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PUCO

September 20, 2007

Ms. Renee Jenkins
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

Re: Case No. 06-1509-EL-CSS

Dear Ms. Jenkins:

Enclosed please find an original and 10 copies of the public version of a Stipulation and Recommendations with attachments in the above-captioned proceeding. Additionally, in a separate envelope marked confidential, I have included three copies of the confidential version of the Stipulation. None of the attachments to the Stipulation contain confidential information. I have enclosed a separate copy of the public and confidential documents for Attorney Examiner Christine Pirik.


Also enclosed are three additional copies to be date stamped and returned by the messenger delivering this filing.

Please call if you have any questions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Randall V. Griffin".

Randall V. Griffin

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician  Date Processed 9.21.07

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

AT&T OHIO,

Complainant,

v.

THE DAYTON POWER AND
LIGHT COMPANY,

Respondent.

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CASE NO. 06-1509-EL-CSS

**STIPULATION AND RECOMMENDATION
PUBLIC VERSION**

Rule 4901-1-30, Ohio Administrative Code ("OAC"), provides that any two or more parties to a proceeding may enter into a written or oral stipulation covering the issues presented in such proceeding. This document sets forth the understanding of AT&T Ohio and The Dayton Power and Light Company ("DP&L") (together, the "Signatory Parties") and their recommendation that the Public Utilities Commission of Ohio ("Commission" or "PUCO") approve and adopt, as part of its Opinion and Order, this Stipulation and Recommendation ("Stipulation") resolving all the issues in the above-captioned proceeding.

This Stipulation is a product of lengthy, serious, arm's-length bargaining among the Signatory Parties (which are capable, knowledgeable parties) which negotiations were undertaken by the Signatory Parties to settle this proceeding. This Stipulation is supported by adequate data and information; as a package, the Stipulation benefits the public interest and represents a just and reasonable resolution of all issues in this proceeding; and violates no regulatory principle or practice.

This Stipulation includes amendments (attached as Attachment 1) to certain agreements previously entered into by the Signatory Parties (attached as Attachments 2 – 4), which except as amended, remain in full force and in effect. Pursuant to Ohio Rev. Code §§ 4905.31, 4905.48 and 4905.51, the Signatory Parties request that the Commission approve the amendments and the previous agreements.

WHEREAS, the Signatory Parties, or their predecessors in interest, have previously entered into a "Joint Pole Line Agreement and Pole Rental Contract" dated March 17, 1930 (the "1930 Agreement"); a "Supplemental Agreement" dated September 30, 1942 (the "1942 Supplement"); an "Operating Routine" dated December 1952 (the "Operating Routine"), and a Letter Agreement in 1995 (the latter of which relates solely to an adjustment in the rental rate)(together the "Agreements"); and

WHEREAS, disputes arose between the Signatory Parties as to the interpretation and reasonableness of certain provisions within the Agreements; and

WHEREAS, a Complaint against DP&L and a Motion for Emergency Relief was filed by AT&T Ohio before the Commission on December 28, 2006 with respect to certain disputes; and

WHEREAS, a Civil Action was filed by DP&L against AT&T Ohio in Common Pleas Court, Montgomery County, Ohio on December 29, 2006, with respect to certain disputes; and

WHEREAS, both AT&T Ohio and DP&L are desirous of resolving their disputes through this Stipulation;

NOW THEREFORE, for the purpose of resolving all issues raised in this proceeding, the Signatory Parties and each of them stipulate, agree, and recommend as follows:

I. PARTIES

This Stipulation is entered into by and among DP&L, its successors and assigns, and AT&T Ohio and its successors and assigns. The Signatory Parties urge the Commission to accept and approve it, including the attached Agreements, as amended. The Signatory Parties have been authorized to represent that the Staff of the Public Utilities Commission of Ohio has thoroughly reviewed this Stipulation and supporting documents and has no objection to the Stipulation.

II. THE PROVISIONS OF THE STIPULATION

A. Amended Agreements. The Agreements are to be amended as set forth in Attachment 1, which amendments are as summarized herein:

1. Beginning as of October 1, 2006, 37.7% of the joint use poles should be owned by AT&T Ohio (AT&T Ohio Target Ownership Percentage) and 62.3% should be owned by DP&L (DP&L Target Ownership Percentage). To the extent one party's ownership share of joint use poles falls below its Target Ownership Percentage, that party shall be deemed deficient and shall be considered "the deficient party" as it relates to the remainder of this Stipulation. The other party shall be considered "the excess party" as it relates to the remainder of this Stipulation.

2. The number of poles against which the deficiency rental is to be applied shall be the sum of: a) the difference between the number of joint poles that should be owned by the deficient party according to the party's Target Ownership Percentage and the number of joint poles actually owned by the deficient party and b) the difference between the number of joint poles owned by the excess party and the number of joint poles that should be owned by the excess party according to the party's Target Ownership Percentage.

3. The deficiency rental will be set at \$30 per pole deficient for each year of the 5-year period beginning with 10/1/06-9/30/07 through 10/1/10-9/30/11.

4. For each 5-year period beginning with October 1, 2011, the deficiency rate will be reset based on the formula set forth in paragraph 5 using the prior year data from DP&L's annual Form 1 filing before the Federal Energy Regulatory Commission ("FERC") and AT&T Ohio's annual ARMIS filing before the Federal Communications Commission ("FCC") made in the year the rate is to be reset, e.g., FERC Form 1 data for calendar year 2011 would be filed in 2012 and would be applied as part of the formula to compute the deficiency rate to be invoiced in late 2012 for the period 10/1/11-9/30/12.

5. For each five-year period beginning with October 1, 2011, the deficiency rate shall be reset according to the following formula:

i) For purposes of computing total bare pole costs for each party, the state-wide cost data of each party for each of the accounts specified in the then-applicable FCC formulae shall be used and shall be deemed determinative and conclusive. A 15% reduction shall be used with respect to the per pole cost computed under FERC Form 1 and a 5% reduction shall be used with respect to the per pole cost computed under ARMIS, which shall be deemed to eliminate the costs of cross-arms and other appurtenances and the effects of non-standard poles whose costs are included in the FERC Form 1 data and ARMIS data, and which reductions may be rebutted to the extent provided for by the FCC.

ii) For purposes of computing the carrying costs for each party, the state-wide cost data as filed with FERC (Form 1) and the FCC (ARMIS) for each of the accounts specified in the then-applicable FCC formulae shall be used and shall be deemed determinative and conclusive. For an entity whose rates are subject to a regulatory authority that has the power to establish a rate of return for such entity, the rate of return shall be the most-recently approved rate of return; otherwise, the then-applicable FCC default rate of return shall be used.

iii) The product of the bare pole costs for a party and the carrying costs for that party shall constitute the "Annual Pole Cost" for that party.

iv) A Per Pole Cost for each party shall be computed by dividing the Annual Pole Cost by the total number of distribution poles owned by such party within the State of Ohio (excluding any poles the costs of which are not included in the net bare pole costs calculated under 5 i) above).

v) The Per Pole Cost shall be reduced by an amount calculated as follows: a value equal to total revenue collected in the prior year from attachers who are not incumbent local exchange carriers (in the case of DP&L) or are not electric utilities (in the case of AT&T Ohio) divided by total distribution poles owned by such party within the State of Ohio (excluding any poles the costs of which are not included in the net bare pole costs calculated under 5 i) above). The result is each party's Net Annual Per Pole Cost.

vi) The deficiency rental shall be one-half of the simple average of each party's Net Annual Per Pole Cost.

vii) It is recognized that certain adjustments to or substitutes for the cost data described above that were proposed in the course of this proceeding are not reflected and are not intended to be reflected in the methodology used to reset the deficiency rate in future periods.

6. Pole balances shall be maintained in line with the Target Ownership Percentages. On June 1 of each year, the parties shall determine which party's ownership is less than its Target Ownership Percentage and that party shall be responsible for installing (or accepting a "set-and-sell" from the other party) all new and replacement poles until the Target Ownership Percentage balances are restored. Alternatively, and at the deficient party's sole discretion, the deficient party may purchase poles from the other party at the prices set forth in the then-applicable Schedule A to the Operating Routine. Under this option, identification of poles to be sold will be jointly determined by the joint use personnel within the two companies and, if they cannot agree, the matter will be resolved by good faith negotiations of more senior management.

7. The initial term of the revised agreement will be 5 years, automatically renewing for additional two-year terms unless two year's written notice of termination is given. The parties will be able to maintain then-existing attachments after any such termination, but, to the extent that the Target Ownership Shares differ from the percentages set forth in paragraph 1, the party with the deficiency will continue to make annual payments based on the formula rate as provided in paragraphs 2, 4 and 5.

8. Licensing, contractual arrangements, and other matters relating to attachments by third parties will be the responsibility of the party owning the pole, regardless of the nature of the attachment. The revenue derived from third party attachments are payable to the owner of the pole, regardless of the nature of the attachment. The pole owner, as the entity that licenses third party attachers, is responsible for managing the third party relationship, including as the third party initially becomes attached to a pole, third party attacher obligations and rights while it is attached to a pole, and as the third party abandons an attachment or otherwise is no longer attached to a pole.

9. The default provision is modified so that the party that is allegedly in default does not have to immediately remove existing attachments. Upon notice of an alleged material breach and a failure to cure within 60 days, the non-breaching party may suspend the right of the allegedly breaching party to place new attachments; provided, however, that the suspension will be lifted if the allegedly breaching party files a complaint with the PUCO to resolve the underlying dispute. If the alleged breach relates to the nonpayment of an invoice, the allegedly breaching party will place the disputed amounts in escrow. The agreement will make clear that a party is not considered in "default" solely by virtue of having to make a deficiency payment to the other party.

10. (a) The parties will conduct a joint pole survey not more often than once every ten years and only after one party gives the other party one year's notice of its desire to perform a joint pole survey. Notwithstanding the foregoing, the first joint survey will begin no earlier than July 1, 2008, provided that one party gives the other party six months notice of its desire to begin. AT&T Ohio and DP&L will work in good faith to contract with a mutually acceptable surveyor using mutually acceptable techniques. Prior to any survey, AT&T Ohio and DP&L agree to create a Memorandum of Understanding detailing both party's specific requirements, related to data provided and collected, expenses, etc. for a survey of each party's

joint and non joint poles. Expenses related to joint pole data collected will be split 50/50 and both parties will receive each other's data related to jointly used poles.

(b) Pole survey results will be used to establish the actual ownership levels of each party prospectively only (i.e. no true-up), beginning with the first annual rental period that begins after the pole survey results have been received. Notwithstanding the foregoing, the results of the first pole survey shall not be used to establish the actual pole ownership levels for any period prior to the 10/1/10-9/30/11 rental period. For the period of time prior to the 10/1/10-9/30/11 rental period, the parties will continue to use the existing monthly recapitulation method to determine actual pole ownership levels and there shall be no true-up.

(c) With respect to the first pole survey, there shall be no payment pursuant to paragraph 11.303 of the Operating Routine to the extent that unauthorized use is identified as part of the survey. With respect to subsequent pole surveys that take place after the first pole survey, to the extent that unauthorized use is therein identified the provisions of 11.303 of the Operating Routine will apply.

(d) Nothing herein this section 10 shall be deemed to bar during any time period the operation of section 11.303 of the Operating Routine to the extent that unauthorized use is identified in the course of inspection or maintenance by a party of its poles and lines other than as part of a joint pole survey. Upon the discovery of an unauthorized use, the party making such discovery shall promptly notify the other party in writing and, if it is determined that there is an unauthorized use, a one-time payment under 11.303 of the Operating Routine shall be made, the parties shall work together in good faith to authorize such use to the extent feasible, and, the newly authorized attachment will be thereafter reflected in the monthly recapitulations.

11. Certain miscellaneous changes are made to Definitions or to harmonize provisions. In addition, an obsolete schedule is deleted.

12. The parties' revised agreement reflects that it is, in part, the product of negotiations and settlement to resolve past disputes.

B. **[BEGIN CONFIDENTIAL]**

[END CONFIDENTIAL]

C. Within 15 days after the approval of this Stipulation by the Commission, the parties will present to the Common Pleas Court an Agreed Order of Dismissal in the form attached as Attachment 8.

D. Invoices will continue to be issued in November or December of a year for the past period (i.e., a November 2007 invoice would be for the period 10/1/06 – 9/30/07).

E. Assuming the parties cannot independently resolve such dispute, any disputes relating to this Stipulation, or the Agreements set forth in Attachments 1-4, rates, terms and conditions, or any alleged breach thereof, and any dispute between the parties concerning costs or the number of poles owned by each party shall be resolved by the Commission.

III. Other Documents Submitted in Conjunction with Stipulation.

For illustrative purposes only and using currently available data that would be superseded by the then available data, Attachments 5, 6 and 7 are provided to demonstrate how the deficiency rental would be reset beginning 10/1/11.

IV. Other Conditions.

In arms-length bargaining, the Stipulating Parties have negotiated terms and conditions that are embodied in this Stipulation and Recommendation. This agreement resolves a variety of difficult, complicated issues that would otherwise be resolved only through expensive, complex and protracted litigation. This Stipulation and Recommendation contains the entire agreement among the Signatory Parties, and embodies a complete settlement of all claims, defenses, issues, and objections that were or could have been raised in this proceeding. The Signatory Parties agree that the results of this Stipulation are just and reasonable, in the best interests of the public and all parties, and urge the Commission to adopt it.

This Stipulation and Recommendation is submitted for purposes of this case and should not be understood to reflect the position which the Signatory Parties would have taken if all of the issues in the proceeding had been litigated. The willingness of the Signatory Parties to sponsor this document jointly is predicated on the reasonableness of the Stipulations and Recommendation taken as a whole.

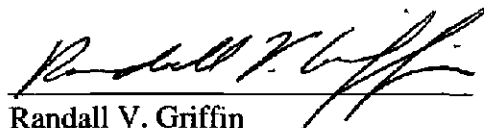
This Stipulation and Recommendation is not to be relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation and Recommendation. The parties agree that if the Commission rejects all or any part of this Stipulation, or otherwise materially modifies its terms, any adversely affected party shall have the right within thirty (30) business days of the Commission's order, either to file an application for rehearing or to terminate and withdraw from the Stipulation by filing a notice with the Commission. The Signatory Parties agree to, and intend to support the reasonableness of, this Stipulation and Recommendation before the Commission and in any appeal from the Commission's adoption or enforcement of this Stipulation and Recommendation. If not fully adopted by the Commission or if rejected by the Supreme Court of Ohio, the Stipulation and Recommendation shall not prejudice any of the positions taken by any party on any issue before the Commission in this or any other proceeding and shall not be admissible evidence in this or any other proceeding.

IN WITNESS WHEREOF, the undersigned parties agree to this Stipulation and Recommendation as of this 20th day of September 2007. The undersigned parties respectfully request the Commission to issue its Opinion and Order approving and adopting this Stipulation.

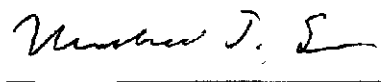
THE DAYTON POWER AND LIGHT
COMPANY

AT&T OHIO

By:


Randall V. Griffin

By:


Michael T. Sullivan

ATTACHMENT 1

2007 Supplemental Agreement

2007 Supplemental Agreement

This Agreement is made this 18th day of September, 2007 (the "2007 Supplement") by and between The Dayton Power and Light Company ("DP&L" or "Electric Company"), an Ohio corporation, and AT&T Ohio ("AT&T Ohio" or "Telephone Company"), an Ohio corporation, (each of which is also a "Party" and together "the Parties"). This 2007 Supplement is the product of negotiations and settlement to resolve past disputes; by amending, modifying, or substituting certain specified provisions in prior agreements, its provisions are intended to modify certain obligations and rights of each Party under such prior agreements.

NOW THEREFORE, in consideration of the promises, duties, rights, and other agreements herein contained, the Parties, for themselves, their successors and assigns, do agree as follows:

ARTICLE 1

PRESERVATION OF AGREEMENTS AND
PROVISIONS THEREIN
TO THE EXTENT NOT AMENDED

- 1.1 The Parties, or their predecessors in interest, are signatories to the following agreements:
- a) "Joint Pole Line Agreement Pole Rental Contract" dated March 17, 1930 ("1930 Agreement");
 - b) "Supplemental Agreement" dated September 30, 1942 ("1942 Supplement");
 - c) "Operating Routine" dated December 1952 ("Operating Routine");
 - d) "Letter Agreement," acceptance dated November 14, 1995 ("1995 Letter Agreement"); and

- e) "Stipulation and Recommendation" dated September 20, 2007 ("2007 Stipulation").
- 1.2 Effective as of March 17, 2005, the 1995 Letter Agreement is terminated.
- 1.3 The 1930 Agreement, the 1942 Supplement and the Operating Agreement (together the "Prior Agreements") shall remain in full force and effect except to the extent of any amendments, modifications, or substituted language set forth in this 2007 Supplement, and then only to the extent that the amendments, modifications, or substituted language specifically and explicitly identifies the provisions in the Prior Agreements that are being superseded. This Agreement and the Prior Agreements contain the complete and entire agreement of the parties on their subject matters, and supersede all prior agreements, representations, and negotiations between the parties.
- 1.4 If, within 90 days after execution of this 2007 Supplement:
 - a) One Party has a good faith belief that language within this 2007 Supplement creates a direct conflict with a provision of a Prior Agreement that was not specifically and explicitly identified as being amended or superseded; and
 - b) It is impossible to harmonize the language within a Prior Agreement with the language of the 2007 Supplement; then
 - c) The Parties will meet in good faith to discuss a possible further amendment.
- 1.5 The Parties may have additional agreements between them that have not been specifically identified in section 1.1 above and relate to other matters. Nothing herein is intended to modify, supersede, or terminate such agreements.

ARTICLE 2

EFFECTIVENESS AND EFFECTIVE DATE

- 2.1 This Agreement shall have no force and effect until the Public Utilities Commission of Ohio approves the 2007 Stipulation, to which this 2007 Supplement is attached.
- 2.2 Once made effective as provided in section 2.1 above, and except where a different date is specified herein, the amendments to the Prior Agreements and additional provisions of this 2007 Supplement, shall be considered to be in effect as of October 1, 2006.

ARTICLE 3

AMENDMENTS TO THE 1930 AGREEMENT

- 3.1 Article 1 of the 1930 Agreement, DEFINITIONS, is amended by adding the following additional definitions:

"OWNERSHIP SHARE" means the percentage of joint use poles owned at any given time by a Party relative to the total number of joint use poles owned by both parties.

