

windstream

WIRELESS ATTACHMENT POLE ATTACHMENT LICENSE AGREEMENT

BY AND BETWEEN

WINDSTREAM KENTUCKY EAST, L.L.C

AND

FIBER TECHNOLOGIES NETWORKS, L.L.C.

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ATTACHED AND INCORPORATED EXHIBITS

EXHIBIT A - DEFINITIONS

EXHIBIT B - FORM APPLICATION FOR POLE LICENSE

EXHIBIT C - NOTIFICATION OF SURRENDER OF LICENSE

EXHIBIT D - SCHEDULE OF RATES, FEES AND CHARGES

EXHIBIT E - NOTICE CONTACTS AND ADDRESSES

1. PARTIES.

This Wireless Pole Attachment License Agreement ("Agreement") is entered into as of the date last signed by all the parties ("Effective Date") by and between, Windstream Kentucky East, LLC, a company organized and existing under the State of KY ("Licensor"), and Fiber Technologies Networks, L.L.C., a limited liability company organized and existing under the State of NY ("Licensee"). Licensor and Licensee may sometimes be referred to in this Agreement individually as a "party" and collectively as the "parties".

2. SCOPE.

A. The purpose of this Agreement is to set forth the rates, terms, conditions, and procedures under which the Licensor will provide Licensee access to Licensor's Poles (as defined herein) in the State of Kentucky for the purpose of Licensee attaching wireless facilities.

B. The parties acknowledge that Licensor is entering into this Agreement because Licensee has represented it is a regulated "telecommunications carrier" or "cable television system" provider as such terms are defined in the Communications Act of 1934, as amended (hereinafter the "Communications Act") and desires to provide telecommunications service or cable service ("Services"), as defined in the Communications Act; and that Licensee is authorized to provide these Services under its franchise or other lawful authority within its service area where Licensor owns Poles. In the event Licensee no longer has the status as a "telecommunications carrier" or "cable television system" provider or the authority to offer these Services in the state where the Poles are located, Licensor shall have the right to immediately terminate this Agreement and require Licensee to remove all of its facilities from Licensor's Poles. As a condition precedent to entering into this Agreement, Licensee shall submit to Licensor a copy of its certification evidencing its status as either a regulated telecommunication carrier or cable television system provider, and until such documentation is provided to Licensor, Licensor shall not be obligated to enter into this Agreement.

C. Subject to the provisions of this Agreement, Licensor will issue to Licensee for any lawful communications purpose, revocable, nonexclusive Licenses authorizing the placement of Licensee's Attachment to Licensor's Poles.

D. No use, however extended, of Licensor's Poles nor payment of any fees or charges required under this Agreement or License issued under this Agreement shall create or vest in Licensee any ownership or property rights in said Poles, 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, unless otherwise required by law. Nothing contained in this Agreement or in any License issued hereunder shall in any way affect, restrict or impair the right of Licensor to convey, transfer, mortgage, or assign to any other person or entity any interest in real or personal property, including any Poles in which Licensee has attached or placed Licensee's Attachments pursuant to Licenses issued under this or other license agreements, provided that any successor in interest shall be bound by the terms of this Agreement.

E. Licensee recognizes that Licensor has entered into, or may in the future enter into, agreements and arrangements with others which are not a party to this Agreement regarding the Poles covered by this Agreement. Nothing herein contained shall be construed as a limitation, restriction or prohibition against Licensor with respect to such other agreements or arrangements. The rights of Licensee shall at all times

be subject to any present or future joint use or joint ownership arrangement between Licensor and any other party.

F. This Agreement does NOT create any right for Licensee to access or place facilities in Licensor central offices, conduit or to place wireline communication equipment on Poles. A separate agreement is required for any access to Licensor facilities other than those outlined in this Agreement.

3. DEFINITIONS.

Certain capitalized terms used in this Agreement are listed in and have the meaning as set forth in Exhibit A. Exhibit A is incorporated and made a part of this Agreement by reference.

4. TERM AND TERMINATION OF AGREEMENT

A. This Agreement shall become effective upon the Effective Date and if not terminated in accordance with the provisions of this Agreement, shall continue in effect for a term of ten (10) years ("Initial Term") and shall continue on a year –to – year basis. Notwithstanding the foregoing, any time after the Initial Term and anytime thereafter the rates, fees and charges set forth may be increased or decreased by written notice from Licensor to Licensee.

B. Either Party may terminate this Agreement after the Initial Term with at least six (6) months' written notice to the other party. Licensor may terminate this Agreement in the event of default as set forth under Article 20 of this Agreement.

C. Upon termination of the Agreement in accordance with any of its terms, all outstanding Licenses in connection therewith shall terminate and shall be surrendered and Licensee shall immediately, and at its sole expense remove all Attachments located on Poles within sixty (60) days of date of termination or within such other mutually agreeable timeframe.

5. TERMINATION OF LICENSES

A. In addition to other termination rights set forth in this Agreement, upon notice from Licensor to Licensee that Licensor has 1) been advised by a governmental authority or private property owners that the use of any Poles is not authorized and is objected to by such governmental authority or private property owner and all reasonable appeals have been exhausted; or 2), that any Pole(s) is to be removed, sold or otherwise disposed of, Licensee shall, immediately remove its cables, equipment, and facilities at once from the affected Poles or shall make arrangements for the removal of its cable, equipment, and facilities from the affected portion of Licensor's Poles at Licensee's sole expense. If not so removed within sixty (60) days or such timeframe as stated on the Notice, Licensor shall have the right to remove Licensee's Attachments from Licensor's Poles at the cost and expense of Licensee and without any liability thereto.

B. Licensee may at any time remove its Attachments from any Poles of Licensor, but shall immediately give Licensor written notice of such removal and surrender of License in the form of a Notification of Surrender attached hereto as Exhibit C and incorporated by reference and made a part of this Agreement. If Licensee surrenders its License but fails to remove its Attachments from Licensor's Poles, Licensor shall have the right but not the obligation to remove Licensee's Attachments at Licensee's

expense without any liability on the part of Licensor for damage or injury to Licensee's Attachments or interruption to Services. Licensee's obligations with regard to maintenance and fees continue until Attachments are removed from the Poles. In the event that Licensee's Attachments shall be removed from any Poles as provided by this Agreement, no Attachment shall again be made to such Poles unless Licensee shall have first complied with all of the provisions of this Agreement as though no Attachment had previously been made.

6. RATES, FEES AND CHARGES.

A. All rates, charges and fees set forth in this Agreement and those shown in Exhibit D (Schedule of Rates, Fees, and Charges) shall be subject to and calculated in accordance with applicable law, rules regulations and commission orders, and Licensor may in its sole discretion revise the rates, charges and fees as set forth in Exhibit D upon 30 day written notice to Licensee. Exhibit D is incorporated and made a part of this Agreement by reference. The fees, rates and charges set forth in Exhibit D or elsewhere in this Agreement are effective during the term of this Agreement and subject to change as set forth herein.

B. Pole Attachment Fee. For the purpose of computing the annual Pole Attachment Fee due under this Agreement the Pole Attachment Fee shall be based each year upon the number of Poles where Licensor has issued a License as of the date of annual billing multiplied by the Attachment Rate set forth on Exhibit D, as may be modified by Licensor from time to time. If Licensee is a regulated cable system provider which begins to offer telecommunication Services, Licensee must notify Licensor within thirty (30) days of the change in use if it shall begin to use any attachment for telecommunication Services and Licensor may adjust the Attachment Rate and Pole Attachment Fee as appropriate consistent with the applicable FCC formula for telecommunication providers.

C. All charges for inspections, engineering, replacement or rearrangements of Licensee's Attachments from Licensor's Poles and, without limitation, any other work performed for Licensee shall be based upon the full cost and expense, including reasonable overhead, incurred by Licensor or its representative for performing such work for Licensee to include without limitation costs to transfer or moving of Licensor facilities and removal of old Poles. The cost to Licensee shall be determined in accordance with the regular and customary methods used by Licensor in determining such costs.

D. All other Attachment related inquiry, verification, application, administrative and miscellaneous rates, fees and charges shall be calculated and paid in accordance with Exhibit D and the terms of this Agreement.

E. Upon termination or surrender of a License granted hereunder, no refund of any Pole Attachment Fees shall be made and Licensee shall remain liable for all fees and charges set forth in this Agreement until Licensee has removed its Attachments.

7. PAYMENT, SECURITY BOND AND LIEN.

A. All bills for such other charges for work performed by Licensor and the fees set forth in the Agreement shall be payable upon presentment to Licensee, and shall be deemed delinquent if not paid within thirty (30) days after the date of the invoice.

B. BOND. LICENSEE SHALL FURNISH A BOND OR OTHER SECURITY, AND KEEP IN PLACE DURING THE TERM OF THIS AGREEMENT, REASONABLY SATISFACTORY TO LICENSOR, IN AN AMOUNT EQUAL TO TWO (2) YEARS OF POLE ATTACHMENT FEES OR A MINIMUM OF \$10,000, TO GUARANTEE THE PERFORMANCE OF LICENSEE OBLIGATIONS INCLUDING PAYMENT OF ANY SUCH SUMS (INCLUDING UNAUTHORIZED ATTACHMENT CHARGES AND LIQUIDATED DAMAGES) WHICH MAY BECOME DUE TO LICENSOR ARISING OUT OF THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO RENT, 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 PROVISIONS OR UPON TERMINATION OF ANY LICENSE ISSUED HEREBUNDER. SUCH BOND SHALL INCLUDE THAT LICENSOR RECEIVE 30 DAYS PRIOR NOTICE OF CANCELLATION. CANCELLATION OF A BOND SHALL BE AN EVENT OF DEFAULT BY LICENSEE. UPON SIGNING THIS AGREEMENT AND PRIOR TO ISSUANCE OF A LICENSE, LICENSEE SHALL FURNISH THE BOND TO BE SENT TO PERSON IDENTIFIED IN EXHIBIT E. LICENSOR MAY IN ITS SOLE DISCRETION CHANGE THE BOND AMOUNT OR CANCELLATION NOTICE REQUIREMENT FROM TIME TO TIME UPON AT LEAST THIRTY (30) DAY WRITTEN NOTICE TO LICENSEE. LICENSOR SHALL NOT BE OBLIGATED TO ISSUE ANY LICENSE HEREBUNDER UNTIL LICENSEE HAS PROVIDED THE BOND AS SET FORTH HEREIN.

C. Lien. Should Licensor under the terms and conditions of this Agreement and due to Licensee's failure to do so after receiving appropriate notice, remove Licensee's Attachments from Licensor's Poles, Licensor will deliver to Licensee the cable, equipment or facilities so removed upon payment by Licensee of the cost of removal, storage and delivery, and all other amounts due Licensor hereunder. Licensor is hereby given a lien on Licensee's cable, equipment or facilities attached to Licensor's Poles or removed therefrom, with power of public or private sale, to cover any amounts due Licensor under the provisions of this Agreement with respect to removal. Such liens shall not operate to prevent Licensor from pursuing, at its option, any other remedy in law, equity or otherwise, including any other remedy provided for in this Agreement.

8. ATTACHMENT REQUEST AND LICENSE PROCESS

A. Before Licensee shall have a right to place Attachments to any Poles of Licensor, Licensee shall make application for and receive a revocable, nonexclusive License which shall be in the form of a Licensor countersigned Application for Pole License (Exhibit B). Each Exhibit B Application for Pole License shall contain no more than twenty-five (25) Poles. Licensor will process Applications for Pole Licenses in the order in which they are received; provided, however, that when Licensee has multiple Applications for Pole Licenses on file with Licensor, Licensee may designate its desired priority of completion with respect to all such Application for Pole Licenses. Licensee shall not under any circumstances attach any equipment to any guy wires or anchors owned by Licensor.

B. Application For Pole License and Engineering Survey. Licensee shall submit an Application for Pole License in the form of Exhibit B and shall include a drawing of the proposed installation, equipment specifications, the pole detail and contact information (name, telephone, facsimile, and email information). Licensee is responsible for determining, in accordance with requirements of the National Electric Safety Code, if the existing Licensor's facilities will support the additional loading imposed by the Licensee's attachments. Upon receipt of a complete Application for Pole License, Licensor will conduct an engineering survey to determine whether and where Licensee's Attachment is feasible, and

what Make Ready Work is required by Licensor or other existing attachers to accommodate Licensee's Attachment. Within forty-five (45) days of receipt of Licensee's application, Licensor shall inform Licensee of its estimated make-ready charges for Licensor Make Ready Work ("Make Ready Estimate"). If during this process, Licensor determines the request cannot be approved based on insufficient capacity or for reasons of safety, reliability and generally applicable engineering purpose Licensor shall inform Licensee that the Application for Pole License is denied together with the reason, and Licensee may consider possible alternatives and revise and resubmit the Application for Pole License for approval. All expenses incurred by Licensor in reviewing Licensee's Application for Pole License shall be borne by Licensee even if such request is denied by Licensor. If Licensor does not complete its survey work within forty-five (45) days, Licensee shall have the option to utilize contractors to complete the surveys.

C. Advance Payment of Make Ready Work Estimate. If Licensee upon review of the Make Ready Estimate desires to proceed with the process to obtain a License from Licensor, Licensee shall submit payment in the amount of the Make Ready Estimate together with the Application Fee and engineering survey costs to Licensor within fourteen (14) days of receipt of the Make Ready Estimate and invoice for such amounts. Licensee shall be solely responsible for paying all charges incurred in transferring or rearranging existing attacher facilities to accommodate the placement of Licensee's Attachment on, within or in Licensor's Poles. In the event, Licensee declines to proceed with the project Licensee shall reimburse Licensor any costs and expenses incurred by Licensor to date including but not limited to Application Fee, engineering and administrative expenses and costs.

D. Completion of Make Ready Work and Issuance of License. Licensor shall undertake to complete any Make Ready Work of its owned facilities upon receipt of Licensee's payment of the Make Ready Estimate. Make Ready Work shall be completed within sixty (60) days or, if power space must be accessed, within ninety (90) days of receipt of payment. Upon completion of all Make Ready Work and receipt of all fees and charges due from Licensee to Licensor, Licensor shall issue Licensee an approved License which shall be in the form of a Licensor countersigned Application for Pole License. At that time Licensee will be considered to have been granted a License with respect to the Poles approved in the License and may attach to Licensor's Poles in accordance with the terms and conditions of this Agreement. If Licensor does not complete the Make Ready Work within the aforementioned timeframes, Licensee shall have the option to utilize utility-approved contractors to complete said work.

E. Licensee shall maintain a copy of all Application for Pole Licenses and approved Licenses. Licensor may provide upon request copies of the same to the extent available and Licensee shall reimburse Licensor for its costs in preparing and sending requested copies.

9. AUTHORITY FOR PLACEMENT OF ATTACHMENT

A. Before any placement of Attachments by Licensee, regardless of whether a License may have been issued, Licensee represents and warrants that it has the authority to maintain Attachments within public rights-of-way, or on private rights-of-way or on private property, and shall upon request provide a copy of documentation evidencing such right to Licensor. Licensee shall be solely responsible for obtaining all licenses, easements, authorizations, permits and consents from federal, state and local authorities or private land owners that may be required to place and maintain Attachments on Licensor's Poles.

B. Licensor and Licensee agree that neither party has the right to restrict or interfere with the other party's lawful access to and use of public right-of-way, including public right-of-way, which pass over property owned by either party. Except as otherwise specifically provided in this Agreement, Licensor

and Licensee shall each be responsible for obtaining their own right-of-way and permission to use real or personal property owned or controlled by any governmental body or private entity or person.

C. Licensor may, without incurring any liability, remove Attachments of Licensee from Licensor's Poles, at Licensee's sole expense where in Licensor's sole judgment such removal constitutes an emergency and such removal is required in connection with the performance of Licensor's service obligation or the safety of Licensor's employees. Whenever such emergency removal has occurred, Licensor shall use commercially reasonable efforts to notify Licensee as expeditiously as possible following such removal. If the situation does not, in Licensor's reasonable judgment, constitute an emergency, Licensor shall provide written notice to Licensee and a mutually agreeable remediation timeline will be determined.

10. CONSTRUCTION AND MAINTENANCE

A. Licensee's Attachments shall be placed and maintained in accordance with the following:

1. any and all reasonable Licensor requirements and specifications of Licensor provided to Licensee in writing and with reasonable advance notice, and
2. the terms and conditions of this Agreement, and ,
3. the National Electric Safety Code (most recent edition), and
4. the National Electric Code (most recent edition), and
5. OET Bulletin 65 "Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields" as published by the FCC, and
6. in compliance with any other rules or orders now in effect or that may hereafter be issued by any state utility commission or other authority (state, federal, local) having jurisdiction over including but not limited to Poles, rights-of-way, and Hazardous Materials.

Each of Section 10(A)(1-6) is incorporated by reference and made a part of this Agreement, and in the event of a conflict or difference between any of these specifications and requirements, the more stringent will apply. Licensee agrees to rearrange its Attachments, within a commercially reasonable timeframe, in accordance with changes in the standards referenced herein in this Section 10(A) of this Agreement, or if required by law.

B. Licensee shall, at its own expense, make and maintain its Attachments and use Licensor Poles 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 by Licensor or by other authorized users of said Poles, or interfere with other facilities thereon or which may from time to time be placed thereon. Licensee shall, at its sole expense, upon written notice from Licensor, relocate or replace its Attachments placed on said Poles or transfer them to substituted Poles that may be authorized by Licensor, or perform any other work in connection with said Attachments that may be required. Licensor shall give such written notice as is reasonable in the circumstances, provided, however, that in cases of emergency, as determined by Licensor in its sole discretion, Licensor may arrange to relocate, remove or replace Licensee Attachments placed on said Poles, transfer such Attachments to substituted Poles or perform any other work in connection with said Attachments that may be required in the maintenance, replacement, removal or relocation of said Poles or Licensor or existing attacher 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.

C. Licensee shall be responsible at all times for the condition of Licensee's Attachments and its compliance with the requirements, specifications, rules, regulations, ordinances and laws specified in this Agreement. Licensor shall have no duty to Licensee to inspect, monitor or maintain the condition of Licensee's Attachments located on Licensor's Poles. Licensor may make periodic or spot inspections at any time of any part of Licensee's Attachments as Licensor determines reasonable or necessary in its sole judgment, pursuant to Section 16 of this Agreement.

D. Licensee shall not authorize any person or entity acting on Licensee's behalf ("Licensee Contractor") to perform any work on Licensor's Poles without first verifying, to the extent practicable, on each date when such work is to be performed that the condition of the Poles is suitable for the work to be performed. If Licensee or Licensee Contractor determines that the condition of the Poles is not suitable for the work to be performed, Licensee shall notify Licensor of the condition of the Poles in question and shall not proceed with construction activities until Licensee is satisfied that the work can be safely performed.

E. Licensee shall be solely responsible for paying all persons and entities that provide materials, labor, access to real or personal property, or other goods or services in connection with the construction and placement of Licensee's Attachments and for directing the activities of all Licensee Contractors while they are physically present on, within or in the vicinity of Licensor's Poles. Licensee shall not permit any mechanic's lien, material man's lien, or any other lien, claim or security interest to attach to or encumber any of Licensor's real or personal property at any time.

F. Licensee's Attachments shall be tagged so as to identify Licensee as the owner of the Attachment. The tags shall be of sufficient size and lettering so as to be easily read from ground level.

11. INTERFERENCE

A. Licensee shall install, operate and maintain its Attachments in compliance with all applicable requirements of the Federal Communications Commission ("FCC"), including noninterference requirements, and shall not interfere with any radio frequency ("RF") communications or other communications technologies employed by Licensor or other attachers to its Poles, as determined by Licensor. Licensee shall cooperate with Licensor in determining the source of any interference.

B. Licensee shall evaluate the possibility of physical interference, RF interference, or any other type of interference between its Attachments and other existing uses on Licensor's Poles, to the extent Licensor provides information about the frequencies and operations of Licensor and other users on the same Pole. Upon request, Licensee shall at its sole cost and expense perform an intermodulation analysis, including all frequencies at the site, and submit a copy to Licensor as evidence of non-interference.

C. If Licensee, Licensor or a third party believes the other's subsequent use of the Pole(s) creates any physical interference, RF interference, or any other type of interference with either Licensee's or any other third party attacher's use or operation of its prior, then existing, lawful and permitted Attachment or with Licensor's prior and then existing use of its Poles, then the Interfering Party (as defined hereafter) shall work with the appropriate agency or party to resolve the problem. If a party's use of a Pole(s) is creating any physical interference, RF interference, or any other type of interference (the "Interfering Party"), the Interfering Party shall within five (5) business days or within such other mutually agreed upon time frame and at its own expense, remove, relocate, replace or rebuild its Attachment or perform any other work in connection with its facilities to eliminate such interference.

12. MODIFICATIONS, ADDITIONS, REPLACEMENTS OR REARRANGEMENTS

A. Licensee shall not modify, add to, or replace Attachments on any Poles without first notifying Licensor in writing of the intended modification, addition or replacement at least thirty (30) days prior to the date the activity is scheduled to begin. Notwithstanding the foregoing, the aforementioned modifications shall not include emergency repairs or routine maintenance including like-for-like replacements. The required notification shall include:

1. The date the activity is scheduled to begin including the Pole location and Pole number,
2. A description of the planned modification, addition, or replacement,
3. A representation that the modification, addition, or replacement will not require any space other than the space previously designated for Licensee's Attachments, and
4. A representation that the modification, addition, or replacement will not impair the structural integrity of the Poles involved.

B. Upon Licensor's receipt of a complete Exhibit B Application for Pole License, Licensor will perform, at Licensee's sole expense, a field check and if Licensor determines that the modification, addition, or replacement specified by Licensee in its notice will require more space than that allocated to Licensee or will require the rearrangements of, reinforcement of, replacement of, or an addition of support equipment to the Poles involved in order to accommodate Licensee's modification, addition, or replacement, Licensor will so notify Licensee and the parties will follow the Make Ready Work process as set forth in Section 8 of this Agreement in order to obtain authorization for the modification, addition, or replacement of its Attachments.

C. Should Licensee request Licensor to expand capacity or purchase additional plant and should Licensor so agree, Licensee agrees to pay all reasonable and actual cost and expenses thereby incurred by Licensor.

D. When multiple applications, including those of Licensee, are received by Licensor with respect to any Poles which must be replaced or rearranged to provide additional space prior to commencement of the work on such Poles, Licensor will equitably prorate to the extent that it is practical between Licensee and other applicants the actual expenses incurred by Licensor, if any, which result. Licensee shall be bound by Licensor's determination as to any such proration.

E. In the event Licensor plans to modify or alter any Poles upon which Licensee has placed Attachments, Licensor, except in emergency situations, shall provide Licensee written notice of the proposed modification or alteration at least sixty (60) days prior to the time the proposed modification or alteration is scheduled to take place. Should Licensee decide to modify or alter Licensee's Attachments on Poles, Licensee shall so notify Licensor in writing at least thirty (30) days prior to the day the work is to begin. In such event, Licensee shall bear a proportionate share of the total costs incurred by Licensor to make Licensor Poles accessible.

F. In the event Licensor is required to move the location of, or replace, any Licensor Poles for reasons beyond its control, Licensee concurrently shall relocate Licensee's Attachments. Licensee shall

be solely responsible for the costs of the relocation of Licensee's Attachments. If Licensee has failed to agree upon a plan to relocate its attachments within sixty (60) days of being notified by Licensor that it is moving the location of or replacing a pole that Licensee has an attachment on, Licensor may transfer Licensee's Attachments at the same time that Licensor transfers its facilities and shall invoice Licensee for the actual costs incurred in performing the transfer of Licensee's Attachments.

13. EMERGENCY RESTORATION

A. In the event of an emergency, restoration procedures may be affected by the presence of Licensee's Attachments. While Licensor shall not be responsible for the repair of damaged Licensee Attachments, Licensor shall nonetheless control access to its Poles if the restoration is to be achieved in an orderly fashion.

B. Where Licensor and Licensee are involved in emergency restorations, access to Licensor's Poles will be controlled by Licensor according to the following guidelines.

1. Service Disruptions/Outages

- a) While exercising its right to first access, Licensor shall make all reasonable efforts to grant access to as many other entities with attachments as is reasonably safe.
- b) Where simultaneous access is not possible, Licensor will grant access on first come, first served basis.

2. Service Affecting Emergencies

- a) While exercising its right to first access, Licensor shall make all reasonable efforts to grant access to as many other entities with attachments as is reasonably safe.
- b) Where Licensor is unable to grant simultaneous access to all other entities with attachments, access will be granted according to the level of damage to the attachments of each entity and the likelihood that a given level of damage will result in service disruption. Where the likelihood that a service disruption will result is not clearly discernible, access will be on a first come, first served basis.

C. Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by Licensor regarding access to its Attachments, or any action or failure to act by Licensor, under this section shall not be the basis for any claim by Licensee against Licensor for any damage to Licensee's Attachments or disruption of Licensee's Services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee.

14. FAILURE TO PLACE ATTACHMENTS

Once Licensee has been issued a License, Licensee shall have ninety (90) calendar days from the date of the License was issued to begin the placement of its Attachments on the Licensor Poles covered by the License. If Licensee has not begun placing its Attachments within the ninety (90) day period,

Licensee shall so advise Licensor with a written explanation and notice for the delay. If Licensee fails to advise Licensor of its delay by notice thereof or if Licensee fails to act in good faith by not making a bona fide effort to begin placing its Attachments within the ninety (90) calendar days prescribed by this section, the License shall be automatically rescinded by Licensor and deemed null and void, and Licensee shall have no further right to place the Attachments pursuant to such voided License.

15. ABANDONMENT

Nothing in this Agreement shall prevent or be construed to prevent Licensor from abandoning, selling, assigning, or otherwise disposing of any Poles. Licensor shall notify Licensee of any sale, assignment, or other disposition of any Poles or other Licensor property used for Licensee's Attachments. Licensee shall have the option but not the obligation to purchase any assets slated for abandonment.

16. INSPECTIONS AND INVENTORIES

A. Post construction and/or periodic inspection of Licensee Attachments. Licensor shall have the right, but not the obligation, to make a post construction inspection and periodic inspections at any time of any part of Licensee's Attachments on Poles and any other associated facilities for the limited purpose of determining whether Licensee's Attachments are in compliance with the terms of this Agreement and any Licenses issued hereunder. Such inspections shall be conducted at Licensor's expense with the exception of (1) a post construction inspection, (2) follow-up inspection to confirm remedial action after an observed Licensee violation of the requirements of this Agreement; and (3) inspection of Licensee Facilities in compliance with a specific mandate of appropriate governmental authority, for which inspections the cost shall be borne solely by Licensee.

B. Inventories. Upon written notice to Licensee, the total number and location of Licensee's Attachments on Licensor's Poles may be determined, at Licensor's discretion, through a survey which may be made not more than once per calendar year by Licensor. If so requested, Licensee and /or any other entity owning or jointly using the Poles with Licensor may participate in the survey. The costs incurred by Licensor to conduct the survey shall be reimbursed to Licensor by Licensee upon demand by Licensor regardless of whether or not Licensee participates in the survey. If the Attachments of more than one licensee are surveyed, each such licensee shall contribute a proportionate share of the costs reimbursed to Licensor.

C. No Duty to Licensee. Neither the act of inspection or survey by Licensor of Licensee's Attachments nor any failure to inspect such Attachments shall operate to impose on Licensor any liability of any kind whatsoever or to relieve Licensee of any responsibility, obligations or liability under this Agreement, any License issued hereunder, or applicable law, or to any third party contractor, Licensee Contractor, or otherwise.

17. UNAUTHORIZED ATTACHMENTS

A. If any Licensee Attachment shall be found on Poles for which no License has been granted by Licensor pursuant to the terms of this Agreement ("Unauthorized Attachment"), Licensor, without prejudice to its other rights or remedies under this Agreement or otherwise, may:

1. Impose charges as set forth herein, and

2. Require Licensee to remove such Unauthorized Attachment or Licensor may remove such Unauthorized Attachment without liability and the expense of removal shall be borne by Licensee.

B. For the purpose of determining the charges, Licensee shall pay an amount per Unauthorized Attachment equal to the Pole Attachment Fee that would have applied if Licensee had properly obtained a License based upon the then current Attachment Rate for the number of years the Unauthorized Attachment have existed (or, if that cannot be determined, the number of years since the most recent inventory or five (5) years, whichever is less. In addition, if the Unauthorized Attachment is discovered during a survey where Licensee declined to participate an additional fee of [REDACTED] per Unauthorized Attachment shall be charged to Licensee. Licensee agrees and acknowledges in the event of an Unauthorized Attachment actual damages would be difficult to determine and the charges described herein are liquidated damages, not penalties, and represent a fair and reasonable estimate of the damages which may be incurred by Licensor for Unauthorized Attachments on Licensor's Poles including wear and tear, lost revenue, increased maintenance and repair costs for having to work on a Pole where the owner of a facility is unknown, and the risk of liability for safety violations that may be the result of an Unauthorized Attachment.

C. Any such charge as set forth in Section 17(B) imposed by Licensor shall be in addition to its rights to any other sums due and payable, including without limitation Make Ready Work costs, the actual costs of any audit or survey which established the existence of the Unauthorized Attachment and to any claims to said fees.

D. No act by Licensor with regard to any unauthorized use shall be deemed as a ratification or the licensing of the unauthorized use, and if any License should subsequently be issued, after application and payment of all applicable fees therefore, said License shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement or otherwise, and Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regard to said unauthorized use from its inception.

E. An Unauthorized Attachment shall include, but not limited to:

1. An Attachment to Poles which is not identified in any License issued in accordance with this Agreement;
2. An Attachment that occupies more space than that allocated to Licensee by Licensor in a License;
3. An Attachment that is not placed in accordance with the provisions of this Agreement or the appropriate License issued pursuant to this Agreement, unless Licensee can demonstrate to Licensor's reasonable satisfaction that said misplacement is not due to any act or omission of Licensee or Licensee's agents;
4. An addition or modification by Licensee to its pre-existing Attachment(s) that impairs the structural integrity of the involved Licensor Poles.
5. An Attachment that consists of facilities owned or controlled by, and for the use of a party other than Licensee.

F. Once Licensor has notified Licensee of an Unauthorized Attachment, Licensee shall submit an Exhibit B Application for Pole License to request an authorization for the Attachment. An Exhibit B Application for Pole License submitted per this provision will be treated like any other Exhibit B Application for Pole License subject to this Agreement. Licensee will be responsible for all fees associated with an Exhibit B Application for Pole License (as identified in this Agreement). If an Exhibit B Application for Pole License is not received by Licensor within ten (10) days of Licensor's notice of an Unauthorized Attachment, Licensee has sixty (60) days from the date of the Unauthorized Attachment notification to vacate the Pole. If Licensee fails to remove Licensee's facilities within such sixty (60) day period, 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 or disruption of Licensee's Services.

18. COMPLIANCE WITH LAW, ASSUMPTION OF RISK, AND DISCLAIMER OF WARRANTIES

A. Notwithstanding anything to the contrary in this Agreement, Licensee shall ensure that any and all activities it undertakes pursuant to this Agreement shall comply with all applicable laws, including, without limitation, all applicable provisions of:

1. Workers' compensation laws
2. Unemployment compensation laws
3. The Federal Social Security Law
4. The Fair Labor Standards Act, and
5. All laws, regulations, rules, guidelines, policies, orders, permits and approvals or any governmental authority relating to environmental matters including but not limited to Hazardous Materials and/or Occupational Safety and Health Act ("OSHA").

B. LICENSEE ACKNOWLEDGES AND AGREES THAT LICENSOR DOES NOT MAKE ANY REPRESENTATION OR WARRANTIES AS TO THE CONDITION OR SAFETY OF LICENSOR'S POLES ANY ASSOCIATED FACILITIES AND EQUIPMENT ON, WITHIN OR SURROUNDING THE SAME, OR THE PREMISES SURROUNDING THE SAME. EXCEPT IN CASES OF LICENSOR'S NEGLIGENCE, LICENSEE HEREBY ASSUMES ALL RISKS OF ANY DAMAGE, INJURY OR LOSS OF ANY NATURE WHATSOEVER CAUSED BY OR IN CONNECTION WITH THE USE OF POLES AND ASSOCIATED FACILITIES AND EQUIPMENT ON, WITHIN OR SURROUNDING THE SAME, AND THE PREMISES SURROUNDING THE SAME AND LICENSEE IS SOLELY RESPONSIBLE FOR ALL ALLEGED DAMAGES CLAIMED BY THIRD PARTIES UNDER THE CONTROL OR DIRECTION OF LICENSEE ACCESSING OR WORKING ON OR NEAR LICENSOR'S POLES.

C. EXCEPT AS OTHERWISE PROVIDED HEREIN, LICENSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE,

ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED, WITH REGARD TO THIS AGREEMENT AND ANY LICENSE ISSUED HEREUNDER INCLUDING, WITHOUT LIMITATION, ACCESS TO LICENSOR'S POLES OR OTHER FACILITIES.

19. LICENSEE CONTRACTOR QUALIFICATIONS

A. The parties acknowledge that from time to time Licensee may use a Licensee Contractor to perform work for Licensee on, within or in Licensor's Poles.

B. Licensee represents and warrants that any of its employees or Licensee Contractors shall not climb or work on any of Licensor's Poles, or work within Licensor's Right-Of-Way unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to Poles and to perform the work safely.

C. Licensee assumes all risk of Licensee Contractors and agrees to indemnify, defend and hold harmless Licensor from all claims, losses, damages and liabilities, costs and expenses (including, but not limited to, reasonable attorney's fees) associated thereto in accordance with the indemnification provision of this License Agreement.

D. When Licensee Contractors are working on, within or in the vicinity of any part of Licensor's Poles or Right-Of-Way, all such Licensee Contractors shall follow procedures which Licensee deems appropriate for the protection of persons and property. Licensee shall be responsible at all times for determining and implementing the specific steps required to protect persons and property at the site. Licensee will provide all traffic control and warning devices required to protect pedestrian and vehicular traffic, workers and property from danger. Licensee has sole responsibility for the safety of all its employees and Licensee Contractors, for the safety of bystanders, and for insuring that all operations conform to terms and conditions set forth in this Agreement. Licensor reserves the right to suspend Licensee's activities on, within or in the vicinity of Licensor's Poles or Right-Of-Way if, in Licensor's sole judgment, any hazardous condition arises due to the activity (including both acts and omissions) of any Licensee Contractor or Licensee employee, which suspension shall cease when the condition has been rectified.

E. Licensee acknowledges that all Licensee Contractors are not Licensor's employees or agents and Licensee assumes full responsibility for their actions or omissions to act. Licensee shall be solely responsible for the payment of compensation of Licensee's employees, contractors or agents assigned to perform work hereunder and such employees, contractors and agents shall be informed that they are not entitled to the provision of any Licensor benefits. Licensor shall not be responsible for payment of workman's compensation, disability benefits, and unemployment insurance or for withholding or paying employment related taxes for any employee of Licensee, but such responsibility shall be solely that of Licensee. In the event that any federal, state or local government agency, any court or any other applicable entity determines that the personnel provided by Licensee or any permitted Licensee Contractor are employees of Licensor for any purpose, Licensee agrees to indemnify, defend and save harmless Licensor from all liabilities, costs, and expenses (including, but not limited to, reasonable attorney fees) associated with such determination in accordance with the indemnification provision of this License Agreement.

F. Any work by Licensee Contractors on, within or in Licensor's Poles or Right-Of-Way shall be done only when specific authorization for such work has been obtained in writing in advance from

Licensor pursuant to the terms and conditions of this Agreement. The parties agree that all work shall be performed according to existing industry standards and practices and the requirements and specifications set forth in this Agreement and any License issued hereunder.

20. DEFAULT

A. In addition to other events of defaults defined anywhere else in this Agreement, any one of the following shall be deemed the occurrence of a default under this Agreement:

- 1. Failure by Licensee to pay when due any fee or other sum required to be paid under the terms of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof to Licensee.**
- 2. Failure by either party to perform or observe any other term, condition, covenant, obligation, or provision of this Agreement and such default continues for a period of thirty (30) days after written notice thereof from the other party (provided that if such default is not curable within a thirty (30) day period, the period may be extended if the party substantially commences to cure such default and proceeds diligently thereafter to effect such cure).**
- 3. The filing of any tax or lien against Poles because of any act or omission by Licensee which is not bonded or discharged within thirty (30) days of the date of notice to Licensee that such lien has been filed;**
- 4. Licensee's voluntary or involuntary bankruptcy;**
- 5. Licensee's use or maintenance of its Attachments in violation of any law or regulation, or in aid of any unlawful act or undertaking;**
- 6. If, after exhausting all legal, administrative and equitable remedies in all state and federal forums, any authorization which may be required of Licensee by any governmental or private authority for the placement, operation, or maintenance of Licensee's Attachments is denied or revoked.**

B. In the event of a default and subject to any other applicable provision of this Agreement, the non-defaulting party, without any further notice to the defaulting party (except where expressly provided for below or required by applicable law), may do any one or more of the following:

- 1. Perform on behalf and at the expense of the defaulting party, any obligation of the defaulting party under this Agreement which the defaulting party has failed to perform and of which the non-defaulting party shall have given the defaulting party notice, the cost of which performance shall be paid by the defaulting party to the non-defaulting party upon demand;**
- 2. Terminate this Agreement by giving sixty (60) days written notice of such termination to Licensee and remove Licensee's Attachments and store Licensee's facilities in a public warehouse or elsewhere at the expense of and for the account of Licensee without**

Licensor being deemed guilty of trespass or conversion, and without Licensor becoming liable for any loss or damages to Licensee occasioned thereby; or

3. Exercise any other legal or equitable right or remedy that the non-defaulting party may have.

C. The defaulting party shall repay to the non-defaulting party upon demand any costs and expenses incurred by the non-defaulting party (including, without limitation, reasonable attorneys' fees) in successfully enforcing this Agreement.

