manager-OSPE

Attachments

HRC/kdm

MAILED

JUN 18 1990

Km

✓

June 15, 1990

United Artists Cablesystems Corporation -
Midwest, Inc. (UACC)
d/b/a United Artists Cable Mississippi Gulf Coast
Attention: John Humphries
Post Office Box 227
Biloxi, Mississippi 39533

To Whom It May Concern:

The fully executed Amendment No. 2 to the existing License Agreement for Pole Attachments and the License Agreement for Pole Attachments in Biloxi and Ocean Springs, Mississippi effective July 1, 1990 is being forwarded for your file.

If you have any questions, please contact me at 601-961-2737. Thank you for your cooperation in this undertaking.

Yours truly,



Henry Christy
Staff Manager-OSPE

Attachment(s)

HRC/kdm

August 6, 1970 (09-11-70)

**LICENSE AGREEMENT
FOR
POLE ATTACHMENTS**

THIS AGREEMENT made this 14th day of June, 1970, between SOUTH CENTRAL BELL TELEPHONE COMPANY, a corporation organized and existing under the laws of the State of Georgia, having its principal office in the City of Birmingham, Alabama, hereinafter called Licensor, and UACC Midwest, Inc. d/b/a United Artists Cable Mississippi Gulf Coast hereinafter called Licensee.

WITNESSETH:

WHEREAS, Licensee now proposes to furnish certain communications services in Biloxi and Ocean Springs, Mississippi as shown on the map attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Licensee will need to place and maintain aerial cables, equipment and facilities within the area described above and desires to place such cables, equipment and facilities on poles of Licensor; and

WHEREAS, Licensor is willing to permit, to the extent it may lawfully do so, the placement of said cables, equipment and facilities on Licensor's poles where reasonably available and where such use will not interfere with Licensor's service requirements, or the use of Licensor's facilities by others.

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

ARTICLE I

DEFINITIONS

As used in this Agreement:

Licensor's "poles" mean poles owned by Licensor.

"Anchor" means an anchor owned by Licensor which is a device to reinforce the pole to which it is attached by a guy wire.

The term "joint-use arrangement" shall be construed to mean an arrangement whereby each party to an agreement owns poles and have agreed that the other party has the right to attach to and occupy space upon the poles owned by it.

ARTICLE II

SCOPE OF AGREEMENT

(a) Subject to the provisions of this Agreement, the Licensor will issue to the Licensee, for any lawful communications purpose, revocable, nonexclusive licenses authorizing the attachment of Licensee's cables, equipment and facilities to Licensor's poles and anchors within the areas shown on Exhibit A attached hereto, or described above.

(b) No use, however extended, of Licensor's poles and anchors or payment of any fees or charges required under this Agreement shall create or vest in Licensee any ownership or property rights in said poles and anchors, but Licensee's rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel Licensor to construct, retain, extend, place or maintain any facilities not needed for its own service requirements.

(c) It is recognized by the Licensee that the Licensor has heretofore entered into, or may in the future enter into, agreements and arrangements with others not parties to this Agreement regarding the poles and anchors covered by this Agreement. Nothing herein contained shall be construed as a limitation, restriction or prohibition against Licensor with respect to such other agreements and arrangements.

(d) The rights of the Licensee shall at all times be subject to any present or future joint-use arrangement between Licensor and any other party regarding use of the facilities covered herein.

ARTICLE III

FEES AND CHARGES

(a) The Licensee shall pay to Licensor the fees and charges as specified in and in accordance with the terms and conditions of APPENDIX 1-P, attached hereto and made part hereof.

(b) Nonpayment of any amount due under this Agreement shall constitute default of this Agreement.

(c) Licensee shall furnish bond or other satisfactory evidence of security in such amount as Licensor from time to time may require, in an initial amount of \$5,000.00, but not exceeding \$5,000.00, to guarantee the payment of any sums which may become due to Licensor for fees due hereunder or charges for work performed for the benefit of Licensee under this Agreement, including the removal of Licensee's facilities upon termination of this Agreement by any of its provision or upon termination of any license issued hereunder. This bond requirement may be waived in writing by Licensor.

(d) On July 1, 1990, and at the end of every one (1) year period thereafter, the fees and charges specified in APPENDIX 1-P may be adjusted at the request of Licensor or Licensee after notice made in

writing to the other party not later than sixty (60) days before July 1, 1990, or the end of any subsequent one (1) year period thereafter. If agreement is not reached as to fees and charges within sixty (60) days after notification of the desire of either party to adjust fees and charges, either party may thereafter terminate this Agreement, which termination shall be effective upon six (6) months' written notice to the other party. Unless specifically rejected in writing, within (60) days, such adjusted rates and changes shall be deemed accepted.

