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February 23, 2009

Ms. Reneé Jenkins, Secretary
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, OH 43215

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Re: Case No. 08-709-EL-AIR, et al
December 15, 2008 Deposition of Ulrich Angleton and Exhibits

Dear Ms. Jenkins:

Please find attached a copy of the December 15, 2008 Deposition of Ulrich Angleton along with OCTA Deposition Exhibit Nos. 15-18 in Case No. 08-709-EL-AIR, et al.

Sincerely yours,

Stephen M. Howard

Stephen M. Howard
Attorneys for The Ohio Cable Telecommunication
Association

SMH/mjm

Enclosure

cc: All Parties of Record (w/enclosure via U.S. Mail)

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Technician JM Date Processed 2/23/2009

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke) Case No.
Energy Ohio, Inc. for an Increase in) 08-709-EL-AIR
Electric Distribution Rates.)

In the Matter of the Application of Duke) Case No.
Energy Ohio, Inc. for a Tariff Approval.) 08-710-EL-ATA

In the Matter of the Application of Duke) Case No.
Energy Ohio, Inc. for Approval to Change) 08-711-EL-AAM
Accounting Methods.)

In the Matter of the Application of) Case No.
Cincinnati Gas & Electric Company for) 06-718-EL-ATA
Approval of its Rider BDP, Backup)
Delivery Point.)

DEPOSITION OF: ULRICH ANGLETON

December 15, 2008

12:35 p.m.

REPORTED BY:

Renee Rogers, Registered Professional Reporter

1
2
3 Deposition of ULRICH ANGLETON, a witness herein,
4 taken by the Intervenor as upon cross-examination
5 pursuant to the Ohio Rules of Civil Procedure and notice
6 and stipulations hereinafter set forth, at the offices of
7 Vorys, Sater, Seymour and Pease, LLP, 221 East Fourth
8 Street, Suite 2000, Cincinnati, Ohio at 12:35 p.m. on
9 Monday, December 15, 2008, before Renee Rogers,
10 Registered Professional Reporter and notary public within
11 and for the state of Ohio.

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21
22 Cin-Tel Corporation
23 813 Broadway
24 Cincinnati, Ohio 45202
 (513) 621-7723

1 APPEARANCES:

2 On behalf of Duke Energy:

3 AMY B. SPILLER, ESQ.
ELIZABETH H. WATTS, ESQ.
4 Duke Energy
139 East Fourth Street
5 Cincinnati, Ohio 45201

6 On behalf of Intervenor The Ohio Cable Telecommunications
Association:

7
GARDNER F. GILLESPIE, ESQ.
8 Hogan & Hartson, LLP
Columbia Square
9 555 Thirteenth Street, NW
Washington, DC 20004

10 On behalf of the Ohio Attorney General (by telephone):

11
STEPHEN REILLY, ESQ.
12 Office of the Attorney General
Public Utilities Commission of Ohio
13 180 East Broad Street, Sixth Floor
Columbus, Ohio 43215

14

15 Also present (by telephone):

16 Louis Brown
Victor Gallina

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S T I P U L A T I O N S

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2 It is stipulated by and among counsel for the
3 respective parties that the deposition of Ulrich Angleton
4 may be taken at this time by the Intervenor as upon
5 cross-examination pursuant to the Ohio Rules of Civil
6 Procedure and pursuant to Notice and agreement of counsel
7 as to the time and place; that the deposition may be
8 taken in stenotype by the notary public-court reporter
9 and transcribed by her out of the presence of the
10 witness; that the deposition is to be submitted to the
11 deponent for his examination and signature, and that the
12 signature may be affixed outside the presence of the
13 notary public-court reporter.