D. Upon termination of this Agreement by the non-defaulting party, the defaulting party shall remain liable to the non-defaulting party for any and all fees, other payments and damages which may be due or sustained in accord with this Agreement prior to such termination, all reasonable costs, fees and expenses, including, without limitation, reasonable attorney' fees incurred by the non-defaulting party in pursuit of its remedies hereunder.

E. All rights and remedies of the non-defaulting party set forth in this Agreement shall be cumulative and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule of court, or the common law, either at law or in equity, or both.

21. INDEMNIFICATION AND LIMITATION OF LIABILITY

A. Each party shall compensate the other for the full actual loss, damage or destruction of property that in any way arises from or is related to this Agreement or activities undertaken pursuant to this Agreement, excluding reasonable wear and tear.

B. Each party agrees to defend, indemnify, protect and hold harmless the other and the other's officers, directors, employees, shareholders, successors, assigns, agents, affiliates, representatives, partners, and contractors from and against any and all claims, actions, administrative proceedings (including, without limitation, informal proceedings), judgments, damages, penalties, fines, cost, liabilities, interests, or loss, including, without limitation, reasonable attorneys' fees and expenses, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature suffered by or asserted against the indemnified party in any way arising out of or connected with this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Attachments, unless caused solely by the negligence or willful misconduct of Licensor or Licensor's affiliates, agents, officers, employees and assigns). Each party expressly assumes all liability for actions by its affiliates, agents, officers, employees, or Licensee Contractors.

C. Without limiting any of the foregoing, Licensee assumes all risk of, and agrees to relieve Licensor of any and all liability for, loss or damage (and the consequences of loss or damage) to any facilities placed on Licensor's property and any other financial loss sustained by Licensee, except to the extent caused by the negligence or misconduct on the part of Licensor or Licensor's agents, officers, employees, and assigns.

D. Without limiting the foregoing, each party expressly agrees to indemnify, defend, and hold harmless the other party's agents, officers, employees and assigns from any and all claims asserted by end users/customers of Licensee in any way arising out of or in connection with this Agreement or Licensee's Attachments, except to the extent caused by the negligence or misconduct of the indemnified party's agents, officers, employees, and assigns, or its contractors.

E. Notwithstanding anything to the contrary in this Agreement, Licensee further shall indemnify and hold harmless Licensor, its agents, officers, employees, and assigns from and against any claims, liabilities, losses, damages, fines, penalties, and costs (including, without limitation, reasonable attorneys' fees) whether foreseen or unforeseen, which the Licensor suffers or incurs because of:

1. Any discharge of Hazardous Materials resulting from acts or omissions of Licensee, Licensee Contractors or Licensee's predecessor in interest;
2. Acts or omissions of Licensee, its agents, employees, Licensees, or representatives in connection with any cleanup required by law, or
3. Failure of Licensee or Licensee Contractors to comply with Environmental, Safety and Health Laws.

F. Licensee shall indemnify, protect, and hold harmless Licensor from and against any and all claims for libel and slander, copyright and/or patent infringement arising directly or indirectly by reason of installation of Licensee's Attachments pursuant to this Agreement.

G. In the event of any claim, demand or litigation specified the indemnity provision, the party to be indemnified (the "Indemnified Party") shall give prompt notice to the other party (the "Indemnifying Party") of such claim, demand or litigation. The Indemnifying Party shall have sole control of the defense of any action or litigation on such a claim or demand (including the selection of appropriate counsel) and all negotiations for the settlement or compromise of the same, except that the Indemnifying Party may not make any non-monetary settlement or compromise without the Indemnified Party's consent, which consent shall not be unreasonably withheld. The Indemnified Party shall cooperate with the Indemnifying Party in the defense and/or settlement of any claim, demand or litigation. Nothing herein shall be deemed to prevent the Indemnified Party from participating in the defense and/or settlement of any claim, demand or litigation by the Indemnified Party's own counsel at the Indemnified Party's own expense.

H. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY SUCH PARTY OR BY ANY SUBSCRIBER, CUSTOMER OR PURCHASER OF SUCH PARTY FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY UPON WHICH ANY SUCH CLAIM MAY BE BASED OR WHETHER IT (a) HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR (b) IS NEGLIGENT.

22. INSURANCE

WIN ILEC vrs 2.1.14 (Poles only)

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E. The policy will show the state in which operation on behalf of the Licensee and/or subsidiary is being conducted. For operations conducted within monopolistic (state fund) states, Licensee will furnish a certificate of compliance from the appropriate state fund administrator.

F. In each and every policy except workers' compensation, Licensor and its subsidiaries shall be named an "additional insured" with respect to activities performed on behalf of the Licensee and its subsidiaries.

G. Coverage provided by the policies listed in this paragraph will be issued by an insurance company, licensed in the state in which operations on behalf of the Licensee are to be conducted. It is acceptable to use both primary and excess/umbrella policies to obtain necessary limits. The worker's compensation policy must contain a waiver of subrogation clause.

H. Licensee will furnish to Licensor, a certificate evidencing insurance coverage under sub-paragraphs 22(A) and (D). Such certificate or Licensee shall provide for a thirty (30) day prior notice to the Licensor of any cancellation, except for non-payment of premium and shall be signed by a legal representative of the issuing insurance company. The certificate of insurance shall be sent to Licensor's contact identified in Exhibit E.

I. Licensee shall require any of its Licensee Contractors to maintain insurance coverage that are adequate for the type of work being completed and similar to the provisions of sub-paragraphs 22(A) and (D). Licensee shall be responsible for their compliance herewith.

23. NOTICES

Any and all notices to a party required or permitted under this Agreement shall be in writing and shall be: (a) delivered personally; (b) delivered by express overnight delivery service; (c) mailed, via certified mail or first class U.S. Postal Service, with postage prepaid, and a return receipt requested; or (d) delivered by electronic mail; provided that a paper copy is also sent via methods (a), (b), or (c) of this Section. Notices will be deemed given as of the earliest of: the date of actual receipt; the next business day when sent via express overnight delivery service; five (5) calendar days after mailing in the case of first class or certified U.S. Postal Service, or on the date set forth on the confirmation produced by the sent confirmation when sent prior to 5:00 p.m. in the recipient's time zone, but the next business day when delivered at 5:00 p.m. or later in the recipient's time zone. Notices will be addressed to the parties as set forth in Exhibit E as may be updated in writing by the parties from time to time in accordance with method set forth under this Section 23.

24. CONFIDENTIALITY

Neither party shall at any time disclose, provide, demonstrate or otherwise make available to any third party any of the terms or conditions of this Agreement or any materials provided by either party specifically marked as confidential, except upon written consent of the other party, or as may be required by applicable law or governmental authorities. Notwithstanding the foregoing, nothing in this Section shall prevent disclosure to a party's authorized legal counsel who shall be subject to this confidentiality section or to third parties as necessary to perform work under this Agreement provided that such third parties are bound by similar confidentiality provisions, nor shall it preclude the use of this Agreement by

the parties to obtain financing, to make or report matters related to this Agreement in any securities statements, or to respond to any requests by governmental or judicial authorities; provided, however, that any such disclosure shall be limited to the extent necessary, and shall be made only after attempting to obtain confidentiality assurances. Notwithstanding the foregoing, prior to making any disclosure in response to a request of a governmental authority or legal process, the party called upon to make such disclosure shall provide notice to the other party of such proposed disclosure sufficient to provide the other with an opportunity to timely object to such disclosure. Notwithstanding the foregoing, Licensor may, without notice to Licensee: (i) negotiate or enter into any agreement with any other person(s) or entity(ies) that is identical or similar to this Agreement; and (ii) provide the text of all or part of this Agreement to any other party, so long as Licensor shall redact therefrom all references to Licensee and shall not associate such text with Licensee or identify Licensee as having agreed to such text or terms. Notwithstanding the foregoing, the existence of this Agreement shall not be deemed confidential.

25. DISPUTE RESOLUTION

A. Except in the case of:

1. A suit, action, or proceeding by one party to compel the other party to comply with its obligation to indemnify the other party pursuant to this Agreement, or
2. A suit, action or proceeding to compel either party to comply with the dispute resolution procedures set forth in this section, the parties agree to use the following procedure to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or its breach.

B. At the written request of a party, each party shall designate a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute, controversy, or claim arising under this Agreement. The parties intend that these negotiations be conducted by non-lawyer, business representatives. The substance of the negotiations shall be left to the discretion of the representatives. Upon mutual agreement, the representatives may utilize other alternative nonbinding dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence between the representatives for the purposes of these negotiations shall be treated as confidential, undertaken for purposes of settlement, shall be exempt from discovery and production, and shall not be admissible in any subsequent proceeding without the concurrence of all parties. Documents identified in or provided during such negotiations, which are not prepared for purposes of the negotiations, shall not be so exempt and may, if otherwise admissible, be admitted as evidence in any subsequent proceeding.

C. If a resolution of the dispute, controversy or claim is not reached within ninety (90) days of the initial written request referred to in this Section 25, the dispute, controversy, or claim may be filed with the State utility commission or the Federal Communication Commission, if applicable, for review and determination, provided the party invoking the commission's intervention process has in good faith negotiated, or attempted to negotiate, with the other party pursuant to this Section 25.

D. Except as otherwise provided in this Agreement under the Indemnification or Default provision or elsewhere, each party shall bear its own costs, including attorneys' fee, incurred in connection with any of the foregoing procedures. A party-seeking discovery shall reimburse the responding party the cost of reproducing documents (to include search time and reproduction time costs).

26. TAXES

Each party shall pay all taxes and assessments lawfully levied on its own property and services subject to this Agreement.

27. WAIVER

Failure by either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

28. NO THIRD PARTY BENEFICIARIES

Except as otherwise provided in this Agreement, this Agreement is intended to benefit only the parties and may be enforced solely by the parties, their successors in interest or permitted assigns. It is not intended to, and shall not, create rights, remedies or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the parties, except as provided herein.

29. FORCE MAJEURE

Neither party shall be liable for any delay or failure in performance of any part of this License Agreement or License issued hereunder from any cause beyond its reasonable control and without its fault, omission or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, labor strikes, lockouts or work stoppages or severe weather ("Force Majeure Event"). In the event of a Force Majeure Event, upon giving prompt notice to the other party, the due date for performance by the affected party of its original obligation(s) shall be extended by a term equal to the time lost by reason of the Force Majeure Event. In the event that the affected party is able to partially perform its obligations, it shall perform its obligations at a performance level no less than that which it uses for its own operations.

30. ASSIGNMENT

Licensee shall not assign; transfer or sublet the privileges hereby granted, or sell, lease or otherwise permit the use of its facilities on or any part thereof (all of the foregoing being "Transfers"), without prior consent in writing of Licensor, which consent shall not be unreasonably withheld, delayed or conditioned. Either party may so Transfer its rights and obligations under this Agreement without such consent to (a) any entity said party, directly or indirectly, controls, is controlled by or is under common control with or b) any entity acquiring all or substantially all of said party's assets or equity, by providing written notice to the other party of such Transfer.

31. APPLICABLE LAW

This Agreement, and the rights and obligations contained in it, shall be governed and construed under the laws of the state in which the Attachments hereunder are to be located. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines now in effect and that subsequently may be prescribed by any federal, state or local

governmental authority. To the extent required by any such prescribed law, rule, regulation or guideline, the Parties agree to modify, in writing, the affected term(s) and conditions(s) of this Agreement to bring them into compliance with such law, rule, regulation or guideline. Should any term of this Agreement be determined by a court or agency with competent jurisdiction to be unenforceable, all other terms of this Agreement shall remain in full force and effect.

32. WAIVER OF JURY TRIAL

Licensor and Licensee each expressly waive its right to a jury trial.

33. ENTIRE AGREEMENT, MODIFICATIONS, SURVIVAL AND CONFLICTS AND TARIFFS

A. This Agreement cancels and supersedes all previous wireless attachment agreements whether written or oral, except for any sums due thereunder, between Licensor and Licensee with respect to the Licensee's Attachments to Licensor's Poles; and there are no other provisions, terms or conditions to this Agreement except as expressed herein. All currently effective Licenses and authorizations for Attachments granted pursuant to such previous agreements shall continue in effect subject to the terms and conditions of this Agreement.

B. This Agreement may be amended or supplemented at any time only upon written agreement by the parties hereto. Notwithstanding the foregoing, all Exhibits, fees, Licensor procedures and specifications may be modified by Licensor upon thirty (30) day notice to Licensee.

C. Notwithstanding the termination of this Agreement for any reason, Section 18 Compliance with Laws, Assumption of Risk and Disclaimer of Warranties, Section 21 Indemnification and Limitation of Liability, Section 22 Insurance, Section 24 Confidentiality and any other provision intended to survive, shall survive termination to the maximum extent permitted under applicable law. Notwithstanding any provisions to the contrary, all rights, remedies, or obligations which arose or accrued prior to the termination or expiration of the terms hereof shall survive and be fully enforceable for the applicable statute of limitations period.

34. AUTHORITY AND COUNTERPARTS AND ELECTRONIC SIGNATURES

A. Each party represents and warrants that it is an entity duly organized, validly existing in the state of its organization, and in good standing under the laws of the state in which the obligations under this License Agreement are to be performed. Each party warrants that it has full power and authority to execute and deliver this License Agreement and to perform its obligations hereunder.

B. This Agreement may be executed using facsimile or electronic signatures and such facsimile or electronic version of the Agreement shall have the same legally binding effect as an original paper version. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Windstream Kentucky East, L.L.C

DocuSigned by:
BY: Jason Hedrick
6401D9D05A39426...
NAME: Jason Hedrick
TITLE: OSP Manager
DATE: 10/31/2016

Fiber Technologies Networks, L.L.C

BY: [Signature]
NAME: Eric Finnemore
TITLE: VP Regional Operations
DATE: 10/27/16

EXHIBIT A
DEFINITIONS

"Application for Pole License" - A written request submitted in the form of Exhibit B from Licensee to Licensor requesting authorization to attach Licensee owned facilities to Poles in accordance with this Agreement.

"Attachment(s)" - any wireless facilities or equipment attached to Poles, such as antenna, cabinets, shrouds, radio equipment and/or battery back-up, or any other property owned by Licensee.

"Effective Date" - is the date this Agreement is last signed by the parties.

"Force Majeure Event" - shall have the meaning set forth in Section 29 of the Agreement.

"Hazardous Materials" -

Any substance, material or waste now or hereafter defined or characterized as hazardous, toxic or dangerous as defined by the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") of 1980, as amended, and other federal, state, and local health, safety, and environmental laws, ordinances, statutes, and rules, including but not limited to the Occupational Safety and Health Act ("OSHA").

Any substance, material or waste now or hereafter classified as a contaminant or pollutant under any law, rules, ordinance, or authority.

Any other substance, material or waste, the manufacture, processing, distribution, use, treatment, storage, placement, disposal, removal or transportation of which is now or hereafter subject to regulation under any law, ordinance, statute, rule or regulation of any governmental body or authority.

"License" - is the specific nonexclusive and revocable permission from Licensor, in the form of a Licensor countersigned and returned Application for License, to Licensee authorizing Licensee to attach its facilities as applied for to Licensor Poles in accordance with this Agreement.

"Licensee Contractors" - shall have the meaning set forth in Section 10(D) of the Agreement.

"Make Ready Estimate" - is Licensor's estimated cost to perform Make Ready Work on Licensor's facilities on Poles to accommodate Licensee's Attachment as requested in an Application for Pole License.

"Make Ready Work" - all Licensor, joint owner or other existing attacher work to prepare Licensor's Poles and related facilities for the requested Attachment of Licensee's facilities but not the actual placement of Attachments or administrative activities related to inquiries, verifications, requests or applications.

“Pole(s)” - a pole owned solely or jointly by Licensor or Poles owned by others to the extent that and for so long as Licensor has the right to permit others to be attached in the communications space.

“Pole Attachment Fee” - the fee paid annually per Attachment on a Pole. For billing purposes, a single Attachment includes the point of Attachment and all facilities located in the usable space on the Poles in the space assigned to Licensee (typically six inches above and six inches below the point of Attachment). If Licensee occupies more than one foot of usable space on Poles, separate Pole Attachment Fees shall apply to each one foot of space occupied.

“Right-of-Way” - right-of-way owned or controlled by Licensor.

“Unauthorized Attachment” – shall have the meaning set forth in Section 17(A) and 17(E) of the Agreement.

EXHIBIT B

FORM APPLICATION FOR POLE LICENSE

NOTE TO LICENSEE IF LICENSEE CHOOSES NOT TO PROCEED WITH THE APPLICATION - LICENSEE WILL BE BILLED FOR LICENSOR/WINDSTREAM'S ENGINEERING AND ADMINISTRATIVE TIME.

EXHIBIT B
Windstream CORPORATION
APPLICATION FOR POLE LICENSE

PROPOSAL #: _____

Submit in Duplicate

Name of Firm/Licensee Applying: _____
 Contact Name, Phone # _____

windstream

EMAIL ADDRESS _____

Street Address, City, ST, ZIP of Firm Applying _____

Licensee Authorized Signature & Date: _____

By this application & signature, Licensee agrees to pay all engineering and administrative fees associated with this application even if Licensee chooses NOT to proceed with the project. All **ESTIMATED** fees, including engineering & materials **MUST BE PAID IN FULL UP FRONT.** NON PAYMENT OF FEES WILL RESULT IN THIS APPLICATION AND ALL FUTURE APPLICATIONS BEING PLACED ON HOLD. *NOTE: Final costs will be determined by actual time & material required to do the materials work. Any difference in charges will be billed accordingly.*

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12
Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Windstream to complete	Windstream to complete
Windstream Lead & Structure No. (Pole No.)	Power Pole No.	Location: Street, City, Township, Zip Code	Height, Class, Ownership of Pole	Hgt of Highest Tel Cable	Hgt of Highest Tel Drop	Hgt of lowest Power Cable	Hgt of other attachments on pole	\$ & type of Attachment	Height Licensee to attach at	Licensee Work Description	Bill for Rent Y or N
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2											
3											
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25											
ESTIMATED TOTAL COSTS											
PLEASE ATTACH DRAWINGS TO THIS APPLICATION - IT WILL NOT BE PROCESSED WITHOUT THEM											

Submit to: Windstream Corporation, Attn: Vicki Smith, 1925 Enterprise Parkway, Twinsburg, OH 44087; or via email to: vicki.l.smith@windstream.com or fax to: 330/486-6279 to Vicki Smith.

Acknowledged and Agreed to by Licensor: _____
 Name Title Date

EXHIBIT B CONTINUED

Windstream Pole Attachment Data Sheet
EXHIBIT B - PART II

WINDSTREAM POLE NUMBER		POWER POLE NUMBER						
STREET LOCATION		NAME OF ATTACHER						
CITY/TOWN/COUNTY		DATE	FIELD PERSONNEL NAME					
ATTACHMENT TYPE <input type="checkbox"/> Cable <input type="checkbox"/> Power Supply <input type="checkbox"/> Service Drop <input type="checkbox"/> Overhead Guy								
POLE SIZE	TRANSFORMER/DEVICE ON POLE <input type="checkbox"/> Yes <input type="checkbox"/> No	STREET LIGHT <input type="checkbox"/> Yes <input type="checkbox"/> No	STREET LIGHT BRACKET HEIGHT					
GUYING REQUIRED FOR ANGLE, CORNER, OR TAP POLE CONSTRUCTION <input type="checkbox"/> Yes <input type="checkbox"/> No		CONDUIT RISER <input type="checkbox"/> Yes <input type="checkbox"/> No; if yes => <input type="checkbox"/> Primary <input type="checkbox"/> Secondary						
MAKE READY WORK	REQUIRED <input type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, PROVIDE ADDITIONAL DETAIL:						
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">POLE NO. =></td> <td>BEFORE</td> <td>AFTER</td> </tr> <tr> <td>*TYPE OF POWER ATTACHMENT =></td> <td><input type="checkbox"/> Neutral</td> <td><input type="checkbox"/> Secondary</td> </tr> </table>			POLE NO. =>	BEFORE	AFTER	*TYPE OF POWER ATTACHMENT =>	<input type="checkbox"/> Neutral
POLE NO. =>	BEFORE	AFTER						
*TYPE OF POWER ATTACHMENT =>	<input type="checkbox"/> Neutral	<input type="checkbox"/> Secondary						
POLE DRAWING	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; vertical-align: top;"> <p>Company Name</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> </td> <td style="width:50%; text-align: center; vertical-align: middle;"> </td> </tr> </table>			<p>Company Name</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p>				
	<p>Company Name</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p>							
SPAN	MID-SPAN HEIGHT Ft.	SPAN CROSSES OVER (Check all that apply) <input type="checkbox"/> Body of Water <input type="checkbox"/> Street <input type="checkbox"/> Driveway <input type="checkbox"/> Field <input type="checkbox"/> Interstate <input type="checkbox"/> Swimming Pool <input type="checkbox"/> Building <input type="checkbox"/> Railroad <input type="checkbox"/> Yard <input type="checkbox"/> Parking Lot						
NOTE								

EXHIBIT C

REMOVAL NOTICE AND LICENSE SURRENDER FORM

NOTIFICATION OF SURRENDER

Notification No. _____

Date: _____

City & State: _____

In accordance with the terms and conditions of the license agreement between us, dated _____, notice is hereby given that the License covering Attachments to the outside plant structures, as shown on the attached sketch, is surrendered.

Licensee: _____

Signature: _____

By (Print/Type): _____

Title: _____

Date: _____

Date Surrender Notice Received: _____

Licensor: _____

Signature: _____

By (Print/Type): _____

Title: _____

Date: _____

EXHIBIT D

SCHEDULE OF RATES, FEES AND CHARGES

		Annual
Attachment Rate (per Attachment)	**	\$ [REDACTED]
Agreement Fee		\$ [REDACTED]
Application for Pole License Fee		\$ [REDACTED]
Unauthorized Attachment fee		\$ [REDACTED]

****Licensor reached this rate by multiplying the telecom rate by a presumptive twelve feet of space occupied on poles by wireless antennae and associated equipment. Wireless companies that believe their equipment occupies less than twelve feet of space presumed by Licensor should submit a completed diagram illustrating the number of feet of space the company contends its equipment occupies. Otherwise, Licensor will bill the company the above rate based on twelve feet of space occupied.**

Licensor may in its sole discretion revise the rates, charges and fees set forth in this Exhibit D upon 30 day written notice to Licensee.

EXHIBIT E**NOTICES CONTACT INFORMATION****IF TO LICENSOR****windstream.poles@windstream.com****Windstream Kentucky East, LLC****Attn: Poles****PO Box 25410****Little Rock, AR 72221****IF TO LICENSEE:****ENGINEERING CONTACT FOR LICENSEE**

Company Name	Fiber Technologies Networks, L.L.C.
Name of Responsible Party	Eric Finnemore
Address	300 Meridian Centre Rochester, NY 14618
Phone	585-697-5148
Fax	585-242-9807
Email	efinnemore@lighttower.com

INVOICING / BILLING CONTACT FOR LICENSEE

	Lisa Woodley
--	--------------

Name	
Address	300 Meridian Centre Rochester, NY 14618
Phone	585-697-5124
Fax	585-442-9709
Email	



POLE ATTACHMENT LICENSE AGREEMENT
BY AND BETWEEN
WINDSTREAM KENTUCKY EAST, LLC
AND
BLUEGRASS NETWORK LLC d/b/a BLUEGRASS TELECOM

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ATTACHED AND INCORPORATED EXHIBITS

EXHIBIT A – DEFINITIONS

EXHIBIT B – FORM APPLICATION FOR POLE LICENSE

EXHIBIT C – NOTIFICATION OF SURRENDER OF LICENSE

EXHIBIT D – SCHEDULE OF RATES, FEES AND CHARGES

EXHIBIT E – NOTICE CONTACTS AND ADDRESSES

1. PARTIES.

This Pole Attachment License Agreement ("Agreement") is entered into as of the date last signed by all the parties ("Effective Date") by and between Windstream Kentucky East, LLC, a Windstream company organized and existing under the State of Kentucky ("Licensor"), and Bluegrass Network LLC d/b/a Bluegrass Telecom, a company organized and existing under the State of Kentucky ("Licensee"). Licensor and Licensee may sometimes be referred to in this Agreement individually as a "party" and collectively as the "parties".

2. SCOPE.

A. The purpose of this Agreement is to set forth the rates, terms, conditions, and procedures under which the Licensor will provide Licensee access to Licensor's Poles (as defined herein) in the State of Kentucky for the purpose of Licensee attaching wireline facilities.

B. The parties acknowledge that Licensor is entering into this Agreement because Licensee has represented it is a regulated "telecommunications carrier" or "cable television system" provider as such terms are defined in the Communications Act of 1934, as amended (hereinafter the "Communications Act") and desires to provide telecommunications service or cable service ("Services"), as defined in the Communications Act; and that Licensee is authorized to provide these Services under its franchise or other lawful authority within its service area where Licensor owns Poles. In the event Licensee no longer has the status as a "telecommunications carrier" or "cable television system" provider or the authority to offer these Services in the state where the Poles are located, Licensor shall have the right to immediately terminate this Agreement and require Licensee to remove all of its facilities from Licensor's Poles. **As a condition precedent to entering into this Agreement, Licensee shall submit to Licensor a copy of its certification evidencing its status as either a regulated telecommunication carrier or cable television system provider, and until such documentation is provided to Licensor, Licensor shall not be obligated to enter into this Agreement.**

C. Subject to the provisions of this Agreement, Licensor will issue to Licensee for any lawful communications purpose, revocable, nonexclusive Licenses authorizing the placement of Licensee's Attachment to Licensor's Poles.

D. No use, however extended, of Licensor's Poles nor payment of any fees or charges required under this Agreement or License issued under this Agreement shall create or vest in Licensee any ownership or property rights in said Poles, 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, unless otherwise required by law. Nothing contained in this Agreement or in any License issued hereunder shall in any way affect, restrict or impair the right of Licensor to convey, transfer, mortgage, or assign to any other person or entity any interest in real or personal property, including any Poles in which Licensee has attached or placed Licensee's Attachments pursuant to Licenses issued under this or other license agreements.

E. Licensee recognizes that Licensor has entered into, or may in the future enter into, agreements and arrangements with others which are not a party to this Agreement regarding the Poles covered by this Agreement. Nothing herein contained shall be construed as a limitation, restriction or prohibition against Licensor with respect to such other agreements or arrangements. The rights of Licensee shall at all times

F. This Agreement does NOT create any right for Licensee to access or place facilities in Licensor central offices, conduit or to place wireless communication equipment on Poles. A separate agreement is required for any access to Licensor facilities other than those outlined in this Agreement.

3. DEFINITIONS.

Certain capitalized terms used in this Agreement are listed in and have the meaning as set forth in Exhibit A. Exhibit A is incorporated and made a part of this Agreement by reference.

4. TERM AND TERMINATION OF AGREEMENT

A. This Agreement shall become effective upon the Effective Date and if not terminated in accordance with the provisions of this Agreement, shall continue in effect for a term of one (1) year ("Initial Term") and shall continue on a year-to-year basis. Notwithstanding the foregoing, any time after the Initial Term and anytime thereafter the rates, fees and charges set forth may be increased or decreased by written notice from Licensor to Licensee.

B. Either Party may terminate this Agreement for any reason after the Initial Term with at least thirty (30) day written notice to the other party. Licensor may terminate this Agreement in the event of default as set forth under Article 20 of this Agreement.

C. Upon termination of the Agreement in accordance with any of its terms, all outstanding Licenses in connection therewith shall terminate and shall be surrendered and Licensee shall immediately, and at its sole expense remove all Attachments located on Poles within sixty (60) days of date of termination.

5. TERMINATION OF LICENSES

A. In addition to other termination rights set forth in this Agreement, upon notice from Licensor to Licensee that Licensor has been advised by a governmental authority or private property owners that the use of any Poles is not authorized and is objected to by such governmental authority or private property owner, as the case may be or that any Poles is to be removed, sold or otherwise disposed of, Licensee shall, immediately remove its cables, equipment, and facilities at once from the affected Poles or shall make arrangements for the removal of its cable, equipment, and facilities from the affected portion of Licensor's Poles at Licensee's sole expense. If not so removed within sixty (60) days or such timeframe as stated on the Notice, Licensor shall have the right to remove Licensee's Attachments from Licensor's Poles at the cost and expense of Licensee and without any liability thereto.

B. Licensee may at any time remove its Attachments from any Poles of Licensor, but shall immediately give Licensor written notice of such removal and surrender of License in the form of a Notification of Surrender attached hereto as Exhibit C and incorporated by reference and made a part of this Agreement. If Licensee surrenders its License but fails to remove its Attachments from Licensor's Poles, Licensor shall have the right but not the obligation to remove Licensee's Attachments at Licensee's expense without any liability on the part of Licensor for damage or injury to Licensee's Attachments or interruption to Services. Licensee's obligations with regard to maintenance and fees continue until Attachments are removed from the Poles. In the event that Licensee's Attachments shall be removed from any Poles as provided by this Agreement, no Attachment shall again be made to such Poles unless

Licensee shall have first complied with all of the provisions of this Agreement as though no Attachment had previously been made.

6. RATES, FEES AND CHARGES.

A. All rates, charges and fees set forth in this Agreement and those shown in Exhibit D (Schedule of Rates, Fees, and Charges) shall be subject to and calculated in accordance with applicable law, and Licensor may in its sole discretion revise the rates, charges and fees as set forth in Exhibit D upon 30 day notice to Licensee. Exhibit D is incorporated and made a part of this Agreement by reference. The fees, rates and charges set forth in Exhibit D or elsewhere in this Agreement are effective during the term of this Agreement and subject to change as set forth herein.

B. **Pole Attachment Fee.** For the purpose of computing the annual Pole Attachment Fee due under this Agreement the Pole Attachment Fee shall be based each year upon the number of Poles where Licensor has issued a License as of the date of annual billing multiplied by the Attachment Rate set forth on Exhibit D, as may be modified by Licensor from time to time. If Licensee is a regulated cable system provider which begins to offer telecommunication Services, Licensee must notify Licensor within thirty (30) days of the change in use if it shall begin to use any attachment for telecommunication Services and Licensor may adjust the Attachment Rate and Pole Attachment Fee as appropriate consistent with the applicable FCC formula for telecommunication providers.

C. All charges for inspections, engineering, replacement or rearrangements of Licensee's Attachments from Licensor's Poles and, without limitation, any other work performed for Licensee shall be based upon the full cost and expense, including reasonable overhead, incurred by Licensor or its representative for performing such work for Licensee to include without limitation costs to transfer or moving of Licensor facilities and removal of old Poles. The cost to Licensee shall be determined in accordance with the regular and customary methods used by Licensor in determining such costs.

D. All other Attachment related inquiry, verification, application, administrative and miscellaneous rates, fees and charges shall be calculated and paid in accordance with Exhibit D and the terms of this Agreement.

E. Upon termination or surrender of a License granted hereunder, no refund of any Pole Attachment Fees shall be made and Licensee shall remain liable for all fees and charges set forth in this Agreement until Licensee has removed its Attachments.

7. PAYMENT, SECURITY BOND AND LIEN.

A. All bills for such other charges for work performed by Licensor and the fees set forth in the Agreement shall be payable upon presentment to Licensee, and shall be deemed delinquent if not paid within thirty (30) days after the date of the invoice.

B. **Bond.** Licensee shall furnish a bond or other security, and keep in place during the term of this Agreement, satisfactory to Licensor, the amount of \$5,000 or an amount equal to two (2) years of Pole Attachment Fees, whichever is greater, to guarantee the performance of Licensee obligations including payment of any such sums (including Unauthorized Attachment charges and liquidated damages) which may become due to Licensor arising out of this Agreement including, but not limited to rent, 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 provisions or upon termination of any License issued hereunder. Such bond shall include that Licensor received 30 days prior notice of cancellation. Cancellation of a bond shall be an event of default by Licensee. Upon signing this Agreement and prior to issuance of a License, Licensee shall furnish the bond to be sent to person identified in Exhibit E. Licensor may in its sole discretion change the bond amount or cancellation notice requirement from time to time upon at least thirty (30) day notice to Licensee. Licensor shall not be obligated to issue any License hereunder until Licensee has provided the bond as set forth herein.

C. **Lien.** Should Licensor under the terms and conditions of this Agreement remove Licensee's Attachments from Licensor's Poles, Licensor will deliver to Licensee the cable, equipment or facilities so removed upon payment by Licensee of the cost of removal, storage and delivery, and all other amounts due Licensor hereunder. Licensor is hereby given a lien on Licensee's cable, equipment or facilities attached to Licensor's Poles or removed therefrom, with power of public or private sale, to cover any amounts due Licensor under the provisions of this Agreement. Such liens shall not operate to prevent Licensor from pursuing, at its option, any other remedy in law, equity or otherwise, including any other remedy provided for in this Agreement.

8. ATTACHMENT REQUEST AND LICENSE PROCESS

A. Before Licensee shall have a right to place Attachments to any Poles of Licensor, Licensee shall make application for and receive a revocable, nonexclusive License which shall be in the form of a Licensor countersigned Application for Pole License (Exhibit B). Each Exhibit B Application for Pole License shall contain no more than twenty-five (25) Poles and Licensee may submit up to twelve (12) Exhibit B, Application for Pole License within a rolling thirty (30) day period. Licensor will process Applications for Pole Licenses in the order in which they are received; provided, however, that when Licensee has multiple Applications for Pole Licenses on file with Licensor, Licensee may designate its desired priority of completion with respect to all such Application for Pole Licenses. **Licensee shall not under any circumstances attach any equipment to any guy wires or anchors owned by Licensor.**

B. **Application For Pole License and Engineering Survey.** Licensee shall submit an Application for Pole License in the form of Exhibit B and shall include a drawing of the proposed route, the pole detail and contact information (name, telephone, facsimile, and email information). Upon receipt of a complete Application for Pole License, Licensor will conduct an engineering survey to determine whether and where Licensee's Attachment is feasible, and what Make Ready Work is required by Licensor or other existing attachers to accommodate Licensee's Attachment. Upon completion of the engineering survey, Licensor shall inform Licensee of its estimated make-ready charges for Licensor Make Ready Work ("Make Ready Estimate"). If during this process, Licensor determines the request is denied based on insufficient capacity or for reasons of safety, reliability and generally applicable engineering purpose Licensor shall inform Licensee that the Application for Pole License is denied together with the reason. All expenses incurred by Licensor in reviewing Licensee's Application for Pole License shall be borne by Licensee even if such request is denied by Licensor.

C. **Advance Payment of Make Ready Work Estimate and Expedited Charges.** If Licensee upon review of the Make Ready Estimate desires to proceed with the process to obtain a License from Licensor, Licensee shall submit payment in the amount of the Make Ready Estimate together with the Application Fee and engineering survey costs to Licensor within fourteen (14) days of receipt of the Make Ready Estimate and invoice for such amounts. Licensee shall be solely responsible for negotiating with existing attachers for Make-Ready Work relating to such other existing attacher facilities located on.

within or in Licensor's Poles and shall be responsible for paying all charges incurred in transferring or rearranging existing attachment facilities to accommodate the placement of Licensee's Attachment on, within or in Licensor's Poles. In the event, Licensee declines to proceed with the project Licensee shall reimburse Licensor any costs and expenses incurred by Licensor to date including but not limited to Application Fee, engineering and administrative expenses and costs.

D. Completion of Make Ready Work and Issuance of License. Licensor shall undertake to complete any Make Ready Work of its owned facilities upon receipt of Licensee's payment of the Make Ready Estimate. Upon completion of all Make Ready Work and receipt of all fees and charges due from Licensee to Licensor, Licensor shall issue Licensee an approved License which shall be in the form of a Licensor countersigned Application for Pole License. At that time Licensee will be considered to have been granted a License with respect to the Poles approved in the License and may attach to Licensor's Poles in accordance with the terms and conditions of this Agreement.

E. Licensee shall maintain a copy of all Application for Pole Licenses and approved Licenses. Licensor may provide upon request copies of the same to the extent available and Licensee shall reimburse Licensor for its costs in preparing and sending requested copies.

9. AUTHORITY FOR PLACEMENT OF ATTACHMENT

A. Before any placement of Attachments by Licensee, regardless of whether a License may have been issued, Licensee represents and warrants that it has the authority to maintain Attachments within public rights-of-way, or on private rights-of-way or on private property, and shall upon request provide a copy of documentation evidencing such right to Licensor. Licensee shall be solely responsible for obtaining all licenses, easements, authorizations, permits and consents from federal, state and local authorities or private land owners that may be required to place and maintain Attachments on Licensor's Poles.

B. Licensor and Licensee agree that neither party has the right to restrict or interfere with the other party's lawful access to and use of public right-of-way, including public right-of-way, which pass over property owned by either party. Except as otherwise specifically provided in this Agreement, Licensor and Licensee shall each be responsible for obtaining their own right-of-way and permission to use real or personal property owned or controlled by any governmental body or private entity or person.

C. Licensor may, without incurring any liability, remove Attachments of Licensee from Licensor's Poles, at Licensee's sole expense where in Licensor's sole judgment such removal is required in connection with the performance of Licensor's service obligation or the safety of Licensor's employees. Whenever such removal has been made, Licensee will be notified.