(e) Changes or amendments to APPENDIX 1-P shall be affected by the separate execution of APPENDIX 1-P as so modified. The separately executed APPENDIX 1-P shall become a part of and be governed by the terms and conditions of this Agreement.

ARTICLE IV

SPECIFICATIONS

(a) Licensee's cables, equipment and facilities shall be placed and maintained at Licensee's expense in accordance with the requirements and specifications of APPENDIX 2-P attached hereto and made a part hereof. Unless different standards are specified herein, the provisions of the National Electrical Safety Code (6th edition), and any amendments thereto or replacements thereof, shall be applicable.

(b) Changes or amendments to APPENDIX 2-P shall be effected by the separate execution of APPENDIX 2-P as so modified. The separately APPENDIX 2-P shall become a part of and be governed by the terms and conditions of this Agreement.

(c) Failure to comply with this Article or APPENDIX 2-P to this Agreement shall constitute a default of this Agreement.

ARTICLE V

LEGAL AUTHORITY

(a) Licensee shall submit to Licensor satisfactory evidence of lawful authority to place, maintain and operate its facilities within public streets, highways, and other thoroughfares and shall secure any necessary permits and consents from Federal, State, County and Municipal authorities and from the owners of property to construct, maintain and operate facilities at the locations of poles and anchors of Licensor which it uses. Licensee shall indemnify and reimburse Licensor for all loss and expense which results from claims of governmental bodies, owners of property or others that Licensee has not a sufficient right of authority for placing and maintaining Licensee's facilities on Licensor's poles.

(b) The parties hereto shall at all times observe and comply with, and the provisions of this Agreement are subject to all laws, ordinances and regulations which in any manner affect the rights and

obligations of the parties hereto under this Agreement, so long as such laws, ordinances or regulations remain in effect.

ARTICLE VI

ISSUANCE OF LICENSES

(a) Before Licensee shall have a right to attach to any pole or anchor of Licensor, Licensee shall make application for and receive a revocable, nonexclusive license therefore in the form of Exhibit B, hereto attached and made a part hereof.

(b) Any license granted hereunder for attachment to Licensor's poles or anchors shall terminate without further notice to Licensee as to individual poles or anchors covered by the license to which Licensee has not attached within sixty (60) days from the date that Licensor has notified Licensee that such poles or anchors are available for attachment of the operating facilities of Licensee.

ARTICLE VII

POLE REPLACEMENTS AND REARRANGEMENTS

(a) Licensor reserves the right to refuse to grant a license for the attachment to its poles or anchors when Licensor determines, in its judgment, that the communication space on such pole is required for its exclusive use or that the pole or anchor may not reasonably be rearranged or replaced.

(b) In the event Licensor, in its judgment, determines that any pole or anchors of Licensor to which Licensee desires to make attachments is inadequate or otherwise needs arrangement of the existing facilities thereon to support or accommodate the additional facilities of Licensee in accordance with the specifications set forth in APPENDIX 2-P, Licensor will indicate on the application (Exhibit B) the changes necessary to provide adequate pole or anchor space and the estimated cost thereof to Licensee and return it to Licensee. If Licensee desires that such changes be made and returns the application marked to so indicate, Licensor will make such changes, including the replacement of inadequate poles or anchors, and Licensee shall pay Licensor in accordance with the terms of APPENDIX 1-P. Licensee shall also reimburse the owner or owners of other facilities attached to said poles or anchors for any expense incurred by it or them in transferring or rearranging said facilities to accommodate Licensee's attachments. Licensee shall not be entitled to reimbursement of any amounts paid to Licensor for pole or anchor replacements or for the rearrangement of facilities on Licensor's poles or anchors by reason of the use of any of the pole or anchor space so acquired by Licensor or other authorized user.

(c) Should Licensor, another utility, governmental body or other entity, with whom it then has a joint-use agreement, need for its own service requirements the space occupied by Licensee's attachments on

any of Licensor's poles or anchors, Licensee will be notified that it shall either surrender its license for that pole or anchor; and, at its own expense, vacate the space by removing its attachments, or it shall authorize Licensor to replace the poles or anchors at the expense of Licensee, in the same manner as stated in the preceding Paragraph (b) covering the replacement or rearrangement of poles or anchors when required to accommodate Licensee's attachments, or, if Licensor advises Licensee that Licensee's desired attachments can be accommodated on present poles or anchors of Licensor by rearranging Licensor's facilities thereon, Licensee shall authorize Licensor to make such arrangements. Licensee shall also reimburse the owner or owners of other facilities attached to said poles or anchors for any expense incurred by it or them in transferring or rearranging said facilities to accommodate Licensee's attachments. Any strengthening or stepping poles will be provided at the expense of Licensee in accordance with the specifications in APPENDIX 2-P.