"TARGET OWNERSHIP PERCENTAGE" means 37.7% for Telephone Company and 62.3% for Electric Company.
- 3.2 Article I of the 1930 Agreement, definition of "STANDARD SPACE," is modified by deleting the word "exclusive" and adding to the end thereof the following: "An attachment of a third party to a joint pole may be licensed by an Owner and made within the Licensee's described space on a joint pole to the extent permitted by Article VII(c)."
- 3.3 Article I of the 1930 Agreement, definition of "RESERVED" is modified by deleting the word "exclusive" in each of the two places in which that word is used.

3.4 Article I of the 1930 Agreement, definition of STANDARD JOINT POLE” is modified by deleting the last sentence, which currently reads “All poles to be Class ‘C’ poles.” and substituting in lieu thereof, “All poles to be Class 4 or 5 poles.”

3.5 Article III of the 1930 Agreement is deleted and is replaced by the following:

”This agreement shall cover all existing poles of each of the parties and any other poles hereafter erected or acquired by either of them within their overlapping service territories in the following Counties:

Auglaize, Brown, Butler, Champaign, Clark, Clinton, Darke, Delaware, Fayette,
Greene, Hardin, Highland, Logan, Madison, Mercer, Miami, Montgomery,
Pickaway, Preble, Ross, Shelby, Union, Van Wert, and Warren.

excepting therefrom, however, -

(1) poles which, in the Owner’s judgment are necessary for its own sole use; and

(2) poles which carry, or are intended by the Owner to carry, circuits of such a character that in the Owner’s judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.”

3.6 A new Section VII(c) of the 1930 Agreement is added as follows:

“(c) To the extent that there is a legal obligation for an Owner to permit an attachment by a third party, such Owner may license such attachment or attachments and such attachments may be within the Standard Space of Licensee, so long as the space between the Licensee’s attachment(s) and the third party attachment(s) meets all applicable code and safety requirements. The Owner shall be responsible for licensing such third party attachments, regardless of the nature of the attachment. Revenue derived from third party attachments shall be payable to the Owner of the pole, regardless of the nature of

the attachment. The Owner is responsible for managing the third party relationship, including as the third party initially becomes attached to a pole, the third party's obligations and rights while it is attached to a pole, and as the third party abandons an attachment or otherwise is no longer attached to a pole.

- 3.7 Section VIII(d) of the 1930 Agreement is modified by deleting the last sentence, and inserting in lieu thereof: "In the event that the parties are unable to agree as to which party should install and own the new poles to be erected, the party then owning an Ownership Share that is less than that party's Target Ownership Percentage shall erect the new joint poles and be the owner thereof."
- 3.8 Section VIII(h) of the 1930 Agreement is modified by:
- a) deleting the phrase "are in lieu of increased rentals and"; and
 - b) by appending to the end of the section, the following sentence: "Such payments will not affect rentals or rental calculations as calculated in Article XII, except to the extent that such payments decrease the Owner's investment in pole costs."
- 3.9 The first paragraph of Article XI, as inserted by the 1942 Supplement, is deleted in its entirety and the following provision is inserted in lieu thereof:
- "Article XI – RENTALS: The use by one party of the other party's poles is in consideration of the use by such other party of the first party's poles. In the event that as of September 30 in any year either party owns less than its Target Ownership Percentage, then that party shall pay to the other party a rental amount computed using the methodology set forth in Schedule 1; except that during the period beginning October 1, 2006 – September 30, 2007 and ending October 1,

2010 – September 30, 2011, the methodology set forth in Schedule 2 shall be used.

“State-wide cost data set forth in FERC Form 1 and FCC ARMIS filings will be used to compute pole costs and carrying charges for each party under the Schedule 1 methodology, and such state-wide cost data shall be deemed to be determinative and conclusive. For each 5-year period beginning with October 1, 2011, the deficiency rate will be reset based on the formula set forth in Schedule 1 using the prior year data from DP&L’s annual Form 1 filing before the Federal Energy Regulatory Commission (“FERC”) and AT&T Ohio’s annual ARMIS filing before the Federal Communications Commission (“FCC”) made in the year the rate is to be reset, e.g., FERC Form 1 data and ARMIS data for calendar year 2011 would be filed in 2012 and would be applied as part of the formula to compute the deficiency rate to be invoiced in late 2012 for the period 10/1/11-9/30/12. It is recognized by the parties that such cost data includes poles that are not joint use poles and which may be of different sizes and classes than the Standard Joint Poles defined in this agreement and that the deficiency rental is to be computed with no adjustments to such cost data to reflect such differences.

“For purposes of computing an average per pole cost, the total number of poles owned by each party that is included in the FERC Form 1 and FCC ARMIS filings will be used irrespective of whether such poles are joint use poles. If the total number of poles is set forth in the FERC Form 1 or FCC ARMIS filings, then that figure shall be used, otherwise, the party’s accounting books and records shall be the source for such figure and each party shall disclose such

number of poles to the other not less than 120 days prior to the date the new rate is to go into effect.

“For purposes of computing the rate of return element of carrying costs, the rate of return most recently approved by a regulatory authority shall be used; provided, however, if no regulatory authority has established a rate of return for a party, then the then-applicable FCC default rate of return shall be used.”

“For purposes of determining the reduction in per pole costs attributable to third party attachments, the accounting books and records of the party shall be used and presumptively accepted and each party shall disclose such third party revenue to the other not less than 120 days prior to the date the new rate is to go into effect. The per-pole revenue reduction set forth in Schedule 1 shall be determined by the following formula: Total annual rentals charged to third party attachers that are not Incumbent Local Exchange Carriers (in the case of DP&L) or electric utilities (in the case of AT&T Ohio), divided by total poles owned by the party.

3.10 Article XII, as inserted by the 1942 Supplement, is amended by appending to the end thereof the following paragraph:

“The procedures set forth above provide a mechanism for the parties to adjust and reconcile the number of joint use poles owned by each from a previously established base-line. The parties recognize that, periodically, a new base-line should be established and therefore agree as follows:

“(a) The parties will conduct a joint pole survey not more often than once every ten years and only after one party gives the other party one year's notice of its desire to perform a joint pole survey.

“(b) Notwithstanding the foregoing, the first joint survey will begin no earlier than July 1, 2008, provided that one party gives the other party six months' written notice of its desire to begin.

“(c) AT&T Ohio and DP&L will cooperate in good faith to contract with a mutually acceptable surveyor using mutually acceptable techniques.

“(d) Prior to any survey, AT&T Ohio and DP&L agree to create a Memorandum of Understanding detailing both party's specific requirements, related to data provided and collected, and expenses for a survey of each party's joint and non joint use poles within the Territory Covered, as defined in Article III. Expenses related to joint pole data collected will be split 50/50 and both parties will receive each other's data related to jointly used poles.

“(e) Pole survey results will be used to establish the actual ownership levels of each party prospectively only (i.e. no true-up) beginning with the first annual rental period that begins after the pole survey results have been received. Notwithstanding the foregoing, the results of the first pole survey shall not be used to establish the actual pole ownership levels for any period prior to the 10/1/10-9/30/11 rental period. For the period of time prior to the 10/1/10-9/30/11 rental period, the parties will continue

to use the monthly recapitulation method to determine actual pole ownership levels and there shall be no true-ups.

“(f) With respect to the first pole survey, there shall be no payment pursuant to paragraph 11.303 of the Operating Routine to the extent that unauthorized use is identified as part of the survey. With respect to subsequent joint pole surveys that take place after the first pole survey, to the extent that unauthorized use is therein identified the provisions of 11.303 of the Operating Routine will apply.

“(g) Nothing herein this Article XII shall be deemed to bar during any time period the operation of section 11.303 of the Operating Routine to the extent that unauthorized use is identified in the course of inspection or maintenance by a party of its poles and lines other than as part of a joint pole survey. Upon the discovery of an unauthorized use, the party making such discovery shall promptly notify the other party in writing and, if it is determined that there is an unauthorized use, a one-time payment under 11.303 of the Operating Routine shall be made, the parties shall work together in good faith to authorize such use to the extent feasible, and, the newly authorized attachment will be thereafter reflected in the monthly recapitulations.”

3.11 Article XIII of the 1930 Agreement shall be deleted in its entirety and the following provision is inserted in lieu thereof:

“ARTICLE XIII PERIODIC READJUSTMENT OF RENTALS

“(a) For each year of the five years beginning with October 1, 2006 – September 30, 2007 through October 1, 2010 – September 30, 2011, the deficiency rental shall be determined pursuant to the methodology set forth in Schedule 2.

“(b) Beginning with the period October 1, 2011 – September 30, 2012, the deficiency rental will be reset pursuant to the methodology set forth in Schedule 1 including the sources of data described therein. The deficiency rental as determined thereby shall remain in effect for each year of the five-year period beginning October 1, 2011 – September 30, 2012 and ending after the period October 1, 2015 – September 30, 2016. Thereafter, for each successive five-year period, the deficiency rental period will again be reset according to the methodology set forth in Schedule 1 and shall remain in effect for each of the five years.”

3.12 Article XIV of the 1930 Agreement is deleted in its entirety and the following provision is inserted in lieu thereof:

“ARTICLE XIV DEFAULTS

“If either party shall be in material breach of its obligations under this contract and such material breach continues sixty (60) days after notice thereof in writing from the other party, then the non-breaching party may take whatever steps it deems necessary and appropriate to enforce its rights, up to and including the suspension of the right of the allegedly breaching party to place new attachments; provided, however, that the suspension will be lifted if the allegedly breaching party files a complaint with the Ohio Public Utilities Commission to resolve the

underlying dispute. The power of a non-breaching party to suspend for an alleged material breach does not extend to suspending the right for pre-existing attachments to remain attached to joint use poles owned by the non-breaching party. If the alleged breach relates to the nonpayment of an invoice, the allegedly breaching party will place the disputed amounts in escrow with a third party. A party is not considered to be in default solely by virtue of having to make a deficiency rental payment to the other party, except to the extent such payment is due and unpaid.”

- 3.13 Article XVIII of the 1930 Agreement, as inserted by the 1942 Supplement, is deleted in its entirety and the following is inserted in lieu thereof:

“ARTICLE XVIII – TERM OF AGREEMENT

“This agreement shall continue in full force and effect until September 30, 2012, (the “2007-2012 term”) and thereafter shall automatically renew for successive two (2) year periods, unless either party, in its sole discretion, provides two years prior written notice of termination to be effective at the end of the 2007-2012 term or to be effective at the end of any renewal period. No new attachments shall be permitted after termination. The parties will be able to maintain then-existing attachments after any such termination, but, to the extent that the Ownership Shares differ from the Target Ownership Percentage, the party with the deficiency will continue to make annual payments based on the formula rate and methodology as provided in Schedule 1.”

- 3.14 A new Article XXII is added as follows:

**“ARTICLE XXII – OBLIGATION TO INCREASE OWNERSHIP SHARE TO
THE TARGET OWNERSHIP PERCENTAGE**

“Ownership Shares shall be maintained in line with the Target Ownership Percentage of each party. On June 1 of each year, the parties shall determine which party’s ownership is less than its Target Ownership Percentage and the deficient party shall be responsible for installing (or accepting a “set-and-sell” from the other party) all new and replacement poles until the target balances are restored. Alternatively, and at the deficient party’s sole discretion, the deficient party may purchase poles from the other party at the prices set forth in the then-applicable Schedule A to the Operating Routine. Under this latter option, identification of poles to be sold will be jointly determined by the joint use personnel within the two parties and, if they cannot agree, the matter will be resolved by good faith negotiations of more senior management. If the parties are unable to agree as to which poles will be purchased by the deficient party, then the deficient party shall set all new joint poles and replacement poles until the Target Ownership Percentage is achieved.

“The expectation of the parties is that this provision will operate such that deviations from the Target Ownership Percentages will not be significant, thereby reducing to the extent feasible the size of any deficiency rental owed under Article XI and that such deviations are addressed annually by the parties so that any deviations that do arise will tend to be reduced from one year to the next.

“Operating Routine paragraph 10.101 provides additional specific guidance with respect to the treatment of replacement poles.

ARTICLE 4

AMENDMENTS TO THE 1942 SUPPLEMENT

- 4.1 The Article XII provisions to the 1930 Agreement as added by the 1942 Supplement remain in effect with the modifications set forth in section 3.10 above. All other provisions of the 1942 Supplement, except with respect to those specifying an effective date, are of no further force and effect.

ARTICLE 5

AMENDMENTS TO THE OPERATING ROUTINE

- 5.1 Paragraph 1.101 of the Operating Routine is modified to delete the phrase “40 ft., Class 5,” and substituting therefore “40 ft., Class 4 or 5.”
- 5.2 Paragraph 1.201 of the Operating Routine is modified to delete the word “exclusive.”
- 5.3 Paragraph 1.203 of the Operating Routine is modified to delete the word “exclusive” in the two places that it is used.
- 5.4 A new Paragraph 1.204 of the Operating Routine is added as follows: “Nothing within this Operating Routine, including but not limited to sections 1.201 – 1.203 and 1.308, shall be interpreted to modify the right of an Owner to license a third party attachment within the Standard Space or Reserved space of Licensee under Article VII(c) of the Joint Use Pole Agreement.”
- 5.5 Paragraph 1.308 is deleted in its entirety and the following inserted in lieu thereof:
“Attachments of third parties, except those parties provided for in Paragraph 1.307, shall be provided and licensed by Owner, without regard to the nature of the attachment.”
- 5.6 A new Paragraph 6.205 is added as follows:

"The monthly recapitulation mechanism described herein is used to determine changes in joint pole ownership from a base line that has been established and this mechanism is not intended to supersede or modify provisions in the Joint Pole Use Agreement, as amended, that would result in establishing new base lines from time-to-time."

5.7 Paragraph 10.101 is deleted in its entirety and the following inserted in lieu thereof:

"The Joint Pole Use Agreement, as amended, sets forth the obligations of each party to own a sufficient number of joint poles to meet its Target Owner Percentage and further describes the mechanisms for bringing a party's Ownership Share to the Target Ownership Percentage. One such mechanism is to permit the party with an Ownership Share less than its Target Ownership Percentage to replace poles of the other party when such replacements are in order. If that mechanism is used, then the parties must agree as to which poles are to be replaced and agree herein that:

"(1) Existing joint poles. The new owner prepares the Proposal to set new joint poles and abandon contact on the existing poles, paying sacrificed life on existing poles where applicable. Original owner accepts joint use on the new poles and bills the amount of sacrificed life, if any.

"(2) Existing non-joint poles. The new owner prepares the Proposal to set the new joint poles, paying sacrificed life on existing poles where applicable. Original owner accepts joint use on the new pole and bills the amount of sacrificed life, if any.

"(3) In (1) and (2) above, the removal and disposition of the old pole shall be in accordance with Paragraph 1.401."

- 5.8 Paragraph 11.202 is deleted in its entirety and the following inserted in lieu thereof: "On the first day of October of each year, the differences in Ownership Share and Target Ownership Percentage shall be determined and used for purposes of determining the deficiency rental. The number of joint poles owned by each party shall be determined based on the last entry on the September Monthly Recapitulation of each party in the columns headed "Gross Poles Added." In the event that a new base-line of pole ownership is established, then the monthly recapitulations shall reflect the new base-line. The party obligated to make a deficiency rental payment and the size of that deficiency rental payment shall be determined pursuant to the mechanisms established in the Joint Pole Use Agreement, as amended.
- 5.9 Paragraph 11.303 shall be modified to delete the number "\$4.00 per pole" and insert in lieu thereof: "twice the then-applicable per pole deficiency rental per pole".
- 5.10 Paragraph 11.401(b) is deleted, with subsequent subparagraphs renumbered and Schedule 1-A to the Operating Agreement is deleted.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their representatives, duly authorized as of the date hereof.

AT&T Ohio

By:

Ann Kendall

Name:

Ann Kendall

Title:

ASSOC. Director-OSPE
Services

The Dayton Power and Light Company

By:

Scott Kella

Name:

Scott Kella

Title:

Senior Vice President,
Service Operations

SCHEDULE 1

DEFICIENCY RENTAL COMPUTATION

One-half the Average Net Annual Per Pole Cost times Pole Deficiency equals Deficiency Rental Owed.

Pole Deficiency is calculated as follows:

Step 1: Determine which entity has an Ownership Share less than its Target Ownership Percentage. That party is the Deficient Party. The other party is the Excess Party.

Step 2: Add the sum of

For the Deficient Party: (Target Ownership Percentage x Total Number of Joint Poles) – Actual Poles Owned

For the Excess Party: Actual Poles Owned – (Target Ownership Percentage x Total Number of Joint Poles)

Average Net Annual Per Pole Cost = The sum of the (Annual Per Pole Cost of each party, net of 3rd Party Revenue Offset) divided by 2.

Annual Per Pole Cost for DP&L = See Schedule 1-A

Annual Per Pole Cost for AT&T Ohio = See Schedule 1-B

Third Party Revenue Offset =

For DP&L: Total annual rental amounts charged in the prior 12 months to attaching entities that are not Incumbent Local Exchange Carriers and are attached to DP&L's poles in its Ohio service territory, divided by DP&L's total number of poles within its Ohio service territory.

For AT&T Ohio: Total annual rental amounts charged in the prior 12 months to attaching entities that are not electric utilities and are attached to AT&T's poles in its Ohio service territory, divided by AT&T's total number of poles within its Ohio service territory.