10. CONSTRUCTION AND MAINTENANCE

A. Licensee's Attachments shall be placed and maintained in accordance with the following:

- 1.** any and all Licensor requirements and specifications of Licensor, and
- 2.** the terms and conditions of this Agreement, and
- 3.** the National Electric Safety Code (most recent edition), and
- 4.** the National Electric Code (most recent edition), and

5. in compliance with any other rules or orders now in effect or that may hereafter be issued by any state utility commission or other authority (state, federal, local) having jurisdiction over including but not limited to Poles, rights-of-way, and Hazardous Materials.

Each of Section 10(A)(1-5) is incorporated by reference and made a part of this Agreement, and in the event of a conflict or difference between any of these specifications and requirements, the more stringent will apply. Licensee agrees to rearrange its Attachments, within a commercially reasonable timeframe, in accordance with changes in the standards referenced herein in this Section 10(A) of this Agreement, or if required by law.

B. Licensee shall, at its own expense, make and maintain its Attachments and use Licensor Poles 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 by Licensor or by other authorized users of said Poles, or interfere with other facilities thereon or which may from time to time be placed thereon. Licensee shall, at its sole expense, upon written notice from Licensor, relocate or replace its Attachments placed on said Poles or transfer them to substituted Poles that may be authorized by Licensor, or perform any other work in connection with said Attachments that may be required. Licensor shall give such written notice as is reasonable in the circumstances, provided, however, that in cases of emergency, as determined by Licensor in its sole discretion, Licensor may arrange to relocate, remove or replace Licensee Attachments placed on said Poles, transfer such Attachments to substituted Poles or perform any other work in connection with said Attachments that may be required in the maintenance, replacement, removal or relocation of said Poles or Licensor or existing attacher 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. For the purpose of this Section, Licensee Attachments shall be understood to include Attachments of Licensee in space reserved for Licensor, or space which Licensor has the right to use, on poles of other companies with which Licensor now has or may hereafter have agreements for joint use and occupancy; and the use of such space by Licensee shall be subject to the terms and conditions of the agreements between Licensor and said other companies.

C. Licensee shall be responsible at all times for the condition of Licensee's Attachments and its compliance with the requirements, specifications, rules, regulations, ordinances and laws specified in this Agreement. Licensor shall have no duty to Licensee to inspect, monitor or maintain the condition of Licensee's Attachments (including, but not limited to, splices and other facilities connections) located on, within or in Licensor's Poles. Licensor may make periodic or spot inspections at any time of any part of Licensee's Attachments as Licensor determines reasonable or necessary in its sole judgment, pursuant to Section 16 of this Agreement.

D. Licensee shall not authorize any person or entity acting on Licensee's behalf ("Licensee Contractor") to perform any work on, within or in Licensor's Poles without first verifying, to the extent practicable, on each date when such work is to be performed and, that the condition of the Poles is suitable for the work to be performed. If Licensee or Licensee Contractor determines that the condition of the Poles is not suitable for the work to be performed, Licensee shall notify Licensor of the condition of the Poles in question and shall not proceed with construction activities until Licensee is satisfied that the work can be safely performed.

E. Licensee shall be solely responsible for paying all persons and entities that provide materials, labor, access to real or personal property, or other goods or services in connection with the construction and placement of Licensee's Attachments and for directing the activities of all Licensee Contractors while

they are physically present on, within or in the vicinity of Licensor's Poles. Licensee shall not permit any mechanic's lien, material man's lien, or any other lien, claim or security interest to attach to or encumber any of Licensor's real or personal property at any time.

F. Licensee's main line Attachments shall be tagged at maximum intervals of 300 feet so as to identify Licensee as the owner of the Attachment. Licensee shall place fiber wrap/ID at the specific Licensor Poles attaching point and at any aerial span splice location and/or slack loop. The tags shall be of sufficient size and lettering so as to be easily read from ground level.

11. OVERLASHING

A. Licensee may, upon notice to Licensor, overlash its own existing authorized Attachment and this does not constitute a separate Attachment, as it relates to the billing of Pole Attachment Fees, unless multiple/separate Attachment points are physically made at the Poles itself outside of the scope of a single Attachment. Such notice shall be in the form of an Exhibit B Application for Pole License, and any additional Attachments being installed on Poles, regardless of it being an overlash of existing Attachment or as a new Attachment, will require an engineering analysis to determine if the additional loading negatively impacts the Poles capacity. Any additional load which causes the Pole to exceed its rated capacity or no longer provides for ample ground clearance of the Attachments or other facilities will necessitate the need for the Licensee to pay any and all Make Ready Work necessary. Each overlash strand shall not exceed a 2" maximum diameter.

B. In no event shall Licensee allow a third party to overlash to Licensee's Attachments without prior notice to and consent from Licensor. Any third party must execute a License Agreement with Licensor and obtain a license thereunder.

12. MODIFICATIONS, ADDITIONS, REPLACEMENTS OR REARRANGEMENTS

A. Licensee shall not modify, overlash, add to, or replace Attachments on any Poles without first notifying Licensor in writing of the intended modification, addition or replacement at least thirty (30) days prior to the date the activity is scheduled to begin. The required notification shall include:

1. the date the activity is scheduled to begin including the Pole location and Pole number,
2. a description of the planned modification, addition, or replacement,
3. a representation that the modification, addition, or replacement will not require any space other than the space previously designated for Licensee's Attachments, and
4. a representation that the modification, addition, or replacement will not impair the structural integrity of the Poles involved.

B. Upon Licensor's receipt of a complete Exhibit B Application for Pole License, Licensor will perform, at Licensee's sole expense, a field check and if Licensor determine that the modification, addition, or replacement specified by Licensee in its notice will require more space than that allocated to Licensee or will require the rearrangements of, reinforcement of, replacement of, or an addition of support equipment to the Poles involved in order to accommodate Licensee's modification, addition, or replacement, Licensor will so notify Licensee and the parties will follow the Make Ready Work process

as set forth in Section 8 of this Agreement in order to obtain authorization for the modification, addition, or replacement of its Attachments.

C. Should Licensee request Licensor to expand capacity or purchase additional plant and should Licensor so agree, Licensee agrees to pay all cost and expenses thereby incurred by Licensor. If another party that has been granted a license joins in the request and will benefit from the expansion or purchase, Licensee agrees to pay a percentage of all costs proportionate to Licensee's share of the benefit received from the expansion or purchase, but Licensee shall be responsible for all costs and expenses not paid by the other party.

D. When multiple applications, including those of Licensee, are received by Licensor with respect to any Poles which must be replaced or rearranged to provide additional space prior to commencement of the work on such Poles, Licensor's facilities may need to be transferred in which case Licensee shall pay for all costs for such transfers.

E. In the event Licensor plans to modify or alter any Poles upon which Licensee has placed Attachments, Licensor, except in emergency situations, shall provide Licensee written notice of the proposed modification or alteration at least sixty (60) days prior to the time the proposed modification or alteration is scheduled to take place. Should Licensee decide to modify or alter Licensee's Attachments on Poles, Licensee shall so notify Licensor in writing at least thirty (30) days prior to the day the work is to begin. In such event, Licensee shall bear a proportionate share of the total costs incurred by Licensor to make Licensor Poles accessible.

F. In the event Licensor is required to move the location of, or replace, any Licensor Poles for reasons beyond its control, Licensee concurrently shall relocate Licensee's Attachments. Licensee shall be solely responsible for the costs of the relocation of Licensee's Attachments. When it is mutually agreed that it is in the best interest of Licensor and Licensee, Licensor may, after proper notification has been provided, transfer Licensee's Attachments at the same time that Licensor transfers its facilities and shall invoice Licensee for the actual costs incurred in performing the transfer of Licensee's Attachments.

13. EMERGENCY RESTORATION

A. In the event of an emergency, restoration procedures may be affected by the presence of Licensee's Attachments. While Licensor shall not be responsible for the repair of damaged Attachments, Licensor shall nonetheless control access to its Poles if the restoration is to be achieved in an orderly fashion.

B. Where Licensor and Licensee are involved in emergency restorations, access to Licensor's Poles will be controlled by Licensor according to the following guidelines.

I. Service Disruptions/Outages

- a) While exercising its right to first access, Licensor shall make all reasonable efforts to grant access to as many other entities with attachments as is reasonably safe.
- b) Where simultaneous access is not possible, Licensor will grant access on first come, first served basis.

2. Service Affecting Emergencies

- a) While exercising its right to first access, Licensor shall make all reasonable efforts to grant access to as many other entities with attachments as is reasonably safe.
- b) Where Licensor is unable to grant simultaneous access to all other entities with attachments, access will be granted according to the level of damage to the attachments of each entity and the likelihood that a given level of damage will result in service disruption. Where the likelihood that a service disruption will result is not clearly discernible, access will be on a first come, first served basis.

C. Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by Licensor regarding access to its Attachments, or any action or failure to act by Licensor, under this section shall not be the basis for any claim by Licensee against Licensor for any damage to Licensee's Attachments or disruption of Licensee's Services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee.

14. FAILURE TO PLACE ATTACHMENTS

Once Licensee has been issued a License, Licensee shall have ninety (90) calendar days from the date of the License was issued to begin the placement of its Attachments on the Licensor Poles covered by the License. If Licensee has not begun placing its Attachments within the ninety (90) day period, Licensee shall so advise Licensor with a written explanation and notice for the delay. If Licensee fails to advise Licensor of its delay by notice thereof or if Licensee fails to act in good faith by not making a bona fide effort to begin placing its Attachments within the ninety (90) calendar days prescribed by this section, the License shall be automatically rescinded by Licensor and deemed null and void, and Licensee shall have no further right to place the Attachments pursuant to such voided License.

15. ABANDONMENT

Nothing in this Agreement shall prevent or be construed to prevent Licensor from abandoning, selling, assigning, or otherwise disposing of any Poles. Licensor shall notify Licensee of any sale, assignment, or other disposition of any Poles or other Licensor property used for Licensee's Attachments.

16. INSPECTIONS AND INVENTORIES

A. Post construction and/or periodic inspection of Licensee Attachments. Licensor shall have the right, but not the obligation, to make a post construction inspection and periodic inspections at any time of any part of Licensee's Attachments on Poles and any other associated facilities for the limited purpose of determining whether Licensee's Attachments are in compliance with the terms of this Agreement and any Licenses issued hereunder. Such inspections shall be conducted at Licensor's expense with the exception of (1) a post construction inspection, (2) follow-up inspection to confirm remedial action after an observed Licensee violation of the requirements of this Agreement; and (3) inspection of Licensee Facilities in compliance with a specific mandate of appropriate governmental authority, for which inspections the cost shall be borne solely by Licensee.

B. Inventories. Upon written notice to Licensee, the total number and location of Licensee's Attachments on Licensor's Poles may be determined, at Licensor's discretion, through a survey which may be made not more than once per calendar year by Licensor. If so requested, Licensee and/or any other entity owning or jointly using the Poles with Licensor may participate in the survey. The costs incurred by Licensor to conduct the survey shall be reimbursed to Licensor by Licensee upon demand by Licensor regardless of whether or not Licensee participates in the survey. If the Attachments of more than one licensee are surveyed, each such licensee shall contribute a proportionate share of the costs reimbursed to Licensor.

C. No Duty to Licensee. Neither the act of inspection or survey by Licensor of Licensee's Attachments nor any failure to inspect such Attachments shall operate to impose on Licensor any liability of any kind whatsoever or to relieve Licensee of any responsibility, obligations or liability under this Agreement, any License issued hereunder, or applicable law, or to any third party contractor, Licensee Contractor, or otherwise.

17. UNAUTHORIZED ATTACHMENTS

A. If any Licensee Attachment shall be found on Poles for which no License has been granted by Licensor pursuant to the terms of this Agreement ("Unauthorized Attachment"), Licensor, without prejudice to its other rights or remedies under this Agreement or otherwise, may:

1. impose charges as set forth herein, and
2. require Licensee to remove such Unauthorized Attachment or Licensor may remove such Unauthorized Attachment without liability and the expense of removal shall be borne by Licensee.

B. For the purpose of determining the charges, Licensee shall pay an amount per Unauthorized Attachment equal to the Pole Attachment Fee that would have applied if Licensee had properly obtained a License based upon the then current Attachment Rate for the number of years the Unauthorized Attachment have existed (or, if that cannot be determined, the number of years since the most recent inventory or five (5) years, whichever is less), plus interest at a rate the greater of 1.5% per month or the maximum allowed by law. In addition, if the Unauthorized Attachment is discovered during a survey where Licensee declined to participate an additional fee of [REDACTED] per Unauthorized Attachment shall be charged to Licensee. Licensee agrees and acknowledges in the event of an Unauthorized Attachment actual damages would be difficult to determine and the charges described herein are liquidated damages, not penalties, and represent a fair and reasonable estimate of the damages which may be incurred by Licensor for Unauthorized Attachments on Licensor's Poles including wear and tear, lost revenue, increased maintenance and repair costs for having to work on a Pole where the owner of a facility is unknown, and the risk of liability for safety violations that may be the result of an Unauthorized Attachment.

C. Any such charge as set forth in Section 17(B) imposed by Licensor shall be in addition to its rights to any other sums due and payable, including without limitation Make Ready Work costs, the actual costs of any audit or survey which established the existence of the Unauthorized Attachment and to any claims to said fees.

D. No act by Licensor with regard to any unauthorized use shall be deemed as a ratification or the licensing of the unauthorized use, and if any License should subsequently be issued, after application and payment of all applicable fees therefore, said License shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement or otherwise, and Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regard to said unauthorized use from its inception.

E. An Unauthorized Attachment shall include, but not limited to:

1. an Attachment to Poles which is not identified in any License issued in accordance with this Agreement;
2. an Attachment that occupies more space than that allocated to Licensee by Licensor in a License;
3. an Attachment that is not placed in accordance with the provisions of this Agreement or the appropriate License issued pursuant to this Agreement, unless Licensee can demonstrate to Licensor's reasonable satisfaction that said misplacement is not due to any act or omission of Licensee or Licensee's agents;
4. an addition or modification by Licensee to its pre-existing Attachment(s) that impairs the structural integrity of the involved Licensor Poles.
5. an Attachment that consists of facilities owned or controlled by, and for the use of a party other than Licensee that is overlashed to Licensee Attachments without approval by Licensor as required under this Agreement.

F. Once Licensor has notified Licensee of an Unauthorized Attachment, Licensee shall submit an Exhibit B Application for Pole License to request an authorization for the Attachment. An Exhibit B Application for Pole License submitted per this provision will be treated like any other Exhibit B Application for Pole License subject to this Agreement. Licensee will be responsible for all fees associated with an Exhibit B Application for Pole License (as identified in this Agreement). If an Exhibit B Application for Pole License is not received by Licensor within ten (10) days of Licensor's notice of an Unauthorized Attachment, Licensee has sixty (60) days from the date of the Unauthorized Attachment notification to vacate the Pole. If Licensee fails to remove Licensee's facilities within such sixty (60) day period, 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 or disruption of Licensee's Services.

18. COMPLIANCE WITH LAW, ASSUMPTION OF RISK, AND DISCLAIMER OF WARRANTIES

A. Notwithstanding anything to the contrary in this Agreement, Licensee shall ensure that any and all activities it undertakes pursuant to this Agreement shall comply with all applicable laws, including, without limitation, all applicable provisions of:

1. Workers' compensation laws

2. Unemployment compensation laws
3. The Federal Social Security Law
4. The Fair Labor Standards Act, and
5. All laws, regulations, rules, guidelines, policies, orders, permits and approvals or any governmental authority relating to environmental matters including but not limited to Hazardous Materials and/or Occupational Safety and Health Act ("OSHA").

B. LICENSEE ACKNOWLEDGES AND AGREES THAT LICENSOR DOES NOT MAKE ANY REPRESENTATION OR WARRANTIES AS TO THE CONDITION OR SAFETY OF LICENSOR'S POLES ANY ASSOCIATED FACILITIES AND EQUIPMENT ON, WITHIN OR SURROUNDING THE SAME, OR THE PREMISES SURROUNDING THE SAME, LICENSEE HEREBY ASSUMES ALL RISKS OF ANY DAMAGE. INJURY OR LOSS OF ANY NATURE WHATSOEVER CAUSED BY OR IN CONNECTION WITH THE USE OF POLES AND ASSOCIATED FACILITIES AND EQUIPMENT ON, WITHIN OR SURROUNDING THE SAME, AND THE PREMISES SURROUNDING THE SAME AND LICENSEE IS SOLELY RESPONSIBLE FOR ALL ALLEGED DAMAGES CLAIMED BY THIRD PARTIES ACCESSING OR WORKING ON OR NEAR LICENSOR'S POLES.

C. EXCEPT AS OTHERWISE PROVIDED HEREIN, LICENSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED, WITH REGARD TO THIS AGREEMENT AND ANY LICENSE ISSUED HEREUNDER INCLUDING, WITHOUT LIMITATION, ACCESS TO LICENSOR'S POLES OR OTHER FACILITIES.

19. LICENSEE CONTRACTOR QUALIFICATIONS

- A.** The parties acknowledge that from time to time Licensee may use a Licensee Contractor to perform work for Licensee on, within or in Licensor's Poles.
- B.** Licensee represents and warrants that any of its employees or Licensee Contractors shall not climb or work on any of Licensor's Poles, or work within Licensor's Right-Of-Way unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to Poles and to perform the work safely.
- C.** Licensee assumes all risk of Licensee Contractors and agrees to indemnify, defend and hold harmless Licensor from all claims, losses, damages and liabilities, costs and expenses (including, but not limited to, reasonable attorney's fees) associated thereto in accordance with the indemnification provision of this License Agreement.
- D.** When Licensee Contractors are working on, within or in the vicinity of any part of Licensor's Poles or Right-Of-Way, all such Licensee Contractors shall follow procedures which Licensee deems appropriate for the protection of persons and property. Licensee shall be responsible at all times for determining and implementing the specific steps required to protect persons and property at the site. Licensee will provide all traffic control and warning devices required to protect pedestrian and vehicular

traffic, workers and property from danger. Licensee has sole responsibility for the safety of all its employees and Licensee Contractors, for the safety of bystanders, and for insuring that all operations conform to terms and conditions set forth in this Agreement. Licensor reserves the right to suspend Licensee's activities on, within or in the vicinity of Licensor's Poles or Right-Of-Way if, in Licensor's sole judgment, any hazardous condition arises due to the activity (including both acts and omissions) of any Licensee Contractor or Licensee employee, which suspension shall cease when the condition has been rectified.

E. Licensee represents and warrants that all Licensee Contractors shall maintain the same insurance coverage and limits as are required of Licensee under this Agreement, and if not Licensee's insurance will provide such coverage.

F. Licensee acknowledges that all Licensee Contractors are not Licensor's employees or agents and Licensee assumes full responsibility for their actions or omissions to act. Licensee shall be solely responsible for the payment of compensation of Licensee's employees, contractors or agents assigned to perform work hereunder and such employees, contractors and agents shall be informed that they are not entitled to the provision of any Licensor benefits. Licensor shall not be responsible for payment of workman's compensation, disability benefits, and unemployment insurance or for withholding or paying employment related taxes for any employee of Licensee, but such responsibility shall be solely that of Licensee. In the event that any federal, state or local government agency, any court or any other applicable entity determines that the personnel provided by Licensee or any permitted Licensee Contractor are employees of Licensor for any purpose, Licensee agrees to indemnify, defend and save harmless Licensor from all liabilities, costs, and expenses (including, but not limited to, reasonable attorney fees) associated with such determination in accordance with the indemnification provision of this License Agreement.

G. Any work by Licensee Contractors on, within or in Licensor's Poles or Right-Of-Way shall be done only when specific authorization for such work has been obtained in writing in advance from Licensor pursuant to the terms and conditions of this Agreement. The parties agree that all work shall be performed according to existing industry standards and practices and the requirements and specifications set forth in this Agreement and any License issued hereunder.

20. DEFAULT

A. In addition to other events of defaults defined anywhere else in this Agreement, any one of the following shall be deemed the occurrence of a default under this Agreement:

1. failure by Licensee to pay when due any fee or other sum required to be paid under the terms of this Agreement.
2. failure by either party to perform or observe any other term, condition, covenant, obligation, or provision of this Agreement and such default continues for a period of thirty (30) days after written notice thereof from the other party (provided that if such default is not curable within a thirty (30) day period, the period may be extended if the party substantially commences to cure such default and proceeds diligently thereafter to effect such cure).

3. the filing of any tax or lien against Poles because of any act or omission by Licensee which is not bonded or discharged within thirty (30) days of the date of notice to Licensee that such lien has been filed;
4. Licensee's voluntary or involuntary bankruptcy;
5. Licensee's use or maintenance of its Attachments in violation of any law or regulation, or in aid of any unlawful act or undertaking;
6. if any authorization which may be required of Licensee by any governmental or private authority for the placement, operation, or maintenance of Licensee's Attachments is denied or revoked.

B. In the event of a default and subject to any other applicable provision of this Agreement, the non-defaulting party, without any further notice to the defaulting party (except where expressly provided for below or required by applicable law), may do any one or more of the following:

1. perform on behalf and at the expense of the defaulting party, any obligation of the defaulting party under this Agreement which the defaulting party has failed to perform and of which the non-defaulting party shall have given the defaulting party notice, the cost of which performance shall be paid by the defaulting party to the non-defaulting party upon demand;
2. terminate this Agreement by giving sixty (60) days written notice of such termination to Licensee and remove Licensee's Attachments and store Licensee's facilities in a public warehouse or elsewhere at the expense of and for the account of Licensee without Licensor being deemed guilty of trespass or conversion, and without Licensor becoming liable for any loss or damages to Licensee occasioned thereby; or
3. exercise any other legal or equitable right or remedy that the non-defaulting party may have.

C. The defaulting party shall repay to the non-defaulting party upon demand any costs and expenses incurred by the non-defaulting party (including, without limitation, reasonable attorneys' fees) in successfully enforcing this Agreement.

D. Upon termination of this Agreement by the non-defaulting party, the defaulting party shall remain liable to the non-defaulting party for any and all fees, other payments and damages which may be due or sustained in accord with this Agreement prior to such termination, all reasonable costs, fees and expenses, including, without limitation, reasonable attorney' fees incurred by the non-defaulting party in pursuit of its remedies hereunder.

E. All rights and remedies of the non-defaulting party set forth in this Agreement shall be cumulative and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule of court, or the common law, either at law or in equity, or both.

21. INDEMNIFICATION AND LIMITATION OF LIABILITY

A. Licensee shall compensate Licensor for the full actual loss, damage or destruction of Licensor's property that in any way arises from or is related to this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation, or maintenance of Licensee's Attachments).

B. Licensee agrees to defend, indemnify, protect and hold harmless Licensor and its officers, directors, employees, shareholders, successors, assigns, agents, affiliates, representatives, partners, and contractors from and against any and all claims, actions, administrative proceedings (including, without limitation, informal proceedings), judgments, damages, penalties, fines, cost, liabilities, interests, or loss, including, without limitation, reasonable attorneys' fees and expenses, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature suffered by or asserted against Licensor in any way arising out of or connected with this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Attachments, unless caused solely by the negligence or willful misconduct of Licensor or Licensor's affiliates, agents, officers, employees and assigns). Licensee expressly assumes all liability for actions by its affiliates, agents, officers, employees, or Licensee Contractors and expressly waives any immunity from the enforcement of this indemnification provision that might otherwise be provided by workers' compensation law or by other state or federal laws.

C. Without limiting any of the foregoing, Licensee assumes all risk of, and agrees to relieve Licensor of any and all liability for, loss or damage (and the consequences of loss or damage) to any facilities placed on Licensor's property and any other financial loss sustained by Licensee, except to the extent caused by the sole negligence or willful misconduct on the part of Licensor or Licensor's agents, officers, employees, and assigns.

D. Without limiting the foregoing, Licensee expressly agrees to indemnify, defend, and hold harmless Licensor and Licensor's agents, officers, employees and assigns from any and all claims asserted by end users/customers of Licensee in any way arising out of or in connection with this Agreement or Licensee's Attachments, except to the extent caused solely by the negligence or willful misconduct of Licensor or Licensor's agents, officers, employees, and assigns, or its contractors.

E. Notwithstanding anything to the contrary in this Agreement, Licensee further shall indemnify and hold harmless Licensor, its agents, officers, employees, and assigns from and against any claims, liabilities, losses, damages, fines, penalties, and costs (including, without limitation, reasonable attorneys' fees) whether foreseen or unforeseen, which the Licensor suffers or incurs because of:

1. any discharge of Hazardous Materials resulting from acts or omissions of Licensee, Licensee Contractors or Licensee's predecessor in interest;
2. acts or omissions of Licensee, its agents, employees, Licensees, or representatives in connection with any cleanup required by law, or
3. failure of Licensee or Licensee Contractors to comply with Environmental, Safety and Health Laws.

F. Licensee shall indemnify, protect, and hold harmless Licensor from and against any and all claims for libel and slander, copyright and/or patent infringement arising directly or indirectly by reason of installation of Licensee's Attachments pursuant to this Agreement.

G. In the event of any claim, demand or litigation specified the indemnity provision, the party to be indemnified (the "Indemnified Party") shall give prompt notice to the other party (the "Indemnifying Party") of such claim, demand or litigation. The Indemnifying Party shall have sole control of the defense of any action or litigation on such a claim or demand (including the selection of appropriate counsel) and all negotiations for the settlement or compromise of the same, except that the Indemnifying Party may not make any non-monetary settlement or compromise without the Indemnified Party's consent, which consent shall not be unreasonably withheld. The Indemnified Party shall cooperate with the Indemnifying Party in the defense and/or settlement of any claim, demand or litigation. Nothing herein shall be deemed to prevent the Indemnified Party from participating in the defense and/or settlement of any claim, demand or litigation by the Indemnified Party's own counsel at the Indemnified Party's own expense.

H. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY SUCH PARTY OR BY ANY SUBSCRIBER, CUSTOMER OR PURCHASER OF SUCH PARTY FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY UPON WHICH ANY SUCH CLAIM MAY BE BASED OR WHETHER IT (a) HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR (b) IS NEGLIGENT.

22. INSURANCE

A. Licensee shall obtain and maintain, in full force and effect at all times, during operations covered by this Agreement, such minimum insurance as will cover the obligations and liabilities of Licensee, its agents, and its employees which may arise from the operations under this Agreement. Insurance shall have limits of not less than Commercial General Liability policy of minimum limits of:

General Aggregate	\$ 2,000,000 per policy period
Products/Completed Operations Aggregate	\$ 2,000,000 per policy period
Personal Injury/Advertising	\$ 2,000,000 per occurrence
Each Occurrence	\$ 2,000,000 per occurrence
Fire Legal Liability	\$ 50,000 any one fire

B. The policy will be endorsed to show the above aggregate limits applying to "each" job site or, as an alternative, the General Aggregate will be increased to \$4,000,000 per policy period. Policy will also specifically state the coverage applies to all operations conducted by the Licensee, its employees, or agents on behalf of Licensee or subsidiary.

C. Where the performance of the work involves structural property, underground property, or blasting, Licensee's Commercial General Liability insurance policy shall provide coverage to the insured for legal liability arising from operations under this Agreement for property damage:

1. arising out of blasting,
2. arising out of collapse of, or structural injury to, any building or structure or
3. To underground facilities and utilities.

D. Other general liability forms are acceptable in lieu of the Commercial General Liability Form however they are not to be used without written approval from Licensor.

1. Business Automobile Liability policy with minimum limits of:

Bodily Injury	\$2,000,000 per accident
Property Damage	\$ 2,000,000 per accident
OR	
Combined Single Limit	\$ 2,000,000 per accident

The policy will be issued using symbol "1 - any auto" coverage.

2. Workers Compensation:

Part 1 - Medical Benefits Statutory

Part 2 - Employer's Liability as indicated:

Bodily Injury by Accident	\$ 1,000,000 each accident
Bodily Injury by Disease	\$ 1,000,000 each employee
Bodily Injury by Disease	\$ 1,000,000 policy limit

E. The policy will show the state in which operation on behalf of the Licensee and/or subsidiary is being conducted. For operations conducted within monopolistic (state fund) states, Licensee will furnish a certificate of compliance from the appropriate state fund administrator.

F. In each and every policy except workers' compensation, Licensor and its subsidiaries shall be named an "additional insured" with respect to activities performed on behalf of the Licensee and its subsidiaries.

G. Coverage provided by the policies listed in this paragraph will be issued by an insurance company, licensed in the state in which operations on behalf of the Licensee are to be conducted. It is acceptable to use both primary and excess/umbrella policies to obtain necessary limits. The worker's compensation policy must contain a waiver of subrogation clause.

H. Licensee will furnish to Licensor, a certificate evidencing insurance coverage under sub-paragraphs 22(A) and (D). Such certificate or Licensee shall provide for a thirty (30) day prior notice to the Licensor of any cancellation or material changes in coverage and shall be signed by a legal representative of the issuing insurance company. The certificate of insurance shall be sent to Licensor's contact identified in Exhibit E.

I. The provisions of sub-paragraphs 22 (A) and (D) shall also apply to all Licensee Contractors and Licensee shall be responsible for their compliance herewith.

23. NOTICES

Any and all notices to a party required or permitted under this Agreement shall be in writing and shall be: (a) delivered personally; (b) delivered by express overnight delivery service; (c) mailed, via certified mail or first class U.S. Postal Service, with postage prepaid, and a return receipt requested; or (d) delivered by electronic mail; provided that a paper copy is also sent via methods (a), (b), or (c) of this Section. Notices will be deemed given as of the earliest of: the date of actual receipt; the next business day when sent via express overnight delivery service; five (5) calendar days after mailing in the case of first class or certified U.S. Postal Service, or on the date set forth on the confirmation produced by the sent confirmation when sent prior to 5:00 p.m. in the recipient's time zone, but the next business day when delivered at 5:00 p.m. or later in the recipient's time zone. Notices will be addressed to the parties as set forth in Exhibit E as may be updated in writing by the parties from time to time in accordance with method set forth under this Section 23.

24. CONFIDENTIALITY

Neither party shall at any time disclose, provide, demonstrate or otherwise make available to any third party any of the terms or conditions of this Agreement or any materials provided by either party specifically marked as confidential, except upon written consent of the other party, or as may be required by applicable law or governmental authorities. Notwithstanding the foregoing, nothing in this Section shall prevent disclosure to a party's authorized legal counsel who shall be subject to this confidentiality section, nor shall it preclude the use of this Agreement by the parties to obtain financing, to make or report matters related to this Agreement in any securities statements, or to respond to any requests by governmental or judicial authorities; provided, however, that any such disclosure shall be limited to the extent necessary, and shall be made only after attempting to obtain confidentiality assurances. Notwithstanding the foregoing, prior to making any disclosure in response to a request of a governmental authority or legal process, the party called upon to make such disclosure shall provide notice to the other party of such proposed disclosure sufficient to provide the other with an opportunity to timely object to such disclosure. Notwithstanding the foregoing, Licensor may, without notice to Licensee: (i) negotiate or enter into any agreement with any other person(s) or entity(ies) that is identical or similar to this Agreement; and (ii) provide the text of all or part of this Agreement to any other party, so long as Licensor shall redact therefrom all references to Licensee and shall not associate such text with Licensee or identify Licensee as having agreed to such text or terms.

25. DISPUTE RESOLUTION

A. Except in the case of:

1. a suit, action, or proceeding by one party to compel the other party to comply with its obligation to indemnify the other party pursuant to this Agreement, or
2. a suit, action or proceeding to compel either party to comply with the dispute resolution procedures set forth in this section, the parties agree to use the following procedure to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or its breach.

B. At the written request of a party, each party shall designate a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute, controversy, or claim arising

under this Agreement. The parties intend that these negotiations be conducted by non-lawyer, business representatives. The substance of the negotiations shall be left to the discretion of the representatives. Upon mutual agreement, the representatives may utilize other alternative nonbinding dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence between the representatives for the purposes of these negotiations shall be treated as confidential, undertaken for purposes of settlement, shall be exempt from discovery and production, and shall not be admissible in any subsequent proceeding without the concurrence of all parties. Documents identified in or provided during such negotiations, which are not prepared for purposes of the negotiations, shall not be so exempt and may, if otherwise admissible, be admitted as evidence in any subsequent proceeding.

C. If a resolution of the dispute, controversy or claim is not reached within ninety (90) days of the initial written request referred to in this Section 25, the dispute, controversy, or claim may be filed with the State utility commission or the Federal Communication Commission, if applicable, for review and determination, provided the party invoking the commission's intervention process has in good faith negotiated, or attempted to negotiate, with the other party pursuant to this Section 25.

D. Except as otherwise provided in this Agreement under the Indemnification or Default provision or elsewhere, each party shall bear its own costs, including attorneys' fee, incurred in connection with any of the foregoing procedures. A party seeking discovery shall reimburse the responding party the cost of reproducing documents (to include search time and reproduction time costs).

26. TAXES

Each party shall pay all taxes and assessments lawfully levied on its own property and services subject to this Agreement.

27. WAIVER

Failure by either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

28. NO THIRD PARTY BENEFICIARIES

Except as otherwise provided in this Agreement, this Agreement is intended to benefit only the parties and may be enforced solely by the parties, their successors in interest or permitted assigns. It is not intended to, and shall not, create rights, remedies or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the parties, except as provided herein.

29. FORCE MAJEURE

Neither party shall be liable for any delay or failure in performance of any part of this License Agreement or License issued hereunder from any cause beyond its reasonable control and without its fault, omission or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, labor strikes, lockouts or work stoppages or severe weather ("Force Majeure Event"). In the event of a Force Majeure Event, upon giving prompt notice to the other party, the due date for performance by the affected party of its original obligation(s) shall be extended by a term equal to the

time lost by reason of the Force Majeure Event. In the event that the affected party is able to partially perform its obligations, it shall perform its obligations at a performance level no less than that which it uses for its own operations.

30. ASSIGNMENT

Licensee shall not assign, transfer or sublet the privileges hereby granted, or sell, lease or otherwise permit the use of its facilities on or any part thereof (all of the foregoing being "Transfers"), without prior consent in writing of Licensor. No such consent granted by Licensor shall be effective until Licensee's assignee, sublessee or other transferee has agreed, on an enforceable separate document signed and delivered to Licensor, to assume all obligations and liabilities of Licensee under this Agreement. Licensor may condition such consent upon the assignee's sublessee's or transferee's agreement to reasonable additional or modified terms or conditions. If there is a change of control of Licensee, then Licensor shall have the right, in its reasonable discretion, immediately to terminate this Agreement in its entirety without further liability. Licensor may assign or otherwise transfer this Agreement or any of its rights and interests to any firm, corporation or individual, without the prior consent of Licensee.

31. APPLICABLE LAW

This Agreement, and the rights and obligations contained in it, shall be governed and construed under the laws of the state in which the Attachments hereunder are to be located. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines now in effect and that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such prescribed law, rule, regulation or guideline, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, regulation or guideline. Should any term of this Agreement be determined by a court or agency with competent jurisdiction to be unenforceable, all other terms of this Agreement shall remain in full force and effect.

32. WAIVER OF JURY TRIAL

Licensor and Licensee each expressly waive its right to a jury trial.

33. ENTIRE AGREEMENT, MODIFICATIONS, SURVIVAL AND CONFLICTS AND TARIFFS

A. This Agreement cancels and supersedes all previous agreements whether written or oral, except for any sums due thereunder, between Licensor and Licensee with respect to the Licensee's Attachments to Licensor's Poles; and there are no other provisions, terms or conditions to this Agreement except as expressed herein. All currently effective Licenses and authorizations for Attachments granted pursuant to such previous agreements shall continue in effect subject to the terms and conditions of this Agreement.

B. This Agreement may be amended or supplemented at any time only upon written agreement by the parties hereto. Notwithstanding the foregoing, all Exhibits, fees, Licensor procedures and specifications may be modified by Licensor upon thirty (30) day notice to Licensee.

C. Notwithstanding the termination of this Agreement for any reason, Section 18 Compliance with Laws, Assumption of Risk and Disclaimer of Warranties, Section 21 Indemnification and Limitation of

Liability, Section 22 Insurance, Section 24 Confidentiality and any other provision intended to survive, shall survive termination to the maximum extent permitted under applicable law. Notwithstanding any provisions to the contrary, all rights, remedies, or obligations which arose or accrued prior to the termination or expiration of the terms hereof shall survive and be fully enforceable for the applicable statute of limitations period.

D. It is the intent of the parties that the terms and conditions of this Agreement and any applicable Licensor's state tariffs be construed as being consistent where possible. However, in the event of a conflict or difference between the terms and conditions of this Agreement and Licensor's state tariff, the terms of the applicable state tariff shall control.

34. AUTHORITY AND COUNTERPARTS AND ELECTRONIC SIGNATURES

A. Each party represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the state in which the obligations under this License Agreement are to be performed. Each party warrants that it has full power and authority to execute and deliver this License Agreement and to perform its obligations hereunder.

B. This Agreement may be executed using facsimile or electronic signatures and such facsimile or electronic version of the Agreement shall have the same legally binding effect as an original paper version. This Agreement may be executed in counterparts, each of which shall be deemed an original.

LICENSOR

LICENSEE

Windstream Kentucky East, LLC

(Bluegrass Network LLC d/b/a Bluegrass Telecom)

BY: DocuSigned by:
Claude Moore
5D6DADD166654A0...
NAME: Claude Moore
TITLE: Staff Manager - Business Ops
DATE: 2/22/2017


BY: 
NAME: Scott W. McGowan
TITLE: SVP/CTO
DATE: 2-21-17

EXHIBIT A
DEFINITIONS

“Application for Pole License” - A written request submitted in the form of Exhibit B from Licensee to Licensor requesting authorization to attach Licensee owned facilities to Poles in accordance with this Agreement.