(d) When multiple applications, including application of Licensee, are received by the Licensor with respect to any pole or anchor which must be replaced or rearranged to provide additional space, prior to commencement of the work on that pole or anchor, Licensor will endeavor to prorate to the extent that it is practical between Licensee and the other applicants for pole or anchor space, the common expenses of engineering, rearrangement and replacement, if any, which result from the processing of multiple applications. Licensee shall be bound by Licensor's determination as to any such proration of costs to Licensee.

(e) Whenever it is necessary for Licensor to make pole or anchor replacements or rearrangements in order to accommodate Licensee's cable, equipment and facilities, Licensor will endeavor to perform or have performed such work after issuance of the license to, and acceptance of responsibility for cost by, Licensee in the form of Exhibit B, as soon as is practicable upon consideration of Licensor's service requirements.

ARTICLE VIII

CONSTRUCTION AND MAINTENANCE OF FACILITIES

(a) Licensee shall, at its own expense, make and maintain its pole and anchor attachments in a safe condition and in thorough repair, and in a manner acceptable to Licensor, and so as not to conflict with the use of said poles and anchors, or interfere with other facilities thereon or which may from time to time be placed thereon. Licensee shall, at its own expense, upon five (5) days' notice from Licensor, relocate or replace its facilities placed on said poles or anchors, or transfer them to substituted poles or anchors, or perform any other work in connection with said facilities that may be required by Licensor; provided, however, that in cases of emergency, Licensor may arrange to relocate or replace the attachments placed on said poles or anchors by Licensee, transfer them to substituted poles or anchors or perform any other work in connection with said facilities that may be required in the

maintenance, replacement, removal or relocation of said poles or anchors or of the facilities thereon or which may be placed thereon or for the service needs of Licensor and Licensee shall reimburse Licensor for the expense thereby incurred.

ARTICLE IX

TERMINATION OF LICENSES

(a) Upon notice from Licensor to Licensee that the use of any pole or anchor is not authorized by Federal, State, County or Municipal authorities or private property owners, the license covering the use of such pole or anchor shall immediately terminate and shall be surrendered and Licensee shall remove its cables, equipment and facilities at once from the affected pole or poles, anchors at Licensee's expense.

(b) Licensee may at any time remove its facilities from any pole or anchor of Licensor, but shall immediately give Licensor written notice of such removal and surrender of License in the form of Exhibit C, hereto attached and made a part hereof. If Licensee surrenders its license pursuant to the provisions of this Article, but fails to remove its facilities from Licensor's poles or anchors within thirty (30) days thereafter, Licensor shall have the right to remove Licensee's facilities at Licensee's expense and without any liability on the part of Licensor for damage or injury to Licensee's facilities. In the event that Licensee's cables, equipment and facilities shall be removed from any pole or anchor as provided by this Article, no attachment shall again be made to such pole or anchor unless Licensee shall have first complied with all of the provisions of this Agreement as though no such attachment had previously been made.

ARTICLE X

INSPECTION OF LICENSEE'S INSTALLATIONS

(a) Licensor reserves the right to make periodic inspections of any part of the cable, equipment and facilities of Licensee on its poles or anchors and in the vicinity of such Licensor's poles, anchors, cable, equipment and facilities; and Licensee shall reimburse Licensor for the expense of such inspections. Inspections will not be made more often than once a year and upon notice to Licensee unless, in Licensor's judgement, such inspections are required for reasons involving safety or are required because of a violation of the terms of this Agreement by Licensee. The charge for the inspection shall be in accordance with the terms and conditions of APPENDIX 1-P. The making of such inspections or the failure to do so shall not operate to relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

(b) If any cable, equipment or facilities of Licensee shall be found on a pole or anchor for which no license is outstanding,

Licensors, without prejudice to its other rights or remedies under this Agreement or otherwise, may (1) impose a charge, and (2) require Licensee to remove such cable, equipment or facilities forthwith or Licensors may remove them without liability and the expense of removal shall be bore by Licensee. For the purpose of determining the charge, absent satisfactory evidence to the contrary, the unlicensed use shall be treated as having existed for a period of two (2) years prior to its discovery or for the period beginning with the date of this Agreement, whichever period shall be the shorter; and the fee, at the appropriate rate as shown in APPENDIX 1-P, for each year and for any portion of a year contained in such period, shall be due and payable forthwith. Any such fee imposed by Licensors shall be in addition to its rights to any other sums due and payable and to any claims or damages under this Agreement or otherwise. No act or failure to act by Licensors with regard to said fee or said unlicensed use shall be deemed as a ratification or the licensing of the unlicensed use, and if any license in the form of Exhibit B should subsequently be issued, after application therefore, said license shall not operate retroactively or constitute a waiver by Licensors of any of its rights or privileges under this Agreement or otherwise.