The Dayton Power and Light Company
Annual Per Pole Cost

<u>Line No.</u>	<u>Description</u>	<u>Reference</u>
1	<u>Net Cost of a Joint Use Pole</u>	
2	Gross Distribution Plant	FF No. 1, pg 207, col (g), line 75
3	Gross Pole Investment (Acct. 364)	FF No. 1, pg 207, col (g), line 64
4	Distribution Plant Accumulated Depreciation (Acct 108)	FF No. 1, pg 219, col (c), line 26
5	Accumulated Depreciation Attributable to Poles	Line 4 x (Line 3 / Line 2)
6	Total Gross Electric Plant	FF No. 1, pg 207, col (g), line 95
7	Less: Intangible Plant	FF No. 1, pg 205, col (g), line 5
8	Adjusted Gross Electric Plant	Line 6 - Line 7
9	Accumulated Deferred Taxes	
10	Account 190	FF No. 1, pg 234, col (c), line 18
11	Account 281	FF No. 1, pg 273, col (k), line 8
12	Account 282	FF No. 1, pg 275, col (k), line 2
13	Account 283	FF No. 1, pg 277, col (k), line 9
14	Total Accumulated Deferred Taxes	Sum Lines 10 thru 14
15	Accumulated Deferred Taxes Attributable to Poles	Line 14 x (Line 3 / Line 8)
16	Net Pole Investment	Line 3 + Line 5 + Line 15
17	Appurtenances Factor	FCC Calculation
18	Net Pole Investment Allocable to Attachments	Line 16 x Line 17
19	Total Number of Poles	DP&L Records
20	Net Cost of a Bare Pole	Line 18 / Line 19
21		
22	<u>Carrying Charge Calculation</u>	
23	Total General and Administrative Expenses	FF No. 1, pg 323, col (b), line 188
24	Adjusted Gross Electric Plant	Line 8
25	Total Accumulated Depreciation (Acct. 108)	FF No. 1, pg 219, col (c), line 28
26	Total Accumulated Deferred Taxes	Line 14
27	Net Electric Plant in Service	Line 24 + Line 25 + Line 26
28	Administrative Carrying Charge	Line 23 / Line 27
29		
30	Maintenance of Overhead Lines (Acct 593)	FF No. 1, pg 322, col (b), line 119
31	Investment in Overhead Lines (Accts 364, 365, 369)	FF No. 1, pg 206, col (g), lines 64 + 65 + 69
32	Accumulated Depreciation Attributable to Accts 364, 365, 369	(Line 31 / Line 2) x Line 4
33	Accumulate Deferred Income Taxes for 364, 365 & 369	(Line 31 / Line 8) x Line 14
34	Net Investment in Accts 364, 365, 369	Line 31 + Line 32 + Line 33
35	Maintenance Carrying Charge	Line 30 / Line 34
36		
37	Distribution Depreciation Expense	FF No. 1, pg 336, col (f), line 8
38	Gross Pole Investment (Acct. 364)	Line 3
39	Net Pole Investment	Line 16
40	Depreciation Rate for Gross Pole Investment	Line 37 / Line 2
41	Depreciation Carrying Charge	Line 38 / Line 39 x Line 40
42		
43	Taxes (Accts. 408.1 + 409.1 + 410.1 + 411.4 - 411.1)	FF No. 1, pg 115, col (g), Line 14 thru 19
44	Net Electric Plant in Service	Line 27
45	Taxes Carrying Charge	Line 43 / Line 44
46		
47	Applicable Rate of Return	DP&L Case No. 05-276-EL-AIR
48	Return Carrying Charge	Line 47
49		
50	Total Carrying Charges	Line 28+Line 35+Line 41+Line 45+Line 48
51		
52		
53	<u>Rate Calculation</u>	
54		
55	Net Cost of a Bare Pole	Line 20
56	Total Carrying Charges	Line 50
57	Annual Per Pole Cost	Line 55 x Line 56

AT&T Ohio
Annual Per Pole Cost

Line No.	Description	Reference
1	<u>Cost of a Joint Use Pole (Gross Investment Method)</u>	
2	Gross Pole Investment (Acct. 2411)	ARMIS Table III, Row 101
3	Appurtenances Factor	FCC Default
4	Bare Pole Cost	Line 11 x Line 12
5	Total Number of Poles	ARMIS Table III, Row 601
6	Cost of a Bare Pole (Gross Investment Method)	Line 12 / Line 13
7		
8	<u>Carrying Charge Calculation</u>	
9	Total A&G Expenses (Accts. 6710/6720)	ARMIS Table III, Row 503 (both accounts included)
10	Gross Plant Investment (Acct. 2001)	ARMIS Table III, Row 100
11	Administrative Carrying Charge	Line 9 / Line 10
12		
13	Pole Maintenance Expense (Acct. 6411)	ARMIS Table III, Row 501
14	Pole Rental Expense	ARMIS Table III, Row 501.2
15	Net	Line 13 - Line 14
16	Gross Pole Investment (Acct. 2411)	ARMIS Table III, Row 100
17	Maintenance Carrying Charge	Line 30 / Line 34
18		
19	Depreciation Carrying Charge for Poles (Acct. 2411 Poles)	ARMIS Table III, Row 301
20		
21	Operating Taxes (Acct. 7200 Operating Tax)	ARMIS Table III, Row 504
22	Gross Plant Investment (Acct. 2001)	ARMIS Table III, Row 100
23	Taxes Carrying Charge	Line 43 / Line 44
24		
25	Applicable Rate of Return	FCC Default Rate
26	Gross Pole Investment (Acct. 2411)	ARMIS Table III, Row 101
27	Total Accumulated Depreciation (Acct. 3100)	ARMIS Table III, Row 200
28	Pole Accumulated Depreciation	ARMIS Table III, Row 201
29	Total Accumulated Deferred Taxes (Accts. 4100/4340)	ARMIS Table III, Row 403 + 406
30	Pole Accumulated Deferred Taxes	ARMIS Table III, Row 401, 404
31	Net Pole Investment	Line 26 - Line 28 - Line 30
32	Return Carrying Charge	Line 25 * Line 31 / Line 28
33		
34	Total Carrying Charges	Line 11 + Line 17 + Line 19 + Line 23 + Line 32
35		
36	<u>Rate Calculation</u>	
37		
38	Cost of a Bare Pole (Gross Investment Method)	Line 6
39	Total Carrying Charges	Line 34
40	Annual Per Pole Cost	Line 38 x Line 39

SCHEDULE 2
APPLICABLE FOR PERIODS
OCTOBER 1, 2006 – SEPTEMBER 30, 2007
THROUGH
OCTOBER 1, 2010 – SEPTEMBER 30, 2011

\$30.00 times Pole Deficiency equals Deficiency Rental Owed.

Pole Deficiency is calculated as set forth in Schedule 1.

ATTACHMENT 2

Joint Pole Line Agreement Pole Rental Contract of 1930

JOINT POLE LINE
AGREEMENT
POLE RENTAL CONTRACT

DOCUMENT FILE

No. 1396

THE DAYTON POWER
& LIGHT COMPANY

Entered into between The Dayton
Power and Light Co.

of

Dayton, Ohio

and

The Ohio Bell Telephone Company

of

Columbus, Ohio

This copy for The Dayton Power
and Light Company

JOINT POLE LINE
AGREEMENT
POLE RENTAL CONTRACT

This agreement, made this *17th* day of *March*, 1930, by and between The Dayton Power and Light Company, a corporation organized and existing under the laws of the State of Ohio, hereinafter referred to as the "Electric Company", party of the first part, and The Ohio Bell Telephone Company, a corporation organized and existing under the laws of the State of Ohio, hereinafter referred to as the "Telephone Company", party of the second part.

WITNESSETH:

WHEREAS, The Electric Company and the Telephone Company desire to establish joint use of their respective poles when and where joint use shall be of mutual advantage; and

WHEREAS, the conditions determining the necessity or desirability of joint use depend upon the service requirements to be met by both parties, including considerations of safety and economy, and each of them should be the judge of what the character of its circuits should be to meet its service requirements and as to whether or not these service requirements can be properly met by the joint use of poles.

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, unless the context indicates otherwise, shall have the following meaning:

- / ATTACHMENTS are any material or apparatus now or hereafter used by either party in the construction, operation or maintenance of its plant carried on poles.
- / JOINT USE is maintaining the attachments of both parties on the same pole at the same time.
- / JOINT POLE is a jointly used pole or a pole upon which specific space is provided under this agreement for the attachments of both parties, whether such space is actually occupied by attachments or not.
- / LICENSEE AND OWNER: Licensee is the party having the right under this agreement to make attachments to and use a pole, the property of the other party to this contract.
- / TRANSFERRING is the moving of attachments from one pole and placing them upon another.
- / REARRANGING is the moving of attachments from one position to another on a joint pole.
- / TRANSFERRING AND REARRANGING include any tree cutting or trimming incidental thereto and the obtaining of all necessary rights or permits therefor.
- POLE AND POLES include, respectively, the singular and plural.

STANDARD SPACE is the following described space on a joint pole for the exclusive use of each party, respectively, (except only as to the portion of its said space which, by the terms of the specifications provided for in Article VI hereof may be occupied by certain attachments therein described of the other party:) (1) for the Electric Company, the uppermost four (4) feet; (2) for the Telephone Company, a space of three (3) feet at a sufficient distance below the space of the Electric Company to provide at all times the minimum clearance required by the specifications referred to in Article VI, and at a sufficient height above the ground to provide the proper vertical clearance for the lowest horizontally run line wires or cables attached in such space.

RESERVED, As applied to space on a pole, means that such space is occupied space provided and maintained by the Owner either for its own exclusive use, or expressly for the Licensee's exclusive use at the Licensee's request.

STANDARD JOINT POLE is a 35 foot wood pole for rear lot construction and a 40 foot wood pole for street construction. All poles to be Class "C" poles.

ARTICLE II

LIABILITY CLAUSE

Whenever any liability, hereinafter designated as "such liability", shall be incurred by or arise against either or both of the parties hereto for damages, for injuries or accident to and/or death of an employee or employees of either party hereto, or for injury to the property of either party hereto, or for

injuries to the person and/or property or on account of the death of any person or persons not parties to this contract, nor employees of either party hereto, arising out of or connected with the joint use of poles hereunder or due to the proximity to each other of the wires and/or fixtures of the parties to this contract attached to poles covered hereby, or due to negligence of either or both parties hereto or to any other cause, any and all "such liability", which term shall include all expenses and attorney fees incurred by the parties hereto, or either of them in connection therewith, shall as between the parties hereto be assumed and borne by them as follows, and either party hereto which by the terms hereof is to assume and bear all such liability in any particular case or cases shall save and hold the other party free and harmless therefrom. The term "line" or "lines" in this Article includes wires, cables, fixtures, and appliances forming part of a line or lines and used, designed to be used, or useful in, the operation thereof.

/ (a) All such liability to persons not parties to this contract nor employees of either party hereto for either personal or property damage or both, and/or for the death of a person not an employee of either of the parties hereto due wholly to the failure of the Electric Company to erect, construct, and/or maintain its lines in accordance with the provisions hereof, or to any negligence on its part, shall be assumed and borne by it.

/ (b) All such liability to persons not parties to this contract nor employees of either party hereto for either personal or property damage or both and/or for the death of a person not an employee of either of the parties hereto due wholly to the failure of the Telephone Company to erect, construct, and/or maintain its

lines in accordance with the provisions hereof or to any negligence on its part, shall be assumed and borne by it.

J. (c) All such liability to persons not parties to this contract nor employees of either party hereto for either personal or property damages and/or for the death of a person not an employee of either party hereto due to negligence of both parties hereto or due to causes which cannot be traced to the negligence of either party hereto, shall be borne by them equally, that is, each shall assume and bear one-half thereof; provided, however, that in any case under this paragraph where the claimant desires to settle any such claim upon terms acceptable to one of the parties hereto but not to the other, the party to which such terms are acceptable, may at its election, pay to the other party one-half of the expense which such settlement would involve, and thereupon the other party shall be bound to protect the party making such payment from all further liability and expenses on account of such claim.

(d) In the event an employee of the Electric Company should be injured or killed while in the course of his employment upon or in connection with the poles or any of them jointly used hereunder or the lines upon any such poles, and he or his dependents should claim such injury or death was due to negligence of the Telephone Company in connection with such pole or lines or their operation and should sue the Telephone Company for damages based upon such alleged negligence and such suit should result in a judgment and be paid or satisfied by it or such claim should be settled by the Telephone Company with the consent of the Electric Company either before or after suit, then notwithstanding such judgment or settlement, the question of whether such injury was due to

negligence of the Telephone Company, or the Electric Company, or both, shall within 30 days from payment or satisfaction of the judgment or settlement be considered jointly by three persons in the organization of each party hereto to be designated by their respective officers. If the conclusion is reached by the designated representatives of the parties hereto that such injury or death was not due nor proximately contributed to by negligence of the Telephone Company, or was due to negligence of the Electric Company or of both companies, or if a majority of such representatives should fail to agree in regard to the matter, then, if the sum paid by the Telephone Company to satisfy such judgment or in settlement, including interest thereon and costs of suit, should be in excess of the sum paid by the Electric Company under the Workmen's Compensation Law of Ohio because of such casualty, one-half of such excess shall be paid by the Electric Company to the Telephone Company.

At the request of the Telephone Company, the Electric Company shall assist in the defense of any such suit.

(e) In the event an employee of the Telephone Company should be injured or killed while in the course of his employment upon or in connection with the poles or any of them jointly used hereunder or the lines upon any such poles, and he or his dependents should claim such injury or death was due to negligence of the Electric Company in connection with any such pole or lines or their operation and should sue the Electric Company for damages based on such alleged negligence and such suit should result in a judgment and be paid or satisfied by it or such claim should be settled by the Electric Company with the consent of the Telephone Company either before or after suit, then notwithstanding such judgment or settlement, the question of whether such injury was due to negligence

of the Electric Company, or the Telephone Company, or both, shall within 30 days from payment or satisfaction of the judgment or settlement be considered jointly by three persons in the organization of each party hereto to be designated by their respective officers. If the conclusion is reached by the designated representatives of the parties hereto that such injury or death was not due nor proximately contributed to by negligence of the Electric Company, or was due to negligence of the Telephone Company or of both companies, or if a majority of such representatives should fail to agree in regard to the matter, then, if the sum paid by the Electric Company to satisfy such judgment or in settlement, including interest thereon and costs of suit, should be in excess of the sum paid by the Telephone Company under the Workmen's Compensation Law of Ohio because of such casualty, one-half of such excess shall be paid by the Telephone Company to the Electric Company.

At the request of the Electric Company, the Telephone Company shall assist in the defense of any such suit.

(f) The designated representatives provided for in paragraphs (d) and (e) of this Article shall determine whether or not the employee so injured was himself negligent in such a manner as to contribute to his injury or death. If such an employee was negligent in such a manner as to contribute to his injury or death, his negligence shall be deemed the negligence of the party by which he was employed.

(g) Each party hereto shall pay one-half the costs and expenses of each investigation under paragraphs (d), (e), and (f) of this Article.

(h) All such liability to persons not parties to this contract, nor employees of either party hereto, for personal injuries or for the death of a person or persons not employees of either party, due to the use of pole steps by such a person or persons on any of the poles contemplated by this agreement shall be borne by the party for whose use the pole steps were installed or permitted on the pole, and it shall hold the other party free and harmless from any and all damages resultant from such injury.

(i) The Electric Company shall assume and bear all damage to its own property resulting from the joint use of poles under this contract, and shall make no claim against the Telephone Company therefor, except when due solely to negligence of the Telephone Company.

(j) The Telephone Company shall assume and bear all damage to its own property resulting from the joint use of poles under this contract, due to any cause whatsoever, and shall make no claim against the Electric Company therefor, except when due solely to negligence of the Electric Company.

(k) The term "injuries" in this Article as applied to persons shall include death due to injury as well as injuries not resulting in death; and the terms "employee", "employees", "person", "persons", "pole", "poles", "line", "lines", shall include both the singular and plural.

ARTICLE III

TERRITORY COVERED

This agreement shall cover all existing poles of each of the parties and any other poles hereafter erected or acquired by either of them within the following territory:)

The City of Dayton and contiguous territory;

The City of Lima and contiguous territory;)

The City of Xenia and contiguous territory;)

The City of Washington Court House and contiguous territory;

and such other cities or villages as may be mutually agreed

upon by the parties hereto; all in the State of Ohio.

excepting therefrom, however, -

(1) poles which, in the Owner's judgment are necessary for its own sole use; and

(2) poles which carry, or are intended by the Owner to carry, circuits of such a character that in the Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

ARTICLE IV

RIGHT OF JOINT USE GRANTED

Each party hereto grants to the other the right to use its poles subject to the terms and conditions herein stated.

ARTICLE V

PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

When either party desires to change the character of its circuits on jointly used poles, such party shall give reasonable notice to the other party of such contemplated change and in the event that the other party agrees to joint use with such

changed circuits, then the joint use of such poles shall be continued with such changes in construction as may be required to meet the terms of the Administrative Order No. 72 of The Public Utilities Commission of Ohio or any revision or modification thereof for the character of circuits involved. In event, however, that the other party fails within ten days from receipt of such notice to agree in writing to such change then both parties shall cooperate in accordance with the following plan.

- (1) The parties hereto shall determine what circuits shall be removed from the joint poles involved, and the net cost of establishing in a new location such circuits or lines as may be necessary to furnish same business facilities that existed in the joint use referred to at the time such change was decided upon.
- (2) The cost of moving such circuits to the new location shall be equitably apportioned between the parties hereto. In event of disagreement as to what constitutes an equitable apportionment of such cost, each of the parties hereto shall bear one-half thereof.

Unless otherwise agreed by the parties, ownership of any new line constructed under the foregoing provision in a new location shall vest in the party for whose use it is constructed. The net cost of establishing service in the new location shall be exclusive of any increased cost due to the substitution for the existing facilities of other facilities of a substantially new or improved type or of increased capacity, but shall include the cost of the new pole line, including rights-of-way, the cost of removing attachments from the old poles and the cost of placing the attachments on the poles in the new location.

ARTICLE VI

SPECIFICATIONS

Except as otherwise provided in Sections (a) and (b) of Article IX, the joint use of poles covered by this agreement

shall at all times be in conformity with specifications mutually agreed upon by the parties hereto; which specifications shall, as nearly as practicable, be in conformity with, or based upon, the provisions of Administrative Order No. 72 of The Public Utilities Commission of Ohio, or any revision or modification thereof. Said specifications are to be appended to and become a part of this contract, and may be changed or modified upon mutual agreement.

ARTICLE VII

PLACING, TRANSFERRING OR REARRANGING ATTACHMENTS

(a) Whenever the Licensee desires to place on any pole of the Owner within the territory covered by this agreement, any attachments requiring space thereon not then specifically reserved hereunder for the use of the Licensee, the Licensee shall, before placing its attachments on said pole, give to the Owner written notice thereof, specifying in such notice the location of the pole in question and the number and kind of attachments which the Licensee desires to place thereon and the character of the circuits to be used. Within ten (10) days after the receipt of such notice the Owner shall notify the Licensee in writing, whether or not said pole is of those excepted under the provisions of Article III. Upon receipt by the Licensee of notice from the Owner that said pole is not of those excepted and after the completion of any transferring or rearranging which is then required in respect to said pole, it may proceed to place its attachments thereon. No guarantee is given by the Owner of permission from property owners, municipalities or others for the use of its pole 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 upon ten (10) days notice in writing to the Licensee require the Licensee to remove its attachments from the poles involved, and the Licensee shall, within ten (10) 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 whatever for such removal or the manner of making it, for which expense the Licensee shall reimburse the Owner on demand.