“Attachment(s)” - any facilities, cables or equipment attached to Poles or any other property owned or controlled by Licensor.

“Effective Date” - is the date this Agreement is last signed by the parties.

“Force Majeure Event” - shall have the meaning set forth in Section 29 of the Agreement.

“Hazardous Materials” -

Any substance, material or waste now or hereafter defined or characterized as hazardous, toxic or dangerous as defined by the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) of 1980, as amended, and other federal, state, and local health, safety, and environmental laws, ordinances, statutes, and rules, including but not limited to the Occupational Safety and Health Act (“OSHA”).

Any substance, material or waste now or hereafter classified as a contaminant or pollutant under any law, rules, ordinance, or authority.

Any other substance, material or waste, the manufacture, processing, distribution, use, treatment, storage, placement, disposal, removal or transportation of which is now or hereafter subject to regulation under any law, ordinance, statute, rule or regulation of any governmental body or authority.

“License” - is the specific nonexclusive and revocable permission from Licensor, in the form of a Licensor countersigned and returned Application for License, to Licensee authorizing Licensee to attach its facilities as applied for to Licensor Poles in accordance with this Agreement.

“Licensee Contractors” - shall have the meaning set forth in Section 10(D) of the Agreement.

“Make Ready Estimate” - is Licensor’s estimated cost to perform Make Ready Work on Licensor’s facilities on Poles to accommodate Licensee’s Attachment as requested in an Application for Pole License.

“Make Ready Work” - all Licensor, joint owner or other existing attach work to prepare Licensor’s Poles and related facilities for the requested Attachment of Licensee’s facilities but not the actual placement of Attachments or administrative activities related to inquiries, verifications, requests or applications.

“Overlashing or overlashed” - lashing of an additional Licensee owned cable to Licensee’s own existing cable and/or strand attached to a Pole as set forth in Section 11 of this Agreement.

“Pole(s)” - a pole owned solely or jointly by Licensor or Poles owned by others to the extent that and for so long as Licensor has the right to permit others to be attached in the communications space.

“Pole Attachment Fee” - the fee paid annually per Attachment on a Pole. For billing purposes, a single Attachment includes the point of Attachment and all facilities located in the usable space on the Poles in the space assigned to Licensee (typically six inches above and six inches below the point of Attachment). If Licensee occupies more than one foot of usable space on Poles, separate Pole Attachment Fees shall apply to each one foot of space occupied.

“Right-of-Way” - right-of-way owned or controlled by Licensor.

“Unauthorized Attachment” – shall have the meaning set forth in Section 17(A) and 17(E) of the Agreement.

EXHIBIT B

FORM APPLICATION FOR POLE LICENSE

NOTE TO LICENSEE IF LICENSEE CHOOSES NOT TO PROCEED WITH THE APPLICATION - LICENSEE WILL BE BILLED FOR LICENSOR/WINDSTREAM'S ENGINEERING AND ADMINISTRATIVE TIME.

**EXHIBIT B
Windstream CORPORATION
APPLICATION FOR POLE LICENSE**

PROPOSAL #:

Submit in Dupli

Name of Firm/Licensee Applying: _____

Contact Name,
Phone # _____

windstream

EMAIL ADDRESS _____

Street Address,
City, ST, ZIP of
Firm Applying _____

Licensee Authorized Signature & Date: _____

By this application & signature, licensee agrees to pay all engineering and administrative fees associated with this application even if licensee chooses NOT to proceed with the project. **ALL ESTIMATED fees, including engineering & materials MUST BE PAID IN FULL UP FRONT**
NON PAYMENT OF FEES WILL RESULT IN THIS APPLICATION AND ALL FUTURE APPLICATIONS BEING PLACED ON HOLD
NOTE: Final costs will be determined by actual time & material required to do the make-ready work. Any difference in charges will be billed accordingly.

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11
Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Licensee to complete	Windstream to complete
Windstream Lead & Structure No (Pole No.)	Power Pole No.	Location: Street, City, Town, Zip Code	Ownership of Pole	Height, Class, Hgt of highest Tel Cable	Hgt of highest Pole	Hgt of lowest Cable	Hgt of other attachments on pole	# & type of Attachments	Height of Licensee to attach	Windstream Work Description
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
24										
25										

EXHIBIT B CONTINUED

ESTIMATED TOTAL COSTS

PLEASE ATTACH DRAWINGS TO THIS APPLICATION - IT WILL NOT BE PROCESSED WITHOUT THEM

Acknowledged and Agreed to by Licensor _____
 Name Title Date

Windstream Pole Attachment Data Sheet
EXHIBIT B - PART II

WINDSTREAM POLE NUMBER		POWER POLE NUMBER		
STREET LOCATION		NAME OF ATTACHER		
CITY/BORO/TOWNSHIP		DATE	FIELD PERSONNEL NAME	
ATTACHMENT TYPE <input type="checkbox"/> Cable <input type="checkbox"/> Power Supply <input type="checkbox"/> Service Drop <input type="checkbox"/> Overhead Guy				
POLE SIZE	TRANSFORMER/DEVICE ON POLE <input type="checkbox"/> Yes <input type="checkbox"/> No	STREET LIGHT <input type="checkbox"/> Yes <input type="checkbox"/> No	STREET LIGHT BRACKET HEIGHT	
GUYING REQUIRED FOR ANGLE, CORNER, OR TAP POLE CONSTRUCTION <input type="checkbox"/> Yes <input type="checkbox"/> No		CONDUIT RISER <input type="checkbox"/> Yes <input type="checkbox"/> No; If yes ⇒ <input type="checkbox"/> Primary <input type="checkbox"/> Secondary		
MAKE READY WORK	REQUIRED <input type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, PROVIDE ADDITIONAL DETAIL		
	POLE NO. ⇒		BEFORE AFTER	
*TYPE OF POWER ATTACHMENT ⇒		<input type="checkbox"/> Neutral <input type="checkbox"/> Secondary		
POLE DRAWING	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>Company Name</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>4. _____</p> </div> <div style="width: 50%; border-left: 1px solid black; padding-left: 10px;"> <p style="text-align: center;">Pole Side</p> <div style="display: flex; align-items: center;"> <div style="text-align: center; width: 15%;"> <p>Lowest Power Attachment</p> <p>* <input type="checkbox"/> Front <input type="checkbox"/> Back</p> </div> <div style="width: 70%; border-left: 1px solid black; border-right: 1px solid black; padding: 0 5px;"> </div> <div style="width: 10%; text-align: right; padding-right: 5px;"> <p>← Attach. Ht. _____</p> <p>← Proposed Attach. Ht. _____</p> <p>← Attach. Ht. _____</p> <p>← Attach. Ht. _____</p> <p>← Attach. Ht. _____</p> </div> </div> <p style="text-align: right; margin-top: 10px;">Mid Sp. Distanc: _____</p> <p style="text-align: right; margin-top: 10px;">Ground Line</p> </div> </div>			
	SPAN	MID-SPAN HEIGHT Fl.	SPAN CROSSES OVER (Check all that apply) <input type="checkbox"/> Body of Water <input type="checkbox"/> Street <input type="checkbox"/> Driveway <input type="checkbox"/> Field <input type="checkbox"/> Interstate <input type="checkbox"/> Swimming Pool <input type="checkbox"/> Building <input type="checkbox"/> Railroad <input type="checkbox"/> Yard <input type="checkbox"/> Parking Lot	
	NOTE			

EXHIBIT C

REMOVAL NOTICE AND LICENSE SURRENDER FORM

NOTIFICATION OF SURRENDER

Notification No. _____ Date: _____
City & State: _____

In accordance with the terms and conditions of the license agreement between us, dated _____, notice is hereby given that the License covering Attachments to the outside plant structures, as shown on the attached sketch, is surrendered.

Licensee: _____
Signature: _____
By (Print/Type): _____
Title: _____
Date: _____

Date Surrender Notice Received: _____

Licensor: _____
Signature: _____
By (Print/Type): _____
Title: _____
Date: _____

EXHIBIT E

NOTICES CONTACT INFORMATION

IF TO LICENSOR

Email: windstream.poles@windstream.com

Windstream Kentucky East, LLC

PO Box 25410

Little Rock, AR 72221

IF TO LICENSEE:

ENGINEERING CONTACT FOR LICENSEE

Company Name	Bluegrass Network LLC d/b/a Bluegrass Telecom
Name of Responsible Party	Herbert Johnson III
Address	Bluegrass Cellular Attn: Telecom P.O. Box 5012 Elizabethtown, Ky 42702
Phone	Office: 270-765-6361 x6504 Cell: 270-234-7185
Fax	
Email	hjohnson@bluegrasscellular.com

INVOICING / BILLING CONTACT FOR LICENSEE

Name	Herbert Johnson III
Address	Bluegrass Cellular Attn: Telecom P.O. Box 5012 Elizabethtown, Ky 42702
Phone	Office: 270-765-6361 x6504 Cell: 270-234-7185
Fax	
Email	hjohnson@bluegrasscellular.com

Time Warner Cable Midwest LLC

Attachment / Occupancy
License

Agreement

THIS AGREEMENT, by and between, **Time Warner Cable Midwest LLC**, hereinafter called "Licensor," and **Windstream Kentucky East, LLC**, hereinafter called "Licensee."

Effective/Start date of Agreement January 1, 2013

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AGREEMENT TERMS AND CONDITIONS

1.0 SCOPE OF AGREEMENT

- 1.01 The purpose of this Agreement is to set forth the rates, terms, conditions, and procedures under which the Licensor will provide Licensee access to Licensor's poles, ducts, innerducts, conduits, and rights-of-way.
- 1.02 Subject to the provisions of this Agreement, Licensor will issue to Licensee for any lawful communications purpose, revocable, nonexclusive licenses authorizing the attachment of Licensee's cables, equipment, and facilities to Licensor's poles or the placing of Licensee's cables, equipment, and facilities in Licensor's conduit system or within right-of-way owned or controlled by Licensor.
- 1.03 No use, however extended, of Licensor's poles, conduit system or right-of-way nor payment of any fees or charges required under this Agreement shall create or vest in Licensee any ownership or property rights in said poles, conduit system or right-of-way, 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, unless otherwise required by law.
- 1.04 Licensee recognizes that Licensor has heretofore entered into, or may in the future enter into, agreements and arrangements with others which are not party to this Agreement regarding the poles, conduit system and right-of-way covered by this Agreement. Nothing herein contained shall be construed as a limitation, restriction or prohibition against Licensor with respect to such other agreements or arrangements. The rights of Licensee shall at all times be subject to any present or future joint use arrangement between Licensor and any other public utility or government agency, to the extent consistent with law.

2.0 DEFINITIONS

- 2.01 "Attachments" - Any attachment to a pole, use of a duct or innerduct, use of a conduit, or using right-of-way owned or controlled by Licensor.
- 2.02 "Attachment Fee" - Fee paid annually per assigned twelve inches of space on a pole, or in a duct, innerduct, conduit, or right-of-way.
- 2.03 "Buried Cable" - Cable located below the surface of the ground but not in Licensor's conduit system.
- 2.04 "Conduit System" - Any combination of ducts, inner ducts, conduits, manholes, and handholes owned or controlled by Licensor that is a reusable passage or opening in, on, under or through the ground, or a structure such as a building or bridge. The term includes "inner ducts" created by subdividing a duct into smaller channels.
- 2.05 "Hazardous Materials" -
- (A) Any substance, material or waste now or hereafter defined or characterized as hazardous, toxic or dangerous as defined by the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") of 1980, as amended, and other federal, state, and local health, safety, and environmental laws, ordinances, statutes, and rules, including but not limited to the

Occupational Safety and Health Act ("OSHA").

- (B) Any substance, material or waste now or hereafter classified as a contaminant or pollutant under any law, rules, ordinance, or authority.
 - (C) Any other substance, material or waste, the manufacture, processing, distribution, use, treatment, storage, placement, disposal, removal or transportation of which is now or hereafter subject to regulation under any law, ordinance, statute, rule or regulation of any governmental body or authority.
- 2.06 "Make Ready Work" - All work to prepare Licensor's poles, ducts, inner ducts, conduits, rights-of-way, and related facilities for the requested occupancy or attachment of Licensee's facilities but not the actual placement of attachments or administrative activities related to inquiries, verifications, requests or applications.
- 2.07 "Poles"- Licensor owned and poles owned by others to the extent that and for so long as Licensor has the right to permit others to be attached in the communications space.
- 2.08 "Pole Attachment Request" or "PAR" - A written request from Licensee to attach its facilities to Poles, submitted in accordance with this Agreement. With respect to pole attachment agreements in effect prior to the date the Parties executed this Agreement, the term PAR shall be deemed to include Pole attachment requests made by letter or similar document.
- 2.09 "Right-of-Way" - Right-of-way owned or controlled by Licensor. It does not include attachment or use of cables, poles, equipment or facilities located on a particular right-of-way. It may include private easement, or in certain instances public right-of-way granted by a governmental authority or a utility easement such as in a subdivision or development.

3.0 TERM OF AGREEMENT

- 3.01 This Agreement shall become effective on January 1, 2013, and if not terminated in accordance with the provisions of other Articles hereof, shall continue in effect for a term of three (3) years, and thereafter on a year-to-year basis; provided, however, that at any time after the first year of said term the rates, fees and charges set forth may be increased or decreased by written notice from Licensor to Licensee consistent with the FCC rate formulas Referenced in Appendix I.
- 3.02 Except as otherwise provided in this Agreement, either Party may terminate this Agreement after the initial three (3) year term, with at least a (6) six month written notice to the other Party.
- 3.03 Upon termination of the Agreement in accordance with any of its terms, all outstanding licenses in connection therewith shall terminate and shall be surrendered and Licensee shall within 180 days of date of termination remove all cables, equipment and facilities at the cost and expense of Licensee. If Licensor in its sole reasonable discretion deems it is impractical to remove Licensee's cable, equipment and facilities from Licensor's rights-of-way, they may be abandoned in place.

4.0 LEGAL AUTHORITY

- 4.01 Licensee will obtain from public authorities and private owners of property any and all permits, franchises, licenses and grants necessary for the lawful exercise of any license granted hereunder ("Authorizations"). Licensee's failure to obtain Authorizations shall constitute a Material Default under this Agreement.

5.0 APPLICABLE LAW

- 5.01 This Agreement, and the rights and obligations contained in it, shall be governed and construed under the laws of the state in which the attachments hereunder are to be located.

6.0 SUBSEQUENT LAW

- 6.01 The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines now in effect and that subsequently may be lawfully prescribed by any federal, state or local governmental authority. To the extent required by any such prescribed law, rule, regulation or guideline, the Parties agree to modify, in writing, the affected term(s) and conditions(s) of this Agreement to bring them into compliance with such law, rule, regulation or guideline. Should any term of this Agreement be determined by a court or agency with competent jurisdiction to be unenforceable, all other terms of this Agreement shall remain in full force and effect.

7.0 DISCLAIMER OF WARRANTIES

- 7.01 Except as specifically set forth in this Agreement, Licensor makes no warranties, express or implied, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose.

8.0 LICENSE NOT EXCLUSIVE

- 8.01 Nothing herein contained shall be construed as a grant of any exclusive license, right or privilege to Licensee. Licensor shall have the right, subject to law, to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any poles, conduit system or right-of-way covered by this Agreement, under such terms and conditions, as Licensor shall reasonably prescribe.

9.0 ASSIGNMENT OF RIGHTS

- 9.01 Licensee shall not assign; transfer or sublet the privileges hereby granted, or sell, lease or otherwise permit the use of its facilities on or any part thereof (all of the foregoing being "Transfers"), without prior consent in writing of Licensor which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that Licensee may lease fibers or capacity in its cables to another entity without triggering this provision and either Party may so Transfer its rights and obligations under this Agreement without such consent to (i) any entity said Party, directly or indirectly, controls, is controlled by or is under common control with or (ii) any entity acquiring all or substantially all of said Party's assets or equity, by providing written notice to the other Party of such Transfer. Any attempted Transfer that is not permitted under this Section 9.01 is void *ab initio*.
- 9.02 Subject to the provisions of this Agreement, this Agreement shall extend to and bind the successors and authorized assigns of the Parties hereto.

10.0 LIABILITY AND DAMAGES

- 10.01 To the extent permitted by law, Licensor reserves to itself, its successors and assigns, the right to maintain its poles, conduit system and right-of-way and to operate its facilities thereon in such manner as will best enable it to fulfill its own service requirements. Licensor shall not be liable to Licensee for any interruption to service of Licensee or for interference with the operation of the cables, equipment or facilities of Licensee arising in any manner out of the use of Licensor's poles, conduit system and right-of-way except caused by Licensor's sole negligence, willful misconduct or material breach of this Agreement. Except for instances of Licensor's willful misconduct or gross negligence attributable to Licensor, Licensor's liability shall be limited to the reasonable cost of repair, replacement and/or transfer of Licensee's damaged cable, equipment or facilities, if any. Licensor shall make an immediate report to

Licensee of the occurrence of any such damage.

- 10.02 Licensee shall exercise special precautions to avoid damaging the cables, poles, conduits, right-of-way equipment and facilities of Licensor and of other licenses and hereby assumes all responsibility for any and all loss, damages, costs and expenses caused by Licensee, its employees, agents, contractors, subcontractors, invitees or representatives. Licensee shall make an immediate report to Licensor of the occurrence of any such damage.
- 10.03 Licensee shall indemnify and hold harmless Licensor against any and all claims, demands, causes of action, damages, costs or liabilities of every kind and nature whatsoever, except to the extent caused by Licensor's negligence or willful misconduct, which may arise out of or be caused by:
- (A) The erection, maintenance, presence, use or removal of Licensee's cable, equipment, and facilities on Licensor's poles, and within Licensor's conduit system and right-of-way
 - (B) Any act of Licensee on or in the vicinity of Licensor's poles, conduit system and right-of-way, or
 - (C) Any interruption, discontinuance, or interference with Licensor's service to any of its subscribers occasioned or claimed to have been occasioned by any action of Licensee pursuant to or consistent with this Agreement. Licensee shall, upon reasonable notice and demand and at its own sole risk and expense, defend any and all suits, actions or other legal proceeding brought or instituted against Licensor on any such claim, demand or cause of action, and shall pay and satisfy any judgment or decree rendered against Licensor therein, and Licensee shall reimburse Licensor for any and all legal expense incurred by Licensor in connection therewith if Licensee has not assumed the defense of such suit, or Licensee has approved Licensor's counsel, which such approval shall not be unreasonably denied. Licensee shall also indemnify, protect and hold 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 television broadcast programs, and for unauthorized use of other program material, and from and/or against all claims and demands for infringement of patents with respect to the manufacturer, use and operation of Licensee's equipment whether arising from the use of Licensee's equipment in combination with Licensor's poles, conduit system, right-of-way or otherwise.
- 10.04 Licensee agrees to comply under the Workmen's Compensation Laws of the state in which attachments are to be located hereunder, and also agrees to cause every subcontractor of Licensee to comply with and qualify under said laws, and shall furnish copies of Certificates demonstrating such compliance to Licensor prior to commencement of the work.

11.0 DEFAULT AND REMEDIES

- 11.01 In addition to Material Defaults defined anywhere else in this Agreement, any one of the following shall be deemed the occurrence of a Material Default under this Agreement:
- (A) Failure by Licensee to pay any fee or other sum required to be paid under the terms of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof to Licensee, except in a situation where Licensee has given Licensor notice of a good faith dispute under Section 18 of this Agreement and Licensee continues to act in good faith and diligently pursue a resolution to such dispute.
 - (B) Failure by either Party to perform or observe any other material term, condition, covenant, obligation, or provision of this Agreement and such default continues for a period of thirty (30)

business days after written notice thereof from the other Party (provided that if such default is not curable within a thirty (30) business day period, the period will be extended if the Party substantially commences to cure such default and proceeds diligently thereafter to effect such cure).

- (C) The filing of any tax or mechanic's lien against Poles because of any act or omission by Licensee which is not bonded or discharged within thirty (30) calendar days of the date Licensee receives notice that such lien has been filed;
 - (D) Licensor or Licensee's voluntary or involuntary bankruptcy;
 - (E) Licensee's knowing use or maintenance of its Attachments in violation of any law or regulation, or in aid of any unlawful act or undertaking;
 - (F) If Licensee provides service in the absence of authorization by any governmental authority.
- 11.02 In the event of a Material Default and subject to any other applicable provision of this Agreement, the Non-defaulting Party, without any further notice to the Defaulting Party (except where expressly provided for below or required by applicable law), may do any one or more of the following:
- (A) Perform on behalf and at the expense of the Defaulting Party, any obligation of the Defaulting Party under this Agreement which the Defaulting Party has failed to perform and of which the Non-defaulting Party shall have given the Defaulting Party reasonable notice, the cost of which performance shall be paid by the Defaulting Party to the Non-defaulting Party upon demand;
 - (B) Terminate this Agreement by giving sixty (60) business days written notice of such termination to Licensee. If Licensee shall fail to remove its facilities within the timeframes stated herein, Licensor may remove Licensee's Attachments and store Licensee's facilities in a public warehouse or elsewhere at the sole expense of and for the account of Licensee without Licensor being deemed guilty of trespass or conversion, and without Licensor becoming liable for any loss or damages to Licensee occasioned thereby, except to the extent caused by the gross negligence or willful misconduct of Licensor; or
 - (C) Exercise any other legal or equitable right or remedy that the Non-defaulting Party may have.
- 11.03 The Defaulting Party shall repay to the Non-defaulting Party upon demand any costs and expenses incurred by the Non-defaulting Party in successfully enforcing this Agreement.
- 11.04 Upon termination of this Agreement by the Non-defaulting Party, the Defaulting Party shall remain liable to the Non-defaulting Party for any and all fees, other payments and damages which may be due or sustained in accord with this Agreement prior to such termination, all reasonable costs, fees and expenses incurred by the Non-defaulting Party in pursuit of its remedies hereunder.
- 11.05 All rights and remedies of the Non-defaulting Party set forth in this Agreement shall be cumulative and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule of court, or the common law, either at law or in equity, or both.

12.0 INDEMNIFICATION

- 12.01 Licensee shall compensate Licensor for the full actual loss, damage or destruction of Licensor's property caused by activities of Licensee, its employees, agents, contractors, subcontractors, invitees or representatives undertaken pursuant to this Agreement (including, without limitation, the installation,

construction, operation, or maintenance of Licensee's Attachments).

- 12.02 Each party agrees to defend, indemnify, protect and hold harmless the other and the other's officers, directors, employees, shareholders, successors, assigns, agents, affiliates, representatives, partners, and contractors from and against any and all third party claims, actions, administrative proceedings (including, without limitation, informal proceedings), judgments, damages, penalties, fines, cost, liabilities, interests, or loss, including, without limitation, reasonable attorneys' fees and expenses, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature suffered by or asserted against the indemnified party in any way arising out of or connected with this Agreement or activities undertaken by such Party pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's facilities, unless caused by the gross negligence attributable to Licensor or willful misconduct on the part of Licensor or Licensor's affiliates, agents, officers, employees and assigns). Each party expressly assumes all liability for actions by its affiliates, agents, officers, employees, or its contractors and expressly waives any immunity from the enforcement of this indemnification provision that might otherwise be provided by workers' compensation law or by other state or federal laws.
- 12.03 Without limiting any of the foregoing, Licensee assumes all risk of, and agrees to relieve Licensor of any and all liability for, loss or damage (and the consequences of loss or damage) to any facilities placed on Licensor's property and any other financial loss sustained by Licensee, except to the extent caused by the gross negligence or willful misconduct on the part of Licensor or Licensor's agents, officers, employees, and assigns.
- 12.04 Without limiting the foregoing, Licensee expressly agrees to indemnify, defend, and hold harmless Licensor and Licensor's agents, officers, employees and assigns from any and all claims asserted by end users/customers of Licensee in any way arising out of or in connection with this Agreement or Licensee's facilities, except to the extent caused by the gross negligence or willful misconduct on the part of Licensor or Licensor's agents, officers, employees, and assigns or its contractors.
- 12.05 Notwithstanding anything to the contrary in this Agreement, Licensee further shall indemnify and hold harmless Licensor, its agents, officers, employees, and assigns from and against any claims, liabilities, losses, damages, fines, penalties, and costs (including, without limitation, reasonable attorneys' fees) whether foreseen or unforeseen, which the indemnified parties suffer or incur because of:
- (A) Any discharge of hazardous waste resulting from acts or omissions of Licensee or Licensee's predecessor in interest;
 - (B) Acts or omissions of Licensee, its agents, employees, Licensees, or representatives in connection with any cleanup required by law, or
 - (C) Failure of Licensee to comply with Environmental, Safety and Health Laws.
- 12.06 In no event shall either Party be liable to the other for any special, consequential or indirect damages (including, without limitation, lost revenues and lost profits) arising out of this Agreement or any obligation arising hereunder, whether in an action for or arising out of breach of contract, or otherwise.
- 12.07 Licensee shall indemnify, protect, and hold harmless Licensor from and against any and all claims for libel and slander, copyright and/or patent infringement arising directly or indirectly by reason of installation of Licensee's equipment on Licensor Poles, Conduit Systems or Right-of Way pursuant to this Agreement.

13.0 COMPLIANCE WITH LAW

13.01 Notwithstanding anything to the contrary in this Agreement, each Party shall ensure that any and all activities it undertakes pursuant to this Agreement shall comply with all applicable laws, including, without limitation, all applicable provisions of:

- (A) Workers' compensation laws
- (B) Unemployment compensation laws
- (C) The Federal Social Security Law
- (D) The Fair Labor Standards Act, and
- (E) All laws, regulations, rules, guidelines, policies, orders, permits and approvals or any governmental authority relating to environmental matters and/or Occupational Safety and Health Act ("OSHA").

14.0 INSURANCE

14.01 Licensee shall obtain and maintain, in full force and effect at all times, during operations covered by this Agreement, such minimum insurance as will cover the obligations and liabilities of said Party, its agents, and its employees which may arise from the operations under this Agreement. Insurance shall have limits of not less than:

- (A) Commercial General Liability policy of minimum limits of:

General Aggregate	\$ 2,000,000 per policy period
Products/Completed Operations Aggregate	\$ 2,000,000 per policy period
Personal Injury/Advertising	\$ 2,000,000 per occurrence
Each Occurrence	\$ 2,000,000 per occurrence
Fire Legal Liability	\$ 50,000 any one fire

14.02 The policy will be endorsed to show the above aggregate limits applying to "each" job site or, as an alternative, the General Aggregate will be increased to \$4,000,000 per policy period. Policy will also specifically state the coverage applies to all operations conducted by the respective Party, its employees, or agents on behalf of that Party's Corporation or subsidiary.

14.03 Where the performance of the work involves structural property, underground property, or blasting, each Party's Commercial General Liability insurance policy shall provide coverage to the insured for legal liability arising from operations under this Agreement for property damage:

- (A) arising out of blasting,
- (B) arising out of collapse of, or structural injury to, any building or structure or
- (C) To underground facilities and utilities.

14.04 Other general liability forms are acceptable in lieu of the Commercial General Liability Form, however, they are not to be used without written approval from the Licensor. However, such written approval shall not be unreasonably withheld.

- (A) Business Automobile Liability policy with minimum limits of:

Bodily Injury	\$2,000,000 per accident
Property Damage	\$ 2,000,000 per accident
OR	
Combined Single Limit	\$ 2,000,000 per accident

The policy will be issued using symbol "1 - any auto" coverage.

(B) Workers Compensation:

Part 1 - Medical Benefits Statutory

Part 2 - Employer's Liability as indicated:

Bodily Injury by Accident	\$ 100,000 each accident
Bodily Injury by Disease	\$ 100,000 each employee
Bodily Injury by Disease	\$ 500,000 policy limit

14.05 The policy will show the state in which operation on behalf of the Party and/or subsidiary is being conducted. For operations conducted within monopolistic (state fund) states, the Party will furnish a certificate of compliance from the appropriate state fund administrator.

14.06 In each and every policy in 14.04A and 14.04B, the other Party's Corporation and its subsidiaries shall be named an "additional insured" with respect to activities performed on behalf of the Party's Corporation and its subsidiaries.

14.07 Coverage provided by the policies listed in this paragraph will be issued by an insurance company, licensed in the state in which operations on behalf of the Party are to be conducted. It is acceptable to use both primary and excess/umbrella policies to obtain necessary limits.

14.08 Licensee will furnish to the other Party, a certificate evidencing insurance coverage under sub-paragraphs 14.04-A, and 14.04-B. Such certificate shall provide for a thirty-day prior notice to the other Party of any cancellation or material changes in coverage and shall be signed by a legal representative of the issuing insurance company. The certificate of insurance shall be sent to the person identified at paragraph 25.03.

14.09 The provisions of sub-paragraphs 14.04-A and 14.04-B shall also apply to all sub-Licensees, and Licensee shall be responsible for their compliance herewith.

15.0 NON-WAIVER OF TERMS AND CONDITIONS

15.01 Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

16.0 LICENSOR'S LIEN

16.01 Should Licensor under any Article of this Agreement remove Licensee's cable, equipment or facilities from Licensor's poles, conduit system or right-of-way, Licensor will deliver to Licensee the cable, equipment or facilities so removed upon payment by Licensee of the cost of removal, storage and delivery, and all other amounts due Licensor hereunder..

17.0 SCHEDULE OF FEES AND CHARGES

17.01 Licensee may be required to furnish bond or other security satisfactory to Licensor, in a reasonable initial

amount to be determined by Licensor and provided by Licensee at the time Licensee submits Exhibit B to Licensor's Attachment Application Procedures to guarantee the payment of any such sums which may become due to Licensor arising out of this Agreement including, but not limited to 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 provisions or upon termination of any License issued hereunder. Bond to be sent to person identified at paragraph 25.03.

17.02 The fees, rates and charges set forth in APPENDIX I or elsewhere in this Agreement are effective during the term of this Agreement subject to Section 3.01 and shall be due and payable by Licensee as set forth herein.

17.03 FEES:

All rates, charges and fees set forth in this Agreement and as shown in APPENDIX I (Schedule of Rates, Fees, and Charges) shall be subject to all applicable federal, state, and local laws, rules, regulations and commission orders.

(A) Computation:

(1) Pole Attachment Fees:

(a) For the purpose of computing the annual pole attachment fee hereunder, for calendar years subsequent to a first partial calendar year, said fee shall be based upon the number of poles to which attachments are actually made, as of December 31 of the preceding year, multiplied by the per pole attachment fee rate determined pursuant to APPENDIX I. For a first partial calendar year, the pole attachment fee shall be prorated as necessary, on a daily basis from the date payment is due in accordance with Exhibit B of Licensor's Attachment Application Procedures. Licensee must notify Licensor within thirty (30) days of the change in use if it shall begin to use any attachment for telecommunication services and Licensor may adjust the pole attachment rental fee as appropriate consistent with the applicable FCC formula.

(2) Conduit Occupancy Fees:

(a) For the purpose of computing the total conduit occupancy fee due hereunder, the duct feet of conduit shall be measured from the center to the center of manholes; or from the center of a manhole to the end of the duct; from the center of a manhole to the property line if the duct is connected at the property line to a duct owned and controlled by a third-party property owner; or the length of a conduit from pole to pole; or isolated lengths of conduit not attached to any structure (such as involved with buried cable) which will be occupied by Licensee's cable.

(b) For billing purposes each inner duct used by Licensee will be billed at the half duct fee.

(B) Payment Date:

(1) If this Attachment License Agreement becomes effective on or prior to June 30, all attachment and occupancy fees for the remainder of that first partial calendar year shall be due and payable at the time required under Appendix I of Licensor's Attachment Application Procedures.

(2) If an Attachment License Agreement becomes effective on or after July 1, all attachment and occupancy fees for the remainder of that current partial calendar year as well as the full upcoming calendar year shall be payable at the time required under Appendix I of Licensor's Attachment Application Procedures.

(3) On an annual basis, all attachment and occupancy fees not previously paid are to be paid in advance, on the 31st day of January of each year or within 30 days of receipt of invoice. Failure to pay such fees within 30 days of the annual due date shall constitute a Material Default of this Agreement, subject to Section 11.01(a).

(C) Termination of License:

(1) Upon termination or surrender of a license granted hereunder, no refund of any attachment or occupancy fee shall be made.

17.04 OTHER CHARGES:

(A) Computation:

(1) All charges for inspections, engineering, or rearrangements of Licensee's facilities from Licensor's poles or conduit and, without limitation, any other work performed for Licensee shall be based upon the full cost and expense, including reasonable overhead, to Licensor for performing such work for Licensee. The cost to Licensee shall be determined in accordance with the regular and customary methods used by Licensor in determining such costs.

(2) The charge for replacement of poles shall include the entire non-betterment cost to Licensor including the increased cost of larger poles, sacrificed life value of the poles removed, cost of removal, less any salvage recovery and the cost of transferring Licensor's facilities from the old to the new poles.

(3) All other attachment or occupancy related inquiry, verification, application, administrative and miscellaneous rates, fees and charges shall be calculated and paid in accordance with APPENDIX I and/or Licensor's Attachment Application Procedures and Attachments thereto.

(B) Payment Date:

(1) All bills for such other charges for work performed by Licensor shall be payable upon presentment to Licensee, and shall be deemed delinquent if not paid within 30 days after presentment to Licensee; provided that any good faith dispute by Licensee of the amount of any invoice shall be subject to Section 11.01(a) and the procedures set forth in Section 18.0.

18.0 DISPUTE RESOLUTION

18.01 Except in the case of:

- (A) A suit, action, or proceeding by one Party to compel the other Party to comply with its obligation to indemnify the other Party pursuant to this Agreement, or
- (B) A suit, action or proceeding to compel either Party to comply with the dispute resolution procedures set forth in this section, the Parties agree to use the following procedure to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or its breach.

18.02 At the written request of a Party, each Party shall designate a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute, controversy, or claim arising under this Agreement. The Parties intend that, except upon mutual agreement, these negotiations be conducted by non-lawyer, business representatives. The substance of the negotiations shall be left to the discretion of the representatives. Upon mutual agreement, the

representatives may utilize other alternative nonbinding dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence between the representatives for the purposes of these negotiations shall be treated as confidential, undertaken for purposes of settlement, shall be exempt from discovery and production, and shall not be admissible in any subsequent proceeding without the concurrence of all Parties. Documents identified in or provided during such negotiations, which are not prepared for purposes of the negotiations, shall not be so exempt and may, if otherwise admissible, be admitted as evidence in any subsequent proceeding.

18.03 If a resolution of the dispute, controversy or claim is not reached within ninety (90) days of the initial written request referred to in 18.02, the dispute, controversy, or claim may be filed with any court or administrative agency with appropriate jurisdiction for review and determination, provided the party invoking such litigation process has in good faith negotiated, or attempted to negotiate, with the other Party pursuant to 18.02.

18.04 Each Party shall bear its own costs, including attorneys' fee, incurred in connection with any of the foregoing procedures. A Party-seeking discovery in connection with any informal dispute resolution process shall reimburse the responding Party the reasonable actual cost of reproducing documents (to include search time and reproduction time costs).

19.0 CONFIDENTIALITY AND ENTIRE AGREEMENT

19.01 As of the effective date, this Agreement cancels and supersedes all previous agreements including those listed in Appendix X related to the geographic area covered by this Agreement between these Parties whether written or oral, except for any sums due thereunder, between Licensor and Licensee with respect to the attachment of Licensee's cable, equipment, and facilities to Licensor's poles or the placing Licensee's cable, equipment or facilities in Licensor's conduit system or right-of-way; 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 continue in effect subject to the terms and conditions of this Agreement.

19.02 As of the effective date, the terms and conditions of this Agreement supersede all prior oral or written understandings between the Parties and constitute the entire Agreement between them concerning the subject matter of this Agreement. There are no understandings or representations, express or implied, not expressly set forth in this Agreement or in Licensor's related Attachment Application Procedures. This Agreement shall not be modified or amended except by writing signed by the Party to be charged. **This Agreement is only for pole/occupancy applications submitted for the properties owned and operated by Licensor in the State of Kentucky.**

19.03 Neither Party shall at any time disclose, provide, demonstrate or otherwise make available to any third party any of the terms or conditions of this Agreement, except and only after obtaining the consent of the other Party, or as may be required by applicable or subsequent law or governmental authorities. Notwithstanding the foregoing, nothing in this section shall prevent disclosure to a Party's authorized legal counsel who shall be subject to this confidentiality section, nor shall it preclude the use of this Agreement by the Parties to obtain financing, to make or report matters related to this Agreement in any securities statements, or to respond to any requests by governmental or judicial authorities; provided, however, that any such disclosure shall be limited to the extent necessary, and shall be made only after attempting to obtain confidentiality assurances. Notwithstanding the foregoing, prior to making any disclosure in response to a request of a governmental authority or legal process, the Party called upon to

make such disclosure shall provide notice to the other Party of such proposed disclosure sufficient to provide the other with an opportunity to timely object to such disclosure. In addition, and notwithstanding the foregoing, a Party may disclose without the consent of the other Party the terms, rates, or conditions of this to the Federal Communications Commission ("FCC") or any court or other regulatory body having jurisdiction as part of any legal or regulatory proceeding or case the subject of which are the terms, conditions, or rates applicable to the attachment of Licensee's attachments to the poles of Licensor.

GENERAL OPERATING ROUTINE

20.0 ATTACHMENT, USE AND/OR OCCUPANCY REQUEST PROCESS

20.01 There is a multi-step pole attachment or duct, inner duct, conduit or right-of-way use and/or occupancy application process and fee determination process that the Licensee may begin upon the effective date of this Agreement. It is set forth below and in Licensor's related Attachment Application Procedures.