ARTICLE XI

LIABILITY AND DAMAGES

(a) Licensors reserves to itself, its successors and assigns, the right to maintain its poles and anchors and to operate its facilities thereon in such manner as will best enable it to fulfill its own service requirements. Licensors shall not be liable to Licensee for any interruption of service of Licensee or for interference with the operation of the cables, equipment and facilities of Licensee arising in any manner, except from Licensors's sole negligence, out of the use of Licensors's poles and anchors.

(b) Licensee shall exercise special precautions to avoid damaging the cables, equipment and facilities of Licensors and of others occupying Licensors's poles and anchors and Licensee hereby assumes all responsibility for any and all loss for such damage. Licensee shall make an immediate report to Licensors of the occurrence of any such damage and hereby agree to reimburse the respective owners for the expense incurred in making repairs.

(c) Licensee shall indemnify, protect and save harmless Licensors from and against any and all claims demands and damages to property and injury to or death of persons, including payments made under any Workmen's Compensation Law or under any plan for employees' disability and death benefits, which may arise out of or be caused by the erection, maintenance, presence, use or removal of Licensee's cable, equipment and facilities or by the proximity of the cables, equipment and facilities of the Licensee to those of Licensors or its other Licensees, or by any act of Licensee on or in the vicinity of Licensors's poles and anchors, or Licensee's breach of any part of this Agreement, regardless of whether or not any such damage to property or injury to or death of person results from Licensee's

negligence. Licensee shall also indemnify, protect and save harmless Licensor from any and all claims and demands of whatever kind which arise directly or indirectly from the operation of Licensee's facilities including taxes, special charges by others, claims and demands for damages or loss for infringement of copyright, for libel and slander, for unauthorized use of material, and from and against all claims and demands for infringement of patents with respect to the manufacture, use and operation of Licensee's equipment whether arising for the use of Licensee's equipment in combination with Licensor's poles, anchors or otherwise.

(d) Licensee shall carry insurance to protect the parties hereto as named insured from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly, from or by reason of any loss, injury or damage described in (c) above. The amounts of such insurance against liability due to damage to property shall be no less than Two Hundred and Fifty Thousand Dollars (\$250,000.00) as to any one accident and Two Hundred and Fifty Thousand Dollars (\$250,000.00) aggregate and against liability due to injury to or death or persons no less than a Two Hundred and Fifty Thousand Dollars (\$250,000.00) as to any one person and Five Hundred Thousand Dollars (\$500,000.00) as to any one (1) accident. Licensee shall also carry such insurance as will protect it from all claims under any Workmen's Compensation Laws in effect that may be applicable to it. All insurance required shall remain in force for the entire life of this Agreement and the company or companies issuing such insurance shall be approved by Licensor. The taking out of such insurance shall not relieve or limit Licensee from its liability to Licensor under this Agreement but shall only be added security. Licensee shall submit to Licensor certificates by each company insuring Licensee to the effect that it has insured Licensee for liability of Licensee under this Agreement and that it will not cancel or change any policy of insurance issued to Licensee except after thirty (30) days' notice to Licensor.

ARTICLE XII

LICENSE NOT EXCLUSIVE

Nothing herein contained shall be construed as a grant of any exclusive license, right or privilege to Licensee. Licensor shall have the right to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any poles or anchors covered by this Agreement.

ARTICLE XIII

ASSIGNMENT OF RIGHTS

(a) Licensee shall not assign or transfer the privileges contained in this Agreement without the prior consent in writing of Licensor. The assignment or transfer by Licensee of such privileges

without written consent of Licensor, shall constitute a default of Licensee's obligation and, notwithstanding any other provisions of this Agreement, Licensor may at its option forthwith terminate this Agreement or any license issued hereunder. Where control of Licensee is transferred, whether by sale of stock or otherwise, Licensee shall promptly notify Licensor in writing. Failure of Licensee to give such notice shall be cause for termination of this Agreement, at the option of Licensor, as provided hereinabove in this paragraph.