(b) Except as herein otherwise expressly provided, each party shall, at its own expense, 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 the service of the other party.

ARTICLE VIII

ERECTING, REPLACING OR RELOCATING POLES

(a) 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 promptly 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 the conditions may require.

(b) Whenever it is necessary to change the location of a jointly used pole, by reason of any state, municipal or other governmental requirements, or the requirement of a property owner, the Owner shall, before making such change in location, give notice thereof in writing to the Licensee, specifying in such notice

the time of such proposed relocation, and the Licensee shall at its own expense, at the time so specified, transfer its attachments to the pole at the new location.

(c) Whenever either party hereto is about to erect a new pole line within the territory covered by this agreement, either as an additional pole line, as an extension of an existing pole line, or as the reconstruction of an existing pole line, and if the poles of such new line so to be erected are not those to be excepted from joint use, such party shall give written notice to that effect to the other party at least sixty (60) days before beginning the work of erecting such new poles (shorter notice may be given in cases of emergency) and shall submit with such notice its plans showing the proposed location and character of the new poles, the character of the circuits to be used, and the amount of space thereon that it requires for its own use together with standard space for the use of the other party. The other party shall, within ten (10) 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, whether the plans submitted satisfactorily provide for the requirements of such other party; and if not, such other party shall then specify in writing what its requirements are. If such other party requests space on the new poles, and if the space so requested is greater than standard space, said plans shall be so modified as to provide the additional space so requested, and the pole line shall thereupon be erected in accordance with said modified plans.

(d) In any case where the parties hereto shall conclude arrangements for the joint use hereunder of any new poles to be

erected, the ownership of such poles shall be determined by mutual agreement, due regard being given to the desirability of avoiding mixing ownership in any given line. In the event of disagreement as to ownership, the party then owning the smaller number of joint poles under this agreement shall erect the new joint poles and be the owner thereof.

(e) The party which is to own the new poles shall obtain if possible, rights-of-way which will not permit property owners to object to the use of the poles by the Licensee. In obtaining rights-of-way, each party shall insofar as practicable use similar right-of-way forms.

(f) The costs of erecting new joint poles coming under this agreement, either as new pole lines, as extensions of existing pole lines or to replace existing poles, shall be borne by the parties as follows:

1. A standard joint pole, or a joint pole shorter than the standard, shall be erected at the sole expense of the Owner.
2. A pole taller and/or stronger than the standard, 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.
3. In the case of a pole taller and/or stronger than the standard, the extra height and/or strength of which is due wholly to the Licensee's requirements, the Licensee shall pay to the Owner a sum equal to the difference between the cost in place of such pole and the cost in place of a standard joint pole; the remaining cost of erecting such pole to be borne by the Owner.
4. In the case of a pole taller and/or stronger than the standard, the extra height 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 difference between the cost in place of such pole and the cost in place of a standard joint pole, the remaining cost of erecting such pole to be borne by the Owner.

✓ 5. In the case of a pole taller and/or stronger than the standard, where a height and/or strength in addition to that needed for the purpose of either or both of the parties hereto is necessary in order to meet the requirements of public authority or of property owners, one-half of the excess cost of such pole due to such requirements shall be borne by the Licensee; the remaining cost of such pole to be borne as provided in that one of the preceding paragraphs, 1, 2, 3, 4, within which it would otherwise properly fall.

✓ (g) In any case where a pole is erected hereunder to replace another pole solely because such other pole is not tall and/or strong enough to provide adequately for the Licensee's requirements, the Licensee, upon erection of the new pole, shall pay to the Owner, in addition to any amount payable by the Licensee under paragraphs 3, 4, or 5 of Section (e) of this Article a sum equal to the then net value in place of the pole which is replaced.

(h) Any payment made by the Licensee under the foregoing provisions of this Article for poles taller than standard are in lieu of increased rentals and do not in any way affect the ownership of said poles.

(i) When replacing a jointly used pole carrying terminals or serial cable, underground connections or transformer equipment, the new pole shall be set in the same hole which the replaced pole occupied, unless in order to meet special preponderating conditions.

it is necessary, or desirable, to set it in a different location, agreeable to both parties hereto.

ARTICLE IX

(a) The Owner shall, at its own expense, maintain its joint poles in a safe and serviceable condition, and in accordance with the Administrative Order No. 72 of The Public Utilities Commission of Ohio or any revision or modification thereof, and/or any orders of a similar nature which may be issued by the said body, or in accordance with specifications mutually agreed upon by the parties hereto and in conformity with the provisions of Article VI of this contract, and shall replace such of said poles as become defective. Except as otherwise provided in Section (b) of this Article, each party shall, at its own expense, at all times maintain all of its attachments in accordance with said Administrative Order No. 72, and keep them in a safe condition and in thorough repair; provided, however, that neither party shall be required to rearrange any cable installed prior to the date of this agreement, and carried on the street side of any pole, so as to occupy the field side thereof.

(b) Any existing joint use construction of the parties hereto which does not conform to the said specifications shall be brought into conformity therewith as follows:

Within one year from the date of this agreement, ten (10) percent of the poles involved in such existing joint use construction, and the attachments on said poles, and thereafter ten (10) percent per annum shall be brought into conformity with said specifications; provided, however, that this provision shall not be so applied as to require any then existing cables carried on

the street side of any such poles to be rearranged to occupy the field side thereof.

When such existing joint use construction shall have been brought into conformity with said specifications, it shall at all times thereafter be maintained as provided in Section (a) of this Article.

The cost of bringing such existing joint use construction into conformity with said specifications shall be borne by the parties hereto in the manner provided in Section (b) of Article VII and section (f) of Article VIII.

ARTICLE X

TERMINATION OF JOINT USE

(a) If the Owner desires at any time to abandon any joint pole, it shall give the Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to abandon such pole. If, at the expiration of said period, the Owner shall have no attachments on such pole but the Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of the Licensee, and the Licensee shall save harmless the former Owner of such pole from all obligation, liability, damages, cost, expenses or charges incurred thereafter, because of, or arising out of, the presence or condition of such pole or of any attachments thereon the property of the Licensee; and shall pay the Owner a sum equal to the then value in place of such abandoned pole or poles or such other equitable sum as may be agreed upon between the parties.

(b) The Licensee may at any time abandon the use of a joint pole by removing therefrom all of its attachments, and

giving ten (10) days notice in writing thereof to the Owner. The Licensee shall in such cases pay to the Owner the full rental for said pole for the then current year.

ARTICLE XI

RENTALS

The Licensee shall pay to the Owner as rental for the use of each and every pole any portion of which is occupied by or reserved for the attachments of the Licensee, Two Dollars (\$2.00) per pole per annum.

No rental shall be paid by the Licensee for the use of any pole of the Owner where such use consists only in attaching guys thereto, or in attaching thereto wires or cable of the Licensee for the purpose of providing clearance between the pole and such wires or cables, and not for the purpose of supporting the said wires or cables.

ARTICLE XII

RENTAL PAYMENTS

Payments of all rentals under this agreement shall be made on the first day of February in each year during the continuance of this agreement; the first payment to be made on the first day of February, 1931, for the period beginning with the date of this agreement and ending on the first day of October, 1930. The rentals payable for said period shall be based upon a written statement to be submitted by each party hereto to the other on or before the first day of December, 1930, giving the number of poles of each party on which space was occupied by, or reserved for, the attachments of the other party on the first day of October, 1930.

Thereafter each party shall submit to the other party

on or before the first day of December in each succeeding year, a written statement, as of the first day of October, in each such year, giving the number of the poles of each party on which space was occupied by, or reserved for, the attachments of the other party, and each such statement shall be used as the basis of the rental charge for the year for which such statement is submitted, as hereinafter provided.

Every such statement, including the statement first above provided for, shall be deemed to be correct unless written notice of errors claimed to exist therein shall be given within sixty (60) days from the receipt of such statement, to the party submitting the statement by the party to which the statement was submitted. In case of dispute concerning the correctness of any such statement, a joint inspection of the pole or poles in dispute shall thereupon be made; such inspection to be begun within ten days (10) after notice of errors claimed to exist therein shall have been given as aforesaid, and to be completed within a reasonable time thereafter. A written report of such inspection, signed by the inspectors of both parties, shall be made, and, upon the approval of such report by the officers of both parties such statement shall, if shown to be incorrect, be corrected accordingly.

ARTICLE XIII

PERIODICAL READJUSTMENT OF RENTALS

At the expiration of five (5) years from the date of this agreement, and at the end of every five (5) year period thereafter, the rental per pole per annum thereafter payable hereunder shall be subject to readjustment at the request of either party made in writing to the other not later than sixty

(60) days before the end of any such five (5) year period. If within sixty (60) days after the receipt of such a request by either party from the other, the parties hereto shall fail to agree upon a readjustment of such rental, then the rental per pole per annum so to be paid shall be an amount equal to one-half of the then average total annual cost per pole of providing and maintaining the standard joint poles covered by this agreement. In case of a readjustment of rentals as herein provided, the new rentals shall be payable until again readjusted.

ARTICLE XIV

DEFAULTS

If either party shall make default in any of its obligations under this contract and such default continue thirty (30) days after notice thereof in writing from the other party, all rights of the party in default hereunder shall be suspended, including its right to occupy jointly used poles, until such default has been made good, and in addition and without affecting such suspensions, if the Owner shall fail to perform its obligations hereunder to properly maintain and to promptly renew joint poles after thirty days notice from the Licensee, the Licensee shall have the right to maintain such poles or to renew the same at the expense of the Owner and it shall be the duty of the Owner to immediately reimburse the Licensee for such expense upon the rendition of bills therefor.

ARTICLE XV

BILLS AND PAYMENT FOR WORK

Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in

part by the other, the party performing the work shall present to the other party, within ninety (90) days after the completion of such work, an itemized statement showing the entire cost of the labor and material employed therein, supervision and all overhead charges, and such other party shall, within thirty (30) days after such statement is presented, pay to the party doing the work such other party's proportion of the cost of said work.

ARTICLE XVI

PRE-EXISTING OBLIGATIONS

If either of the parties hereto has, prior to the execution of this agreement conferred upon others, not parties to this agreement, by contract or otherwise, rights and privileges to use any pole covered by this agreement, nothing herein contained shall be construed as affecting said rights and privileges, and either party hereto shall have the right, by contract or otherwise, to continue and extend such existing rights and privileges; it being expressly understood, however, that for the purposes of this agreement, the attachments of any outside party shall be treated as attachments belonging to the grantor, and the rights, obligations, and liabilities hereunder of the grantor, in respect to such attachments, shall be the same as if it were the actual owner thereof, excepting, however, such wires and attachments as are erected on the pole of either party by order of municipal authority or in compliance with ordinances or franchises.

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 Electric Company at its office at 205 East First Street, Dayton, Ohio, or its principal office in said city, or to the Telephone Company at its office at Dayton, Ohio, or as the case may be, to such other address as either party may from time to time designate in writing for that purpose.

ARTICLE XVIII

TERM OF AGREEMENT

✓ This agreement shall continue in full force and effect for five (5) years from date hereof, and thereafter until terminated as follows: either party may, by giving five (5) years previous notice in writing to the other party, and by removing within five (5) years from date of said notice its attachments from the poles of the other party, terminate this agreement. Thereupon and after the expiration of said five (5) year period, such other party shall have no further rights hereunder with respect to the poles of the party so cancelling this agreement, and shall within the five (5) year period so provided for remove its attachments from the poles of the other party. In case of its failure to do so, the owner of the poles in question may, at the expense and risk of the delinquent party and without incurring any liability, remove the delinquent party's attachments therefrom, and in the meantime, and until such removal, such other party shall continue and remain liable for all obligations hereunder with respect to its attachments remaining on the poles.

of the party so cancelling this agreement, for the rentals therefor, and for damages due to accidents, in the same manner and to the same extent as if this agreement had not been terminated as aforesaid.

Upon the termination of this agreement, as herein provided, the rental charges for the then current year, payable hereunder by either party to the other and then unsettled, shall be adjusted to the respective dates of the removal of the attachments of each party from the poles of the other, as hereinabove provided, and the amount then payable by each party to the other party shall be paid within three (3) months after the date of the termination of this agreement and after receipt of proper bills therefor.

ARTICLE XIX

ASSIGNMENT OF RIGHTS

Except as otherwise provided in this agreement, neither party hereto shall assign or otherwise dispose of this agreement, or any of its rights or interests hereunder, or in any of the jointly used poles, or the attachments or rights-of-way covered by this agreement, to any firm, corporation or individual, without the written consent of the other party; provided, however, that nothing herein contained shall prevent or limit the right of either party to make a general mortgage in the usual form on any or all of its property, rights, privileges, and franchises, or a lease or transfer of any of them to another corporation organized for the purpose of conducting 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 the case of such lease, transfer, merger

or consolidation, its rights and obligations hereunder shall pass to, and be acquired and assumed by the purchaser on foreclosure, the transferee, lessee, assignee, merging or consolidating company, as the case may be; and provided, further, that subject to all the terms and conditions of this agreement, either party may permit any corporation conducting a business of the same general character as that of such party, and owned, operated, leased or controlled by it, or associated or affiliated with it in interest, or connected with it, the use of all or any part of the space reserved hereunder on any pole covered by this agreement for the attachments used by such party, in the conducting of its said business; and for the purpose of this agreement, all such attachments maintained on any such pole by the permission as aforesaid of either party hereto shall be considered as the attachments of the party granting such permission and the rights, obligations, 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.

ARTICLE XX

WAIVER OF TERMS OR CONDITIONS

The failure of either party to enforce, insist upon or comply 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 XXI

EXISTING CONTRACTS

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

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

THE DAYTON POWER AND LIGHT COMPANY

By *P. V. Hutchings*
President

Witness:

J. J. Gries

Edith M. Carpenter

C. B. Remick

APPROVED LAW DEPARTMENT
By *Blanchard*

Geo. J. O'Hara

Wm. J. Fenbaugh

and *O. E. Howard*
Secretary

THE OHIO BELL TELEPHONE COMPANY

By *Wm. J. Stephens*
President

and *Wm. J. Stephens*
Secretary

DOCUMENT FILE
1036 NO. 1396
THE DAYTON POWER & LIGHT CO.
TICKLER O. K. AS TO
CONSIDERATION EXPIRATION DATE - indeterminate
By *Wm. J. Fenbaugh* By *Wm. J. Fenbaugh*

ATTACHMENT 3

Supplemental Agreement of 1942

SUPPLEMENTAL AGREEMENT

WHEREAS, The Dayton Power and Light Company, an Ohio corporation, of Dayton, Ohio, and The Ohio Bell Telephone Company, an Ohio corporation, of Cleveland, Ohio, under date of March 17, 1930, entered into a "Joint Pole Line Agreement - Pole Rental Contract"; and,

WHEREAS, it is the desire and intent of the parties that said agreement be amended as hereinafter provided.

NOW, THEREFORE;

It is agreed by and between said The Dayton Power and Light Company and The Ohio Bell Telephone Company that ARTICLES XI, XII and XVIII of the agreement of March 17, 1930, be and the same are hereby amended so that as amended they shall read as follows:

"ARTICLE XI - RENTALS: The use by one party of the other party's poles is in consideration of the use by such other party of an equal number of poles of the first-mentioned party. In the event that as of October 1 in any year either party owns more than one-half of the total number of joint poles, the other party shall pay to it a rental of two dollars (\$2.00) per joint pole for such excess number of poles.

"No rental shall be paid by the Licensee for the use of any pole of the owner where such use consists only in attaching guys thereto, or in attaching thereto wires or cables of the Licensee for the purpose of providing clearance between the pole and such wires or cables, and not for the purpose of supporting the said wires or cables.

"Poles exempted from rental under the previous paragraph shall not be taken into consideration in determining whether or not each party uses an equal number of the other party's poles under the provisions of this Article.

"ARTICLE XII - RENTAL PAYMENTS: Payments of rentals under this agreement shall be made on the first day of February in each year during the continuance of this agreement; the first payment to be made on the first day of February, 1931, for the period beginning with the date of this agreement and ending on the first day of October, 1930. The rentals payable for said period shall be based upon a written statement to be submitted by each party hereto to the other on or before the first day of December, 1930, giving the number

of poles of each party on which space was occupied by, or reserved for, the attachments of the other party, on the first day of October, 1930.

"Hereafter each party shall submit to the other party on or before the first day of December in each succeeding year, a written statement, as of the first day of October, in each such year, giving the number of the poles of each party on which space was occupied by, or reserved for, the attachments of the other party, and each such statement shall be used as the basis of the rental charge for the year for which such statement is submitted, as hereinafter provided.

"Every such statement, including the statement first above provided for, shall be deemed to be correct unless written notice of errors claimed to exist therein shall be given within sixty (60) days from the receipt of such statement, to the party submitting the statement by the party to which the statement was submitted. In case of dispute concerning the correctness of any such statement, a joint inspection of the pole or poles in dispute shall thereupon be made; such inspection to be begun within ten (10) days after notice of errors claimed to exist therein shall have been given as aforesaid, and to be completed within a reasonable time thereafter. A written report of such inspection, signed by the inspectors of both parties, shall be made and, upon the approval of such report by the officers of both parties such statement shall, if shown to be incorrect, be corrected accordingly.

"ARTICLE XVIII - TERM OF AGREEMENT: This agreement shall continue in full force and effect for five (5) years from date hereof, and thereafter until terminated as follows: either party may, by giving five (5) years previous notice in writing to the other party, and by removing within five (5) years from date of said notice its attachments from the poles of the other party, terminate this agreement. Thereupon and after the expiration of said five (5) year period, such other party shall have no further rights hereunder with respect to the poles of the party so cancelling this agreement, and shall within the five (5) year period so provided for remove its attachments from the poles of the other party. In case of its failure to do so, the Owner of the poles in question may, at the expense and risk of the delinquent party and without incurring any liability, remove the delinquent party's attachments therefrom and in the meantime, and until such removal, such other party shall continue and remain liable for all obligations hereunder with respect to its attachments remaining on the poles of the party so cancelling this agreement, for the rentals therefor, and for damages due to accidents, in the same manner and to the same extent as if this agreement had not been terminated as aforesaid.