21.0 POLE ATTACHMENT REQUESTS (PAR)

21.01 The steps for normal size jobs pursuant to the FCC guidelines are:

A. Pole Attachment Quote Preparation:

Licensee shall submit a Pole Attachment Request Application (Exhibit B to Licensor's Attachment Application Procedures) (which may be reasonably revised from time to time by Licensor at its reasonable discretion) to Licensor which will include a drawing of the proposed route and contact information (name, telephone, facsimile, and email information), and all required fees, as listed in and computed in accordance with APPENDIX I. (Fees may be changed from time to time by Licensor to the extent necessary to remain consistent with prevailing costs.) When Licensor receives the aforementioned specific attachment information and fee, if required, from Licensee, the Parties will complete the attachment process, and will, in any event, meet the timeframes set forth in the FCC's April 7, 2011 Report and Order and Order on Reconsideration or any alternative timeframe required by the FCC in subsequent applicable rules or orders. If during this process, Licensor determines any lawful reason for denying Licensee's application, Licensor will so inform Licensee.

21.02 Upon completion of the make-ready work, the receipt of all payments and fees, and the signing of this Agreement, an "Approved" Exhibit B or such other Licensor Permit form currently used shall be returned to the Licensee. At that time Licensee will be considered to have been granted a License with respect to the poles approved in the PARON and may attach to Licensor's facilities.

21.03 Timeframes for orders greater than 3,000 poles shall be negotiated by the parties.

21.04 Attachment of Pole-Mounted Antennas.

Subject to applicable law, LICENSEE shall have the right to attach antennas to Licensor poles ("pole-mounted antennas"). The parties agree that pole-mounted antennas are deemed to be attachments subject to the requirements set forth in this Agreement for attachments generally, except as modified by this Section 21.04.

- a) For purposes of calculating rental payments, a pole-mounted antenna shall be considered a separate attachment from any other attachment LICENSEE may have placed on that pole, and LICENSEE shall pay Licensor a separate rental fee for such pole-mounted antenna. The rental fee applicable to a pole-mounted antenna shall be the same as the fee applicable to attachments in general, but shall be

- adjustable on a prorated basis in the event that such pole-mounted antenna occupies more than one (1) foot of space on the pole.
- b) In addition to the requirements applicable to attachments generally as described in Section 26 below, LICENSEE's pole-mounted antennas shall comply with any radiofrequency (RF) emissions requirements set forth by such standards or by applicable law or regulation.
 - c) LICENSEE shall ensure that its personnel or contractors performing installation, make-ready, maintenance, or removal work on pole-mounted antennas shall have the training necessary to work in the pole space in which such antennas are mounted, which may include the electrical supply space.
 - d) LICENSEE must obtain all legally required approvals from the Power Company before attaching in the space assigned to their facilities.
 - e) LICENSOR does not authorize LICENSEE Attachments on POWER owned poles.

22.0 SURVEYS AND INSPECTIONS OF LICENSEE'S FACILITIES

- 22.01 Licensor reserves the right to inspect each new installation or work operation of Licensee on or within Licensor's facilities. The making of inspections or the failure to make inspections shall not relieve Licensee of any responsibility, obligation or liability imposed by this Agreement.

23.0 ISSUANCE OF LICENSES

- 23.01 Before Licensee shall have a right to attach to any pole of Licensor, Licensee shall make application for and receive a revocable, nonexclusive license therefore in the form of an approved Application for Pole License (APPENDIX VI and Exhibit B to Licensor's related Attachment Application Procedures); except that Licensee may attach to drop poles without prior application, so long as such attachment can be made consistent with all applicable code requirements. Licensee shall provide Licensor with subsequent notice of attachments to drop poles via the Application for Pole License (APPENDIX VI) form on a quarterly basis. Any drop pole used by Licensee but for which no Application for Pole License is submitted to Licensor pursuant to this Section shall constitute an unauthorized attachment. Notwithstanding anything else in this Agreement, Licensee may overlash its attachments with additional cables on 30 days advance notice to Licensor, so long as such overlapping does not create any violation of any applicable code. Notwithstanding the foregoing, for projects involving fewer than ten (10) poles, Licensee may overlash its attachments on five (5) days advance notice to Licensor. Any overlash or service drop attachment must comply with the requirements of any applicable code.
- 23.02 Before Licensee shall have the right to place any cable, equipment or facilities within any conduit system or right-of-way of Licensor, Licensee shall make application for and receive a revocable, nonexclusive license therefore in the form of an approved Application for Conduit or Right-of-Way License (APPENDIX IV and Exhibit B to Licensor's related Attachment Application Procedures), hereto attached and made a part hereof.
- 23.03 Any license granted hereunder for attachment to Licensor's poles shall terminate without further notice to Licensee as to individual poles covered by the license to which Licensee has not attached within ninety (90) days from the date that Licensor has notified Licensee that such poles are available for attachment of the operating facilities of Licensee, unless Licensor, in the exercise of its reasonable discretion, agrees to extend said period at the request of Licensee.
- 23.04 Any license granted hereunder for placement of Licensee's facilities in Licensor's conduit system shall terminate without further notice to Licensee as to individual sections of Licensor's conduit system covered by the license in which Licensee has not placed its facilities within ninety (90) days from the date that Licensor has notified Licensee that such sections of the conduit system are available for the placement of operating facilities of Licensee, unless Licensor, in the exercise of its reasonable discretion, agrees to extend said period at the request of Licensee.

24.0 AUTHORITY TO PLACE ATTACHMENTS

24.01 Before any attachments or placement of facilities Licensee shall have all necessary authority to maintain Attachments in that location. Licensee shall be solely responsible for obtaining all licenses, authorizations, permits and consents from federal, state and local authorities or private land owners that may be required for Licensee to place and maintain facilities on Licensor's poles or within Licensor's conduit, duct or right-of-way.

25.0 NOTICES (OF MODIFICATION OR ALTERATION OF POLES)

25.01 In the event Licensor plans to modify or alter any Licensor Poles upon which Licensee has placed Attachments, Licensor, except in emergency situations, shall provide Licensee written notice of the proposed modification or alteration at least sixty (60) days prior to the time the proposed modification or alteration is scheduled to take place. Should Licensee decide to modify or alter Licensee's Facilities on such Poles, Licensee shall so notify Licensor in writing within thirty (30) days of the date of such notice. In such event, Licensee shall bear a proportionate share of the total costs incurred by Licensor as set forth in 47 U.S.C. § 224(h) and applicable FCC rules and orders. Licensee is not responsible for any costs of Licensor's modifications or alterations of its Poles.

25.02 In the event Licensor is required to move the location of, or replace, any Licensor Pole(s) for reasons beyond its control, Licensee concurrently shall relocate Licensee's Attachments. Licensee shall be solely responsible for the costs of the relocation of Licensee's Attachments. When it is mutually agreed that it is in the best interest of Licensor and Licensee, Licensee will, after reasonable notification has been provided, transfer its Attachments to the new Pole(s).

25.03 Notices under this Agreement may be given and shall be deemed to have been given, by posting the same in first class mail to Licensee as follows:

LICENSOR:

Bill Spies **BOB SHUGARMAN**
Time Warner Cable
~~Director of Construction~~ **SR DIRECTOR OSP DESIGN**
~~11252 Cornell Park Drive~~ **750 CANYON DRIVE**
~~Cincinnati, OH 45242~~ **COPPELL, TX 75019**
~~Phone 513-386-5852~~ **PHONE 469-464-4686**

With a copy to:

Time Warner Cable
Law Dept., Regulatory
13820 Sunrise Valley Drive
Herndon, VA 20171

RC

LICENSEE:

Thomas A. Hudock, Jr.
Windstream Kentucky East, LLC
Contracts Manager
50 Executive Pkwy
Hudson, OH 44236

With Copy to:

Windstream Corporation
Attention: Corporate Legal
4001 N. Rodney Parham Road
Little Rock, AR 72212

26.0 REQUIREMENTS AND SPECIFICATIONS FOR ATTACHMENT TO POLES

26.01 Licensee's cables, equipment, and facilities shall be placed and maintained in accordance with the requirements and specifications attached hereto and as set forth in Licensor's related Attachment Application Procedures and made a part hereof, and in accordance with the requirements and specifications of the National Electric Safety Code (most recent edition) and the National Electric Code (most recent edition), and in compliance with any other rules or orders now in effect or that may hereafter be issued by any state utility commission or other authority having jurisdiction. Where any applicable code is revised, Licensee shall maintain existing Attachments in compliance with the appropriate code, as provided for in such code.

27.0 PLACEMENT OF ATTACHMENTS

27.01 Licensee shall, at its sole risk and expense, place and maintain and replace its Attachments on Licensor's Poles in accordance with:

- (A) Such reasonable procedures as Licensor shall from time to time prescribe in writing in Licensor's Attachment Application Procedures or otherwise,
- (B) In compliance with any rules or orders now in effect or that hereafter may be issued by any regulatory agency or other authority having jurisdiction, and
- (C) All currently applicable requirements and specifications of the National Electrical Safety Code, National Electric Code, most current edition or any amendment or revision of said Code. Licensor will provide supervision at Licensee's expense if Licensor believes it is required.

27.02 Licensee's Facilities shall be tagged at maximum intervals of 300 feet so as to identify Licensee as the owner of the Facility. The tags shall be of sufficient size and lettering so as to be easily read from ground level. Tags will be placed on a going forward basis when Attachments are made or modified by Licensee.

28.0 MODIFICATIONS, ADDITIONS OR POLE REPLACEMENTS AND REARRANGEMENTS

28.01 Licensee shall not modify, add to, or replace any-existing Attachment on a Licensor Pole without first notifying Licensor in writing of the intended modification, addition or replacement at least thirty (30) business days prior to the date the activity is scheduled to begin, except for replacement of facilities with substantially same size and type of facilities and except for emergency situations, and subject to Section 23.01. The required notification shall include:

- (A) The date the activity is scheduled to begin,
- (B) A description of the planned modification, addition, or replacement,

- (C) A representation that the modification, addition, or replacement will not require any space other than the space previously designated for Licensee's Attachments, and
- (D) A representation that the modification, addition, or replacement will not impair the structural integrity of the Poles involved.

28.02 Should Licensor determine that the modification, addition, or replacement specified by Licensee in its notice will require more space than that allocated to Licensee or will require the rearrangements of, reinforcement of, replacement of, or an addition of support equipment to the Poles involved in order to accommodate Licensee's modification, addition, or replacement, Licensor will so notify Licensee, whereupon Licensee will be required to submit a PAR in compliance with this Agreement in order to obtain authorization for the modification, addition, or replacement of its Attachments.

28.03 Should Licensee request Licensor to expand capacity or purchase additional plant, Licensee agrees to pay all reasonable costs. If Licensor or another party that has been granted a license joins in the request and will benefit from the expansion or purchase, Licensee agrees to pay a percentage of all costs proportionate to Licensee's share of the benefit received from the expansion or purchase.

28.04 When multiple applications, including application of Licensee, are received by Licensor with respect to any pole which must be replaced or rearranged to provide additional space prior to commencement of the work on that pole a Transfer Attachment Fee may be charged. Licensor will equitably prorate to the extent that it is practical between Licensee and other applicants for the pole 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 reasonable determination as to any such pro-ration of Transfer Attachment Fee to Licensee.

29.0 UNAUTHORIZED ATTACHMENTS

29.01 If any cable, equipment or facilities of Licensee shall be found on a pole or within a conduit or right-of-way for which no license has been granted by Licensor under this Agreement or a prior agreement, Licensor, without prejudice to its other rights or remedies under this Agreement or otherwise, may:

- (A) Impose a charge pursuant to applicable law, and
- (B) Require Licensee to remove such cable, equipment or facilities forthwith or Licensor may remove them without liability and the expense of removal shall be borne by Licensee. For the purpose of determining the charge, Licensee shall pay liquidated damages that will not exceed an amount equal to the annual pole attachment fee for the number of years the unauthorized attachments have existed (or, if that cannot be determined, the number of years since the most recent inventory or the number of years since this agreement was entered into plus the number of years permitted under any prior agreement for an unauthorized attachment charge, or five years, whichever is less) up to a maximum amount equal to the annual pole attachment fees for five years, plus interest at a rate set for that period by the IRS for individual underpayments pursuant to Section 6621 of the IRS Code. The fee used to calculate such charge shall be the latest pole attachment fee calculated in accordance with the applicable FCC formula and orders, as set forth in Appendix I. Any such charge imposed by Licensor shall be in addition to its rights to any other sums due and payable, including without limitation the actual proportional costs of any audit or survey which established the existence of the unauthorized attachments and to any claims to said fees or said unlicensed use shall be deemed as a ratification or the licensing of the unlicensed use, and if any license should subsequently be issued, after application and payment of the application fee therefore, said license shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement or otherwise.

29.02 For purposes of this section, an unauthorized Attachment shall include, but not limited to:

- (A) An Attachment to a Pole which is not identified in any PARON (APPENDIX VI) issued in accordance with this Agreement or prior agreement;
- (B) An Attachment that occupies more space than that allocated to Licensee By Licensor in any PARON;
- (C) An attachment that was not placed in accordance with the provisions of this Agreement or the appropriate PARON (APPENDIX VI) issued pursuant to this Agreement or any prior agreement, unless Licensee can demonstrate to Licensor's reasonable satisfaction that said misplacement is not due to any act or omission of Licensee or Licensee's agents;
- (D) An addition or modification by Licensee to its pre-existing Attachment(s) that impairs the structural integrity of the involved Licensor Pole(s).
- (E) An Attachment that consists of facilities owned or controlled by a Party other than Licensee.

29.03 Once Licensor has notified Licensee of an unauthorized attachment, Licensee may submit a PAR to request an authorized attachment or remove its attachment. A PAR submitted per this provision will be treated like any other PAR subject to this Agreement. Licensee will be responsible for all fees associated with a PAR (as identified in this Agreement). If a PAR is not received by Licensor within thirty (30) business days of Licensee's receipt of an unauthorized attachment notification, Licensee has sixty (60) business days from the date of its receipt of the initial unauthorized attachment notification to vacate the Pole; provided that if Licensee in good faith contests Licensor's determination that such attachment is unauthorized, such dispute shall be resolved in accordance with the Pole Agreement before any such application shall be due.

29.04 Facilities Inventory.

(A) General. Licensee and Licensor acting in cooperation for purposes of rendering bills shall tabulate the total number of Licensee attachments on Licensor's poles. This tabulation shall be based on a perpetual inventory of permits and/or inspections. Licensee shall provide Licensor with maps of Licensee's service territory within Licensor's operational footprint. Licensee shall pay the reasonable and actual costs incurred by Licensor in conducting an inventory of Licensee's facilities pursuant to this Section 29.04 to the extent such costs are attributable to Licensee's Attachments. When Licensor conducts such inventory, Licensor shall provide thirty (30) days' notice to Licensee so that Licensee may be present and observe such inventory.

(B) Inventories of Licensee's Attachments to be paid for at least in part by Licensee may be conducted once every five (5) years, in Licensor's discretion, either by Licensor or an independent contractor for the performance of such physical inventory through the Licensor's usual process for acquisition of such services. Licensee shall pay for the reasonable and actual cost of such inventories to the extent such costs are attributable to Licensee's Attachments. In addition, Licensee may propose the use of particular independent contractors to perform physical inventories and the use of such Licensee proposed contractors shall be at the sole reasonable discretion of Licensor.

(C) Notwithstanding any provision to the contrary, the Parties may, if mutually agreed, determine the number of attachments from existing maps and/or attachment records provided that such maps or records exist and provided that each Party agrees that results with reasonable accuracy can be achieved. If the Parties agree to this method, any maps and/or records belonging to one of the Parties and utilized to count

attachments shall be made accessible to the other Party and the number of attachments shall be determined through a mutual and cooperative effort of both Parties. The results of attachment counts performed in this manner shall be treated, for the purpose of determining rentals and other charges due for unauthorized attachments, as if results were achieved by an actual physical inventory.

30.0 FAILURE TO PLACE ATTACHMENTS

- 30.01 Once Licensee has been issued a PARON (APPENDIX VI), Licensee shall have ninety (90) calendar days from the date of the PARON (APPENDIX VI) to begin the placement of its Attachments on the Licensor Poles covered by the PARON (APPENDIX VI). If Licensee has not begun placing its Attachments within that ninety-(90) calendar day period, Licensee shall so advise Licensor with a written explanation for the delay. If Licensee fails to advise Licensor of its delay, with a written explanation therefore, or if Licensee fails to act in good faith by not making a bona fide effort to begin placing its Attachments within the ninety (90) calendar days prescribed by this section, the previously issued PARON (APPENDIX VI) shall be deemed rescinded by Licensor and Licensee shall have no further right to place Attachments pursuant to that PARON (APPENDIX VI).

31.0 OCCUPANCY OF CONDUIT SYSTEM

- 31.01 When Licensee submits an application for a license to place its cables, equipment, and facilities in the conduit system of Licensor, Licensor will advise Licensee of the availability of conduit space in accordance with Licensor's Attachment Application Procedures. In determining the availability of space in Licensor's conduit system, Licensor reserves the right to deny the granting of a license for any non-discriminatory lawful reason, including without limitation, insufficient capacity or reasons of safety, reliability and generally applicable engineering purposes. If conduit space is available, a license to occupy a portion of conduit system will be granted to Licensee, provided, however, that Licensor does not warrant the condition of such conduit system.
- 31.02 Licensor reserves the right to exclude cable, equipment, and facilities of Licensee from Licensor's conduit system, or to limit the type, number and size of Licensee's cable, equipment, and facilities which may be placed in any of Licensor's manholes.

32.0 OCCUPANCY OF RIGHT-OF-WAY

- 32.01 Licensor and Licensee agree that neither party has the right to restrict or interfere with the other party's lawful access to and use of public right-of-way. Except as otherwise specifically provided in this Agreement, Licensor and Licensee shall each be responsible for obtaining their own right-of-way and permission to use real or personal property owned or controlled by any governmental body.
- 32.02 In the event that either Party desires to occupy right-of-way owned or controlled by the other Party, the Party seeking the right-of-way use may require Licensee to make an application to do so. Subject to applicable law, both Parties reserve the right to determine whether granting a license or other permission would adversely affect its own communication services and its ability to meet its duties and obligation with respect thereto. .
- 32.03 On reasonable notice, Licensor may require Licensee to remove the cables, equipment, and facilities of Licensee from Licensor's right-of-way, at Licensee's expense where in Licensor's reasonable judgment such removal is required in connection with the performance of Licensor's service obligation or the safety of Licensor's employees. If Licensee fails to remove its facilities after receiving reasonable notice, Licensor may remove Licensee's facilities without incurring any liability, except to the extent caused by Licensor's negligence or willful misconduct. Whenever such removal has been made, Licensee will be promptly notified.

33.0 CONSTRUCTION AND MAINTENANCE OF FACILITIES

- 33.01 Licensee shall, at its own expense, make and maintain its pole attachments in a safe condition and in thorough repair, and in a manner reasonably acceptable to Licensor, and so as not to conflict with the use of said poles by Licensor or by other authorized users of said poles, or interfere with other facilities thereon or which may from time to time be placed thereon. Licensee shall, at its own expense, upon written notice from Licensor, relocate or replace its facilities placed on said poles, or transfer them to substituted poles, or perform any other work in connection with said facilities that may be required. Licensor shall give such written notice as is reasonable in the circumstances, provided, however, that in cases of emergency, (Licensor's judgment as to what constitutes an emergency to be conclusive) Licensor may arrange to relocate, remove or replace the attachments placed on said poles by Licensee, transfer them to substituted poles 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 of the facilities thereon or which may be placed thereon, , and Licensee shall reimburse Licensor for the expense thereby incurred. Attachments of Licensee to poles of Licensor, as mentioned herein shall be understood to include attachments of Licensee in space reserved for Licensor, or space which Licensor has the right to use, on poles of other companies with which Licensor now has or may hereafter have agreements for joint use and occupancy; and the use of such space by Licensee shall be subject to the terms and conditions of the agreements between Licensor and said other companies, to the extent consistent with law. Such authorization will not be unreasonably withheld.
- 33.02 Licensee's cable, equipment, and facilities shall be placed in, removed from, relocated in or maintained in Licensor's conduit system only when specific authorization for the work to be performed and approval of the person, firm or corporation selected by Licensee to perform the work, has been obtained in writing in advance from Licensor. Licensor retains the right to specify what, if any work shall be performed by Licensee. Such authorization will not be unreasonably withheld.
- 33.03 In each instance where Licensee's cable, equipment, and facilities are to be placed in Licensor's conduit system, Licensor shall specify, among other things, the cable configuration and location of Licensee's cable, equipment, and facilities, the particular duct of the conduit system such cable will occupy, and the location where and manner in which Licensee's cable will enter and exit Licensor's conduit system.
- 33.04 Licensor's manholes shall be opened as reasonably permitted by Licensor's authorized employees or agents. Licensee shall be responsible for obtaining any necessary permits from appropriate governmental authorities to open manholes and to conduct the work operations. Licensee's employees or agents will be permitted to enter or work in Licensor's manholes only when an authorized agent or employee of Licensor is present except as provided in the next paragraph. Licensor's said agent or employee shall have the authority to terminate Licensee's work operations in and around Licensor's manholes if, in the sole discretion of said agent or employee, any hazardous conditions arise or any unsafe practices are being followed by Licensee's employees or agents. Licensee agrees to pay, in accordance with the terms and conditions of APPENDIX I, the full cost of having Licensor's agent or employee present when Licensee's work is being done in Licensor's manholes. The presence of Licensor's authorized agent or employee shall not relieve Licensee of its responsibility to conduct all of its work operations in and around Licensor's manholes in a safe and workmanlike manner. Licensee is responsible for all signage, traffic control, equipment, and personnel necessary to work in Licensor's manholes. All work shall meet Occupational Safety and Health Act (OSHA), and any local or state standards and requirements.
- 33.05 Licensee's employees will be permitted to enter or work in Licensor's manholes and conduit system without an authorized agent or employee of Licensor being present, provided that Licensee's work consists only of routine operations of testing, adjusting, regulating or inspecting Licensee's existing facilities and does not involve any placing, removing, changing or rearranging of Licensee's or Licensor's facilities. In such cases, Licensee shall notify Licensor's designated representative in advance of Licensee's operations as to the type of work to be performed, the time at which it is to be performed

and where it is to take place. Licensee shall conduct all such work operation in a safe and workmanlike manner, and in accordance with the terms of this Agreement.

- 33.06 Licensee shall, at its own expense, maintain its buried communication facilities so as not to conflict with the reasonable use of the right-of-way by Licensor or other authorized users of the right-of-way. Licensee shall, at its own expense, relocate, change, or replace its facilities or perform any other work in connection with said facilities that may be reasonably required by Licensor or other authorities.

34.0 TERMINATION OF LICENSES

- 34.01 Upon notice from Licensor to Licensee that Licensor has been advised by governmental authority or private property owners that the use of any pole, conduit system, or right-of-way is not authorized and is objected to by such governmental authority or private property owner, as the case may be or that any pole, any conduit system or any right-of-way is to be removed, sold or otherwise disposed of, Licensee shall, if reasonably requested by Licensor and Licensee is not able to obtain the consent of the government authority or private property owner, or judicial or administrative relief, remove its cables, equipment, and facilities promptly from the affected pole or poles or shall make arrangements for the removal of its cable, equipment, and facilities from the affected portion of Licensor's conduit system or right-of-way at Licensor's expense. If not so removed, Licensor shall have the right to remove Licensee's cable, equipment, and facilities from Licensor's right-of-way at the cost and expense of Licensee and without any liability thereto. If Licensor deems it is impractical to remove Licensee's cables, equipment or facilities from any right-of-way, they may be abandoned in place.

- 34.02 Licensee may at any time remove its facilities from any pole of Licensor, but shall immediately give Licensor written notice of such removal and surrender of license in the form of a Notification of Surrender (APPENDIX VII) hereto attached and made a part hereof. If Licensee surrenders its license but fails to remove its facilities from Licensor's poles, Licensor shall have the right to remove Licensee's facilities at Licensee's expense 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 as provided by this Agreement, no attachment shall again be made to such pole unless Licensee shall have first complied with all of the provisions of this Agreement as though no attachment had previously been made.

- 34.03 If Licensee desires to terminate its license for the right to occupy any part of Licensor's conduit system, Licensee shall give Licensor written notice of such surrender in the form of a Notification of Surrender (APPENDIX VII) hereto attached and made a part hereof. In such event, Licensee shall make arrangements with Licensor for the removal of Licensee's cables, equipment, and facilities from that part of Licensor's conduit system at Licensee's expense. In the event that Licensee's cables, equipment, and facilities shall be removed from Licensor's conduit system as provided by this Article, no cable, facilities or equipment shall again be placed in that part of such conduit system unless Licensee shall have first complied with all of the provisions of this Agreement as though no cables, equipment, and facilities of Licensee had previously been placed in that part of Licensor's conduit system.

- 34.04 If Licensee desires to terminate its license for the right to occupy any part of the right-of-way, Licensee shall give Licensor written notice of such surrender in the form of a Notification of Surrender (APPENDIX VII) attached hereto and made a part hereof. In such event, Licensee shall make arrangements with Licensor for the removal of Licensee's cables, equipment, and facilities from that part of the right-of-way at Licensee's expense. However, in the event it is impractical to remove Licensee's cable, equipment, and facilities from any right-of-way, they may be abandoned in place.

35.0 EMERGENCY RESTORATION PROCEDURES

35.01 In the event of an emergency, restoration procedures may be affected by the presence of Licensee's Attachments. While Licensor shall not be responsible for the repair of damaged Attachments of Licensee (except by mutual written agreement), Licensor shall nonetheless control access to its poles, conduit systems or right-of-way if the restoration is to be achieved in an orderly fashion.

35.02 Where Licensor and Licensee are involved in emergency restorations, access to Licensor's poles, conduit systems or right-of-way will be controlled by Licensor's Network Construction Managers or their on-site representative according to the following guidelines.

(A) Service Disruptions/Outages

- (1) While exercising its right to first access, Licensor shall make all reasonable efforts to grant access to as many other entities with Attachments as is reasonably safe.
- (2) Where simultaneous access is not possible, Licensor will grant access on first come, first served basis.

(B) Service Affecting Emergencies

- (1) While exercising its right to first access, Licensor shall make all reasonable efforts to grant access to as many other entities with Attachments as is reasonably safe.
- (2) Where Licensor is unable to grant simultaneous access to all other entities with Attachments, access will be granted according to the level of damage to the Attachments of each entity and the likelihood that a given level of damage will result in service disruption. Where the likelihood that a service disruption will result is not clearly discernible, access will be on a first come, first served basis.

35.03 Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by Licensor regarding access to Attachments, or any action or failure to act by Licensor, under this section shall not be the basis for any claim by Licensee against Licensor for any damage to Licensee's Attachments or disruption of Licensee's services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee.

36.0 ABANDONMENT


36.01 Nothing in this Agreement shall prevent or be construed to prevent Licensor from abandoning, selling, assigning, or otherwise disposing of any poles, conduit systems or other Licensor property used for Licensee's Attachments; provided, however, that Licensor shall condition any such sale, assignment, or other disposition subject to the rights granted to Licensee pursuant to this Agreement. Licensor shall promptly notify Licensee of any proposed sale, assignment, or other disposition of any poles, conduit systems or other Licensor property used for Licensee's Attachments.

37.0 SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate.

LICENSOR:

Company Name: **Time Warner Cable Midwest LLC**

By: 

Signature of Licensor's Authorized Officer/Employee

RANDY Cicatello

Name of Licensor's Authorized Officer/Employee (Printed or Typed)

RVP Field Engineering

Position/Title of Licensor

2-15-13

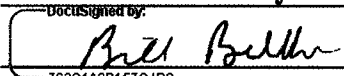
Date

Milwaukee, WI

City and State of Execution by Licensor

Licensee:

Company Name: **Windstream Kentucky East, LLC**

By: 

Signature of Licensee's Authorized Officer/Employee

Bill Bellando

Name of Licensee's Authorized Officer/Employee (Printed or Typed)

SVP - Network Services

Position/Title of Authorized Officer/Employee

2/13/2013

Date

Little Rock, AR

City and State of Execution by Licensee

APPENDIX I

SCHEDULE OF RATES, FEES AND CHARGES

Pole Attachment Fee (Per Attachment) Initial rate as of the effective date of this Agreement: [REDACTED] per pole per year.

[REDACTED]

Conduit Occupancy Fee:

A. Full duct/foot

\$ [REDACTED]

B. Half duct/foot

\$ [REDACTED]

Request Documentation Fee (non-refundable):

\$ [REDACTED]

Per Request (in addition to "per pole/per mile fee")

\$ [REDACTED]

1 to 25 Poles (for requests less than 1 mile)

\$ [REDACTED]

Per Mile

\$ [REDACTED]

Pole Attachment Quote Preparation Fee

\$ [REDACTED]

Unauthorized Attachment Fee

\$ [REDACTED]

Transfer of Attachment Fee

\$ [REDACTED]

Make Ready Work

\$ [REDACTED]

No set fee, to be determined on a case by case basis

Hourly Rates

\$ [REDACTED]

(This is each employee's loaded hourly rate, except where any law, rule, regulation, or commission order applies)

APPENDIX II
POLE ATTACHMENT INQUIRY FORM

See Exhibit B

APPENDIX III
APPLICATION FOR POLE LICENSE

See Exhibit B

APPENDIX IV
APPLICATION FOR CONDUIT
See Exhibit B

RIGHT-OF-WAY LICENSE
NOT APPLICABLE TO THIS CONTRACT

APPENDIX V

See Exhibit B

APPENDIX VI

POLE ATTACHMENT READY FOR OCCUPANCY NOTICE (PARON)

REPLACED BY EXHIBIT B

APPENDIX VII

- NOTIFICATION OF SURRENDER**
- (Check one of the following)**
- Pole Attachment License by Licensee**
- Conduit Occupancy**
- Right-of-way Occupancy**

Notification No. _____ **Date:** _____
City & State: _____

In accordance with the terms and conditions of the license agreement between us, dated _____, notice is hereby given that the license covering attachments to the outside plant structures, as shown on the attached sketch, is surrendered.

Licensee: _____
Signature: _____
By (Print/Type): _____
Title: _____
Date: _____

Date Surrender Notice Received:

Licensor: _____
Signature: _____
By (Print/Type): _____
Title: _____
Date: _____

APPENDIX VIII

Engineering/Construction Contact – Windstream Kentucky East, LLC

Name of Person to Receive Notices:	Rasool Shakoor
Address where Notices are to be sent	1925 Enterprise Parkway
Phone # of person to receive notices	330- 650-7658
Fax # of person to receive notices	
Email Address of person receiving notices:	<u>rasool.shakoor@windstream.com</u>

BILLING/INVOICING Contact – Windstream Kentucky East, LLC:

Name of Person to Receive Invoices:	Brenda Wilfong
Address where Invoices are to be sent	1925 Enterprise Parkway
Phone # of person to receive invoices	330-650-7498
Fax # of person to receive invoices	
Email Address of person receiving invoices:	<u>brenda.wilfong@windstream.com</u>

APPENDIX IX

Licensor Attachment Application Procedures for ROW/Ducts/Conduit/Poles, including Exhibit B

**LICENSOR ATTACHMENT APPLICATION
PROCEDURES**

For ROW / Ducts / Conduit / Poles

**Supplement to the
Time Warner Cable Midwest LLC
License Attachment Agreement**

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4. Attachments / Exhibits	
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LICENSOR ATTACHMENT APPLICATION PROCEDURES

for ROW / Ducts / Conduit / Poles

1. Product/Process Background

Product Definition Basic product features

- Licensor grants to Licensees the right to attach facilities to poles owned or controlled by Licensor or to place facilities within Licensor owned or controlled conduits, ducts and rights-of-way. Authority and license to attach will be granted on an individual request basis subject to the terms of the Attachment License Agreement.
- When an authorized telecommunications service provider first inquires about a pole attachment or innerduct lease and they do not have an Attachment License Agreement, they should be provided with a copy of the Attachment License Agreement form and the Licensor Attachment Application Attachment Application Procedures for ROW, Ducts, Conduit and Poles. The Attachment License Agreement document can be used as a contract by the applying Licensee signing it on the signature page and returning an original to Licensor. To begin the process for a specific attachment, an Account Number must be assigned by Licensor. The applying Licensee completes Attachment 1, hereto, and returns it with two copies of maps of the proposed pole line or conduit route and a general description of the facility to be placed. The application process also requires an "Inquiry" fee check to be sent if identified on Appendix I, Schedule of Rates, Fees and Charges. The original Attachment 1 along with the check and maps are sent to Licensor.

Product Availability

- Standard Inquiry / Verification** pursuant to the FCC requirements set forth in the April 7, 2011 Report and Order and Order on Reconsideration.

2. Product Policies

Product-Specific Policies

- Basic product capabilities and access to Licensor's poles, ducts and rights-of-way will be granted on first come, first served basis.
 - The Licensee must provide a single route for inquiry and verification for ducts. It must include an entrance point and an exit point. Licensor will not locate the route between two points nor will Licensor investigate backup routes.
 - Unless otherwise determined by a negotiated Attachment License Agreement, Licensor will license available duct/conduit space in increments of innerduct only.
 - Licensor reserves 1 full duct and 1 innerduct for emergency restoration.
 - Licensor will respond to a written request for access to innerduct within a total of 45 business days (15-inquiry and 30-verification) for standard inquiries. A standard inquiry may include any of the following:
 - Not more than 30 utility hole sections
 - Not more than 2 miles of linear private rights-of-way.
 - All inquiries for innerduct/pole attachments that exceed the above standards must be negotiated between Licensor and the Licensee.

LICENSOR ATTACHMENT APPLICATION PROCEDURES

for ROW / Ducts / Conduit / Poles

- The Licensee is responsible to notify the Licensor representative identified on the Attachment License Agreement whenever working on any Licensor owned infrastructure.
 - Locations for splice points or loops must be determined at Licensee request. The Licensee must ask whether loops and / or splices can be provided in certain chosen utility holes and Licensor will respond. This process should occur during or after the verification. Splice or slack loops will be allowed in no more than every third manhole.
 - A Licensee will be permitted to connect their conduit / duct or establish conduit access only at the point of a Licensor utility hole and according to Licensor standards. Attachment made by entering or breaking into conduit between utility holes is not permitted.
 - A Licensee will be provided access to Licensor utility holes through a core drilling of the utility hole and the placing of a conduit stub or by bringing their own 4-inch duct into a utility hole via a core drill or knock-out. Licensor or an authorized party will perform this work and all costs associated with this work will be the responsibility of the Licensee.
 - Licensor may not require a Licensee to utilize Licensor employees or Licensor contractors to work on poles, innerduct or rights-of-way that Licensor owns or controls. However Licensor will require authorized contractors only.
 - It is Licensor's requirement that all work performed by the Licensee follow established company and industry standards regarding access to and placement of facilities in or on poles, conduit, ducts and rights-of-way. Facilities shall be placed, constructed, maintained, repaired and removed in accordance with the following rules and regulations:
 - The National Electric Code (NEC)
 - The National Electric Safety Code (NESC)
 - All Federal, State and Local requirements
 - All Licensor requirements
 - **Special Construction Work**
 - Occasionally Licensor may identify an obstacle in meeting the Licensee's space request. However if modifications of the Licensor structure would avoid a denial of space, Licensor will provide the Licensee, at Licensees request, an estimate of modification costs and estimated construction time frames. If the Licensee accepts the estimate, the Licensee will issue payment to Licensor in advance of any construction.
 - After the completion of modification work, Licensor may true up the actual project costs to the estimates and collect the short fall from the Licensee or rebate any over pricing.
- 3. Process Description**
- The Licensor process is designed to provide the Licensee the information so as to assist Licensee and Licensor to make Poles, Innerduct and ROW decisions in a cost-efficient manner. The Process is defined and applied pursuant to the FCC requirements set forth in the April 7, 2011 Report and Order and Order on Reconsideration.