(b) Subject to the provisions of paragraph (a) hereof, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

ARTICLE XIV

WAIVER OF TERMS AND CONDITIONS

Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement or failure to give notice to declare this Agreement or any licenses granted hereunder terminated shall not constitute a general waiver or relinquishment of any such terms, conditions or acts but the same shall be and remain at all times in full force and effect.

ARTICLE XV

TERMINATION OF AGREEMENT

(a) If Licensee shall fail to comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement and shall fail within thirty (30) days after written notice from Licensor to correct such default or noncompliance, Licensor may, at its option, forthwith terminate this Agreement and all licenses granted hereunder, or the licenses covering the poles or anchors as to which such default or noncompliance shall have occurred.

(b) In addition, the Licensor shall have the right to terminate this entire Agreement, or individual licenses granted hereunder, without notice:

(1) If the Licensee facilities are maintained or use in violation of any law or in aid of any unlawful act or undertaking; or

(2) If any permit or other authorization which may be required be any governmental authority, or from any property owner, for the operation or maintenance of Licensee's cables, equipment and facilities on Licensor's poles or anchors is revoked, denied, or not granted before the date when possession of such permit or authorization becomes a condition of continued operations; or

(3) If Licensee defaults under ARTICLE IV.

(c) If the insurance carrier shall at any time notify Licensor that the policy or policies of insurance, as provide under ARTICLE XI hereof, will be cancelled or changed so that the requirements of ARTICLE XI will no longer be satisfied, then this Agreement shall cease and terminate upon the effective date of such notification.

ARTICLE XVI

TERM OF AGREEMENT

This Agreement shall become effective upon its execution and if not terminated in accordance with the provisions in ARTICLES IV or XV shall continue in effect for a term of not less than three (3) years. Either party may terminate this Agreement at the end of the said term by GIVING to the other party written notice of an intention to terminate the Agreement at least six (6) months prior to the end of the said term; but, upon failure to give such notice, this Agreement shall continue in force upon the same terms and conditions for a further term of one (1) year, and for one (1) year periods thereafter, until terminated by either party at the end of any current term by giving to the other party written notice an intention so to terminate the Agreement at least six (6) months prior to the end of such term. Upon termination of the Agreement in accordance with any of its terms, all outstanding licenses shall terminate and shall be surrendered and Licensee shall immediately remove its cables, equipment and facilities from all poles and anchors of Licensor. If not so removed, Licensor shall have the right to remove Licensee's cable, equipment and facilities at the cost and expense of Licensee and without any liability therefore.

ARTICLE XVII

NOTICES

Notices under this Agreement may be given by posting the same in first class mail to the Licensee as follows:

Name UACC Midwest, Inc. d/b/a United Artists Cable
Mississippi Gulf Coast Attn: General Manager
Address Post Office Box 10
City, State and Zip Code Biloxi, Mississippi 39533

and to the Licensor as follows:

Operations Manager-Network Provisioning
South Central Bell Telephone Company
Address CRB Building
City, State and Zip Code Biloxi, Mississippi 39530

ARTICLE XVIII

The Agreement supersedes all previous Agreements, including, but not limited to the one dated N/A, whether written or oral, between Licensee and Licensor for placement and maintenance of aerial cables, equipment and facilities by Licensee within the area shown by Exhibit A or otherwise described above; and there are no other provisions, terms or conditions to this Agreement except as expressed herein. All currently effective licenses heretofore granted pursuant to such previous agreements shall be subject to the terms and conditions of this Agreement.

Exhibit D, entitled "Conflict of Interest", and the applicable provisions in Exhibit E, entitled "Nondiscrimination Compliance Agreement", shall form a part of this contract and any amendments thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first above written.

UACC Midwest, Inc. d/b/a
United Artists Cable
Mississippi Gulf Coast
(Name of Licensee)

SOUTH CENTRAL BELL
TELEPHONE COMPANY

By 
as 6/13/90
Sr. Vice President

By 
as General Mgr-Ntwk. Provisioning

Attest:


Asst. Secretary

LICENSEE

LICENSOR

APPLICATION FOR POLE LICENSE

City and State _____
Date _____

Operations Manager-Network Provisioning
South Central Bell Telephone Company
Street Address CRB Building
City, State and Zip Code Biloxi, Mississippi 39530

In accordance with the terms and conditions of the License Agreement between us, dated _____, 19 ____, application is hereby made for a license to make attachments to the following poles and anchors:

<u>Pole No.</u>	<u>Location</u>	<u>Attachment</u>
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(Name of Licensee)

By _____
Title _____

¹Application shall be submitted in duplicate

²The designation of each pole shall be given by the pole number on the application.

³A complete description of all facilities shall be given, including quantities, sizes and types of all cables and equipment