"Upon the termination of this agreement, as herein provided, the rental charges for the then current year, payable hereunder by either party to the other and then unsettled, shall be adjusted to the respective dates of the removal of the attachments of each party from the poles of the other, as hereinabove provided, and the amount then payable by either party to the other party shall be paid within three (3) months after the date of the termination of this agreement and after receipt of proper bills therefor."

It is further agreed that the amendments hereby provided shall be effective as of October 1, 1941. Except as amended hereby said agreement of March 17, 1930, be and the same hereby is, in all other respects, ratified and approved.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in duplicate, and their corporate seals to be affixed thereto by their respective officers thereunto duly authorized on the 30th day of September, 1942.

WITNESSES:

Don D. Beebe

Viola Franzer

Wm C

Eleanor Cotten

Bercedine Sherman

THE DAYTON POWER AND LIGHT COMPANY

By K. C. Carey

Vice President

And J. J. Biles

Assistant Secretary

THE OHIO BELL TELEPHONE COMPANY

By Ralph E. Marburger

VICE PRESIDENT AND GENERAL MANAGER

And J. Hickey

SECRETARY

APPROVED LAW DEPARTMENT

The Dayton Power & Light Co. 2-16-42

Indeterminate
apls 3/16/1935
B

ATTACHMENT 4

Operating Routine, dated December 1952

OPERATING ROUTINE

INSTRUCTIONS FOR ADMINISTERING

THE GENERAL JOINT USE POLE AGREEMENT, DATED MARCH 17, 1930

and

THE SUPPLEMENTAL AGREEMENT DATED SEPTEMBER 30, 1942

BETWEEN

THE DAYTON POWER AND LIGHT COMPANY

and

THE OHIO BELL TELEPHONE COMPANY

Prepared jointly by
THE DAYTON POWER AND LIGHT COMPANY
and
THE OHIO BELL TELEPHONE COMPANY
December, 1952

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(Between The Dayton Power and Light Company and The Ohio Bell Telephone Company)

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OPERATING ROUTINE

INSTRUCTIONS FOR ADMINISTERING THE GENERAL JOINT USE POLE AGREEMENT DATED MARCH 17, 1930 and SUPPLEMENTAL AGREEMENT DATED SEPTEMBER 30, 1942 between THE DAYTON POWER AND LIGHT COMPANY and THE OHIO BELL TELEPHONE COMPANY

G. GENERAL

G.10 Purpose of Operating Routine

- G.101 The purpose of the instructions contained in this Operating Routine is to adapt the principles of the Joint Use Pole Agreement dated March 17, 1930 and the Supplemental Agreement dated September 30, 1942 to the day-by-day joint pole operations, to convey to the operating forces the essential information necessary for a uniform application of such principles, and to interpret the intent of certain sections of the agreement.

G.20 Effective Dates

- G.201 This Operating Routine shall become effective as of the date of its approval by the General Plant Manager of The Ohio Bell Telephone Company (hereinafter referred to as the Telephone Company) and the Vice President and Chief Engineer of The Dayton Power and Light Company (hereinafter referred to as the Electric Company).

G.30 Points of Contact

- G.301 Points of Contact and those responsible for the exchange of all information, proposals, summaries, and bills are as follows:

(a) For The Dayton Power and Light Company

Superior of T. and L. Section of Electrical
Engineering Department - Dayton, Ohio

(b) For The Ohio Bell Telephone Company

The District Plant Engineer - Dayton, Ohio

Information concerning the area over which the contact men have jurisdiction will be furnished by each company to the other.

- G.302 The interchange of information in connection with the operation of the Joint Use Pole Agreement as provided in this Operating Routine shall be the responsibility of those designated in G.301. All transactions involving Toll as well as Exchange telephone poles shall be handled by the District Plant Engineer of the Telephone Company.

0.393 If any matters arise which cannot be adjusted by the contact men in accordance with the terms of the Joint Use Pole Agreement or this Operating Routine; or if they desire changes in the specifications or these instructions; or if it is desired to revise Schedules A, A-1, B, and C, described herein under Section 11; such matters shall be referred to the Chief Electrical Engineer of the Electrical Engineering Division of the Electric Company and the Plant Engineer (Division) of the Telephone Company for final decision. The intent is to make the agreement simple to operate by the men in the field and to have all controversial matters handled through the above-mentioned offices.

0.394 All matters involving general policy shall be referred to the Chief Electrical Engineer of the Electrical Engineering Division of the Electric Company and the Plant Engineer (Division) of the Telephone Company.

0.40 Revision of Operating Routine

0.401 These instructions, including the specifications, may be revised in whole or in part at any time by mutual agreement between the two companies. A letter of instructions, when approved by the Vice President and Chief Engineer of the Electric Company and the General Plant Manager of the Telephone Company, shall constitute a revision or supplement to these instructions. Such letter shall be plainly headed "REVISION" or "SUPPLEMENT", as the case may be, and shall be attached to and become a part of this Operating Routine.

0.50 Dealing with the Public

0.501 In dealing with the public, the representatives of each company shall avoid making any statements that may create an embarrassing situation for the other company.

1. EXPLANATION OF TERMS

1.10 Standard Joint Poles

1.101 A "STANDARD JOINT POLE" is a 35 ft., Class 5, wood pole for rear lot or alley construction and a 40 ft., Class 5, pole for street construction. However, every effort shall be made to use a shorter and/or lighter class pole where it will suffice because of the reduced requirements of either or both parties, and such shorter and/or lighter pole shall be considered as a standard pole under this agreement at that specific location.

1.20 Standard Space

1.201 "STANDARD SPACE" is the following described space on a standard joint pole for the exclusive use of each company, respectively:

- (a) For the Electric Company, the uppermost four (4) feet and ten (10) inches.

(b) For the Telephone Company, a space of three (3) feet at a sufficient distance below the space of the Electric Company to provide at all times the minimum clearance required by the Specifications referred to in Section 4.

1.202 It shall be permissible for either company to use the space below the space allocated to the Telephone Company if mutually agreeable and in accordance with the Specifications of Section 4.

1.203 "RESERVED", as applied to space on a pole, means that such space is provided and maintained by the Owner either for its own exclusive use or expressly for the Licensee's exclusive use at the Licensee's request.

1.20 Excess Height And Excess Strength

1.201 Excess height refers to the height of pole over and above the standard height as specified in Paragraph 1.101. Excess strength refers to the class of pole over and above the standard strength as specified in Paragraph 1.101.

1.202 When both companies are using standard space allocations, the uppermost telephone attachment will generally be not higher than 35 ft. 10 in. above ground on a standard 35 ft. joint pole. Where a standard joint pole would be a 35 ft. pole, it will be assumed in general that, if telephone attachments are at an elevation of no more than 35 ft. 10 in., any excess height will be for the sole benefit of the Electric Company.

However, where practicable and mutually agreeable, the companies shall cooperate in allocating the available space on new or existing poles in accordance with the requirements of each party in order to avoid the use of excess height poles or the premature replacement of existing poles.

The company receiving additional space on existing poles should pay to the other company the expense incurred by that other company in relocating or rearranging its attachments on the poles involved.

NOTES:

"If the pole is subsequently replaced, the sacrificed life of the pole, to be established as of the date the pole is replaced, shall be paid by:

- A. The party to whom the additional space was originally reallocated, if at that later date a request for normal space by the other party is the sole reason for the pole replacement.
- B. The party to whom the additional space was originally reallocated, if that party at that later date requires additional space.
- C. Both parties, if both require excess height at that later date.

The Proposal, and the pole records of both companies, should be suitably identified to indicate such loaned space. See Paragraph 6.202 for the symbols to be used for such identification."

- 1.303 A standard joint pole, or a pole to be used jointly that is shorter and/or lighter than the standard, shall be erected at the sole expense of the Owner.
- 1.304 A pole taller and/or stronger than the standard, 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.
- 1.305 In the case of a pole taller and/or stronger than the standard, the extra height and/or strength of which is due wholly to the licensee's requirements, the licensee shall pay to the Owner a sum equal to the difference between the cost in place of such pole and the cost in place of a standard joint pole; the remaining cost of erecting such pole to be borne by the Owner.
- 1.306 If both parties require excess height and/or strength for their own use in the same pole, in addition to the standard space and/or strength provided for under the Joint Use Pole Agreement, the cost of such additional height and/or strength shall be borne by each party in accordance with Paragraphs 1.304 and 1.305.
- 1.307 In the case of a pole taller and/or stronger than the standard, where the height and/or strength, in addition to that needed by either or both parties, is necessary to provide sufficient space to clear a common obstacle (such as a railroad, etc.) or to meet the legal space or clearance requirements of public authority or of property owners (other than requirements with regard to keeping the wires of one party clear of trees), one-half (1/2) of the excess cost of such pole due to such requirements shall be borne by the licensee. Any remaining cost of such pole shall be borne as provided in one of the preceding paragraphs, viz., 1.303, 1.304 or 1.305, within which it would otherwise properly fall.
- 1.308 Any space required for attachments of third parties, except those parties provided for in Paragraph 1.307, which are in the nature of Supply Circuits, shall be provided and licensed by and at the cost and expense of the Electric Company. Similarly, space for those attachments which are in the nature of Signal or Communication Circuits shall be provided and licensed by and at the cost and expense of the Telephone Company.
- 1.309 The cost of excess height and/or excess strength shall be determined from the current Standard Billing Table, identified as Schedule A and A-1 attached hereto and made a part hereof. (See Section II).

1.40 Sacrificed Life

- 1.401 When the licensee requests the Owner of a pole, either joint or non-joint, to replace it with another pole suitable for joint use, the Owner, subject to the provision of Section 3, shall promptly make the replacement, and the licensee shall pay to the Owner a sum equal to the then value in place (Sacrificed Life) of the original pole.

Normally, the removal of the existing pole and its disposition shall be the responsibility of its owner, it being understood that in general the last party to transfer its attachments shall remove and dispose of the existing pole. However, other arrangements as to the removal and disposition of the existing pole may be made if mutually agreeable, and if so indicated on the proposal and on the detailed construction prints.

1.402 No sacrificed life shall be allowed when the Engineers of both companies agree that a pole is damaged or has deteriorated to an extent where it is unsafe for the facilities of both companies.

1.403 The value of the sacrificed life shall be determined from the current Standard Billing Table, identified as Schedules A and A-1 attached hereto and made a part hereof. (See Section 11).

1.50 Service

1.501 A "SERVICE" for the Electric Company consists of two or more conductors carrying less than 500 volts between conductors supplying electric service to a customer; and for the Telephone Company, two or more conductor twist or parallel paired conductors supplying telephone service to a subscriber.

1.60 Service Drop

1.601 "SERVICE DROP" is the last span of the service extending from the last pole to the customer's or subscriber's dwelling or place of business. (See Paragraph 2.201 to 2.206 for special conditions involving service drops.)

2. NON-RENTAL AND MISCELLANEOUS ATTACHMENTS

2.10 Ownership of Miscellaneous Pole Attachments

2.101 Unless jointly used as provided for in Paragraph 2.102, all guys, anchors, push braces and pole keying (or ground bracing) shall be placed by and/or at the expense of the party whose attachments made such work necessary. Such guys, anchors, and push braces shall remain the sole property of the party for whose sole benefit they were placed and shall not be considered a part of the supporting structure.

2.102 Anchors, push braces and/or pole keying are jointly used when the same are necessary to meet the requirements of both companies and in the case of anchors where it is impossible or impracticable, because of right-of-way conditions, to follow the normal procedure of installing separate anchors. The cost of the installation of such jointly used anchors, push brace and/or pole keying shall be borne equally by the two companies. Such costs of installation shall be determined from Schedules B and C which are attached hereto and made a part hereof. Such jointly used facilities shall remain the property of the owner of the pole structure of which they are a part.

- 2.103 Ground wires and ground rods shall be installed by or at the expense of and shall be the property of the Company requiring the same.

The expense of connecting the Telephone Company's ground wires to the common neutral or to grounded down guys of the Electric Company when such connections are required by the Telephone Company shall be billed to the latter, except in those cases where such ground wire connections are required for the proper use of the Telephone Company's #99-A protectors or their equivalent.

2.30 Clearance Attachments

- 2.201 Clearance attachments are attachments, usually at crossings, placed by one party on the other party's poles primarily for the purpose of obtaining standard clearance between the plant instrumentalities of the two companies, such as wires, guys, transformers, cables, suspension strands, etc.
- 2.202 Such attachments shall be considered as "Clearance Attachments" as defined in Paragraph 2.201 and Section 2.30 only when it would be unnecessary for the party making such attachments to place poles in lieu of the poles contacted by such "Clearance Attachments" if the Owner's plant did not exist at those locations.
- 2.203 If the requirements of one party only make it necessary to install an additional pole in an existing joint pole load, such pole may be installed by that party, but shall be of a height not less than the standard pole. If a pole taller than the standard height is requested by the other party, the other party shall be billed for the cost of such excess height. The other party shall be permitted to attach its facilities to such pole on a clearance contact basis.

Should the installation of the additional pole result in unfavorable public relations or a right of way complaint so as to make it desirable or necessary to remove the nearest adjacent pole, the expense incurred by the removal of that pole shall be shared on an equitable basis to be determined by mutual agreement. If the parties cannot agree to an equitable division of such expense, the cost shall be equally divided. Such expense, however, shall not include the cost of rearranging the service drops.

- 2.204 No rental charge shall be made for clearance attachments.

2.30 Establishing Clearance Attachments

- 2.301 If the Electric Company could normally reach its customer with its service drop without setting a riser or lift pole but if such service drop could not be carried either over or under the telephone conductors in the span with adequate clearance, an attachment will be made to the Telephone Company pole either directly or through the use of extension fixtures as a clearance attachment. (See Paragraph 2.306 for limitations.)

- 2.302 If the Telephone Company could normally reach its subscriber with its service drop without setting a riser or lift pole, but if such service drop could not be carried under the electric conductors in the span with adequate clearance, an attachment will be made to the Electric Company pole as a clearance attachment.
- 2.303 Where space for necessary service drop attachments can be provided on existing poles by simple rearrangements, the company making the attachment will pay for the cost of such rearrangements. However, in the case of Electric Company service drops, if the rearrangement cost is substantially higher than the cost of using a pole top extension, then a pole top extension fixture may be used. Billing for such rearrangements shall be determined as provided for in Section 11.
- 2.304 During the construction of a new pole line, the party constructing such a line shall place poles of sufficient height to permit clearance for attachments (as defined in Section 2.25 of this Operating Routine) of the other party in order to avoid conflicts with the existing facilities. The other party will not be required to pay any portion of the cost of the initial pole.
- During the reconstruction of an existing non-joint pole line, the party reconstructing such a pole line shall place poles of sufficient height to permit clearance for attachments (as defined in Section 2.25 of this Operating Routine) of the other party to avoid conflicts with the existing facilities of that other party. The other party will not be required to pay any portion of the initial cost of the new pole.
- When such joint poles are replaced, the licensee shall be billed for the excess height, as provided in the Standard Billing Tables identified as Schedules A and A-1 attached hereto and made a part hereof, to accommodate such clearance attachments. (See Section 11).
- 2.305 When, at the request of the contacting company, the Owner prematurely replaces one of its poles to permit the contacting company to secure space for a clearance attachment on said pole, the contacting company shall pay the Owner for the cost of any extra height provided for this purpose, as provided in the Standard Billing Table, Schedules A and A-1 attached hereto and made a part hereof, and shall also pay for the sacrificed life of the old pole. (See Section 11).
- 2.306 It is expressly understood that any Electric Company wires over 300 volts shall not be carried under the telephone conductors without permission having first been obtained from the Telephone Company in each specific case.
- 2.307 Clearance Attachments shall be made at no cost to the Owner of the pole, except as may be mutually agreed by the contact men of the two companies.

2.40 Guy Attachments

- 2.401 No rental charge shall be made for guy attachments.

3. SCOPE OF OPERATING ROUTINE

3.10 Owner to be Sole Judge of Its Own Requirements

- 3.101 Each company shall be the sole judge of what the character of its circuits shall be to meet its own service requirements and as to whether or not these service requirements can be properly met by the joint use of poles.
- 3.102 Each company reserves the right to exclude from joint use:
- (1) Poles which, in the Owner's judgment, are necessary for its own sole use, and
 - (2) Poles which carry, or are intended by the Owner to carry, circuits of such character that in the Owner's judgment the proper rendering of its service now or in the future makes joint use of such poles undesirable.

4. SPECIFICATIONS

4.10 General

- 4.101 ADMINISTRATIVE ORDER NO. 72 OF THE STATE OF OHIO and the "SPECIFICATIONS FOR THE CONSTRUCTION AND MAINTENANCE OF JOINTLY-USED WOOD POLE LINES CARRYING SUPPLY AND COMMUNICATION CIRCUITS", known as S.E.L. Publication No. M-12, and identified as the attachment to 174.25 of Bell System Practices, shall be followed in the joint use construction under the Joint Pole Agreement.

4.20 Exceptions

- 4.201 Pole Steps. Part I, Section 7, Page 4 of the Specifications referred to in 4.101 shall be revised to read as follows:

(a) Permanent Metal Steps

Permanent metal pole steps shall not be placed or maintained on any joint pole closer than 6 ft. 6 in. to the ground or other readily accessible place. However, mutually approved detachable pole steps may be used at points less than 6 ft. 6 in. from the ground or other readily accessible place.

5. EXCHANGE OF INFORMATION

5.10 Advance Notice - General

- 5.101 Each company shall give advance notice to the other company of all proposed work in the urban areas and in the rural areas insofar as platted areas and subdivisions and/or private entrance facilities of the following nature:
- (1) New pole line constructions
 - (2) Replacing, relocating, or removing existing poles (either joint or non-joint)
 - (3) Major additions or rearrangements of attachments
 - (4) Changes in character of circuits or any other information affecting the joint use of poles.

5.102 This notification shall be made, if possible, sufficiently far enough in advance of construction to permit the company receiving it to make any necessary field inspections and discuss any suggested changes with the other company.

6. FORMS - PREPARATION AND USE

6.10 Joint Use and Construction Proposals

Exhibit 1 (Electric Company's Form #253) and
Exhibit 2 (Telephone Company's Form #3739)

6.101 These forms shall be used by each company to:

- 1) Indicate the proposed work of the originating company
- 2) Initiate a request for work to be performed by the recipient company.
- 3) Provide a detailed record of the operations of each company which involve the records of one or both companies.
- 4) Indicate the cost of all billable items (See Section 11).