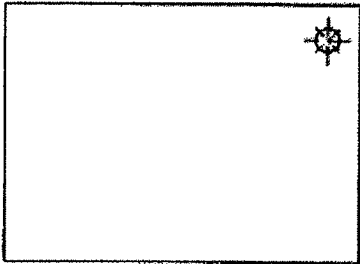
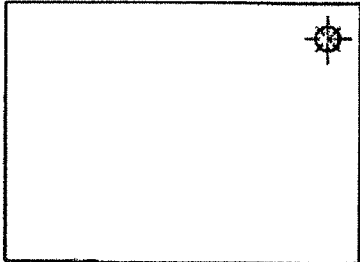
***LICENSOR ATTACHMENT APPLICATION
PROCEDURES
for ROW / Ducts / Conduit / Poles***

**Attachment 1
Pole
Permit / Application**

Licensors will provide an electronic spreadsheet to be completed by Licensee hereby known as Exhibit B

**LICENSOR ATTACHMENT APPLICATION
PROCEDURES
for ROW / Ducts / Conduit / Poles**

**Attachment 2
Pole Detail**

Identify all existing and proposed attachments by Position Number	Lowest Level Utility Secondary / Neutral	_____ Ft. _____ In. to Grade	Attachment Description (by position): (Incl. size and weight for proposed)
	Position #4	_____ Ft. _____ In. to Grade	
	40" Minimum		_____
	Position #3	_____ Ft. _____ In. to Grade	_____
	12" Minimum		_____
	Position #2	_____ Ft. _____ In. to Grade	_____
	12" Minimum		_____
	Position #1	_____ Ft. _____ In. to Grade	_____
	12" Minimum		_____
POLE NUMBER as identified on Pole Profile		Existing or Proposed Height to Position #1 _____ Ft. _____ In.	Location Sketch 
	Grade		
Identify all existing and proposed attachments by Position Number	Lowest Level Utility Secondary / Neutral	_____ Ft. _____ In. to Grade	Attachment Description (by position): (Incl. size and weight for proposed)
	Position #4	_____ Ft. _____ In. to Grade	
	40" Minimum		_____
	Position #3	_____ Ft. _____ In. to Grade	_____
	12" Minimum		_____
	Position #2	_____ Ft. _____ In. to Grade	_____
	12" Minimum		_____
	Position #1	_____ Ft. _____ In. to Grade	_____
	12" Minimum		_____
POLE NUMBER as identified on Pole Profile		Existing or Proposed Height to Position #1 _____ Ft. _____ In.	Location Sketch 
	Grade		

LICENSOR ATTACHMENT APPLICATION

PROCEDURES for ROW / Ducts / Conduit / Poles

<p>Attachment 4 CONDUIT Permit / Application</p>

Licensor will provide an electronic spreadsheet to be completed by Licensee hereby known as Exhibit B

GENERAL AGREEMENT FOR THE JOINT USE OF POLES

BETWEEN

JACKSON ENERGY COOPERATIVE

AND

WINDSTREAM KENTUCKY EAST, LLC

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THIS AGREEMENT, made this 1st day of January, 2008 (“Commencement Date”) by and between Jackson Energy Cooperative, a Cooperative under the laws of the State of Kentucky, hereinafter called the “Electric Cooperative”, party of the first part, and Windstream Kentucky East, LLC, a corporation of the State of Delaware hereinafter called the “Telephone Company”, party of the second part.

WITNESSETH

WHEREAS, the Electric Cooperative and the Telephone Company desire to continue joint use of poles and in the future to establish further joint use of their respective poles when and where joint use shall be of mutual advantage; and

WHEREAS, because of changed conditions and experience gained, and to facilitate administration of joint use, the parties desire to enter into a new joint use agreement giving due recognition to such change of conditions, experience and the effective administration of joint use, including recognition of the economics of joint use, and such factors as the comparative numbers of joint use poles owned by the parties; and

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

**ARTICLE I
DEFINITIONS**

For the purpose of this agreement, the following terms when used herein, shall have the following meanings:

- A. **ATTACHMENTS or APPURTENANCES** - means materials or apparatus, excluding ground wires, now or hereafter used by either party in the construction, operation or maintenance of its plant carried on poles. Pedestals on buried telephone cables adjacent to, but not affixed to the base of the pole will not be considered attachments.
- B. **CODE** - means National Electrical Safety Code.

- C. **BONDING** – is the electrical interconnecting of conductive parts, designed to maintain a common electrical potential. System bonding shall be performed in compliance with the most recent edition of the National Electrical Safety Code and shall not be considered a chargeable attachment.
- D. **JOINT USE POLE**- is a Pole upon which space is provided under this Agreement for the Attachments of both Parties on the same pole at the same time.
- E. **LICENSEE** - is the party having the right under this agreement to make attachments to a pole owned by the other party.
- F. **OWNER** - is the party owning the pole to which attachments are made.
- G. **PERMIT** – Written acceptance of joint use application authorizing attachment by Licensee to Owner’s poles under this agreement.
- H. **REARRANGING** - is the moving of attachments from one position to another on a pole.
- I. **STANDARD JOINT USE POLE** - means a 40-foot class 4 wood pole.
- J. **STANDARD SPACE ALLOCATION** - means an allocation of sufficient space on a joint use pole for use of each party, taking into consideration requirements of the current National Electrical Safety Code, more particularly defined as follows:
1. For Electric Cooperative, the use of eight and one half (8½) feet of space measured downward from the top of a standard joint use pole; and
 2. For Telephone Company, the exclusive use of two feet (2’) of pole space at a distance measured upward from the point of Attachment on the pole required at all times to provide the Code minimum clearance above-ground for the lowest horizontally run line, wire or cable attached in such space, except where by mutual Agreement of the field representatives of the parties, sound engineering practices dictate a higher minimum clearance. No Third Party shall place Attachments on the pole below the point of the Telephone Company’s Attachments.
 3. Standard space allocation shall in all instances, except as specifically modified elsewhere in this Agreement be as represented on Exhibit C attached hereto and made a part hereof.

4. The foregoing definitions are not intended to preclude the use of joint poles shorter or of less strength than the standard joint use pole where such pole will meet the requirements of the parties hereto, and due consideration shall be given to the use of such smaller poles whenever possible.

K. TRANSFERRING - is the removing of attachments from one pole and placing them upon another.

L. COMPLEX TRANSFER – a transfer where additional strands or cables must be placed, and/or splicing operations are required.

ARTICLE II TERRITORY AND SCOPE OF AGREEMENT

This agreement shall be in effect and shall cover all poles of each of the parties now existing, hereafter erected or acquired within the common operating areas served by the parties hereto when said poles are brought hereunder, with the exception of poles which, in the Owner's judgment, should be restricted for reasons of safety or reasons related to construction practices and/or clearances.

ARTICLE III PERMISSION FOR JOINT USE

Each party hereby permits joint use by the other party of any of its poles when brought under this Agreement as herein provided subject to the terms and conditions herein stated. The parties hereto agree that all attachments to poles used jointly by the parties shall continue to exist in the condition as they exist on the date of this agreement insofar as nothing contained herein shall be construed as requiring either party to remove, transfer, or rearrange any attachments solely by reason of the execution of this Agreement.

ARTICLE IV SPECIFICATIONS

A. **Conformity**. Joint use of poles covered in this agreement shall at all times be in conformity with terms and provisions of the then current issue of the Code, which specifies minimum requirements, except where the requirements of the Owner or public authorities may be more stringent, in which case the latter will govern. This provision shall not be interpreted to impose an obligation on either Party to inspect existing Attachments every time the Code is amended.

B. **Third Party Complaints**. Any inquiries or complaints to Licensee by persons other than Licensee or Owner or their employees, contractors, and agents with regard to Licensee's facilities that are attached to Owner's poles and its rights and obligations under this agreement shall be responded to within a commercially reasonable time and factual answers should be provided to Owner upon request..

**ARTICLE V
RIGHT OF WAY AND LINE CLEARING**

A. **Right-Of-Way**. Owner does not warrant or assure to Licensee any right-of-way privileges, uses or easements. Owner shall not be liable to Licensee or any other party in the event Licensee is prevented from placing and/or maintaining its Attachments on Owner's poles. The right-of-way obtained shall be of sufficient width to give the right at all times to cut away and keep clear of the line all trees and other obstructions that may endanger the proper maintenance and operation of the line.

B. **Line Clearing**. The Owner shall assume full responsibility for the initial clearing of a swath suitable for its own requirements, and for all recurring cutting at such intervals as are necessary to protect their circuits. Subsequent trimming shall be the responsibility of the party requiring the trimming.

**ARTICLE VI
PROCEDURE FOR ESTABLISHING JOINT USE**

A. **Permit Requirement**. A Permit must be issued before Licensee may place an initial Attachment on Owner's primary poles. Permits are not required for additional Attachments to Joint Use Poles within Licensee's allocated space so long as all pole loading requirements are met, or for service drop wires whether placed as initial or additional Attachments provided that the service drop otherwise meets the requirements of the Code.

B. **Process for Permitting**. To obtain a Permit, Licensee shall make Application following the procedures and the form Exhibit B-1 in the Rules.

- 1) Licensee's Application shall be accompanied by Licensee's construction plans and drawings (the "Construction Plans"), which will, at a minimum, contain size and type of messenger (including weight/feet and design tension), the size and type of Attachments (including weight/feet and design tension), specification drawings depicting type of bolt attachments and bolt patterns, and

specification drawings of the installation rating and type of guy and anchor assemblies proposed to be used by Licensee.

- 2) Within thirty (30) days after the receipt of the completed Application and Construction Plans, Owner shall notify Licensee whether or not the Application is approved. If the Application is approved and no changes or modifications are required, Licensee may commence work.
- 3) If modifications are required to accommodate Licensee's Attachments, Owner's notification shall include an estimate of the cost to complete the Make Ready Construction Work (the "Make Ready Construction Cost Estimate"), specified in the lower portion of Exhibit B-2. Owner shall also provide to Licensee a schedule for completing the Make Ready Construction Work.
- 4) If Licensee decides not to proceed with the proposed Attachments, Licensee shall notify Owner and pay the Estimate Preparation Fee specified in Exhibit A, but incur no further make ready charges.
- 5) If changes are required and Licensee still desires to proceed with the proposed Attachments, Licensee and Owner shall work together in good faith to resolve any design and engineering issues and Licensee shall revise its plan as necessary. Owner shall provide Licensee with a copy of the Make Ready Engineering Plans, which specify how and where Licensee's Attachments are to be made on Owner's poles.
- 6) Licensee shall pay Owner the amount specified and agreed to in the Make Ready Construction Cost Estimate. Owner shall bill licensee within 60 days of work being completed. Owner shall use reasonable efforts to perform Make Ready Construction Work on an expedited basis when requested by Licensee. Upon completion of the Make Ready Construction Work, Owner shall promptly notify Licensee of its right to make the authorized Attachments by issuing a Permit, the form of which is attached as Exhibit B-3.
- 7) Licensee shall, at its own expense, make Attachments in such manner as not to interfere with the service of Owner or others who are attached to Owner's poles nor shall Licensee make any changes to the attachments of others unless authorized by the approved Engineering Plans.

Licensee shall complete its work within one hundred twenty (120) days of receipt of Permit; such timeframe may be extended by Owner providing that Licensee makes a written request.

- 8) Within sixty (60) days of completion of the Make Ready Construction Work for each Application, Owner shall prepare and submit to Licensee an invoice reflecting Owner's actual cost of the Make Ready Construction Work. Licensee shall pay the invoice within forty five (45) days of receiving the same. Licensee shall not be liable for any Make Ready Construction Costs that exceed the estimated cost of the Make Ready Construction Work by more than five percent (5%).

C. **Unauthorized Attachment.** Any of Licensee's Attachments placed after the Commencement Date without a Permit as required by subsection (A) above or proper reporting as required by Article XI herein shall be considered an unauthorized attachment (the "Unauthorized Attachment"). When discovered, Owner will notify Licensee in writing of the Unauthorized Attachment by via certified mail to the operational and legal addresses referenced in Article XVII. Upon receipt of said notice, Licensee has sixty (60) days to submit an application for the Unauthorized Attachment or remove the Unauthorized Attachment. If Licensee fails to comply with the terms of this provision, Owner may escalate the matter in accordance with Article XXVIII and Licensee shall pay Owner when invoice is presented, without prejudice to Owner's other rights under this Agreement, the unauthorized fee specified in Exhibit A attached hereto until action has been taken or the issue otherwise resolved.

D. **Non-Compliant Attachment.** If a party's facilities are found to be in violation of the requirements of the Code or are not attached as provided in the Engineering Plans (the "Non-Compliant Attachment"), the other party (the "Asserting Party") will notify that party of the Non-Compliant Attachment in writing via certified mail to the operational and legal addresses referenced in Article XVII.

- 1) If the party alleged to be in violation does not dispute that it is responsible for correcting the alleged violation, it shall correct the violation at its own expense within sixty (60) days of receipt of the notice, or if more time is needed, within a reasonable extended deadline agreed to by the parties. If the necessary changes require the Asserting Party to perform any engineering or construction work to achieve

compliance, the party alleged to be in violation will pay the other Asserting Party for the cost of such work. The party alleged to be in violation shall notify the Asserting Party in writing that it has completed correction of the violation. If the party alleged to be in violation fails to correct such Non-Compliant Attachment by the applicable deadline, the Asserting Party, if it owns the subject pole, may send the party alleged to be in violation a written notice to remove the Non-Compliant Attachments within sixty (60) days and the party alleged to be in violation shall thereafter remove the subject Attachment. Reasonable extensions of time to comply with this subsection should be granted if such extension would not materially prejudice Owner. If the Asserting Party does not own the pole, it may escalate the matter in accordance with Article XXVIII.

2) If the party alleged to be in violation disputes that it is responsible for the alleged violation, it shall send written notice of the dispute to the Asserting Party within sixty (60) days of receipt of the written notice of the violation. If the Asserting Party disagrees with the dispute, it may escalate the matter in accordance with Article XXVIII.

ARTICLE VII ERECTING, REPLACING OR RELOCATING POLES

A. **Pole Replacement - Generally.** Whenever any Joint Use Pole, or any poles about to be used under the provisions of this Agreement, is insufficient in size or strength to accommodate both the existing Attachments and the proposed immediate additional Attachments thereon, the Owner shall replace such pole with a new pole of the necessary size and strength and make such other changes in the existing pole line in which the pole is included as may be necessary by the replacement of such pole and the placing of the Licensee's circuits as proposed. The costs of erecting joint use poles covered by this Agreement either as new pole lines, as extensions of existing pole lines, or to replace existing poles, either existing

jointly used poles or poles not previously involved in joint use, shall be borne at the expense of the Licensee.

B. Pole Replacement – Required by Third Party. Whenever it is necessary to replace or change the location of a jointly used pole, by reason of any state, municipal or other governmental requirement, or the requirements of a property owner, the Owner shall, before making such replacement, or change in location, give notice sufficient to allow for planning and scheduling thereof in writing, except in cases of emergency when verbal notice will be given, and subsequently confirmed in writing, to the Licensee, specifying in such notice the time of such proposed replacement or relocation, and the Licensee shall, at the time so specified, transfer its Attachment to the new pole or the pole at the new location. If the cost is due to a third party, the pole owner shall provide all necessary contact information to the existing licensed attacher so that the licensee can recover their costs.

C. Transfers. Whenever it is necessary to replace or relocate a pole, any Permit issued for the initial Attachment shall transfer to the new pole at the time of such replacement or relocation. If the existing Attachments were placed before the Commencement Date of this Agreement and, thus, were not subject to the permitting process outlined in this Agreement, Licensee shall not have to apply for permits before transferring its Attachments to the new poles. The Owner shall notify Licensee of the need to transfer its Attachments and Licensee shall do so within sixty (60) days, or for a Complex Transfer within a reasonable time period agreed to by the parties. Reasonable extension of time to comply with this subsection should be granted if such extension would not materially prejudice the Owner. If Licensee fails to Transfer its Attachments within the applicable deadline, Owner may transfer ownership of the subject pole(s) by sending Licensee written notice of the transfer of ownership. Upon receipt of such notification, such pole shall become the property of the Licensee, and to the extent not prohibited by law, Licensee shall defend (at the option of the former Owner), indemnify and hold the former Owner of such pole(s) harmless from and against all claims, demands, actions, suits, judgments, obligations, liability, damages, cost, expenses, or charges incurred thereafter, because

of or arising out of the presence, location or condition of such pole(s) or any of Licensee's Attachments thereon, unless such claims, liabilities or damages arise from the negligence or intentional acts or omissions of the former Owner. Alternatively, Owner may escalate the matter through the dispute resolution process outlined in Article XXVIII.

**ARTICLE VIII
MAINTENANCE OF POLES AND ATTACHMENTS**

- A. **Maintaining Poles.** Each party shall, at its own expense, maintain its own poles in a serviceable condition in accordance with industry standards and practices and shall reinforce or repair its poles as they become actually known to be unserviceable.
- B. **Training and Warning.** Licensee warrants that its employees, contractors, or employees of contractors are properly trained in climbing on and working on Owner's poles safely. Licensee shall specifically and adequately warn each and every employee of Licensee and require that its contractors warn their employees of the dangers inherent in making contact with the electrical conductors or electrical equipment of Owner before such employees are permitted to perform any work at or near any facilities belonging to the Electric Cooperative.
- C. **No Warranty of Condition.** Both parties disclaim any warranty or representation regarding the condition and safety of their poles. Each party expressly assumes responsibility for determining the condition of all poles to be climbed or otherwise worked on by its employees, agents, contractors, or employees of contractors whether for the placement of Attachments, maintaining or rearranging Attachments, or for other reasons. Except for performing transfer work from unserviceable poles to replacement poles, a Licensee shall not permit its employees or contractors to work on poles that are unserviceable until the Owner has corrected the unserviceable condition or has determined that the pole is serviceable.

**ARTICLE IX
ANCHORS**

A. **Generally.** Anchors required by either party shall be placed by the party requiring the anchor at its own expense. Joint use of anchors may be approved by the Owner on a case-by-case basis.

B. **Specifically.** Guy lead and anchors will possess the strength required by the Code and follow the specifications herein:

- 1) Following the Commencement Date of this Agreement, all anchors and guys shall be installed prior to the installation of Licensee's messenger wires or cables. Licensee's guy lead must be of sufficient length and strength to accommodate loads applied by the Attachments. No anchor installed following the Commencement Date shall be placed within three (3) feet of any existing anchor. Guy markers meeting Licensee's specifications shall be installed on every newly placed guy attached to Owner's pole after the Commencement Date.
- 2) Each party shall install and maintain its own guy wires. Licensee shall not attach any down guy to Owner's anchors or to other attaching parties' anchors without prior written permission from such Owner or other party as the case may be, such permission shall not be unreasonably withheld.
- 3) All down guys, head guys or messenger dead ends installed by Licensee shall be attached to the pole by the use of "through" bolts which shall not extend any longer than two (2) inches from pole. Under no circumstances shall Licensee install down guys, head guys or messenger dead ends by means of encircling wooden poles with such attachments.

**ARTICLE X
RECOVERY OF SPACE BY OWNER**

If Owner at any time reasonably requires the space occupied by Licensee's attachments on Owner's poles for core business purposes, Licensee shall determine if it can accommodate Owner's request by rearranging its attachments to other available space on such poles within forty-five (45) days after receipt of notification from Owner of Owner's need for such space. If Owner requires the space in order to

provide service to one of its customers, the forty-five (45) day period is changed to ten (10) days. Owner shall reimburse Licensee for the cost of rearranging its Attachments. If rearranging attachments is not feasible, Owner shall, pursuant to Article VII, replace such poles with larger poles capable of accommodating attachments of both Owner and Licensee.

ARTICLE XI SECONDARY POLE ATTACHMENTS

- A. **Definition.** A Secondary Pole or Service Drop Pole is a pole installed for the express purpose of providing required clearances for a service loop to a customer's location. A Secondary Pole is a pole that typically services only one customer or building as the case may be, does not have transformers or other electrical equipment on it, is located outside the main line, and supports Owner's wires with less than 600 volts.
- B. **Reporting** When in the process of installing service for a single customer, Licensee may attach its drop wire to Owner's Secondary Pole without advanced notice to Owner providing that the Attachment otherwise meets the requirements of the Code. Licensee will report all new Secondary Pole Attachment(s) to Owner no later than twenty-five (25) days after the end of the month in which the Attachment was placed by submitting a "Report of Secondary Pole Attachments", the form of which is illustrated in Exhibit B-5 of the Rules.
- C. **Fees.** The annual rental fee, specified in Exhibit A, for Secondary Pole Attachments applies for the year in which an Attachment is made, but no annual rental fee shall be paid for an Attachment removed during the applicable rental year.
- D. **Compliance.** Attachments to Secondary Poles that are Permitted and are later found to be not in compliance with the Code, or other provisions of this Agreement are considered Non-Compliant Attachments and subject to Article VI Section D.

E. **Tree Trimming**. Owner will not be responsible for any line clearance or tree trimming required for drop wires connected to Secondary Poles.

ARTICLE XII BILLS AND PAYMENTS FOR WORK

Any amounts billed hereunder shall be due forty-five (45) days from receipt of the invoice detailing the amounts owed. If the owing party disputes the bill or any portion thereof, it must do so through electronic or written means within forty-five (45) days after receipt thereof. Further, the owing party must pay any undisputed amount due. The parties will cooperate to ensure that both are provided the necessary information to certify that said bills are correct. If a billing dispute cannot be resolved through informal discussions, either party may escalate the dispute in accordance with Article XXVIII.

ARTICLE XIII ABANDONMENT OF JOINTLY USED POLES

A. **Abandonment by Owner**. Owner may abandon pole(s) upon sixty (60) days notice to Licensee. If, at the expiration of said period, Owner and any Third Parties shall have no attachments on such pole, but Licensee shall not have removed all of its attachments therefrom, then Owner may send Licensee written notice that Owner intends to transfer ownership of the Pole to Licensee. If Licensee does not remove its Attachments from the Pole within ten (10) days of receipt of Owner's notice of intent, Owner may transfer ownership of the Pole to Licensee by sending Licensee written notice of the transfer of ownership and Licensee shall pay the Owner an amount equal to the then current in place value of the Pole. Upon receipt of Owner's notice, the Pole shall then become the property of Licensee and Licensee shall save harmless the former Owner from all obligations, liabilities, damages, costs, expenses or charges incurred thereafter arising out of the presence, location or condition of such Pole or any of Licensee's Attachments thereon. Abandonment of a pole by the Owner is made at Owner's sole discretion. This Article may not be used to circumvent the procedures set forth in this Agreement regarding Transfers.

B. **Abandonment by Licensee**. Licensee may, at any time, abandon the use of a licensed pole by removing therefrom any and all attachments it may have thereon. Regardless of when Licensee removes

its Attachments, Licensee shall be responsible for the annual rental payment for the subject pole for that year in which Owner receives notification of abandonment in writing. Following such removal, no attachment shall again be made to such pole until Licensee shall have made Application and received a new Permit as provided in Article VI of this Agreement.

ARTICLE XIV ADJUSTMENT PAYMENTS

A. **Annual Rental Fee.** Licensee shall pay the Owner of a Joint Use Pole the annual pole rental as specified in Exhibit A attached hereto. On December 1st next ensuing after the date of this Agreement and each year thereafter during the time this Agreement is in effect, the Parties acting in cooperation shall, subject to the provisions of this Article, tabulate the total number of Joint Use Poles in accordance with procedures agreed upon by the respective Parties. For the purpose of computing the total annual rental fee due hereunder, the total fee shall be based upon the number of Joint Use Poles determined by the current physical Pole inventory plus any additional Poles brought under this Agreement, or minus any Poles deleted from this Agreement. The party owning the greater number of Joint Use Poles shall bill the other party, and reduce the bill by the rental due the other party, so that a net bill is issued. Adjustment payments not paid within this specified time shall accrue at twelve percent (12%) per annum.

B. **Inventory.** At intervals of not less than five (5) years and with written notification, an actual physical Inventory of Joint Use Poles may be made by representatives of the parties, or by a contractor agreed to by the parties. Each party shall share equally in the cost of making such physical inventory of the Joint Use Poles. If any difference in the number of Joint Use Poles is found between the actual physical inventory and the previous inventory adjusted by any Attachments added or Attachments removed since the last inventory, the differential will be prorated as if the subject Attachments were placed in equal numbers over the years that have elapsed since the prior inventory and shall be billed and paid at the then appropriate rate in effect for those respective years. Both parties shall work together to ensure acceptable data is gathered in the field so each party can update their respective company's records.

**ARTICLE XV
DEFAULTS**

If either party shall make default in any of its obligations under this contract and such default shall continue sixty (60) days after notice thereof in writing from the other party via certified mail to the operational and legal addresses referenced in Article XVII, the rights of the party in default hereunder to attach to additional Joint Use Poles may be suspended by sending written notice of the suspension to the operational and legal addresses referenced in Article XVII. If such default shall continue for a period of forty-five (45) days after receipt of such suspension, the non-defaulting party hereunder may forthwith terminate this Agreement in accordance with Article XVIII, as far as concerns the rights of both parties to attach to additional Joint Use Poles. Any such termination of the right of both parties to attach to additional poles shall not terminate the right of either party to attach to existing Joint Use Poles or to maintain or Transfer existing Attachments on Joint Use Poles. All such Attachments shall continue to be maintained pursuant to the terms of this Agreement, which Agreement shall, so long as the parties use Attachments to provide service to their customers, remain in force and effect solely for the purpose of governing and controlling the rights and obligations of the parties with respect to such Attachments, including, but not limited to, charges for such Attachments.

**ARTICLE XVI
INDEMNIFICATION**

Whenever any liability may be incurred by either or both of the parties hereto for damages for injuries to the employees or for injury to the property of either party, or for injuries to other persons or their property, the liability for such damages, as between the parties hereto, shall be as follows:

- ☐
- a) Licensee, shall compensate Licensor for the full actual loss, damage or destruction of Licensor's property that in any way arises from or is related to this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation, or maintenance of Licensee's facilities).

- b) Each party agrees to defend, indemnify, protect and hold harmless the other and the other's officers, directors, employees, shareholders, successors, assigns, agents, affiliates, representatives, partners, and contractors from and against any and all third party claims, actions, administrative proceedings (including, without limitation, informal proceedings), judgments, damages, penalties, fines, costs, liabilities, interests, or losses, including, without limitation, reasonable attorneys' fees and expenses, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature suffered by or asserted against the indemnified party in any way arising out of or connected with this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's facilities, unless caused by the sole negligence or willful misconduct on the part of Licensor or Licensor's affiliates, agents, officers, employees and assigns). Each party expressly assumes all liability for actions by its affiliates, agents, officers, employees, or its contractors and expressly waives any immunity from the enforcement of this indemnification provision that might otherwise be provided by workers' compensation law or by other state or federal laws.
- c) Without limiting any of the foregoing, Licensee assumes all risk of, and agrees to relieve Licensor of any and all liability for, loss or damage (and the consequences of loss or damage) to any facilities placed on Licensor's property and any other financial loss sustained by Licensee, except to the extent caused by the negligence or willful misconduct on the part of Licensor's agents, officers, employees, and assigns.
- d) Without limiting the foregoing, Licensee expressly agrees to indemnify, defend, and hold harmless Licensor and Licensor's agents, officers, employees and assigns from any and all claims asserted by end users/customers of Licensee in any way arising out of or in connection with this Agreement or Licensee's facilities, except to the extent caused by the negligence or willful misconduct on the part of Licensor or Licensor's agents, officers, employees, and assigns, or its contractors.

e) In no event shall either Party be liable to the other for any special, consequential or indirect damages (including, without limitation, lost revenues and lost profits) arising out of this Agreement or any obligation arising hereunder, whether in an action for or arising out of breach of contract, or otherwise.

Licensee shall indemnify, protect, and hold harmless Licensor from and against any and all claims for libel and slander, copyright and/or patent infringement arising directly or indirectly by reason of installation of Licensee's equipment and facilities on Lessor's Property pursuant to this Agreement.

**ARTICLE XVII
SERVICE OF NOTICES**

Wherever in this agreement notice is provided to be given by either party hereto to the other, such notice shall be in writing and given by letter mailed, or by personal delivery, to the following addresses:

The Electric Cooperative: **Ron Day**
 Jackson Energy Cooperative
 115 Jackson Energy Ln.
 McKee, KY 40447
 Tel: (606) 364-9254
 Fax: (606) 364-1013

The Telephone Company: **Windstream Communications**
 Manager – Contracts
 50 Executive Parkway
 Hudson, OH 44236
 (330) 650-7682

with a copy to:

Windstream Communications, Inc.
 4001 N Rodney Parham Rd
 Little Rock, AR 72212
 Attn: Legal Department

Either party may change the address for notice by written notice to the other party.

**ARTICLE XVIII
TERM AND TERMINATION OF AGREEMENT**

A. **Contract Renewal.** This Agreement shall continue in force and effect for a period of five (5) years from and after the Commencement Date. The Agreement shall automatically extend on the same terms and conditions from year to year with the annual rental rate increased each year by the amount of any increase in the Consumer Price Index for All Urban Consumers CPI-U (1982-1984 = 100), U. S. City Average All Items for the twelve month period ending September 30 of the year to which the rate adjustment is being made.

B. **Notice of Termination.** Either party may terminate this Agreement at any time after the initial five (5) year term by giving no less than 1 year prior written notice to the other party that they desire to cancel the Agreement, in which case the Agreement shall terminate at the end of the then current two year term. Termination of this Agreement means termination of the right of both parties to attach to additional poles. Termination of this Agreement shall not abrogate the right of either party to attach to existing Joint Use Poles or to maintain or Transfer existing Attachments on Joint Use Poles. All such Attachments shall continue to be maintained pursuant to the terms of this Agreement, which Agreement shall, so long as the parties use Attachments to provide service to their customers, remain in force and effect solely for the purpose of governing and controlling the rights and obligations of the parties with respect to such Attachments, including, but not limited to, charges for such Attachments.

ARTICLE XIX RIGHTS OF THIRD PARTIES

A. If either party hereto has, prior to the execution of this Agreement, conferred upon others not parties to this Agreement ("Third Parties"), by contract or otherwise, rights or privileges to attach to any of its poles covered by this agreement, nothing herein contained shall be construed as affecting said rights or privileges with respect to existing attachments of such Third Parties, which attachments shall continue in accordance with the present practice; all future attachments of such Third Parties shall be in accordance with the requirements of Section (B) below, except where such Third Parties have by agreements entered

into prior to the execution of this Agreement acquired enforceable rights or privileges to make attachments which do not meet such space allocations. Owner shall derive all of the revenue accruing from such Third Parties. Any contractual rights or privileges of Third Parties recognized in this paragraph shall include renewals of or extensions of the term (period) of such contracts.

B. If either party hereto desires to confer upon Third Parties, by contract or otherwise, rights or privileges to attach to any of its poles covered by this agreement, it shall have the right to do so, provided all such attachments of such Third Parties are made in accordance with the following: (1) such attachments shall be maintained in conformity with the requirements of the Code, and (2) to the extent allowed by law, such attachments shall not be located within the space allocation of Licensee. Owner shall derive all of the revenue accruing from such Third Parties (3) Owner shall provide the Third Party's contact information to existing attachers, so that costs incurred (if any) to allow the Third Party attachment may be recovered by the existing Licensee. Existing Licensee will not perform any makeready on behalf of said Third Party until costs have been paid.

C. For the purpose of this agreement, all attachments of any such Third Party shall be treated as attachments belonging to Owner, and the rights, obligations and liabilities hereunder of Owner in respect to such attachments shall be the same as if it were the actual owner thereof.

D. With respect to any rights and privileges granted under this Article to others not parties hereto, Licensee shall not have to Transfer or Rearrange its Attachments to provide space for a Third Party until the Third Party pays for the Licensee's associated costs.

ARTICLE XX ASSIGNMENT OF RIGHTS

A. Neither party hereto shall assign or otherwise transfer this agreement, in whole or in part, without the written consent of the other party; provided that either party shall have the right without such consent to:

- 1) Mortgage any or all of its property, rights, privileges and franchises.

- 2) To lease or transfer any of them to another corporation organized for the purpose of conducting a business of the same general character as that of such party; or
- 3) To enter into any merger or consolidation or other reorganization: and, in case of the foreclosure of such mortgage, as in case of such lease, transfer, merger or consolidation its rights and obligations hereunder shall pass to such successors and assigns; and provided, further that subject to all of the terms and conditions of this agreement, either party may without such consent permit any corporation conducting a business of the same general character as that of such party, with which it is affiliated or physically connected, the rights and privileges of this agreement in the conduct of its said business.

**ARTICLE XXI
SUPPLEMENTAL ROUTINES AND PRACTICES**

Nothing in the foregoing shall preclude the parties to this agreement from preparing such supplemental operating routines or working practices as they mutually agree to effectively administer the provisions of this agreement. The parties expressly agree to develop such coordination agreements as are necessary and feasible to assist both parties in effectuating this agreement.

**ARTICLE XXII
WAIVER OF TERMS OR CONDITIONS**

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect. In addition, neither party shall, by mere lapse of time, be deemed to have waived any breach by the other party of any terms or provisions of this Agreement. The waiver by either party of any such breach shall not be construed as a waiver of subsequent breaches or as a continuing waiver of such breach.

**ARTICLE XXIII
PAYMENT OF TAXES**

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

**ARTICLE XXIV
INSURANCE**

A. Each party to this Agreement shall take out and maintain throughout the period during which this Agreement shall remain in effect the following minimum insurance:

- 1) Workers' compensation insurance covering all of the party's employees. Furthermore, each party shall require that its contractors and subcontractors acquire and maintain workers' compensation insurance on their employees who shall perform any of the obligations of any party hereunder, whether or not such insurance is required by the laws of the state governing the employment of any such employee. If any employee is not subject to the workers' compensation laws of such state, such insurance shall extend to such employee voluntary coverage to the same extent as though such employee were subject to such laws.
- 2) Public liability and property damage liability insurance covering all operations under this Agreement with limits of not less than \$1,000,000 for bodily injury or death and \$2,000,000 aggregate coverage during the policy period.
- 3) Automobile liability insurance of not less than \$1,000,000 for personal or property damage stemming from the use of all self-propelled vehicles used in connection with this Agreement, whether owned, non-owned or hired.

B. Each party shall furnish to the other party, upon request, a certificate evidencing compliance with the foregoing requirements. This certificate will note specific cancellation language as follows: "In the event of cancellation of any of the said policies, the insuring company shall give the party to whom this certificate is issued thirty (30) days prior notice of such cancellation."

C. The parties may self-insure for the coverages specified in paragraph A.1) through A.3) above.

Licensee shall present valid proof of self-insurance upon Owner's request.

**ARTICLE XXV
FORCE MAJEURE**

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

**ARTICLE XXVI
INFORMATION RECEIVED**

A. **No Warranty of Record Information.** From time to time, one party may obtain from the other party records and other information relating to outside plant facilities. Each party acknowledges that such records and information provided may not reflect field conditions and that physical inspection is necessary to verify presence and condition of outside plant facilities and right-of-way.

B. **Confidentiality of Information.** The parties agree that the records and information described in Paragraph A., above, constitute the proprietary and trade secret information of the Party providing them, and may not be used or disclosed by the other Party for any purpose other than facilitating the terms of this Agreement.

**ARTICLE XXVII
CONFIDENTIALITY**

The parties agree that the terms and conditions of this Agreement are confidential. Neither Party, nor any of their representatives, shall at any time disclose or otherwise make available to any third party any of the terms or conditions of this Agreement without first obtaining the written consent of the other party. If disclosure is required by law or governmental authority, the party called upon to make the disclosure shall, before making such disclosure, provide notice to the other party so that the other party has the opportunity to object to the disclosure in a timely fashion. Any disclosures made pursuant to this Section shall be limited to the extent necessary and shall be made only after attempting to obtain confidentiality assurances.

**ARTICLE XXVIII
DISPUTE RESOLUTION**

- A. Good Faith Participation. Prior to the initiation of any litigation, the Parties shall in good faith attempt to settle any dispute arising out of or relating to this Agreement through the upper management escalation and non-binding mediation processes set forth herein. Good faith participation in these processes shall be a condition precedent to any litigation. All negotiations pursuant to this Article shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and any state's rules of evidence.
- B. Upper Management Escalation and Mediation. To initiate the dispute resolution process, either Party shall give the other Party written notice, via certified mail to the operational and legal addresses referenced in Section , of any dispute not resolved in the normal course of business. The dispute shall be escalated to upper management and, thereafter, representatives of both Parties with authority to settle the dispute shall meet at a mutually acceptable time and place within thirty (30) business days after receipt of such notice, and thereafter as often as reasonably deemed necessary, to exchange relevant information and attempt to resolve the

dispute. If the matter has not been resolved within sixty (60) business days of receipt of the disputing Party's notice, or if the Parties fail to meet within thirty (30) business days, either Party may initiate mediation. Such mediation shall take place at a mutually agreeable location. In the event that such dispute is not resolved within ninety (90) calendar days following the first day of mediation, either Party may initiate litigation.

- C. Enforcement. The parties regard the aforesaid obligation to escalate to upper management and mediate as an essential and material provision of this Agreement and one that is legally binding upon them. In case of a violation of such obligation by either Party, the other may seek specific enforcement of such obligation in the courts having jurisdiction hereunder.

ARTICLE XXIX MISCELLANEOUS PROVISIONS

A. Should any court of law or administrative or governmental entity with jurisdiction declare any provisions of this Agreement to be void or unenforceable, that remaining provisions of the Agreement shall remain in full force and effect.

B. Nothing contained in this document, or in any amendment or supplement thereto, or inferable here from shall be deemed or constructed to (i) make either party the agent, servant, employee, joint venture, associate, or partner of the other party, or (ii) create any partnership, joint venture or other affiliation or association between the parties. The parties hereto are and shall remain independent contractors. Nothing herein shall be deemed to establish a partnership, joint venture, or agency relationship between the parties. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

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

D. This Agreement is deemed executed in and shall be construed under the laws of the State of Kentucky.

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

IN WITNESS WHEREOF, the parties hereto, have caused these presents to be executed in duplicate by their respective officers thereunto duly authorized,

ATTEST

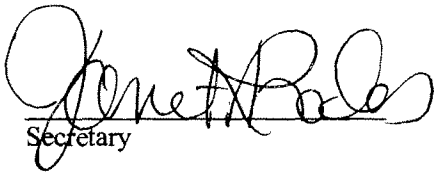

Secretary

JACKSON ENERGY COOPERATIVE


President and CEO

Dated: July 21, 2008

ATTEST


Secretary

WINDSTREAM Kentucky East, LLC


SVP Network Services Frank Schueneman

Dated: 7/1/08

EXHIBIT B-1

PERMIT APPLICATION

TO: POLE OWNER DATE:
[INSERT APPROPRIATE NAME AND ADDRESS]

LICENSEE'S TRACKING NUMBER: _____

Licensee requests a Permit for attachments under the terms and conditions of our License Agreement dated _____.