6.102 These forms may also be used by each company to give advance notice to the other company as set forth in Section 5.

6.103 Proposals shall be prepared in quadruplicate and signed by the Originating company. The original, second and third copies, together with two sets of drawings, where necessary, shall be forwarded to the other company. The recipient company shall indicate on the Proposal its acceptance, requirements, or rejection of the proposed work and within two (2) weeks, unless additional time is requested for joint consideration, shall sign and return the original copy of the Proposal, together with one set of drawings, which may be marked, if necessary, to provide additional information or information to clarify the answer of the recipient company to the originator of the Proposal.

While preparing the detailed work prints, it shall be the responsibility of the Engineers of both companies to indicate on them the other company's work order number which authorized the related work on the part of the other company.

Should the other company's work order number be unavailable while the detailed work prints are in the process of preparation, such number shall be added to the prints prior to their release to the field forces.

6.104 After the physical work has been completed, the originator shall note the completion date on the original and fourth copies and return the fourth copy to the other company. (See Exhibit 7).

When the recipient company has completed its physical work, as actually agreed to in writing on the first copy previously returned to the originating company, the recipient company shall note its completion date on the second and third copies and return the third copy to the originating company. (See Exhibit 7).

- 6.103 The Owner's completion date on the Proposal shall be the date on which the poles are brought under the Joint Pole Agreement.
- 6.106 The Joint Use and Construction Proposal shall be identified as follows:
- (a) Each Proposal issued by the Electric Company shall carry the project number for which it is prepared. This number also identifies the work order number.
 - (b) Each Proposal issued by the Telephone Company shall carry a number running consecutively beginning with #1 on January 1st of each year and shall be prefixed by the letter "D" and the last two digits of the year in which the proposal is prepared, as: D51-1, D51-2, etc.
- 6.107 Each company shall carry both companies' file numbers on the Proposals for ready reference.
- 6.108 When either company obtains oral consent from the other company to perform urgent work, a suitable confirming Proposal shall be prepared and approved by both companies as soon as possible and not more than two weeks after oral consent is obtained.
- 6.109 Symbols to be used on Proposals are as follows:
- "H" Followed by height of pole denotes replacement of pole
 - "RM" Remove pole
 - "RL" Relocate pole
 - "PL" Place pole
 - "CG" Clearance contact
 - "RS" Reserved space
 - "PL RS" Denotes placing a Rental Contact
 - "RM RS" Denotes removing a Rental Contact
 - "RS RS" Change "Reserved Space" to Rental Contact
 - "RM RS" Discontinue "Reserved Space"
 - "PL CG" Place Clearance Contact
 - "RM CG" Remove Clearance Contact
 - "LT" Space loaned to the Telephone Company
 - "ET" Space loaned to the Electric Company

6.11 Monthly Recapitulation

Exhibit 3 (Electric Company's Form #255), and
Exhibit 4 (Telephone Company's Form #2526)

- 6.201 This form shall be used by each company to maintain a record of the number of its own poles which are jointly used by the other company, excluding non-rental poles. The Monthly-Recapitulation shall be so prepared as to permit summarizing under the operating areas as required by each company. All jointly used Toll telephone poles shall be included in the Monthly Recapitulation form prepared by the District Plant Engineer of the Telephone Company. Electric Company forms shall be printed on white paper and the Telephone Company forms on yellow paper.

- 6.202 Each company shall post to the Monthly Recapitulation form which it prepares, all Joint Use and Construction Proposals on which it has indicated that its work has been completed during the month for which the Monthly Recapitulation form is prepared. (See Paragraphs 6.101 to 6.103, inclusive.)
- 6.203 The Monthly Recapitulations shall be prepared in quadruplicate. At the end of the month, a total for Columns (d) and (e) will be shown at the bottom of these columns on each form, and the Net Total will be indicated at the bottom of Column (f). The first, second and third copies of this form shall be signed by the Owner and forwarded to the licensee for approval. Within fifteen (15) days, the licensee shall sign and return the original copy to the Owner, retaining the second and third copies for its file. Upon return of the approved copy, the Owner will carry forward the totals of Columns (d) and (e) to the corresponding columns at the top of the form for the succeeding month, opposite the caption "Carried Forward". The same procedure shall be followed for all subsequent months of the current rental year. (See Section 11.20).
- 6.204 The totals at the bottom of Column (d), "Gross Poles Added", for the month of September shall be used as the basic figures for determining the net number of pole units for which a deficiency payment is to be made. In preparing the September Monthly Recapitulations only, the totals of Column (e), "Gross Poles Discontinued", shall be deducted from the totals of Column (d), "Gross Poles Added", and the Net Total shown at the bottom of Column (f) on the last sheet. Upon return of the approved September Monthly Recapitulations, the total shown in Column (f) shall be carried forward to the October Recapitulations for the succeeding rental year in Column (d), opposite the caption "Carried Forward".

6.20 Monthly Billing Summary

Exhibit 5 (Electric Company's Form #M 456)
Exhibit 6 (Telephone Company's Form #3479)

- 6.301 These forms shall be used by each company to maintain a running record of all miscellaneous costs, which are to be billed monthly, as provided in Section 11. These forms shall be kept in a manner similar to the Monthly Recapitulation forms, as provided in Section 6.20.
- 6.302 The Billing data on all Joint Use and Construction Proposals, which provide for miscellaneous billing from one company to the other, shall be posted to these Monthly Billing Summaries upon receipt of the completed Proposals. Each company shall post the billing data from both companies' Proposals on its form. This will result in identical running records being kept by each company.
- 6.303 Each company shall keep a working pencil copy of the summary. Within one week after the end of each month, the pencil copies of the two companies shall be compared and discrepancies corrected. Four copies of the corrected summary shall then be prepared by the company to which a deficiency payment is due. These copies should then be properly approved and forwarded to the other company. The other company shall then approve all copies and return the original and third copies to the originating company.

7. ESTABLISHING JOINT USE OF EXISTING POLES

7.10 Reservation of Space on Existing Poles Suitable for Joint Use

7.101 Whenever either company desires to place any attachments or reserve space on any pole of the other company which is not then jointly used but which is suitable for joint use, such company shall make written application to the Owner requesting joint use, using the Joint Use and Construction Proposal, Exhibits 1 or 2, which shall be prepared as provided in Section 6.10.

7.20 Replacement of Existing Poles Unsuitable for Joint Use

7.201 Whenever either company desires to place any attachments on any pole of the other company, which is not then jointly used and which is unsuitable for joint use, such company shall make written application to the Owner to make the necessary rearrangements of existing attachments or to replace the pole with another suitable for joint use. This application shall be made on the Joint Use and Construction Proposal, Exhibits 1 or 2, which shall be prepared as provided in Section 6.10.

7.202 Where the Owner desires the Licensee to make the necessary pole replacements and the Licensee agrees, this note shall be placed on the three copies of the Joint Use and Construction Proposal which have been received from the Licensee. The removal and disposition of the old pole shall be in accordance with Paragraph 1.401. The new Owner's completion date shall be the date on which such poles are brought under the Joint Pole Agreement.

7.203 If a party fails to erect a pole or poles in accordance with a plan agreed to in writing, it will be the responsibility of that party, at its own expense, to rectify the error either to the satisfaction of both parties or in accordance with the plan originally agreed to in writing.

7.204 If a party erects a pole or poles and fails to notify the other party in advance of such action in accordance with Sections 3 and/or 6, it will be the responsibility of that party, at its own expense, to rectify any hardship caused to the other party by such failure to properly notify the other party.

8. MAINTENANCE OF POLES AND ATTACHMENTS

8.10 General

8.101 Due diligence shall be exercised by both companies to bring into conformity with the Specifications (see Section 4), as occasion may arise, any existing joint use construction. When any joint use construction of either company is generally reconstructed or any changes are made in the arrangement or characteristics of its circuits or attachments, the new or changed parts shall be brought into conformity with the Specifications.

- 8.102 Before performing any work of replacing, relocating, or abandoning any joint pole due to Owner's requirements or the legal requirements of a property owner, the state, municipal, or other governmental authority, the Owner of such pole shall give proper notice thereof to the Licensee by using the Joint Use and Construction Proposal, Exhibits 1 or 2, which shall be prepared in accordance with Section 6.10. In relocating existing poles, it is important that consideration be given to the requirements of both companies.
- 8.103 When the Licensee desires the replacement or relocation of a joint pole, it shall give proper notice to the Owner by using the Joint Use and Construction Proposal, Exhibits 1 or 2, which shall be prepared in accordance with Section 6.10.
- 8.104 When any work other than that of an emergency nature is to be performed on a joint pole and the work cannot be performed without the assistance of the other party, the construction forces of said other party shall be notified and a mutually agreeable time shall be arranged when the work is to be done, so that the other party may have a crew on the job at the time to handle its wire and attachments.
- 8.105 Except as herein otherwise expressly provided, each party shall, at its own expense, place, maintain, repair, 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 the service of the other party.

8.20 Replacing Joint Poles

- 8.201 The Owner is normally expected to replace its own poles, whether for its own benefit or for that of the Licensee. When replacing joint poles carrying aerial cable terminals or underground connections, the new poles shall be set in the same location which the replaced poles occupied unless special conditions make it necessary to set them in different locations.
- 8.202 If a condition arises where the Owner is obligated to replace certain joint poles and is unable to release a crew for such work, thus holding up some contemplated work of the Licensee, the Owner may delegate the authority to the Licensee to set the new poles and bill the Owner for the pole cost as shown on the current Standard Billing Table. (See Paragraphs 11.305 and 11.401). The Owner shall remove the old poles.
- 8.203 If a joint pole is broken off or is in a dangerous condition and either company is notified of such condition by a property owner or other individual, oral arrangements shall be made immediately for taking care of the situation. The Owner, if he so chooses, may delegate authority to the Licensee to set the new pole and to bill the Owner for the standard pole cost as shown in the Standard Billing Table. Such work shall take precedence over normal construction activities.
- 8.204 If the Licensee should request the Owner to replace a joint pole, said Licensee shall reimburse Owner for the sacrificed life of the old pole. (Exception - see Paragraph 1.402). If Licensee desires a major replacement of Owner's poles because of reworking of the Licensee's lines, rerouting of circuits, or for any other reason, the Owner may request a joint inspection to determine their adequacy before proceeding with the work.

8.205 Whenever a pole is replaced, the cost of any excess height or excess strength in the new pole shall be borne by the company or companies requiring it, as provided in Section 1.30.

8.206 When the Owner replaces joint poles, the licensee shall promptly transfer its equipment to the new poles so that the old poles may be removed promptly. At the end of sixty (60) days after the Owner has set the new poles and transferred its equipment, if the licensee has not transferred its equipment, the Owner may abandon the old poles in accordance with Paragraphs 9.101 and 9.102 of this Operating Routine. Such old poles will then become the responsibility of the licensee without further action on the part of the two companies, in the same manner as described in Paragraph 9.102.

8.207 The titles to such old poles referred to in Paragraph 8.206 shall be transferred in a manner similar to the procedure described in Paragraph 9.103.

8.30 Temporary Relocation or Remaking of Joint Poles

8.301 If a temporary relocation of a joint pole line is necessary because of highway improvements, construction of sewer lines, etc., and the pole line is to be restored to its permanent location as soon as the construction work is completed, the Owner shall perform the necessary pole work and no allowance shall be made for sacrificed life of either pole line. The cost of the temporary pole line shall be divided on an equitable basis, by mutual agreement of the contact men, using the Standard Billing Schedules A, A-1, B and C but modified to exclude the material cost of the poles.

8.40 Removing Joint Poles

8.401 Where no sacrificed life of existing joint poles is involved, the Owner of the pole should remove and dispose of it when both companies have abandoned the use of such pole. To this end, the licensee shall promptly remove its wires and attachments from the pole to be removed, so that the Owner may remove it without having to make an extra trip. In individual cases, however, if the licensee finds it inconvenient to remove its attachments when the Owner desires to remove the old pole, the Owner may leave the pole in place and the licensee shall finally remove it and deliver it to the pole yard of the Owner, or otherwise dispose of it at the licensee's expense at the option of the Owner. Should the licensee fail to remove the old pole within sixty (60) days, the Owner shall have the right to abandon the old pole as outlined under Paragraph 8.206 above.

9. ABANDONMENTS

9.10 Abandonment by Owner

9.101 If the Owner at any time desires to abandon any joint pole, it shall give the licensee notice in preposal form to that effect prior to the date on which it intends to abandon such pole. After the Owner has

removed all of its attachments from such pole, it shall so advise the Licensee by means of a proposal completion notice. (See Paragraph 6.101).

- 9.102 Unless the Licensee shall have returned a signed copy of the proposal notifying the Owner, on or before the expiration of sixty (60) days after such notice of the removal of the Owner's attachments referred to above, to the effect that it has removed its attachments from the Owner's poles, such poles shall thereupon become the responsibility of the Licensee without further action on the part of the two companies and the Licensee shall save harmless the former Owner of such poles from all obligations, liability, damage, cost, expenses or charges incurred thereafter, because of, or arising out of the presence or condition of such pole or of any attachments thereon, and shall pay the Owner a sum based on the requirements of the Licensee and in proportion to the then value in place of such abandoned pole or poles or such other equitable sum as may be agreed upon between the parties.
- 9.103 The Owner's completion date on the Joint Use and Construction Proposal shall be the official date of abandonment of responsibility and shall be the date used in posting the transaction to the Monthly Recapitulation and Monthly Billing Summary forms.
- 9.104 In any case where the Owner has notified the Licensee by a mutually approved Proposal that the Owner proposes to abandon the use of a joint pole and the Licensee has agreed to purchase the same and continue using it, such old pole shall become the responsibility of the Licensee without further action on the part of the two companies, in a manner similar to that described in Paragraphs 9.102 and 9.103.
- 9.105 A running summary of the poles involved in Paragraphs 9.102, 9.103 and 9.104 shall be maintained and verified by both companies. Twice a year, i.e., on May 1st and November 1st, the formal transfer of the titles to such poles shall be made by means of proper Bills of Sale to be prepared by the Companies abandoning the ownership of the poles. Such Bills of Sale shall be executed and delivered within thirty (30) days from the above dates.

9.20 Abandonment by Licensee

- 9.201 The Licensee may at any time abandon the use of a joint pole by removing therefrom all of its attachments and giving ten (10) days' notice in proposal form thereof to the Owner. The official date of abandonment shall be the date on which the Proposal is submitted by the Licensee, provided all of the attachments of the Licensee shall have been removed on or before that date.
- 9.202 Exception to Paragraph 9.201:
Where a pole has been placed or replaced to permit joint use, either on a Rental Contract or on a Reserved Space basis at the request of the Licensee, the Minimum rental period shall be four (4) years.

9.30 Abandonment by Both Companies

- 9.301 If both parties at the same time abandon any joint pole, each party shall, at its own expense, remove its attachments therefrom and the Owner shall thereupon remove the pole.

9.392 The official date of abandonment insofar as the licensee is concerned shall be the licensee's completion date (closing notice) shown on the Joint Use and Construction Proposal.

10. REDUCING UNBALANCE OF POLE UNITS

10.10 Three Methods for Reduction

10.101 There are three methods of keeping the number of joint poles owned by each company within reasonable balance, as follows:

- (a) By having the company owning the smaller number of joint poles set the majority of new poles.
- (b) By permitting the company owning the smaller number of joint poles to make an outright purchase of a sufficient number of poles owned by the other company. The purchase price shall be based on Standard Billing Tables values. A separate bill shall be rendered and the necessary Bills of Sale and Proposals prepared by the original owner to cover the transaction. This type of equalization shall be made on a company-wide basis, thereby restricting the number of these transactions to a minimum.
- (c) By permitting the company owning the smaller number of joint poles to replace poles of the other company when such replacements are in order. After agreement by both companies to determine which poles shall receive such treatment, the following procedure will apply:

(1) Existing joint poles.

The new owner prepares the Proposal to set new joint poles and abandon contact on the existing poles, paying sacrificed life in the existing poles where applicable. Original owner accepts joint use on the new pole and bills sacrificed life, if involved.

(2) Existing non-joint poles.

The new owner prepares the Proposal to set the new joint poles, paying sacrificed life in existing poles where applicable. Original owner accepts joint use on the new pole and bills sacrificed life, if involved.

- (3) In (1) and (2) above, the removal and disposition of the old pole shall be in accordance with Paragraph 1.101.

11. PAYMENTS AND COSTS

11.10 General

11.101 Net Bills

- (a) For Deficiency in Joint Pole Units. The net amount to be paid for the total number of joint poles, as specified in Paragraph 11.202, shall be combined at the end of each rental year and the company

to which a net payment is to be made shall issue one bill for this net amount. Such bill shall be rendered on or before November 1st.

- (b) For Miscellaneous Charges on Monthly Billing Summary. At the end of each month, the sum of the cumulative totals of the amounts to be paid by each company for sacrificed life, excess height, abandonments, etc., as shown on the Monthly Billing Summary shall be determined. The difference between the total amounts to be paid by each company shall be billed by the company to which the net payment is to be made. Billing shall be rendered by the 25th of the following month.

11.20 Payment for Deficiency in Number of Pole Units

- 11.201 The 30th day of September of each year shall be the date for determining the number of poles jointly used or on which space is reserved. One full year shall be the minimum period for which payment is charged.
- 11.202 On the 1st day of October of each year, the difference between the total number of joint poles owned by each company shall be determined from the last entry on the September Monthly Reconciliation of each company in the columns headed "Gross Poles Added". The company owning the lesser number of joint poles shall pay to the company owning the greater number of joint poles an amount of \$2.00 per pole for each pole of the above difference.

11.30 Payments for Miscellaneous Charges

- 11.301 The pole costs and the cost of miscellaneous items which are billable shall be determined from the Standard Billing Tables, wherever possible, and which are identified as Schedules A, A-1, B and C, attached hereto and made a part hereof. (See Paragraph 11.401).
- 11.302 The cost of such miscellaneous items that are not provided for in Schedules B and C, and which are billable, shall be determined by mutual agreement between the contact men (see Paragraph 0.301) of the two companies.
- 11.303 When any contacts are found and no authorizations are available concerning them, the company responsible for the placing of such contacts shall pay the owner of the poles the sum of \$4.00 per pole in lieu of the payment of back rental.
- 11.304 Billing for the cost of rearranging the plant facilities of one company, when the joint use of poles is not involved, to provide the proper clearance for the other company's facilities (whether existing or proposed) shall be determined by mutual agreement between the contact men (see Paragraph 0.301) of the two companies.

11.305 All miscellaneous billable items (including payments for unauthorized contacts - see Paragraph 11.303) shall be entered on Proposals, (See Paragraph 6.101), and after the work is completed shall be transferred from the Completion Notices (see Paragraphs 6.104 and 6.302) to the Monthly Billing Summary.

11.40 Standard Billing Tables

11.402 A set of standard billing tables attached hereto and made a part hereof shall be maintained and designated as follows:

(a) Schedule A

This schedule applies to full length treatment poles ranging in height from 20 ft., to 60 ft., inclusive, and in strength from Class 1 to Class 7, inclusive, (as applicable) for each height. It is to be used for billing of the values of pole costs such as, sacrifice life, excess height and/or strength as compared to the standard pole, etc.

The table indicates the in place (or sacrifice life) values of poles by -

1. Height and strength for poles having 100% value.
2. Height irrespective of strength for poles having various amounts of depreciation. (Under each pole height, one 100% class value is underscored to establish the value of the representative pole class used for that particular height in determining the various depreciated values.)

This table is based on a 33-year pole life depreciated on a straight line basis. The value of the pole for the current year and the immediately preceding year shall be considered as 100%, with each preceding year showing a 3% depreciation until for the 33rd year and all successive preceding years a 4% value shall be used.

(b) Schedule A-1

This schedule applies to butt treated poles ranging in height from 20 ft., to 60 ft., inclusive, and in strength from Class 1 to Class 7, inclusive, (as applicable) for each height. It is to be used for billing of the values of pole costs such as, sacrifice life, excess height and/or strength as compared to the standard pole, etc.

The table indicates the in place (or sacrifice life) values of poles by -

1. Height and strength for poles having 100% value.
2. Height irrespective of strength for poles having various amounts of depreciation. (Under each pole height, one 100% class value is underscored to establish the value of the representative pole class used for that particular height in determining the various depreciated values.)

This table is based on a 25-year pole life depreciated on a straight line basis. The value of the pole for the current year and the immediately preceding year shall be considered as 100%, with each preceding year showing a 4% depreciation until for the 25th year and all successive preceding years a 4% value shall be used.

(c) Schedule B

Cost of miscellaneous repetitive items performed by the Electric Company for the benefit of and at the expense of the Telephone Company.

In this table shall be included the cost of various commonly recurring billable work operations performed by the Electric Company at the Telephone Company's expense.

(d) Schedule C

Cost of miscellaneous repetitive items performed by the Telephone Company for the benefit of and at the expense of the Electric Company.

In this table shall be included the cost of various commonly recurring billable work operations performed by the Telephone Company at the Electric Company's expense.

11.402 The billing tables shall be reviewed during the month of December of each year and revised as necessary and issued on or before the end of the month. Both companies shall cooperate in preparing Schedules A and A-1. Each company shall prepare its own Schedule B or C as applicable and secure approval for its use from the other company before placing it in use.

11.50 Payment When Character of Circuits is Changed
Reference - Article V of Joint Use Pole Agreement

11.501 Any payments to be made when the character of either company's circuits is changed, either for changes in construction to permit continuation of joint use or for the cost of providing separate lines, shall be treated as a special case in each instance. Special bills for such work shall be rendered upon completion of such work.

12. TAGGING AND NUMBERING POLES

12.10 General

12.101 Each company shall be responsible for placing and maintaining all number and identification tags on its own poles which are joint. This does not prevent either company from placing additional tags on the poles for its own use so long as the additional tags do not carry information which might cause the identity of the owner to be in question.

The owner's number shall be carried on both companies' records as the joint pole number.

12.102 It is understood that the pole number applies to the pole location and that this location is to retain the same number unless the ownership of the pole involved is changed.

This is not intended to preclude the possibility of changing the pole location numbering system to conform to future mutually accepted standards.

12.103 The Telephone Company may place its rural route numbers on any rural poles owned by the Electric Company.

12.104 If, for any reason, the Owner changes the number tag with one carrying a new number, the Owner shall promptly notify the licensee by means of a proposal of such change, giving the old and new number and the location of the joint pole.

12.105 In case the Owner abandons a pole or for any other reason transfers the title to the licensee, the licensee upon assuming ownership shall immediately remove the original owner's identification and number tags and place its own tags on the pole.

12.106 Each company shall use its own type of number or identification tag which will indicate that the pole is owned 100% by that company.

12.107 All number and identification tags shall be placed on the street side of the pole and approximately 6 ft. above ground.

12.108 All pole numbers shall be pre-assigned by all parties at the time the Joint Use and Construction Proposals are issued.

13. POLE RECORDS

13.10 Pole Symbols to be Used by Each Company

13.101 The following pole symbols will be used by each company on its records and drawings:

	Symbols Used By	
	<u>D.F.L.</u>	<u>O.B.T.</u>
Non-joint D.F.L. pole	X	X
Non-joint O.B.T. pole	0	0
D.F.L. pole jointly used by O.B.T.		X
O.B.T. pole jointly used by D.F.L.		0
Higher tension D.F.L. pole (over 5000 V)		*
Higher tension O.B.T. pole (over 5000 V)		0
No charge contacts on D.F.L. poles		X
No charge contacts on O.B.T. poles		0

13.20 Check of Records

13.201 It is advisable for the local offices of each company to check their pole records against each other from time to time in order to hold to a minimum any errors in posting or any omissions. This can be done at the time of any major reconstruction of lines or when joint inspections are being made. Whenever any errors are found by either company, the other company should be notified immediately. A Construction Proposal shall be initiated in order that the records of both companies may be maintained in agreement.

14. LIST OF ATTACHMENTS

- Exhibit 1 - Joint Use and Construction Proposal.
Electric Company's Form #253 - Buff Color.
- Exhibit 2 - Joint Use and Construction Proposal.
Telephone Company's Form #3739 - Yellow Color.
- Exhibit 3 - Monthly Recapitulation.
Electric Company's Form #255 - White Color.
- Exhibit 4 - Monthly Recapitulation.
Telephone Company's Form #2626 - Yellow Color.
- Exhibit 5 - Monthly Billing Summary.
Electric Company's Form M-456 - White Color.
- Exhibit 6 - Monthly Billing Summary.
Telephone Company's Form #3479 - Yellow Color.
- Exhibit 7 - Flow chart indicating the movement of Joint Use and Construction Proposals
- Schedules A, A-1 - Sacrificed Life and Exposure Height Costs
(Full length treatment and butt treated poles)
- Schedule B - Cost of miscellaneous repetitive items performed by the Electric Company for the benefit of and at the expense of the Telephone Company.
- Schedule C - Cost of miscellaneous repetitive items performed by the Telephone Company for the benefit of and at the expense of the Electric Company.

15. EXISTING OPERATING ROUTINES

15.101 All existing operating routines and memoranda between parties hereto pertaining to joint use of poles are hereby abrogated and annulled.

15.102 As stated in Paragraph 9.101, the purpose of this Operating Routine is to interpret the intent of certain sections of the Joint Use Pole Agreement and the Supplemental Agreement. In case of any conflict between this Operating Routine and the said Agreement and Supplemental Agreement, the latter shall control.

Approved 6-30 1953

THE DAYTON POWER AND LIGHT COMPANY

By W. H. Leonardoff
Vice President and Chief Engineer

Approved 7-17 1953

THE OHIO BELL TELEPHONE COMPANY

By C. W. Rindin
General Plant Manager

Amco
DOCUMENT FILE
THE DAYTON POWER AND LIGHT CO.
CONSIDERATION DATE
By By

*noted
M. D. Thomas
8-31-53*

**THE DAYTON POWER AND LIGHT COMPANY
CONSTRUCTION AND JOINT USE PROPOSAL**

D. P. & L. PROJ.

D. P. & L. ORDER

EXCHANGE _____ DISTRICT _____

To _____ at _____ In Conjunction with _____ YOUR FILE

The Dayton Power and Light Company proposes the pole work detailed as follows and shown on attached sketch, subject to the provisions of Agreement with

[illegible]

Description of wires, circuits, and other contacts to be placed on the poles:

The Dayton Power and Light Company is hereby authorized to proceed with the work provided for above and to render billing or pay billing in the amounts stipulated.

ENGINEER

THE DAYTON POWER AND LIGHT COMPANY

BY

DATE _____

ETITE

ENGINEER

CHILD

五

SETTING

DATE _____

ALL

日

THEIR

DATE:

WORK COMPLETED

THE OHIO BELL TELEPHONE COMPANY
JOINT USE AND CONSTRUCTION PROPOSAL

O. B. T. Exch. Area _____
City or Twp. _____ At _____ Ohio.
Other Counties
_____ Other Co. File
_____ Other Co. Dist.
_____ Other Co. Div.

The O. B. T. Co. proposes the pole work detailed below and shown in the sketch attached or on the reverse side of this form.

SEC.-BLK. OR R.R. SEC.		POLE NUMBER		LOCATION (GIVE PRINT NUMBER)		POLES				Feet Ex.Ht. Ex.Ht.		AMOUNT			OTHER CO. REPLY		RENTALS	
						EXISTING		PROPOSED										
						HT. & KIND		DATE NOW SET		WORK		MAX. VOL.TG.		BILLING TO OTHER CO.				
TELEPHONE COMPANY POLES																		
OTHER COMPANY POLES																		
TOTAL TO RECAP																		

EXHIBIT

#2

SUBMITTED BY THE OHIO BELL TELEPHONE COMPANY.
 ORIG. ENGR' AT DATE
 APPROVED BY DATE
 O. B. T. CO. WORK COMP. ON PER

CONCURRED IN BY COMPANY.
 OTHER CO. ENGR' AT DATE
 APPROVED BY DATE
 OTHER CO. ORDER NO.
 OTHER CO. WORK COMP. ON PER

RECAPED MONTH YR.
 ORDER NO.
 PROPOSAL NO.
 SHEET NO. OF

RENTAL BILLING ARRANGEMENT WITH _____

Recapitulation for the month of _____ 19____ of The Dayton Power and Light

Company poles jointly used by _____ on a rental basis.

District _____

Date _____

EXHIBIT #3

Submitted by

Concurred in by

The Dayton Power and Light Company

Per _____

Per _____

Title _____

Title _____

Date _____

Date _____

Form 2826 (9-36)

District _____

Date _____

Submitted by
The Ohio Bell Telephone Company

Concurred in by

Per _____

Per _____

Title _____

Title _____

Date _____

Date _____

EXHIBIT #4

FLOW CHART OF FORMS 3759

Telephone Company
(Originator)

Power Company

Prepare 4 copies of proposal on Form 3759. Forward No. 1 2 and 3 copies to Power Company. Retain No. 4

1-2-3

Enter data on No. 4 copy and hold in file until work is completed. When work is completed, enter date on both copies and forward No. 4 copy to Power Company. Retain No. 1

4

Transcribe date to No. 1 copy. Forward No. 3 copy to Plant Records Engineer. File No. 1 copy in Recap file.

Approve all copies and return No. 1 copy to Telephone Company. Retain Nos. 2 and 3

3

When Power Company work is completed, enter date on both copies and forward No. 3 copy to Telephone Company. Retain Nos. 2 and 4

Follow same procedure when Power Company is Originator

EXHIBIT #7

BILLING SCHEDULE FOR JOINTLY USED FULL TREATED POLES

THE DAYTON POWER AND LIGHT COMPANY
and
THE OHIO BELL TELEPHONE COMPANY

Schedule A

Effective January 19, 1953

Use for sacrifice value, excess height and/or strength, sale, etc.

Year Set	Percent Condition	Class	25	30	35	40	45	50	55	60
52-53	100	1	52.80	64.90	77.00	93.50	112.20	133.10	160.60	191.40
52-53	100	2	49.50	60.50	71.50	86.90	104.50	124.30	148.50	178.20
52-53	100	3	46.20	56.10	66.00	80.30	96.80	115.50	136.40	165.00
52-53	100	4	42.90	51.70	60.50	73.70	89.10	106.70	124.30	151.80
52-53	100	5	39.60	47.30	55.00	67.10	81.40	97.90		
52-53	100	6	36.30	42.90	49.50					
52-53	100	7	33.00	38.50	44.00					
1951	97	All	32.01	41.61	53.35	65.09	78.96	94.96	120.57	147.25
1950	94	All	31.02	40.33	51.70	63.07	76.52	92.03	116.84	142.69
1949	91	All	30.03	39.04	50.05	61.06	74.07	89.09	113.11	138.14
1948	88	All	29.04	37.75	48.40	59.05	71.63	86.15	109.38	133.58
1947	85	All	28.05	36.47	46.75	57.04	69.19	83.22	105.66	129.03
1946	82	All	27.06	35.18	45.10	55.02	66.75	80.28	101.93	124.48
1945	79	All	26.07	33.89	43.45	53.01	64.31	77.34	98.20	119.92
1944	76	All	25.08	32.60	41.80	51.00	61.86	74.40	94.47	115.37
1943	73	All	24.09	31.32	40.15	48.98	59.42	71.47	90.74	110.81
1942	70	All	23.10	30.03	38.50	46.97	56.98	68.53	87.01	106.26
1941	67	All	22.11	28.74	36.85	44.96	54.54	65.59	83.28	101.71
1940	64	All	21.12	27.46	35.20	42.94	52.10	62.66	79.55	97.15
1939	61	All	20.13	26.17	33.55	40.93	49.65	59.72	75.82	92.60
1938	58	All	19.14	24.88	31.90	38.92	47.21	57.76	72.09	88.04
1937	55	All	18.15	23.60	30.25	36.91	44.77	53.85	68.37	83.49
1936	52	All	17.16	22.31	28.60	34.89	42.33	50.91	64.64	78.94
1935	49	All	16.17	21.02	26.95	32.88	39.89	47.97	60.91	74.38
1934	46	All	15.18	19.73	25.30	30.87	37.44	45.03	57.18	69.83
1933	43	All	14.19	18.45	23.65	28.85	35.00	42.10	53.45	65.27
1932	40	All	13.20	17.16	22.00	26.84	32.56	39.16	49.72	60.72
1931	37	All	12.21	15.87	20.35	24.83	30.12	36.22	45.99	56.17
1930	34	All	11.22	14.59	18.70	22.81	27.68	33.29	42.26	51.61
1929	31	All	10.23	13.30	17.05	20.80	25.21	30.35	38.53	47.06
1928	28	All	9.24	12.01	15.40	18.79	22.79	27.41	34.80	42.50
1927	25	All	8.25	10.73	13.75	16.78	20.35	24.48	31.08	37.95
1926	22	All	7.26	9.44	12.10	14.76	17.91	21.54	27.35	33.40
1925	19	All	6.27	8.15	10.45	12.75	15.47	18.60	23.62	28.84
1924	16	All	5.28	6.86	8.80	10.74	13.02	15.66	19.89	24.29
1923	13	All	4.29	5.58	7.15	8.72	10.58	12.73	16.16	19.73
1922	10	All	3.30	4.29	5.50	6.71	8.14	9.79	12.43	15.18
1921	7	All	2.31	3.00	3.85	4.70	5.70	6.85	8.70	10.63
(1920 and earlier)	4	All	1.32	1.72	2.20	2.68	3.26	3.92	4.97	6.07

Note: Sacrifice Life Values are determined on the basis of the pole values underscored.

Approved W. J. McLain 2-6-53
Supv. of T. & D. Section of
Electrical Engineering Department
The Dayton Power and Light Company

Approved H. F. Gear 2-6-53
District Plant Engineer
The Ohio Bell Telephone Co.

BILLING SCHEDULE FOR JOINTLY USED BUTT TREATED CEDAR POLES

THE DAYTON POWER AND LIGHT COMPANY
and
THE OHIO BELL TELEPHONE COMPANY

Schedule A-1

Effective January 19, 1953

Use for sacrifice value, excess height and/or strength, sale, etc.

Year Set	Percent Condition	Class	25	30	35	40	45	50	55	60
52-53	100	1	48.00	59.00	70.00	85.00	102.00	121.00	146.00	174.00
52-53	100	2	45.00	55.00	65.00	79.00	95.00	113.00	135.00	162.00
52-53	100	3	42.00	51.00	60.00	73.00	88.00	105.00	124.00	150.00
52-53	100	4	39.00	47.00	55.00	67.00	81.00	97.00	113.00	138.00
52-53	100	5	36.00	43.00	50.00	61.00	74.00	89.00		
52-53	100	6	33.00	39.00	45.00					
52-53	100	7	30.00	35.00	40.00					
1951	96	All	28.80	37.44	48.00	58.56	71.04	85.44	108.48	132.48
1950	92	All	27.60	35.88	46.00	56.12	68.08	81.88	103.46	126.96
1949	88	All	26.40	34.32	44.00	53.68	65.12	78.32	99.44	121.44
1948	84	All	25.20	32.76	42.00	51.24	62.16	74.76	94.92	115.92
1947	80	All	24.00	31.20	40.00	48.80	59.20	71.20	90.40	110.40
1946	76	All	22.80	29.64	38.00	46.36	56.24	67.64	85.88	104.88
1945	72	All	21.60	28.08	36.00	43.92	53.28	64.08	81.36	99.36
1944	68	All	20.40	26.52	34.00	41.48	50.32	60.52	76.84	93.84
1943	64	All	19.20	24.96	32.00	39.04	47.36	56.96	72.32	88.32
1942	60	All	18.00	23.40	30.00	36.60	44.40	53.40	67.80	82.80
1941	56	All	16.80	21.84	28.00	34.16	41.44	49.84	63.28	77.28
1940	52	All	15.60	20.28	26.00	31.72	38.48	46.28	58.76	71.76
1939	48	All	14.40	18.72	24.00	29.28	35.52	42.72	54.24	66.24
1938	44	All	13.20	17.16	22.00	26.84	32.56	39.16	49.72	60.72
1937	40	All	12.00	15.60	20.00	24.40	29.60	35.60	45.20	55.20
1936	36	All	10.80	14.04	18.00	21.96	26.64	32.04	40.68	49.68
1935	32	All	9.60	12.48	16.00	19.52	23.68	28.48	36.16	44.16
1934	28	All	8.40	10.92	14.00	17.08	20.72	24.92	31.64	38.64
1933	24	All	7.20	9.36	12.00	14.64	17.76	21.36	27.12	33.12
1932	20	All	6.00	7.80	10.00	12.20	14.80	17.80	22.60	27.60
1931	16	All	4.80	6.24	8.00	9.76	11.84	14.24	18.08	22.08
1930	12	All	3.60	4.68	6.00	7.32	8.88	10.68	13.56	16.56
1929	8	All	2.40	3.12	4.00	4.88	5.92	7.12	9.04	11.04
(1928 and earlier)	4	All	1.20	1.56	2.00	2.44	2.96	3.56	4.52	5.52

Note: Sacrifice Life Values are determined on the basis of the pole values underscored.