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

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

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

Signed: _____

Company: _____

Name: _____

Title: _____

Tel: _____

Email: _____

EXHIBIT B-2

**RESPONSE TO PERMIT APPLICATION
AND MAKE READY CONSTRUCTION COST ESTIMATE**

TO:

DATE:

LICENSEE'S TRACKING NUMBER: _____

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

The Make Ready Construction Cost is estimated to be \$_____. Please indicate your acceptance by signing and returning this exhibit so that Make Ready Engineering and Construction Plans can be prepared. A schedule for completion of the Make Ready Engineering and Construction () is attached.

Name: _____

Signed: _____
Pole Owner

Name: _____

Signed: _____
Licensee

EXHIBIT B-5

Jackson Energy Cooperative

Joint Use Pole Change Request

Subject to the Joint Pole Use Agreement Dated _____ Between the Parties.

To: Telephone Company Electric Company Cable Company Date:

Address: _____

Permit / Serial No.

Location:

Authority:

- Application and License to Use Poles
- Notice of Moving Poles
- Notice of Transferring of Poles

- Notice of Replacement of Poles
- Notice of Abandonment of Poles by Owner

This: Notice License

Effective:

Owner: Electric Co. Telephone Co. Cable Co. Licensee: Electric Co. Telephone Co.

Circuit Data and Effect on Joint Use Pole Count		
Character of Tel. Circuits		
Character of Electric Circuits		
Work necessary to Provide Clearance, Stability, and Protection Consists of		
	Joint Use Poles Owned By Electric Company	Joint Use Poles Owned By Telephone Company
Added By This Request		
Removed By This Request		
Total This Request		

Exchange: _____

District: _____

WO / RO No. :

This Work may be
 has been
 has not been

jointly checked in the field

by:
 with:

_____ for Telephone Co. and
_____ for Electric Co. and
_____ for other attachment parties

Permit not Required Permit Secured Easement not required

Easements Secured and Recorded – Deed Book No. _____ Page No.

Request made by: _____

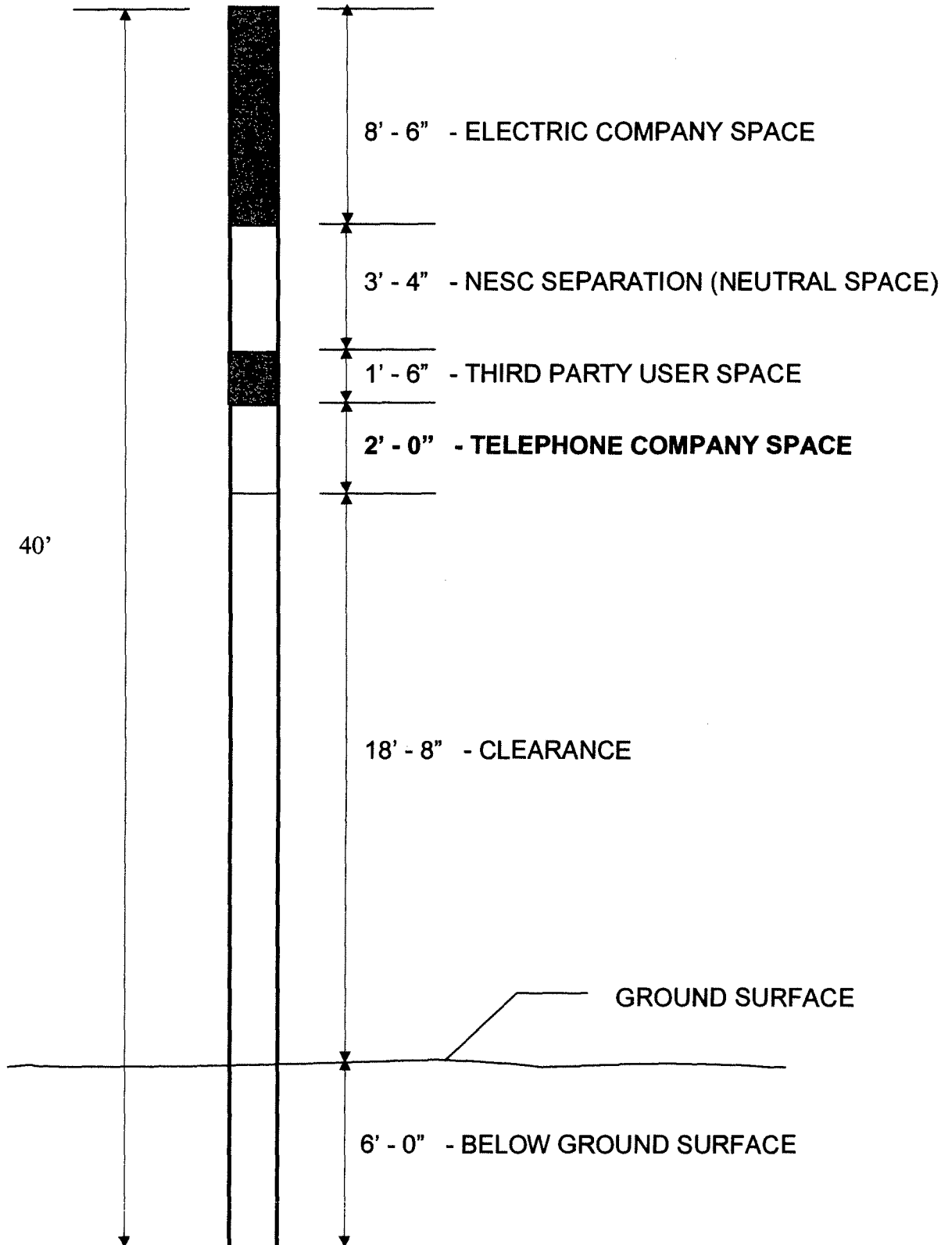
We Request this Work to be completed by

Work Completed _____ Signed

LOCATION – Attach facility map along with description (use reverse side if necessary)

JEC-162
EXHIBIT C

SPACE ALLOCATION ON 40' CLASS 4 STANDARD JOINT USE POLE



INFORMATION EXCHANGE AND NON-DISCLOSURE AGREEMENT

THIS INFORMATION EXCHANGE AND NONDISCLOSURE AGREEMENT ("Agreement") is dated and effective as of April 28th, 2008 ("Effective Date"), by Windstream Kentucky East, LLC ("Windstream"), and Jackson Energy Cooperative ("Power Company"). The terms "Windstream" and "Power Company" include authorized consultants, agents, or other representatives, which shall be signatories of Attachment A and subject to the provisions of this Agreement. The terms "Recipient" and "Discloser" refer to Windstream or Power Company, as the case may be.

RECITALS

A. Windstream and Power Company acknowledge that it may be necessary for each of them, as Discloser, to provide to the other, as Recipient, certain information, including trade secret information and company-sensitive data, considered to be confidential, valuable and proprietary by Discloser, for the sole purpose of evaluating, discussing, and negotiating certain Pole Attachment Agreements ("the "Project"). Windstream and Power Company further acknowledge that no information or data disclosed under this Agreement to any Recipient for purposes of the Project may be used, disclosed, or otherwise relied upon by Recipient for any other purpose and that exchange of such information does not create any obligation by any party other than to protect the information pursuant to the terms set forth in this Agreement.

B. Such information may include, but is not limited to, technical and financial plans and information, strategic information, proposals, requests for proposals, specifications, drawings, prices, costs, customer information, procedures, proposed products, processes, business systems, software programs, techniques, services and like information of, or provided by, Discloser, its Affiliates or any of their third party suppliers, and also includes the fact that such information has been provided by the Discloser (collectively Discloser's "Information"). "Affiliates" means any company or other entity, directly or indirectly, in whole or in part controlled by, controlling or under common control with either party.

IN CONSIDERATION of the mutual promises and obligations contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Windstream and Power Company agree as follows:

1. Recipient will protect Information provided to Recipient by or on behalf of Discloser from any use, distribution or disclosure except as permitted herein. Recipient will use the same standard of care to protect Information as Recipient uses to protect its own similar confidential and proprietary information, but not less than a reasonable standard of care.
2. Recipient agrees to use Information solely in connection with the Project and for no other purpose. Recipient may provide Information only to Recipient's employees, affiliates, consultants, contractors, and agents who: (a) have a substantive need to know such Information in connection with the Project; (b) have been advised of the confidential and proprietary nature of such Information; and (c) have executed Attachment A hereto and personally agreed in writing to protect from unauthorized disclosure all confidential and proprietary information, of whatever source, to which they have access.
3. All Information will be provided to Recipient in written or other tangible or electronic form and must be marked with a confidential and proprietary notice. Information orally or visually provided to Recipient must be designated by Discloser as confidential and proprietary at the time of such disclosure and must be reduced to writing marked with a confidential and proprietary notice and provided to Recipient within thirty (30) calendar days after such disclosure.
4. Discloser's Information does not include:
 - a) any information publicly disclosed by Discloser;
 - b) any information Discloser in writing authorizes Recipient to disclose without restriction;
 - c) any information Recipient already lawfully knows at the time it is disclosed by Discloser, without an obligation to keep it confidential;
 - d) any information Recipient lawfully obtains from any source other than Discloser, provided that such source lawfully disclosed such information; and
 - e) any information Recipient independently develops without use of or reference to Discloser's Information.
5. If Recipient is required to provide Information to any court or government agency pursuant to written court order, subpoena, regulation or process of law, Recipient must first provide Discloser with prompt written notice of such requirement and cooperate with Discloser to appropriately protect against or limit the scope of such disclosure. To the fullest extent permitted by law, Recipient will continue to protect as confidential and proprietary all Information disclosed in response to a written court order, subpoena, regulation or process of law.
6. Recipient may make tangible or electronic copies, notes, summaries or extracts of Information only as necessary for use as authorized herein. All tangible or electronic copies, notes, summaries or extracts must be marked with the same confidential and proprietary notice as appears on the original.
7. Information remains at all times the property of Discloser. Upon Discloser's request, all or any requested portion of the Information (including, but not limited to, tangible and electronic copies, notes, summaries or extracts of any Information) will be promptly returned to Discloser or destroyed, and Recipient will provide Discloser with written certification stating that such Information has been returned or destroyed.

PRIVATE/PROPRIETARY/SECURE

WIN2908

No disclosure outside Windstream and Power Company except by written agreement of both parties.

- 8. Recipient will not identify Discloser, its Affiliates or any other owner of Information in any advertising, sales material, press release, public disclosure or publicity without prior written authorization by Discloser. No license under any trademark, patent, copyright, trade secret or other intellectual property right is either granted or implied by disclosure of Information to Recipient.
- 9. Windstream and Power Company acknowledge that the Information disclosed by Discloser may include customer proprietary network information ("CPNI") subject to the requirements of Section 222 of the 1996 Telecommunications Act and rules promulgated pursuant to that section. Recipient shall not use any such CPNI for any reason other than in connection with the Project. Recipient shall not allow the use of, access to, or disclosure of such CPNI to any other party, including affiliates of Recipient unless required to make such disclosure under force of law. Recipient shall take all necessary steps to maintain the confidentiality of such CPNI while in Recipient's possession.
- 10. The term of this Agreement and the parties' obligations hereunder commence on the Effective Date and extend with regard to all Information until two (2) years after the date of final disclosure of Information hereunder. Thereafter, the parties' obligations hereunder survive and continue in effect with respect to any Information that is a trade secret under applicable law.
- 11. This Agreement is not a commitment by either Windstream nor Power Company to enter into any transaction or business relationship, nor is it an inducement for either party to spend funds or resources. No such agreement will be binding unless and until stated in a writing signed by Windstream and Power Company.
- 12. Recipient acknowledges and agrees that any breach or threatened breach of this Agreement is likely to cause Discloser and its Affiliates irreparable harm for which money damages may not be an appropriate or sufficient remedy. Recipient, therefore, agrees that Discloser or its Affiliates are entitled to receive injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this Agreement. Such remedy is not the exclusive remedy for any breach or threatened breach of this Agreement, but is in addition to all other rights and remedies available at law or in equity.
- 13. No forbearance, failure or delay in exercising any right, power or privilege is waiver thereof, nor does any single or partial exercise thereof preclude any other or future exercise thereof, or the exercise of any other right, power or privilege.
- 14. If and to the extent any provision of this Agreement is held invalid or unenforceable at law, such provision will be deemed stricken from the Agreement, and the remainder of the Agreement will continue in effect and be valid and enforceable to the fullest extent permitted by law.
- 15. This Agreement is binding upon and inures to the benefit of the parties and their heirs, executors, legal and personal representatives, successors and assigns, as the case may be.
- 16. This Agreement shall be governed and construed by Arkansas law, without regard to its choice of law provisions. Jurisdiction and venue for any action to enforce this Agreement shall be properly in the applicable federal or state court for Arkansas.
- 17. This Agreement, including Attachment A, is the entire agreement with respect to exchange of information between Windstream and Power Company hereunder and may not be modified or amended except by a written instrument signed by both parties. Each party has read this Agreement, understands it and agrees to be bound by its terms and conditions. There are no understandings or representations with respect to the subject matter hereof, express or implied, that are not stated herein. This Agreement may be executed in counterparts, and signatures exchanged by facsimile or other electronic means are effective for all purposes hereunder to the same extent as original signatures.

IN WITNESS WHEREOF, the parties' authorized representatives have signed this Agreement:

Windstream: Windstream Kentucky East, LLC

Power Company:

By: [Signature]
(Authorized Signature)

By: [Signature]
(Authorized Signature)

Name: Frank Schwanneman
(Print or Type)

Name: Carol Wright
(Print or Type)

Title: SVP Network Services

Title: Vice President of Engineering & Operation

PRIVATE/PROPRIETARY/SECURE

No disclosure outside Windstream and Power Company except by written agreement of both parties. WIN2909

ATTACHMENT A

STATE OF Kentucky)
COUNTY OF Larwell)

CERTIFICATE OF AUTHORIZED REVIEWING REPRESENTATIVE

BEFORE ME , the undersigned authority, duly Commissioned and qualified in and for the State and County aforesaid, personally came and appeared Carol Wright (insert name), who, being by me first duly sworn, deposed and said as follows:

I certify my understanding that Confidential Information is being provided to me pursuant to the terms and restrictions of the foregoing Agreement, that I have been given a copy of and have read the Agreement, and that I agree to be bound by it. I understand that the contents of " Confidential Information," and any notes, memoranda, or any other form of information regarding or derived from Confidential Information shall not be disclosed to anyone other than in accordance with the Agreement and shall be used only for the purposes of the Project.

Signature: Carol Wright
Date of Execution: 4-28-08
(Type or Print below)
Name: Carol Wright
Title: Vice President of Engineering & Operations
Company: Jackson Energy Cooperative
Address: 115 Jackson Energy Lane
McKee, KY 40447

SWORN TO AND SUBSCRIBED BEFORE ME on this 12th day of May, 2007. 8

Connie Reid
(NOTARY PUBLIC)

My Commission expires:
7-30-2008

JOINT USE POLE AGREEMENT

BETWEEN BLUE GRASS ENERGY COOPERATIVE CORPORATION

and

GTE SOUTH INCORPORATED

THIS AGREEMENT, made as of the 1st day of January , 1997 , by and between **BLUE GRASS ENERGY COOPERATIVE CORPORATION**, a Kentucky CORPORATION, hereinafter referred to as the "Power Distributor," and **GTE SOUTH INCORPORATED**, a **KENTUCKY CORPORATION**, hereinafter referred to as the "TELEPHONE COMPANY".

WITNESSETH WHEREAS, in the areas in the Commonwealth of Kentucky served by both parties certain utility poles are presently used jointly by the Power Distributor and the Telephone Company, such joint use being maintained under the terms of a Joint Use Agreement dated JANUARY 1, 1997, between the Power Distributor and Telephone Company; and

WHEREAS, the parties desire to continue such joint use and to use other poles jointly in the future, when and where such joint use will be of a mutual advantage in meeting their respective service requirements; and,

WHEREAS, when the parties are making arrangements for the joint use of new poles and the party proposing to erect the new poles already owns a majority of the poles, the parties shall take into consideration the desirability of having the new poles owned by the party owning the lesser number of joint use so as to progress toward a division of ownership of poles so that neither party shall be required to pay annual rental payments, giving due regard to the avoidance of mixed ownership in lines; and,

WHEREAS, because of changed condition and experience gained, and to facilitate administration to joint use, the parties desire to terminate the aforementioned Joint Use Agreement and enter into a new Joint Use Agreement giving due recognition to the fact that the comparative numbers of joint use poles owned by the parties, the respective space allocated to or used by the parties, the concern for the ability to provide reliable service, the relative positions of the parties on the poles all have a bearing on the contribution to be made by the parties both as to ownership and maintenance of joint use poles,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto for themselves, their successors and assign, do hereby terminate the existing Joint Use Agreement and do hereby covenant and agree as follows:

ARTICLE I.

DEFINITIONS

For the purpose of this agreement, the following terms when used herein shall have the following meanings:

ATTACHMENTS is any wires, cables, strands, materials, or apparatus attached to a joint use pole now or hereafter used by either party in the construction, operation, and maintenance of its plant.

CHANGE IN CHARACTER OF CIRCUITS shall mean any change in either party's facilities which affects either loading on the pole or clearance between the facilities of the parties hereto.

CODE means the National Electrical Safety Code, as it may be amended from time to time.

DAYS as used herein shall mean calendar days.

INJURIES include death, personal injury, and property damage or destruction.

JOINT USE is maintaining or specifically reserving space for the attachments of both parties on the same pole at the same time.

JOINT USE POLE is a pole upon which space is provided under this agreement for the attachments of both parties, whether such space is actually occupied by attachments or reserved therefore upon specific request.

LICENSEE is the party having the right under this agreement to a joint use pole that the other party owns.

OWNER is the party owning the joint use pole.

POLE OR POLES includes the singular and plural.

REARRANGING OF ATTACHMENTS is the moving of attachments from one position to another on a joint use pole.

RESERVE, as applied to space on a pole, means unoccupied space provided and maintained by Owner, either for its own use or expressly for Licensee's exclusive use at Licensee's request.

RIGHT-OF-WAY is the legal right to use the property of another.

STANDARD JOINT USE POLE means a 40 foot, Class 5, treated wood pole which meets the requirements of the Code. The parties may agree to use a smaller than Class 5 pole; but under no condition shall the standard joint use pole be less than the minimum requirements of the Code.

Definitions - Continued

STANDARD SPACE ALLOCATION means an allocation of sufficient space on a joint use pole for the use of each party taking into consideration requirements of the Code, and is more particularly defined as follows:

For Power Distributor, the use of 7 foot of space on poles measured downward from the top of the pole.

For Telephone Company, the use of 2 feet of space on poles, below the space of the Power Distributor starting at the point that gives adequate Code separation on the pole. If under the terms of this Agreement the Telephone Company uses a portion of the Power Distributor allocated space as measured from top of pole, the Telephone Company agrees that its use is permissive and that the Power Distributor shall have the undisputed use of the allocated space measured from the top. Telephone Company agrees to move any such attachments within this allocated space at its own cost upon demand of the Power Distributor. Similarly, if the Power Distributor uses a portion of the Telephone Company's 2 foot space, the Power Distributor agrees that such use shall be permissive. Power Distributor agrees to move any such attachment within the 2 foot space.

The foregoing definition of a "normal joint use pole" is not intended to preclude the use of joint poles shorter or taller, of different strength than the normal joint use pole in locations where it is mutually agreed such poles will meet the requirements of the parties hereto.

TRANSFERRING OF ATTACHMENTS is the removing of attachments from one pole and placing the attachments upon another pole.

ARTICLE II.

TERRITORY AND SCOPE OF AGREEMENT

This agreement shall cover all poles of each of the parties now existing in joint use and those hereafter erected or acquired within the common operating areas served by the parties excepting poles which in the Owner's judgement are necessary for its own sole use.

ARTICLE III.

PERMISSION FOR JOINT USE

Subject to the terms and conditions of this agreement, each party hereby permits joint use by the other party of any of its poles in accordance with the standard space allocation defined in ARTICLE I and the following:

ARTICLE III - Continued

Allocated pole space may, without additional charge be used by the party to which it is not allocated for the purpose of installing and maintaining street lighting, traffic signal systems, and vertical attachments (such as but not limited to ground wires, gang operated switch control rods and underground risers) if by the terms of the Code the proposed use is authorized and such use does not unreasonably interfere with the use being made by the party to which such space is allocated (such determination will be made solely by the party to which the space is allocated).

If Code provisions cannot subsequently be met, then billing for the required modifications will be as set forth in Appendix A. As long as the provisions of the Code are met, unallocated space may be used without additional charge by the Power Distributor and/or Telephone Company. If Code provisions cannot subsequently be met, then billing for required modifications will be as set forth in Appendix A. As long as provisions of the Code in effect at the time the attachments were installed have been met, any joint use pole now in place shall be deemed satisfactory to both parties and adequate for its requirements whether or not the space allocations made herein have been observed. As long as the provisions of the Code are met, any pole hereafter made joint use shall thereupon be deemed satisfactory to Licensee and adequate for its requirements whether or not the space allocations made herein have been observed.

ARTICLE IV.

SPECIFICATIONS

The joint use of poles covered by this Agreement shall at all times be in conformity with all applicable provisions of law and with the minimum requirements of the Code in effect at the time the respective attachments are made, and with such additional requirements as may be mutually approved in writing by the CEO of the Power Distributor and General Manager of the Telephone Company.

ARTICLE V.

RIGHT-OF-WAY AND LINE CLEARING

The Owner and Licensee will cooperate as far as may be practicable in obtaining right-of-way for both parties. When a written easement is secured, it shall be in sufficient detail for identification and recording, and shall be subject to inspection by the other party upon request. However, no guarantee is given by the Owner of permission from property owners, municipalities, or others for the use of poles by the Licensee, and if objection is made thereto and the Licensee is unable to satisfactorily adjust the matter within a reasonable time, the Owner may at any time,

ARTICLE V - Continued

upon notice in writing to the Licensee, require the Licensee to remove its attachments from the poles involved, and the Licensee shall within ninety (90) days after receipt of said notice, remove its attachments from such poles at its sole expense. Should the Licensee fail to remove its attachments as herein provided, the Owner may remove them at the Licensee's expense, without any liability whatsoever for such removal or the manner of making it, for which expense the Licensee shall reimburse the Owner on demand. Owner shall provide a 20 foot right-of-way whenever possible.

Nothing stated herein shall preclude the parties from mutually sharing the cost of right-of-way acquisition. Line clearing and trimming will be performed as follows:

The Owner shall cut, clear, and trim a 20 foot right-of-way, if possible. In all other instances, each party shall be responsible for its own initial and recurring trimming, clearing, and cutting.

ARTICLE VI.

PLACING, TRANSFERRING, OR REARRANGING ATTACHMENTS

Either party desiring to reserve space on any pole of the other not then designated as a joint use pole shall make written application therefore, specifying the pole involved, the number and kind of its attachments to be placed thereon, and the character of the circuits to be used. Within ten (10) days after the receipt of such application, Owner shall notify the applicant in writing whether it is excluding said pole from joint use under provisions of ARTICLE II. Upon receipt of notice from Owner that said pole is not excluded, and after completion of any required transferring or rearranging of attachments on said pole or any pole replacement as provided in ARTICLE VII, the applicant shall have the right to use said pole as Licensee in accordance with the terms and conditions of this Agreement. Notwithstanding the foregoing, attachments placed by either party on the other's pole without such applications and approval shall subject said pole to the terms of this Agreement. In such case, Owner shall have the right to require Licensee to remove within ninety (90) days at its sole expense any such attachments on poles coming within the exceptions described in ARTICLE V. Should Licensee fail to remove such attachments, such failure shall constitute default according to ARTICLE XIV. Except as herein otherwise expressly provided, each party at its own expense shall place, maintain, rearrange, transfer, and remove its own attachments, and shall at all times perform such work promptly and in such a manner as not to interfere with work or service being performed by the other party. Upon completion of work by the Owner which will necessitate transfer of the Licensee's attachments, the Owner shall provide written notice

ARTICLE VI - Continued

to the Licensee that such transfer must be completed within sixty (60) days. If such transfer of attachments is not completed within sixty (60) days, the old pole shall become the property of the Licensee, and the Licensee shall save harmless the former Owner of such pole from all obligations, liabilities, damages, costs, expenses, or charges incurred thereafter because of or arising out of the presence, location, or condition of such pole or any attachment thereon, whether or not it is alleged that the former Owner was negligent or otherwise. Licensee shall pay the former Owner the sacrificed life value, as set forth in Appendix A, for said pole.

ARTICLE VII. ERECTING, REPLACING, OR RELOCATING POLES

Whenever any jointly used pole, or any pole about to be so used under the provisions of this agreement, is insufficient in size or strength for the existing attachments and for the proposed immediate additional attachments thereon, the Owner shall within sixty (60) days replace such pole with a new pole of the necessary size and strength, and make such other changes in the existing pole line in which such pole is included, as may be made necessary by the replacement of such pole and the placing of the Licensee's circuits as proposed. By mutual agreement, the time period may be shortened or extended.

The parties recognize and agree that there are inherent dangers involved in the transmission and distribution of electricity. The parties agree that unforeseeable emergency conditions will exist from time to time. When due to accidents, storm damage, etc., it is necessary for the Licensee to replace the Owner's pole immediately to restore service to its customers or to eliminate a hazardous condition and the Owner cannot perform the work in time to meet the Licensee's requirements, Licensee may replace the Owner's pole. Licensee will make all of its required facility changes or transfers and will secure the old pole to the new pole so the Owner may make its transfer when feasible. Licensee shall bill the Owner the total cost of the new pole in accordance with Appendix B. Owner shall continue to own the old pole and shall be responsible for its removal, and the new pole will become the property of the original Owner.

Whenever it is necessary to change the location of a jointly used pole, by reason of any state, municipal, or other governmental requirement, or the requirements of the property owner, the Owner shall, before making such change in location, give notice thereof in writing (except in cases of emergency) to the Licensee, specifying in such notice the time of such proposed relocation, and the Licensee shall, within sixty (60) days, transfer its attachment to the pole at the new location.

ARTICLE VII - Continued

Whenever either party hereto is about to erect new poles, either as an additional pole line, as an extension of an existing pole line, or as the reconstruction of an existing pole line, it shall notify the other in writing at least thirty (30) days before beginning the work (short notice, including verbal notice subsequently confirmed in writing, may be given in cases of emergency) and shall submit with such notice its plan showing the proposed location and size of the new poles, and circuits it will use thereon. The other party shall, within fifteen (15) days after the receipt of such notice, reply in writing to the party erecting the new poles, stating whether such other party does, or does not, desire space on the said poles, and if it does desire space thereon, the character of the circuits it desires to use and the amount of space it wishes to reserve. This notice of desire to establish joint use should include detailed plans of any changes in the plans of the other party which are desired in order to permit the establishment of joint use. If such other party requests space on the new poles and if the character and number of circuits and attachments are such that the Owner does not wish to exclude the poles from joint use under the provision of ARTICLE II, then poles suitable for the said joint use shall be erected in accordance with the provisions and the payment of costs as provided in this Agreement. The costs of erecting joint poles coming under this Agreement, either as new pole lines, as extensions of existing pole lines, or to replace existing poles, either existing jointly used poles or poles not previously involved in joint use, shall be borne by the parties as follows:

- 1) Whenever operating and safety conditions prohibit Owner from replacing an existing pole which needs to be replaced, Licensee shall replace the pole and bill Owner in accordance with Appendix A times 1.25.
- 2) A normal joint pole, or a joint pole shorter and/or smaller than the normal pole, shall be erected at the sole expense of the Owner, except as provided in the following Section.
- 3) In the case of a pole taller and/or stronger than the normal pole, the extra height and/or strength of which is due wholly to the Owner's requirements, shall be erected at the sole expense of the Owner.
- 4) In the case of a new pole line taller and/or stronger than the normal pole, the extra height and/or strength of which is due wholly to the Licensee's requirements, the Licensee shall pay to the Owner the extra costs for the additional height and/or strength as set forth in Appendix A and C.
- 5) Where an existing jointly used pole is prematurely replaced by a new one solely for the benefit of the Licensee, the Licensee shall pay the Owner the present in place value of the existing pole

ARTICLE VII - Continued

and costs of replacing or transferring all attachments in accordance with Appendix A and Appendix C, and the replaced pole shall be removed and retained by the Owner.

6) In the case of a pole taller and/or stronger than the normal pole, the extra heights and/or strength of which is due, to the requirements of both parties, the Licensee shall pay to the Owner a sum equal to one-half the excess height and/or strength as set forth in Appendix A and Appendix C.

7) If Licensee only requires the addition of a pole in an existing line because of span length or terrain, the Owner will furnish and erect said pole at the sole expense of the Licensee, and pole shall remain property of Owner. The charges shall be as set forth in Appendix A and Appendix C.

8) Where the Power Distributor has a line that crosses a Telephone Company line and the provisions of the code are met and the Telephone Company desires to set a pole in the Telephone Company line and requests the Power Distributor to attach to said pole, the Telephone Company shall bear all initial and recurring costs of placing and maintaining said pole, except the cost of making and transferring the Power Distributor attachments.

In any case where a pole is erected hereunder to replace another pole solely because such other pole is not tall enough, or of the required strength, to provide adequately for the Licensee's requirements, or where such pole, whether it has space reserved for the Licensee's use or not, had at the time of its erection been pronounced by the Licensee as satisfactory and adequate for its requirements, the Licensee shall, upon erection of the new pole, pay to the Owner, in addition to any amounts payable by the Licensee under paragraphs 3, 4, or 5 of this ARTICLE, a sum equal to the present in-place value as set forth in Appendix A, for the pole which is replaced and the pole removed shall remain the property of the Owner. In any case, where by mutual consent it is desirable to change the ownership of a pole and the Licensee erects and owns a joint pole to replace an existing pole of the Owner (instead of the Owner doing so as it is contemplated by this ARTICLE) such Licensee shall pay to the Owner of the replaced pole a sum equal to the present in-place value, as set forth in Appendix A, for the pole which is replaced and the pole removed shall remain the property of the Owner and shall be removed by the Owner.

ARTICLE VIII.

MAINTENANCE OF FACILITIES

Owner shall, at its own expense, maintain its joint use poles in a safe and serviceable condition and shall undertake any appropriate

ARTICLE VIII-Continued

safety measures, including without limitation reasonable pole inspections. The Owner's responsibility for maintaining a safe and serviceable condition of its poles shall be in accordance with the requirements of the Code, and shall replace poles that become defective, in accordance with the provisions of ARTICLE VII.

The parties recognize and agree that there are inherent dangers involved in the transmission and distribution of electricity. The parties agree that unforeseeable emergency conditions will exist from time to time. When due to accidents, storm damage, etc., it is necessary for the Licensee to replace the Owner's pole immediately to restore service to its customers or to eliminate a hazardous condition and the Owner cannot perform the work in time to meet the Licensee's requirements, Licensee may replace the Owner's pole.

Licensee will make all of its required facility changes or transfers and will secure the old pole to the new pole so the Owner may make its transfers when feasible. Licensee shall bill the Owner the total cost of the new pole in accordance with Appendix B. Owner shall continue to own the old pole and shall be responsible for its removal.

Each party shall, at its own expense, at all times maintain all of its attachments in safe condition, thorough repair, and in accordance with the requirements of the Code.

The parties hereby agree that a cooperative approach will be taken in solving noise or inductance problems that may occur.

ARTICLE IX.

ABANDONMENT OF JOINT USE POLES

Any time Owner desires to abandon any joint use pole, it shall give Licensee at least sixty (60) days written notice. If, at the expiration of such period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee. Licensee shall save harmless the former Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred thereafter because of or arising out of the presence, location, or condition of such pole or any attachment thereon, whether or not it is alleged that the former Owner was negligent or otherwise. Licensee may at any time abandon a joint use pole by removing therefrom all of its attachments and giving due notice thereof in writing to Owner.

ARTICLE X.

ADJUSTMENT PAYMENTS

It is understood and agreed that for those poles in the areas served by both parties, the payments per pole due from the Licensee to the Owner shall be as follows: The Telephone Company as Licensee shall pay [REDACTED] to the Power Distributor and the Power Distributor as Licensee shall pay [REDACTED] to the Telephone Company.

Any time within five years from the execution date of this Agreement, Power Distributor shall have a one-time option, but not the requirement, to count all poles on its system. After a written request from the Power Distributor for a pole count, the parties to this Agreement agree to undertake a joint pole count, which shall be completed within six months. Adjustment payments hereunder shall cover rentals accruing during the calendar year and shall be based on the number of poles on which space is occupied or reserved on the first day of December of the year in which the rentals accrue. Within thirty (30) days following such date, or as soon as practical thereafter, each party shall submit a written statement to the other party giving the number of poles on which space was occupied by or reserved for the other party as of such date. The total adjustment payment due each party shall be determined by multiplying the poles owned and licensed by each party, by the adjustment payment.

The smaller total amount covered above shall be deducted from the larger amount and the Power Distributor or the Telephone Company, which ever shall owe the larger amount, shall pay to the other the difference between said two amounts as the net adjustment payment due for the year involved. Within thirty (30) days after the first day of January next, or as soon as practical thereafter, during the time this Agreement shall be in effect, the party to which said adjustment payment is owed as of said first day of January, shall submit a written statement (the "Schedule of Pole Rentals") to the other party giving the correct amount owed by the other party. The adjustment payment herein provided for shall be paid within thirty (30) days after the bill has been submitted, unless said party disputes the amount of such bill within ten (10) days from receipt thereof. In case of such dispute, payment shall be made within thirty (30) days after the bill has been submitted of the amount that is admitted to be due; an agreement concerning the disputed amount shall be attempted with all reasonable dispatch by negotiation. Failing to reach any such agreement by negotiation, either party may make formal written demand on the other for the amount claimed to be due; and if payment thereof is not made within thirty (30) days, suit may be brought for the amount claimed.

The rates set forth in Paragraph A above shall be effective as of January 1, 1997 and shall remain in effect through December 31, 1997 (the "Base Rate"). The Base Rate shall be escalated, effective January 1, 1998, and annually thereafter, by 3.0%.

ARTICLE XI.

INVENTORY OF ATTACHMENTS

At intervals not exceeding five (5) years, an actual inventory of attachments shall be made by representatives of the parties. If there is any difference in the number of attachments found by the inventory and the number arrived at by tabulating those reported, correction will be made by retroactive billing for any attachments identified as being responsible for the difference, and any remaining difference will be spread evenly over the years since the last inventory and billing adjusted accordingly. Each party shall share equally the cost of making such inventory of attachments.

ARTICLE XII.

JOINT ANCHORS

The Owner where practicable shall, upon request from Licensee, place anchors suitable for joint use upon consideration of the joint load and guy lead requirements. The cost of the anchor shall be shared, and will be billed, as set forth in Appendix C. Each party shall install its own guy wires. No attachment will be made to either party's anchor without permission.

ARTICLE XIII.

GROUNDING AND BONDING

Grounding and bonding will at all times meet the requirements of the Code.

ARTICLE XIV.

DEFAULTS

If either party shall fail to discharge any of its obligations under this Agreement and such failure shall continue for thirty (30) days after notice thereof in writing from the other party, all rights of the party in default hereunder, pertaining to making attachments to additional poles of the other, shall be suspended. If such default shall continue for a period of ninety (90) days after such suspension, the other party may forthwith terminate the right of the defaulting party to attach to additional poles of the other party. Any such termination of the right to attach to such additional poles of the other by reason of any such default shall not abrogate or terminate the right of either party to attach to existing joint use poles or to maintain existing attachments, and all such attachments shall continue thereafter to be maintained pursuant to and in accordance with the terms of this Agreement, which Agreement shall, so long as such attachments are continued, remain in full force and effect solely and only for the purpose of

ARTICLE XIV-Continued

governing and controlling the rights and obligations of the parties with respect to such attachments.

In the event either party should fail to perform its obligations either during the term of the Agreement or after termination made in accordance with the terms of this ARTICLE or ARTICLE XIX or fail to properly maintain or promptly replace joint use poles thereto after sixty (60) days written notice from the other, the other party shall have the right, but not the obligation, to maintain such poles or to replace the same at the expense of the party so failing, and shall be fully indemnified for all expenses, costs, and damages otherwise, rights or privileges to attach to any of its poles covered by this Agreement, nothing herein contained shall be construed as affecting said rights or privileges with respect to existing attachments of such outside parties, which attachments shall continue in accordance with the present practice; all future attachments of such outside parties shall be in accordance with the requirements of Paragraph B below, except where such outside parties have by agreements entered into prior to the execution of this Agreement acquired enforceable rights or privileges to make attachments which do not meet such space allocations. Owner shall derive all of the revenue accruing from such outside parties. Any contractual rights or privileges of outside parties recognized in this paragraph shall include renewals of or extensions of the term (period) of such contracts.

If either party hereto desires to confer upon others, not parties to this Agreement (outside parties), by contract or otherwise, rights or privileges to attach to any of its poles covered by this Agreement, it shall have the right to do so, provided all such attachments of such outside parties are made in accordance with the following: (a) such attachments shall be maintained in conformity with the requirements of the Code, and (b) such attachments shall not be located within the space allocation of Licensee, unless Licensee concurs in such occupancy. Such concurrence shall in no way waive Licensee's right to occupy its allocated space in the future. Owner shall derive all of the revenue accruing from such outside parties.

ARTICLE XV.

NOTIFICATION PROCEDURES

Wherever in this Agreement, notice is required to be given by either party hereto to the other, such notice shall be in writing, mailed or delivered to the CEO of the Power Distributor at its office located at 1201 Lexington Rd., PO Box 990, Nicholasville, Kentucky 40340-0990, or to the General Manager of GTE SOUTH INCORPORATED at its office located at 4100 Roxboro Road, Durham, NC., as the case may be, or to such other addressee as either party may from time to time designate in writing for that purpose.

ARTICLE XVI.

TERM OF AGREEMENT

This Agreement shall continue in full force and effect until the 31st day of December, 2000. This Agreement shall continue from year to year thereafter until terminated by either party, giving to the other six months notice in writing of intention to terminate this Agreement. At any time thereafter, the adjustment payment rates applicable under this Agreement shall be subject to joint review and revision upon the written request of either party. In case of revision of the adjustment payment rates as herein provided, the new adjustment payment rates agreed upon shall apply, starting with the annual bill rendered and continued until again adjusted. Revisions of the adjustment payments shall be based on experience resulting from previous administration of this Agreement. Any changes shall take into account the original cost factors pertinent to the establishment of the pole facilities involved in all joint use existing under this Agreement at the time of the review. If, within 90 days after the receipt of the request set forth in ARTICLE XVI, A, above, by either party from the other, the parties hereto fail to agree upon a revision of such rate, then the adjustment payment per pole shall be established at the then existing Base Rate, as escalated by Article X for a period of two years. The adjustment payment per pole shall be an amount equal to 56 percent (for the Power Distributor) of the then average annual total cost per pole based on the average in-plant cost factors of providing and maintaining the joint poles covered by this Agreement, and the adjustment payment per pole shall be an amount equal to 44 percent (for the Telephone Company) of the then average annual total cost per pole based on the average in-plant cost factors of providing and maintaining the joint poles covered by this Agreement.

ARTICLE XVII.

ASSIGNMENT OF RIGHTS

Except as otherwise provided in this Agreement, neither party hereto shall assign or otherwise transfer this Agreement, in whole or in part, without the written consent of the other party; provided that either party shall have the right without such consent to mortgage any or all of its property, rights, privileges, and franchises, or to lease or transfer any of them to another corporation organized for the purpose of conducting a business of the same general character as that of such party, or to enter into any merger or consolidation; and, in case of the foreclosure of such mortgage, or in case of such lease, transfer, merger, or consolidate its rights and obligations hereunder shall pass to such successors and assigns; and provided, further, that subject to all of the terms and conditions of this Agreement, either party may without such consent permit any corporation conducting a business

ARTICLE XVII-Continued

of the same general character as that of such party, with which it is affiliated by corporate structure, to exercise the rights and privileges of this Agreement in the conduct of its said business.

For the purposes of this Agreement, all attachments maintained on any joint use pole by the permission of either party hereto, as provided in Paragraph A above, shall be considered the attachments of the party granting such permission, and the rights, obligation, and liabilities of such party under this Agreement, in respect to such attachments shall be the same as if it were the actual owner thereof. The attachments of each party hereto or of others permitted by this Agreement shall at all times be and remain its or their property, with the full right of removal, and shall not become subject to any liens against the other party.

ARTICLE XVIII.

WAIVER OF TERMS OF CONDITIONS

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

ARTICLE XIX.

EXISTING AGREEMENTS

Any existing agreement between the parties hereto for the joint use of wood poles upon a rental basis within the territory covered by this Agreement is, by mutual consent, hereby abrogated and annulled.

ARTICLE XX.

NO EFFECT ON FRANCHISE RIGHTS

Notwithstanding anything elsewhere herein provided, nothing contained in this Agreement shall abrogate, limit, or affect any obligation of either party under any franchise granted to either party by municipal corporations.

ARTICLE XXI.

SOURCE OF PAYMENTS

The obligation of the Power Distributor hereunder shall be payable solely from the funds of the Power Distributor, BLUE GRASS ENERGY COOPERATIVE CORPORATION.

ARTICLE XXII.

SUPPLEMENTAL ROUTINES AND PRACTICES

Nothing in the foregoing shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as they mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement. Any such supplemental operating routines or working practice must be authorized and approved by the management level officer or employee executing or authorized to execute this contract.

ARTICLE XXIII.

NO JOINT OWNERSHIP

The Licensee of a joint use pole shall acquire no ownership of or interest in such a pole, the Licensee's rights therein being limited to the right of compliance with the terms and conditions contained in this Agreement.

ARTICLE XXIV.

LIABILITY AND DAMAGES

Either party hereto, to the fullest extent permitted by law, agrees to and shall indemnify and hold harmless the other party from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees arising out of or resulting from the joint use of the poles, and/or any acts or omissions under this Agreement. Any interpretations regarding this Agreement or any activities arising hereunder shall be governed by the laws of the state of Kentucky.

ARTICLE XXV.

AGREEMENT AFFECTS ONLY PARTIES HERETO

Except only insofar as the express terms of this Agreement make the rights hereunder available to the successors or assigns of the parties hereto, the provisions of this Agreement shall not be interpreted to confer any right of action at law or in equity upon any parties except the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate, and their corporate seals to be affixed thereto by the respective officers thereunto duly authorized, on the day and year first above written.

WITNESS: *Roger Daniel Wilson*
BLUE GRASS RURAL ELECTRIC
COOPERATIVE CORPORATION

Vice President of Operations
TITLE

WITNESS: *Sam Hays*
GTE SOUTH INCORPORATED
Gen. Mgr.-Infrastructure Provisioning
TITLE

APPROVED

JMF
LAW DEPT.

APPENDIX A, B, & C

These Appendices, effective as of JANUARY 1, 1997, consisting of three pages, will be used to determine the cost responsibility and amount to be billed for modifications in accordance with this joint use agreement. Notification forms required to carry out the provisions of this Agreement will be furnished as needed. Annually, after the execution of this Agreement, all Appendices shall be escalated in accordance with ARTICLE X, set forth above.

APPROVED:

BLUE GRASS RURAL ELECTRIC
COOPERATIVE CORPORATION

BY:

TITLE:

Roger Donald Shaw

Vice President of Operations

APPENDIX A

PRESENT IN-PLACE VALUES (IN DOLLARS) OF POLES
AGE OF POLES IN YEARS

POLE HGT	CLASS	NEW	1-3	4-6	7-9	10-12	13-15	16-18	19-21	22-24	25-27	28-30
30	6											
35	5											
	4											
40	4											
	3											
45	3											
50	3											
55	3											
60	3											

APPENDIX B

THE CURRENT COST OF TREATED POLES FOR EMERGENCY CONDITIONS AS DISCUSSED IN ARTICLE VII, PARAGRAPH B IS AS FOLLOWS:

POLE HGT	CLASS 2	CLASS 3	CLASS 4	CLASS 5	CLASS 6	CLASS 7
30						
35						
40						
45						
50						
55						
60						
65						
70						

APPENDIX C

PAYMENTS TO THE POWER DISTRIBUTOR BY THE TELEPHONE COMPANY:

A.	1PHASE 0-60 DEG. ANGLE DEAD END	\$ [REDACTED]
B.	3PHASE 0-60 DEG. ANGLE DEAD END	[REDACTED]
C.	GUY	[REDACTED]
D.	1PHASE TRANSFORMER & CONNECTIONS 25kVA AND LESS 25kVA-75 kVA	[REDACTED]
E.	SERVICE CONDUCTOR EACH WIRE	[REDACTED]
F.	SECURITY LIGHT AND ARM	[REDACTED]
G.	MOVE POLE	[REDACTED]
H.	ITEMS NOT LISTED	ACTUAL COST

PAYMENTS TO THE TELEPHONE COMPANY BY THE POWER DISTRIBUTOR:

A.	MOVE POLE	\$ [REDACTED]
B.	MOVE GUY	[REDACTED]
C.	TRANSFER DROP	[REDACTED]
D.	TRANSFER MULTIPLE DROPS	[REDACTED]
E.	TRANSFER WIRE TERMINAL	[REDACTED]
F.	TRANSFER CABLE ATTACHMENT	[REDACTED]
G.	TRANSFER CABLE DIP	[REDACTED]
H.	TRANSFER POLE MOUNTED APPARATUS OF LOAD COIL CASE	[REDACTED]
I.	TRANSFER CROSS BOX OR DRYER	[REDACTED]
J.	TRANSFER TERMINAL LESS THAN 100 PAIR	[REDACTED]
K.	MOVE OR ATTACH CABLE	[REDACTED]
L.	RELOCATE CABLE	[REDACTED]
M.	TRANSFER GUY	[REDACTED]
N.	ITEMS NOT LISTED	ACTUAL COST

Erin M. Welton
Contract Paralegal



Legal Department
600 Hidden Ridge
HQE02H60
P.O.Box 152092
Irving, TX 75038

Phone 972 718-3289
Fax: 972 719-7162
erin.welton@verizon.com

January 31, 2002

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
AND REGULAR MAIL

MAR 19 2002

Blue Grass Energy Cooperative Corporation
Attn: Phillip Johnson
1201 Lexington Road, P.O. Box 990
Nicholasville, KY 40340-0990

Re: Joint Use of Pole Agreement between GTE South Incorporated and Blue Grass Energy Cooperative Corporation, dated 1/1/97 (the "Agreement")

Dear Sir or Madam:

On October 31, 2001, Verizon South Inc. ("Verizon") entered into a definitive agreement (the "Purchase Agreement") with Kentucky ALLTEL, Inc., a subsidiary of ALLTEL Corporation ("ALLTEL"). Under the terms of the Purchase Agreement Verizon will transfer to ALLTEL certain telephone operations and related assets located in Kentucky (the "Transaction"). The above referenced Agreement is one of the assets to be transferred as a part of the Transaction.

Until the closing of the Transaction, Verizon will continue to operate in the current manner and will continue to be responsible to perform those obligations under the Agreement that arise prior to the transfer to ALLTEL. Upon Closing of the Transaction, ALLTEL will be assigned all of Verizon's rights and obligations under the Agreement, to the extent such obligations arise after the closing date.

By this letter, Verizon is requesting your consent to the assignment of the Agreement to ALLTEL as a part of the Transaction. Please indicate your consent by executing the letter where indicated in the space provided below and returning it in the enclosed pre-paid envelope at your earliest convenience, but by no later than **February 21, 2002**. The enclosed copy should be retained for your records. By consenting to the assignment of the Agreement you also agree that, after the closing of the Transaction, Verizon will have no further obligations to you under the Agreement, and that ALLTEL shall be responsible for all obligations thereunder after the closing.

Your consent will remain effective through the closing of the Transaction. You will be contacted by ALLTEL who will advise you of the closing date and the new contact information.

KY-714.005

WIN7855

Blue Grass Energy Cooperative Corporation
January 31, 2002
Page 2

We appreciate your prompt attention to this matter. Should you have any questions, please contact the undersigned at (972)718-3289 or Paula Valdez at (972)718-4902.

Sincerely,



Erin M. Welton
Contract Paralegal

Accepted and Agreed by
Blue Grass Energy Cooperative Corporation

By: Chris Brewer

Name: CHRIS BREWER, P.E.

Title: V. P. OF ENGINEERING

Date: 3-12-02

AGREEMENT

This Agreement entered into this ___ day of February, 1999, by and between **KENTUCKY DATA LINK, INC.** ("KDL"), a Kentucky corporation, and **SHELBY ENERGY COOPERATIVE, INC.**, ("SHELBY"), a Kentucky corporation.

WITNESSETH:

WHEREAS, KDL, a provider of long haul fiber optic Distribution services, intends to develop, construct, install and operate a fiber optic network upon Distribution Structures owned by SHELBY and desires to utilize SHELBY's Distribution Structures in furtherance of same;

WHEREAS, SHELBY desires to permit KDL to utilize its Distribution Structures in consideration of the covenants and agreements of KDL set forth in this Agreement and upon and subject to the terms and conditions provided herein;

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

I. DEFINITIONS

"Affiliate" means a corporation, partnership, joint venture, or other entity controlled by, controlling or under common control of a party to this Agreement. For purposes of this definition, the term "control" means direct or indirect ownership of more than 50% of the outstanding voting stock of a corporate entity or voting interest in a non-corporate entity.

"Agreement" means this Agreement and all extensions and modifications hereof, together with all attachments, appendices and schedules.

"Electrical Space" means , as follows: (i) for SHELBY, the use of 8 feet of space on 40-foot Utility Poles or taller measured downward from the top of the Utility Pole, and 40 inches below existing power distribution equipment, lines, or apparatti on Utility Poles, and (ii) for KDL, the use of 2 feet of space on Utility Poles, below the space of SHELBY. The foregoing definition is not intended to preclude the use of Utility Poles that are shorter or taller or of different strength than the normal Utility Pole in locations where it is mutually agreed such Utility Poles will meet the requirements of the parties hereto.

"FOG Wire" means fiber optic ground wire.

"KDL Facilities" means the fiber optic strands, fiber optic cable and/or FOG Wire and related splices, terminations or other equipment to be installed by KDL upon the Distribution Structures along the Route. Said KDL Facilities to include the items more specifically identified in Appendix A hereto.

"NEC" means National Electrical Code, as amended.

"NESC" means National Electrical Safety Code, as amended.

"Plans" means detailed design and construction plans for the KDL Facilities to be installed along the Route.

"Right-of-Way" means the specific boundary defined in any Distribution Right-of-Way Easements held by SHELBY and upon which the Distribution Structures are located.

"Route" means the specific route described in Appendix A hereto upon which the KDL Facilities will be located.

"Term" means the period specified in paragraph 7 hereof.

"Distribution Structures" means wood or metal poles or any combination thereof and steel lattice transmission towers and any other related facilities owned by SHELBY.

II. GRANT OF SPECIFIC RIGHTS

1. **Grant of License to KDL.** In consideration of the pole attachment fee described in paragraph 2 below and the other covenants, terms and conditions contained in this Agreement, SHELBY, throughout the Term, hereby grants to KDL a royalty-free, non-exclusive fiber optic license to install, construct, monitor, repair, maintain and operate the KDL Facilities on the Distribution Structures and other facilities located on the Route. SHELBY shall have the right to grant, by contract or otherwise, to others not parties to this Agreement, rights or privileges to use any of the Distribution Structures covered by this Agreement, and SHELBY shall have the right to continue and extend any such rights or privileges heretofore granted.
2. **Pole Attachment Fee.** In consideration of the license described in paragraph 1 above and the other covenants, terms and conditions contained in this Agreement, KDL agrees to pay an annual pole attachment fee to SHELBY for each Distribution Structure utilized by KDL along the Route. The annual per pole fee will be [REDACTED] for calendar year 1999 (the "Base Rate"). The Base Rate may be escalated, effective January 1, 2000, and annually thereafter, based upon the previous annual Consumer Price Index ("CPI"). For the escalation to be effective, SHELBY must provide written notice of escalation (prior to the year in which such escalation is to take effect) with documentation supporting the index.
3. (a) **Ownership of KDL Facilities.** KDL will retain ownership of the KDL Facilities to be installed along the Route, and SHELBY shall acquire no right, title or interest in or to the KDL Facilities.

(b) **Ownership of the Distribution Structures.** All Distribution Structures covered by this Agreement shall be and remain the property of SHELBY, and KDL shall, except for the rights provided in this Agreement, acquire no right, title or interest in or to the Distribution Structures.

III. GENERAL TERMS AND CONDITIONS

4. **Construction and Installation.** (a) KDL shall submit Plans to SHELBY prior to construction and installation on the Distribution Structures along the Route. SHELBY must approve the Plans before construction may begin. Once KDL's Plans have been approved by SHELBY, the construction and installation of the appropriate facilities upon the Distribution Structures along the Route may begin.
- (b) Said Plans shall include as a minimum, the location of each Distribution Structure to be used, the character of the proposed facilities and the amount and location of space desired. Within 21 days after receipt of the Plans, SHELBY shall notify KDL of specific Distribution Structure contact requirements. KDL shall thereupon have the right to use such Distribution Structures in accordance with the terms of this Agreement and any other terms as may be agreed by the Parties at such time.
- (c) All KDL Facilities shall be constructed in accordance with the approved Plans and installed in a manner, which is reasonable and customary in the industry. All such KDL Facilities shall be constructed, installed and at all times maintained by KDL so as to comply at least with the minimum requirements of all applicable governmental regulations and codes including, without limitation, the NEC and NESC. KDL shall take any necessary precautions, by the installation of protective equipment or other means, to protect all persons and property of all kinds against injury or damage occurring by reason of KDL's activities.
- (d) KDL shall follow all SHELBY safety guidelines in addition to safety requirements promulgated by OSHA, KOSHA, NESC and any other regulatory body having jurisdiction over the work of constructing and installing the KDL Facilities.
- (e) Whenever KDL intends to perform non-emergency work within the Electrical Space, KDL shall provide SHELBY with at least five days written notice of the proposed work and no such work shall take place unless a SHELBY inspector is present or SHELBY waives, in writing, the right to have an inspector present.
- (f) KDL's work within the Electrical Space shall be undertaken only by a contractor approved in writing by SHELBY.
- (g) KDL may use personnel or contractors of KDL's choice to perform work outside the Electrical Space.
- (h) KDL, at its own expense, shall promptly make repairs or adjustments as demanded by SHELBY in writing if SHELBY, in its sole judgment, finds substandard construction and/or installations performed by KDL or its contractor.
- (i) KDL, utilizing copies of the prints provided by SHELBY, shall provide SHELBY with complete "as-built" drawings upon completion of the construction of the Route.

(j) SHELBY reserves the right to inspect each new and proposed KDL installation on Distribution Structures. In addition, SHELBY may make periodic inspections, as conditions may warrant, for the purpose of determining compliance with this Agreement. Neither SHELBY's right to make inspections nor any inspection shall relieve KDL of any responsibility, obligation or liability assumed under this Agreement.

(k) Whenever SHELBY notifies KDL in writing or orally with written confirmation that, in SHELBY's reasonable judgment, any of the KDL Facilities (i) interfere with the use of the Distribution Structures or the operation of SHELBY facilities or equipment, (ii) constitute a hazard to the service rendered by SHELBY or any other persons licensed by SHELBY to use such Distribution Structures, (iii) cause a danger to employees of SHELBY or other persons, or (iv) fail to comply with applicable codes or regulations, KDL shall, within a reasonable period, rearrange, repair or change such KDL Facilities as needed or as directed by SHELBY. In the case of any immediate hazard or danger, such period shall not exceed six hours from receipt of such notice.

(l) SHELBY reserves the right, without liability to KDL or any person claiming through KDL, to discontinue the use of, remove, replace or change the location of any and all of the Distribution Structures regardless of any occupancy of the Distribution Structures by KDL. In the event a Distribution Structure is removed, replaced or relocated for any reason, each party to this Agreement must pay its own expenses in connection with such relocation, removal or replacement.

5. **Maintenance of Facilities.** (a) KDL shall, at its own expense, at all times maintain all of the KDL Facilities in a safe condition in thorough repair and in accordance with NESC requirements and any other applicable standards or requirements.

(b) KDL shall give at least five days' notice to SHELBY before performing any non-emergency maintenance on any of the KDL Facilities. For any emergency maintenance, KDL shall give SHELBY at least one hour's notice. Such notice shall be given to the SHELBY at (502) 633-4420 (telephone number).

(b) In the event of emergency maintenance needed to be performed on the Distribution Structures, SHELBY reserves the right to commence and complete any such electric maintenance or restoration work prior to allowing KDL access to repair or maintain its facilities. If requested by SHELBY personnel, KDL shall cease repair work and vacate the repair site until SHELBY's maintenance and restoration procedures are complete.

6. **Term.** This Agreement shall become effective upon its execution and shall continue in effect for a term of five (5) years. The Agreement shall automatically renew for seven (7) additional five (5) year terms unless KDL notifies SHELBY of its intention to not renew on or before the expiration of the then current term. Continued renewals, if any, after the forty (40) years will be the subject of separate negotiations and the then applicable rules and regulations effective in Kentucky.

7. **Easements.** (a) KDL shall be responsible for identifying any rights, licenses, permits, easements, rights-of-way, approvals or franchises (for purposes of this paragraph, collectively referred to as "Rights") owned or otherwise held by SHELBY and shall determine the extent, applicability and adequacy of such Rights for its purposes and uses contemplated by this Agreement. If said Rights are inadequate for KDL's purposes or proposed uses, KDL will be responsible for securing or otherwise obtaining any additional Rights from private landowners, governmental or regulatory authorities or other persons or entities as may be necessary.

(b) Notwithstanding the foregoing, it is SHELBY's intention that KDL be allowed to benefit from any of SHELBY's Rights which by law may extend to KDL by reason of this Agreement. However, SHELBY does not convey or guarantee the adequacy or applicability of any Rights for the construction, operation or maintenance of the facilities or for any underground construction or structure, duct or conduit.

(c) SHELBY shall provide KDL at no cost, such information as SHELBY may have regarding the name of the record landowners from whom SHELBY obtained easements for Distribution Structures. Such information will be provided without warranty of any kind as to its accuracy or completeness. Any assistance provided by SHELBY to KDL in obtaining easements shall be reimbursed at actual cost by KDL.

8. **Insurance.**

(a) **Generally.** KDL shall, at its sole expense, cause to be issued and maintained during the Term of this Agreement insurance coverages of the types and in the amounts set forth below, each naming SHELBY as an additional insured or loss payee thereon, as applicable (other than under the workers' compensation and employer's liability coverage described below):

<u>Type of Insurance</u>	<u>Limit</u>	
General Liability (including contractual liability) written on an occurrence basis	General Aggregate	\$2,000,000
	Prod./Comp. Op. Agg.	\$1,000,000
	Personal & Adv. Injury	\$1,000,000
	Each Occurrence	\$1,000,000
Automobile Liability, including any auto, hired auto and non-owned autos	Combines Single Limit	\$1,000,00
Excess Liability, Umbrella Form Workers' Compensation	Each Occurrence	\$2,000,000
	Aggregate	\$2,000,000
	Each Accident	\$ 500,000

(b) **Certificates: Notices of Cancellation.** Within 10 days following a written request by SHELBY, certificates of insurance in form satisfactory to SHELBY and signed by KDL's insurer(s), shall be supplied by KDL to SHELBY evidencing that the above insurance coverages are in full force and effect, that not less than thirty (30) days' written notice will be given to SHELBY prior to any cancellation or restrictive modification of such policies, and that SHELBY is an additional insured or loss payee, as applicable, under each such policy.

9. **Liens.** In the event any construction lien or other encumbrance shall be placed on the Distribution Structures because of the actions of KDL, KDL shall promptly discharge the lien or release the encumbrance without cost or expense to SHELBY, and hereby agrees to indemnify SHELBY for any and all damages that may be suffered or incurred by SHELBY as a result of the lien, discharging the lien or releasing the encumbrance. In the event any construction lien or other encumbrance shall be placed on the KDL Facilities because of the actions of SHELBY, SHELBY shall promptly discharge the lien or release the encumbrance without cost or expense to KDL and hereby agrees to indemnify KDL for any and all damages that may be suffered or incurred by KDL as a result of the lien, discharging the lien, or releasing the encumbrance.
10. **Relationship of Parties and Independent Contractor Status.** Neither SHELBY nor KDL shall be deemed to be a partner, agent or joint venturer with or of the other by reason of this Agreement or the consummation of the transaction contemplated hereby. All parties shall perform their duties under this Agreement as independent contractors, and at their own risk. Neither SHELBY nor KDL shall at any time hold itself out as being a partner, co-venturer or agent of the other.
11. **Notices.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, and shall be deemed to have been duly given (a) on the date of personal delivery, (b) on the date of delivery to a nationally recognized overnight delivery service, (c) on the date of deposit in the U. S. mails, postage prepaid, by certified mail, return receipt requested, or (d) on the date of Distribution by telephonic facsimile Distribution, in each case addressed as follows, or to such other addresses or facsimile numbers as shall be designated from time-to-time by the parties pursuant to this paragraph 12:

If to KDL to: Kentucky Data Link, Inc.
 8829 Bond Street
 Overland Park, KS 66214
 Attention: Exec. V.P.
 Telephone: (913) 492-1230
 Telecopier: (913) 492-1684

With copy to: Kentucky Data Link, Inc.
 8829 Bond Street
 Overland Park, KS 66214
 Attention: General Counsel

If to SHELBY to: Shelby Energy Cooperative, Inc.
620 Old Finchville Road
Shelbyville, KY 40065
Attn: R. Wayne Anderson
Telephone: (502) 633-4420
Telecopier: (502) 633-2387

12. **Successors and Assigns.** This Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the parties hereto and their respective successors and permitted assigns. None of the parties may assign, delegate, sublease or transfer any rights, interests or obligations which it may have under or pursuant to this Agreement to any other person or entity without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the parties may assign this Agreement without the consent of the other party to any Affiliate of such party, to the surviving entity into which such party may merge or consolidate, or to any entity to which the party transfers all, or substantially all, of its business and assets. All successors and assigns shall be made subject to this Agreement.

13. **Force Majeure.** In the event KDL or SHELBY is delayed in or prevented from performing any of its respective obligations under this Agreement due to acts of God, war, riots, civil insurrection, acts of the public enemy, strikes, lockouts, acts of insurrection, acts of civil or military authority, fires, floods or earthquakes beyond the reasonable control of the party delayed, then such delay or nonperformance shall be excused. If any such delay or nonperformance due to the foregoing causes or events occurs or is anticipated, the party affected shall promptly notify the other party in writing of such event or expected event and the cause and estimated duration of such event. The party affected by such event shall, at no cost to the other party, exercise due diligence to shorten or avoid the delay or nonperformance and shall keep the other party advised as to the continuance of the delay and steps taken to shorten or terminate the delay or nonperformance. KDL shall not in any event be entitled to additional or extra compensation by reason of KDL having been delayed in performance of its obligations due to the foregoing causes or events, whether such delay was excused or not.

14. (a) **Limitation of Liability.** NEITHER PARTY SHALL HAVE ANY RESPONSIBILITY, LIABILITY OR OBLIGATION TO THE OTHER OR THE OTHER'S AFFILIATES, DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, SUCCESSORS OR PERMITTED ASSIGNS FOR ANY SPECIAL, INCIDENTAL CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, COST OF REPLACEMENT SERVICES, LOSS OF CUSTOMERS OR AGENTS, LOSS OF USE, OR PENALTIES IMPOSED BY OTHERS, REGARDLESS OF ANY ACT OF OMISSION OR COMMISSION IN CONNECTION WITH OR UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY DEFECT IN, DELAY IN OR LOSS OF AVAILABILITY, OR FAILURE OF THE KDL FACILITIES.

(b) Disclaimer of Warranties. NONE OF THE PARTIES HERETO MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES CONCERNING THE ACCURACY, ADEQUACY OR TIMELINESS OF ANY INFORMATION PROVIDED HEREUNDER, ALL OF WHICH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

(c) Indemnification. To the extent not due to negligence or intentional misconduct of SHELBY, its parent and its Affiliates, and their respective directors officers, agents, employees, representatives, successors and permitted assigns, KDL agrees to indemnify, defend, release and hold harmless each of them from and against any and all claims, liabilities, damages, losses, actions, causes of action, proceedings, obligations, judgments, costs and expenses of any nature or kind whatsoever (including without limitation, reasonable attorney's fees) which may be suffered or incurred by them, directly or indirectly, resulting from, arising out of or in any manner relating to: (a) any injuries to persons (including death) or damages to property, or both, arising directly or indirectly out of KDL's, its parent or its Affiliates' design, construction, installation, use, maintenance, removal or repair of the fiber optic cables or any equipment or facilities relating thereto, or any actions by or on the part of KDL's agents, employees or representatives in connection with the same, (b) any misrepresentation, breach of warranty or non-fulfillment of any covenant or agreement of KDL contained in this Agreement, and (c) any of the services which may be rendered by SHELBY (or its personnel) to KDL pursuant to this Agreement.

(ii) To the extent not due to the negligence or intentional misconduct of KDL, its parent and its Affiliates, and their respective directors, officers, agents, employees, representatives, successors and permitted assigns, SHELBY agrees to indemnify, defend, release and hold harmless each of them from and against any and all claims, liabilities, damages, losses, actions, causes of action, proceedings, obligations, judgments, costs and expenses of any nature or kind whatsoever (including without limitation reasonable attorney's fees) which may be suffered or incurred by them, directly or indirectly, resulting from, arising out of or in any manner relating to: (a) any injuries to persons (including death) or damages to property, or both, arising directly or indirectly out of SHELBY, its parent or Affiliates' design, construction, installation, use, maintenance, removal or repair of the fiber optic cables or any equipment or facilities relating thereto, or any actions by or on the part of SHELBY's agents, employees or representatives in connection with the same, (b) any misrepresentation, breach of warranty or non-fulfillment of any covenant or agreement of SHELBY contained in this Agreement, and (c) any of the services which may be rendered by KDL (or its personnel) to SHELBY pursuant to this Agreement.

15. **Confidentiality and Publicity.** Each party acknowledges that, in the course of the performance of this Agreement, it may have access to privileged and proprietary information claimed to be unique, secret and confidential and which constitutes the exclusive property or trade secrets of the other party. This information may be presented in documents marked with a restrictive notice or otherwise tangibly designated as proprietary, or disclosed during oral discussions, at which time representatives of the disclosing party will specify that the information is proprietary. Unless jointly agreed to in writing, neither SHELBY nor KDL shall knowingly disclose to third parties any proprietary information received from the other party in connection with this Agreement, nor shall they disclose the terms of this Agreement to any other person or entity (other than to their respective Affiliates, directors, officers, employees, agents and contractors who have a need to know the same, and to persons or entities of the type described in (b) below), unless required in order to prosecute or defend any claim in an action involving any of the parties hereto, or unless required by any court or governmental agency or regulatory body having competent jurisdiction. In the case of disclosure for such prosecution or defense, or as required by any such judicial or quasi-judicial body, the non-disclosing party shall be given sufficient notice so as to allow it to seek a protective order with respect to such disclosure. The parties shall each protect proprietary information received from the other with the same degree of care that they would take to protect their own proprietary information, and each party shall be responsible for ensuring that its directors, officers, employees, agents and contractors who have access to the confidential or proprietary information of the other party, maintain the confidentiality of such information in accordance with this paragraph 16. However, the parties shall have no obligation to keep confidential any information that is in or becomes part of the public domain through no fault of their own. No party shall issue news releases or publicize, or issue advertising, which references the other party, this Agreement, or any provision hereof, without first obtaining the prior written approval of the other party; provided, that the foregoing restriction shall not prevent the disclosure by a party of any proprietary information to the extent (a) in the opinion of that party's legal counsel, such disclosure is required by any law, regulation or rule of any securities exchange, or (b) such disclosure is made to a person or other entity that is itself bound to maintain the confidentiality of the same pursuant to a written confidentiality agreement with the disclosing party consistent with the provisions of this paragraph 16. The obligations of the parties set forth in this paragraph 16 will survive any expiration or termination of this Agreement for a period of five (5) years.
16. **Make-ready Costs.** KDL shall reimburse SHELBY for all expenses incurred for "make-ready" costs. Make-ready costs shall be invoiced to KDL on a monthly basis. KDL shall be responsible for all material, labor, and transportation costs associated with any make-ready work.
17. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Kentucky applicable to contracts made and to be performed entirely in that state, without regard to the conflicts of laws rules of that state.

18. **Binding Agreement.** This Agreement, including the attachments, embodies the entire agreement between the parties hereto and supersedes any prior or contemporaneous oral or written agreements between the parties, and once this Agreement has been executed, any amendments hereto must be made in writing and signed by both parties. Nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

19. **Dispute Resolution.** KDL and SHELBY plan to use due diligence to work together to implement this Agreement. However, the parties understand that unforeseen issues and conflicts may arise. It is the intention of the parties that this Agreement not terminate prior to the expiration of the Term. Rather, the parties acknowledge their desire to reach a working solution to such issues and conflicts by employing the following dispute resolution process:

(a) To the extent that any issue of or relating to this Agreement cannot be reasonably resolved by KDL and SHELBY, a designated representative of each party shall meet promptly in an effort to resolve the dispute extrajudicially.

(b) If the dispute is not resolved as a result of such meeting, the dispute shall be immediately referred in writing to the members of senior management of each party. The members of senior management shall meet to attempt to resolve the dispute within twenty (20) days after the meeting described in paragraph 20(a) above.

(c) No less than ten (10) days prior to the meeting of senior managers, the parties shall exchange written statements of the issues in dispute, the facts and evidence supporting each side, and the name of the member of senior management designated and authorized to resolve the dispute.

(d) If the good faith attempts to resolve the dispute as stated in paragraphs 20(a), (b) and (c) are unsuccessful, either party may start binding arbitration in Louisville, Kentucky. The arbitration will be before a three-arbitrator panel. Each party will select one arbitrator to represent its interest, at its sole expense. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication. No statements by, or communications between, the parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator. The decision(s) of a majority of the arbitrators shall be final and binding on the parties.

(d) Notwithstanding the foregoing, either party may resort to a court by applying for interim relief if such party reasonably determines that such relief is necessary to prevent irreparable injury to it or to a third party.

20. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which together shall constitute one and the same document.
21. **Headings.** The headings of this Agreement are inserted for convenience only and shall not be deemed to be a part hereof.
22. **Permits and Licenses.** (a) If any permits (excluding building permits), certificates or licenses are required of KDL in connection with the performance of its work to be done pursuant to this Agreement, it is KDL's (and not SHELBY's) responsibility to be aware of and to inform SHELBY of this requirement and without additional expense to SHELBY, apply for and obtain such required permit, certificate or license in a timely manner.
- (b) If any permits (excluding building permits), certificates or licenses are required of SHELBY in connection with the performance of its work to be done pursuant to this Agreement, it is SHELBY's (and not KDL's) responsibility to be aware of and to inform KDL of this requirement and without additional expense to KDL, apply for and obtain such required permit, certificate or license in a timely manner.
23. **Preservation of Remedies.** No delay or omission in the exercise of any power or remedy herein provided or otherwise available to any party shall impair or affect such party's right thereafter to exercise the same.
24. **Accounting Standards.** In computing or estimating expenses, costs, or other charges to be paid or reimbursed by KDL under this Agreement, SHELBY shall use the accounting principles, practices, and records commonly employed in its business and as permitted or required by Federal and state law.
25. **Severability.** If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby. If this Agreement shall be held to be unenforceable against either party, the enforceability of such agreement against the other party hereto shall not in any way be affected or impaired thereby.
26. **Further Assurances.** Each party shall execute such deeds, assignments, endorsements and other instruments and evidences of transfer, give such further assurances and perform such acts as are or may become necessary or appropriate to effectuate and carry out the provisions of this Agreement.
27. **Affiliates.** Each party will cause its respective Affiliates to comply fully with the provisions of this Agreement being entered into by such party, to the extent such provisions relate, or are intended to relate, to such Affiliates, as though such Affiliates were expressly named as joint obligors hereunder.

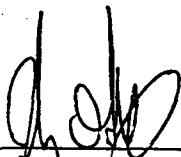
Remedies. Subject to the provisions of Section 15 hereof, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to any party at law, in equity or otherwise.

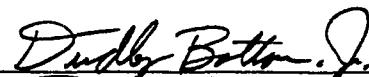
29. **Expenses.** Except as otherwise expressly provided herein or therein, each party shall bear the costs and expenses incurred by it in negotiating, entering into and performing any of its obligations under this Agreement.
30. **Environmental Practices.** KDL shall comply with all applicable local, state and federal laws, rules and regulations with respect to environmental practices undertaken pursuant to its performance of this Agreement. KDL shall not bring, store or utilize any hazardous materials on any site licensed hereunder without the prior express consent of SHELBY. KDL shall restore any property altered pursuant to its performance under this Agreement to its original condition. SHELBY shall have no obligation to connect or restore any property altered by KDL and shall bear no responsibility for KDL's compliance with applicable environmental regulations.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and to become effective as of the date first written above.

KENTUCKY DATA LINK, INC.

SHELBY ENERGY COOPERATIVE, INC.

By: 
Name: John C. Greenbank
Title: V.P.

By: 
Name: Dudley Bottom, Jr.
Title: President & CEO

Appendix A

The Route shall be comprised of one 24 strand singlemode fiber optic cable lashed to a ¼" messenger commencing at the intersection of Aiken Road and Highway 362. The route then follows Highway 1531 to Highway 362 in Shelby County. The route continues along Geoghegan Road to Orphan Lane to Fox Run Road turning briefly along Highway 55 to Bellview Clear Creek Road to Cropper Washburn Road then ending at the point where the distribution pole line intersects the EKP 69KV line. The route follows approximately 22 miles of Shelby Energy Pole Line. The attached map shows the general route of the fiber. The fiber will be attached to the Shelby Energy owned poles with aerial hardware in the communications space on the poles.

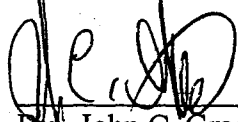
Amendment to Agreement

This amendment to the Agreement ("Amendment") is made this 19th day of March, 2001 by and between Kentucky Data Link, Inc. ("KDL") and the undersigned party, Shelby Energy Cooperative, Inc. ("Cooperative").

KDL and Cooperative are parties to an Agreement dated February 17th, 1999 (the "Agreement"). This document is intended to amend the Agreement, as follows:

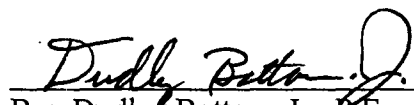
KDL and Cooperative agree that, notwithstanding any provision in the Agreement to the contrary, each party to the Agreement shall have the right, without the consent of the other, to assign or otherwise transfer the Agreement as collateral to any lender; and each party hereby consents to any assignment of the Agreement by such lender or its successor in the event such lender or its successor exercises its rights under any assignment, transfer of possession or foreclosure of the security interest. This Agreement shall extend to and bind any such assignee or transferee.

Kentucky Data Link, Inc.



By: John C. Greenback
President

Shelby Energy Cooperative, Inc.



By: Dudley Bottom, Jr., P.E.
President and CEO