Approved W. J. McLain 2-6-53
Supv. of T. & D. Section of
Electrical Engineering Department
The Dayton Power and Light Company

Approved H. F. Gear 2-6-53
District Plant Engineer
The Ohio Bell Telephone Co.

SCHEDULE B

AN ATTACHMENT TO THE OPERATING ROUTINE DATED 6-30-53 BETWEEN
THE DAYTON POWER AND LIGHT COMPANY and THE OHIO BELL TELEPHONE COMPANY

Cost of miscellaneous repetitive items performed by the Electric Company for the benefit of and at the expense of the Telephone Company.

See Sections 11.30 and 11.40 of the Operating Routine dated 6-30-53.

- A. When the work is performed at the request of and for the sole benefit of the Telephone Company, the full amount of the following charges shall apply.
- B. When the work is performed by the Electric Company and is for the mutual benefit of both companies, billing will be on a basis of 50% or such other percentage as is mutually agreed.

Item	Description of Work Operation	Flat Billing Charges
* 1.	5/8"x6'0" double-eye rod and 8" anchor plate Total maximum load 8000#	\$ 25.00
* 2.	3/4"x8'0" double-eye rod and 10" anchor plate Total maximum load 14,000#	33.00
* 3.	1"x10'0" double-eye rod and 4' anchor log Total maximum load 25,000#	50.00
* 4.	2 - 3/4"x10' double-eye rod and 6' anchor log Total maximum load 32,000#	60.00
	* If an existing anchor is to be removed, then add to the above amount	8.00
5.	Ground brace new pole - block at top and bottom	24.00
6.	Ground brace existing pole - block at top only	27.00
7.	Move 30' and shorter pole	25.00
8.	Move 35' and taller pole	40.00
	(Items 7 and 8 apply only where the existing pole can be physically moved.)	
9.	Straighten pole	20.00
10.	Transfer guy	10.00
11.	Move ground wire on existing pole	7.00
12.	Install guy insulator in existing guy	17.00
13.	Connect Telephone Company ground wire to Electric Company neutral	5.00
14.	T (transfer) or R (relocate) secondary rack	6.00
15.	T or R secondary crossarm - including pins and insulators ..	10.00
16.	T or R primary crossarm - 4 kv or 12 kv crossarm and brace only - pins and insulators not included	13.00
17.	T or R primary pole top pin - insulator not included	3.00
18.	T or R secondary conductor - aluminum - per conductor	7.00

SCHEDULE B

Item	Description of Work Operation	Flat Billing Charges
19.	T or R secondary conductor - other than aluminum - per conductor	\$ 5.00
20.	T or R secondary dead end - all conductor types - per conductor	5.00
21.	T or R primary conductor, insulator and pin - straight line - 4 kv - aluminum - per conductor	13.00
22.	Same as 21 but other types of conductor	9.00
23.	T or R primary conductor insulator and pin - straight line - 12 kv - aluminum - per conductor	19.00
24.	Same as 23 but other types of conductor	12.00
25.	T or R primary conductor dead ends including insulators - 4 kv or 12 kv on crossarms - per conductor	13.00
26.	Same as 25 but dead ends made on pole in vertical arrangement	12.00
27.	T or R service - 2 or 3 wire - one end only - #2 conductors or smaller conductor length adequate	5.00
28.	Same as 27 but conductors have to be lengthened	14.00
29.	T or R street light fixture - bracket and connections	25.00
30.	T or R crossarm supporting street lighting circuits only - insulators and pins not included	7.00
31.	T or R street lighting conductor - aluminum - straight line - including insulator and pin - per conductor	13.00
32.	Same as 31 but conductors other than aluminum	9.00
33.	T or R street lighting conductor dead ends - any type conductor - per conductor	13.00
34.	T or R single phase transformer installation including protective equipment and mounting - protective equipment built as part of transformer - 15 kva size and smaller ..	44.00
35.	T or R single phase transformer installation including protective equipment and mounting - fused cutouts and arrester mounted on crossarms - 15 kva size and smaller .	68.00
36.	Same as 34 but 25 kva size and larger	78.00
37.	Same as 35 but 25 kva size and larger	112.00
38.	Estimated cost will be computed when necessary on items not listed above such as, transformer bank structures, primary or secondary cable risers and other special or unusual installations. The estimated cost will be based on the total current labor and truck costs plus 20% for engineering and administrative expenses.	

Note: Items 1 through 6 have the cost of materials included
Items 7 through 38 do not include the cost of materials

SCHEDULE B

Submitted 10-15 19 52
THE DAYTON POWER AND LIGHT COMPANY

By W. J. McLain
Supervisor of T. and D. Section of
Electrical Engineering Department

Approved 10-15 19 52
THE OHIO BELL TELEPHONE COMPANY

By H. F. Gear
District Plant Engineer

SCHEDULE C

AN ATTACHMENT TO THE OPERATING ROUTINE DATED 6-30-53 BETWEEN
THE DAYTON POWER AND LIGHT COMPANY and THE OHIO BELL TELEPHONE COMPANY

Schedule of Flat Rate Prices for Repetitive Work Operations performed by the Telephone Company to be billed to The Dayton Power and Light Company on the Monthly Billing Summary.

See Sections 11.30 and 11.40 of the Operating Routine dated 6-30-53.

- A. When the work is performed at the request of and for the sole benefit of the Electric Company, the full amount of the following charges shall apply.
- B. When the work is performed by the Telephone Company at the request of the Electric Company and is for the mutual benefit of both companies, billing will be on a basis of 50% or such other percentage as is mutually agreed.

Item	Description of Work Operation	Flat Billing Charges
*(a)	Install 5/8" anchor	\$ 25.00
*(b)	Install double-eye anchor (3/4" rod)	33.00
*(c)	Install double-eye anchor (1" rod)	50.00
*(d)	Install double-eye anchor (1-1/4" rod)	60.00
	* If existing anchor is replaced, add \$8.00 to these prices	
(e)	Ground brace - new pole	24.00
(f)	Ground brace - existing pole (top only)	27.00
*(g)	Move 30' and shorter poles	25.00
*(h)	Move 35' and taller poles	40.00
	# Applies only when existing pole can be physically moved	
(i)	Straighten poles (each)	20.00
(j)	Transfer anchor guy or pole to pole guy (one end only)	10.00
(k)	Move ground wire on existing pole	7.00
(l)	Remove cable terminal	20.00
(m)	Place 10 pair cable terminal	30.47
(n)	Place 16 pair cable terminal	36.06
(o)	Place 26 pair cable terminal	41.66
(p)	Reconcentrate service wire to new terminal location	5.00
(q)	Transfer or move crossarms (each)	5.00
(r)	Transfer or move cable (all sizes) per attach.	3.00
(s)	Transfer or move one (1) open wire (all sizes)30
(t)	Transfer or move covered wire40
(u)	Move drop wire attach. on subscriber's house	5.00
(v)	Transfer or move drive hook35
(w)	Transfer or move terminal (pole distribution type)	5.00
(x)	Transfer or move terminal (cross-connecting type)	25.00
(y)	Transfer U.G. lateral to new pole	Estimated Cost to be furnished

SCHEDULE C

Note: Rearrangements on existing poles which would permit continued joint use of an existing pole are billable. Refers primarily to paragraphs 1.302 and 2.303 of the Operating Routine.

Submitted 10-15 19 52
THE OHIO BELL TELEPHONE COMPANY

By H. F. Gear
District Plant Engineer

Approved 10-15 19 52
THE DAYTON POWER AND LIGHT COMPANY

By W. J. McLain
Supervisor of T. and D. Section of
Electrical Engineering Department

ATTACHMENT 5

DP&L Annual Pole Costs (Illustrative)

The Dayton Power and Light Company
Annual Per Pole Cost (Illustrative)

Line No.	Description	2005 Costs	Reference
1	Net Cost of a Joint Use Pole		
2	Gross Distribution Plant	\$ 986,859,819	FF No. 1, pg 207, col (g), line 75
3	Gross Pole Investment (Acct. 364)	\$ 161,912,478	FF No. 1, pg 207, col (g), line 64
4	Distribution Plant Accumulated Depreciation (Acct 108)	\$ (386,976,159)	FF No. 1, pg 219, col (c), line 26
5	Accumulated Depreciation Attributable to Poles	\$ (63,490,546)	Line 4 x (Line 3 / Line 2)
6	Total Gross Electric Plant	\$ 3,944,601,365	FF No. 1, pg 207, col (g), line 95
7	Less: Intangible Plant	\$ 32,173,445	FF No. 1, pg 205, col (g), line 5
8	Adjusted Gross Electric Plant	\$ 3,912,427,920	Line 6 - Line 7
9	Accumulated Deferred Taxes		
10	Account 190	\$ 87,775,897	FF No. 1, pg 234, col (c), line 18
11	Account 281	\$ (195,596)	FF No. 1, pg 273, col (k), line 8
12	Account 282	\$ (380,297,292)	FF No. 1, pg 275, col (k), line 2
13	Account 283	\$ (43,964,873)	FF No. 1, pg 277, col (k), line 9
14	Total Accumulated Deferred Taxes	\$ (336,681,864)	Sum Lines 10 thru 14
15	Accumulated Deferred Taxes Attributable to Poles	\$ (13,933,291)	Line 14 x (Line 3 / Line 8)
16	Net Pole Investment	\$ 84,488,641	Line 3 + Line 5 + Line 15
17	Appurtenances Factor	0.85	FCC Calculation
18	Net Pole Investment Allocable to Attachments	\$ 71,815,345	Line 16 x Line 17
19	Total Number of Poles	322,629	DP&L Records
20	Net Cost of a Bare Pole	\$ 222.59	Line 18 / Line 19
21			
22	Carrying Charge Calculation		
23	Total General and Administrative Expenses	\$ 64,092,307	FF No. 1, pg 323, col (b), line 168
24	Adjusted Gross Electric Plant	\$ 3,912,427,920	Line 8
25	Total Accumulated Depreciation (Acct. 108)	\$ (1,947,814,248)	FF No. 1, pg 219, col (c), line 28
26	Total Accumulated Deferred Taxes	\$ (336,681,864)	Line 14
27	Net Electric Plant in Service	\$ 1,827,931,808	Line 24 + Line 25 + Line 26
28	Administrative Carrying Charge	0.03937	Line 23 / Line 27
29			
30	Maintenance of Overhead Lines (Acct 593)	\$ 15,207,972	FF No. 1, pg 322, col (b), line 119
31	Investment in Overhead Lines (Accts 364, 365, 369)	\$ 366,541,336	FF No. 1, pg 206, col (g), lines 64 + 65 + 69
32	Accumulated Depreciation Attributable to Accts 364, 365, 369	\$ (143,731,415)	(Line 31 / Line 2) x Line 4
33	Accumulate Deferred Income Taxes for 364, 365 & 369	\$ (31,542,516)	(Line 31 / Line 8) x Line 14
34	Net Investment in Accts 364, 365, 369	\$ 191,267,405	Line 31 + Line 32 + Line 33
35	Maintenance Carrying Charge	0.07951	Line 30 / Line 34
36			
37	Distribution Depreciation Expense	\$ 32,690,639	FF No. 1, pg 336, col (f), line 8
38	Gross Pole Investment (Acct. 364)	\$ 161,912,478	Line 3
39	Net Pole Investment	\$ 84,488,641	Line 16
40	Depreciation Rate for Gross Pole Investment	3.31%	Line 37 / Line 2
41	Depreciation Carrying Charge	0.05348	Line 38 / Line 39 x Line 40
42			
43	Taxes (Accts. 408.1 + 409.1 + 410.1 + 411.4 - 411.1)	\$ 225,740,659	FF No. 1, pg 115, col (g), Line 14 thru 19
44	Net Electric Plant in Service	1,827,931,808	Line 27
45	Taxes Carrying Charge	0.13867	Line 43 / Line 44
46			
47	Applicable Rate of Return	0.0877	DP&L Case No. 05-276-EL-AIR
48	Return Carrying Charge	0.0877	Line 47
49			
50	Total Carrying Charges	0.40873	Line 28+Line 35+Line 41+Line 45+Line 48
51			
53	Rate Calculation		
54			
55	Net Cost of a Bare Pole	\$ 222.59	Line 20
56	Total Carrying Charges	0.40873	Line 50
57	Annual Per Pole Cost	90.98	Line 55 x Line 56

ATTACHMENT 6

AT&T Annual Pole Costs (Illustrative)

AT&T Ohio
Annual Per Pole Cost (Illustrative)

Line No.	Description	2005 Costs	Reference
1	<u>Cost of a Joint Use Pole (Gross Investment Method)</u>		
2	Gross Pole Investment (Acct. 2411)	\$ 147,358,000	ARMIS Table III, Row 101
3	Appurtenances Factor	0.95	FCC Default
4	Bare Pole Cost	\$ 139,990,100	Line 11 x Line 12
5	Total Number of Poles	472,909	ARMIS Table III, Row 801
6	Cost of a Bare Pole (Gross Investment Method)	296.02	Line 12 / Line 13
7			
8	<u>Carrying Charge Calculation</u>		
9	Total A&G Expenses (Accts. 6710/6720)	\$ 217,769,000	ARMIS Table III, Row 503 (both accounts included)
10	Gross Plant Investment (Acct. 2001)	\$ 8,325,290,000	ARMIS Table III, Row 100
11	Administrative Carrying Charge	0.026157527	Line 9 / Line 10
12			
13	Pole Maintenance Expense (Acct. 6411)	\$ 5,131,000	ARMIS Table III, Row 501
14	Pole Rental Expense	\$ 4,244,000	ARMIS Table III, Row 501.2
15	Net	\$ 887,000	Line 13 - Line 14
16	Gross Pole Investment (Acct. 2411)	\$ 147,358,000	ARMIS Table III, Row 100
17	Maintenance Carrying Charge	0.006019354	Line 30 / Line 34
18			
19	Depreciation Carrying Charge for Poles (Acct. 2411 Poles)	0.074	ARMIS Table III, Row 301
20			
21	Operating Taxes (Acct. 7200 Operating Tax)	\$ 255,672,000	ARMIS Table III, Row 504
22	Gross Plant Investment (Acct. 2001)	\$ 8,325,290,000	ARMIS Table III, Row 100
23	Taxes Carrying Charge	0.030710282	Line 43 / Line 44
24			
25	Applicable Rate of Return	0.1125	FCC Default Rate
26	Gross Pole Investment (Acct. 2411)	\$ 147,358,000	ARMIS Table III, Row 101
27	Total Accumulated Depreciation (Acct. 3100)	\$5,948,959,000	ARMIS Table III, Row 200
28	Pole Accumulated Depreciation	\$177,986,000	ARMIS Table III, Row 201
29	Total Accumulated Deferred Taxes (Accts. 4100/4340)	\$568,643,000	ARMIS Table III, Row 403 + 406
30	Pole Accumulated Deferred Taxes	\$10,065,000	ARMIS Table III, Row 401, 404
31	Net Pole Investment	-\$40,693,000	Line 26 - Line 28 - Line 30
32	Return Carrying Charge	-0.031066942	Line 25 * Line 31 / Line 26
33			
34	Total Carrying Charges	0.105820221	Line 11 + Line 17 + Line 19 + Line 23 + Line 32
35			
36	<u>Rate Calculation</u>		
37			
38	Cost of a Bare Pole (Gross Investment Method)	\$ 296.02	Line 6
39	Total Carrying Charges	0.105820221	Line 34
40	Annual Per Pole Cost	\$ 31.32	Line 38 x Line 39

ATTACHMENT 7

Deficiency Rental Calculation (Illustrative)

ATTACHMENT 7
Case No. 06-1509-EL-CSS

DEFICIENCY RENTAL COMPUTATION (Illustrative)

	2005	
1 DPL Annual Per Pole Cost	\$90.98	From Sch. 5
2 DPL Annual Non-ILEC Revenues	\$387,953.13	Books and Records
3 DP&L Total Poles	322,629	Books and Records
4 3rd Party Revenue Offset	\$1.20	Line 3 / Line 4
5 DP&L Net Annual Pole Cost	\$89.78	Line 1 - Line 10
6		
7 ATT Annual Per Pole Cost	\$31.32	From Sch. 6 (figure is not actual revenues; for illustrative purposes only)
8 ATT Annual Non-Electric Co. Revenues	\$400,000.00	ARMIS Table III Row 601
9 ATT Total Poles	472,906	Line 3 / Line 4
10 3rd Party Revenue Offset	\$0.85	Line 1 - Line 10
11 ATT Net Annual Pole Cost	\$30.47	
12		
13 Average Net Annual Pole Cost	\$60.13	(Line 5 + Line 11) / 2
14		
15 Deficiency Rental (Avg. Net / 2) per pole deficiency	\$30.06	Line 13 / 2

ATTACHMENT 8

Form of Motion of Dismissal

DRAFT

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

THE DAYTON POWER AND LIGHT
COMPANY,

Plaintiff,

v.

THE OHIO BELL TELEPHONE
COMPANY, doing business as AT&T OHIO,

Defendant.

CASE NO. 06-10306

Judge Barbara P. Gorman

AGREED ORDER OF DISMISSAL
WITH PREJUDICE

With the agreement of the parties, it is Ordered that this action is
dismissed with prejudice. Each party is to bear its own costs.

Gorman, J.

AGREED:

Charles J. Faruki (0010417)
Jeffrey S. Sharkey (0067892)
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Attorneys for Defendant
AT&T OHIO

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Agreed Order of Dismissal With
Prejudice has been served via electronic mail upon the following counsel of record, this

____ day of September, 2007:

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AT&T OHIO

Jeffrey S. Sharkey

CERTIFICATE OF SERVICE

I hereby certify that I have this day, September 21, 2007, served via e-mail or by first-class mail, a copy of the foregoing on each party to this proceeding.

On behalf of The Dayton Power and Light Company

s/ Randall V. Griffin

Randall V. Griffin

Chief Regulatory Counsel

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