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I N D E X

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2 Witness

Page

3 ULRICH ANGLETON

4 Cross by Mr. Gillespie

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E X H I B I T S

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Marked

8 Deposition Exhibit Number OCTA 15

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9 Deposition Exhibit Number OCTA 16

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10 Deposition Exhibit Number OCTA 17

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11 Deposition Exhibit Number OCTA 18

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1 ULRICH ANGLETON,
2 of lawful age, as having been duly sworn, was
3 examined and testified as follows:

4 CROSS-EXAMINATION

5 BY MR. GILLESPIE:

6 Q Would you state your name and address
7 for the record, please.

8 A Ulrich Angleton.

9 Q Mr. Angleton, we've met before. I'm
10 Gardner Gillespie on behalf of the Ohio Cable
11 Telecommunications Association.

12 MR. GILLESPIE: We will preserve
13 objections other than to form or
14 privilege. Is that all right?

15 Q Would you state your name and address
16 for the record, please. Well, you stated your
17 name. What's your address?

18 A My address?

19 Q Yes.

20 A Where I work?

21 Q Business address is fine.

22 A My business address, 1000 East Main
23 Street, Plainfield, Indiana.

24 Q Are you on any medication today?

1 A Only my blood pressure.

2 Q Is there any reason why we can't rely
3 on your testimony as being complete, accurate, and
4 truthful?

5 A No.

6 Q Have you had your deposition taken
7 before?

8 A No.

9 Q Well, I'll be asking you a series of
10 questions to which I need a verbal response. A
11 response such as "uh-huh" or "huh-uh" or shaking of
12 your head or something like that, that won't work
13 for us. We'll need a verbal response.

14 Wait until I finish asking my
15 question, if you don't mind, before you answer.
16 That will give your counsel an opportunity to
17 object, and we'll be sure we have a clear record to
18 rely on.

19 If you don't understand a question,
20 ask me to rephrase it. Because if you answer, we
21 will assume that you have understood it, all right?
22 You understand?

23 A Yes.

24 Q I'm going to use the word "Duke" to

1 refer to Duke Energy Ohio, as well as its
2 predecessor companies such as Cincinnati Gas &
3 Electric, okay?

4 A (Nods head.)

5 Q What did you do to prepare for this
6 deposition?

7 A I had conversation with Amy Spiller
8 just on different --

9 MS. WATTS: You don't need to --

10 Q You don't need to tell me what you
11 talked to Ms. Spiller about. Did you talk to anyone
12 else?

13 A No.

14 Q Did you review any documents?

15 A No.

16 Q What's your current title and
17 responsibilities with Duke?

18 A I'm a joint use specialist with Duke.

19 Q What are your responsibilities as --

20 A Responsibilities are to interpret
21 agreements, act as a liaison between Duke Energy and
22 those who have agreements with us to be on our poles
23 or in our duct.

24 Q How long have you been a joint use

1 specialist?

2 A 13 years.

3 Q And before that, were you with CG&E?

4 A I was with Cinergy, and before that
5 PSI Energy.

6 Q Was PSI Energy a predecessor of
7 Cinergy?

8 A Yes.

9 Q And how long have you been with Duke
10 and its predecessors then?

11 A 40 and a half years.

12 Q Well, congratulations. Were you also
13 involved with joint use prior to the time you became
14 a joint use specialist?

15 A No. My background basically was in
16 engineering, distribution engineering and substation
17 engineering.

18 Q So your involvement with joint use
19 began approximately 1995?

20 A Yes.

21 Q Who do you report to?

22 A Jeff Riggins.

23 Q Does anybody report to you?

24 A No.

1 Q What are your responsibilities
2 vis-a-vis those of Teri Brierly?

3 A Teri Brierly is a counterpart in Ohio.

4 Q Okay. You are now working in Indiana?

5 A I am.

6 Q Are you pending retirement, or do you
7 have retirement coming up soon?

8 A Yes, I do.

9 Q When is it?

10 A 31st of December.

11 Q And who will take over your
12 responsibilities?

13 A That has not been decided yet.

14 Q How long have you had responsibilities
15 in Indiana?

16 A 13 years.

17 Q But you also have had responsibility
18 over that time for joint use in Ohio?

19 A Yes.

20 Q In that entire time?

21 A Yes.

22 Q Okay. So I'm a little confused. You
23 said that you're a joint use specialist in Ohio and
24 Indiana, and Teri Brierly has similar

1 responsibilities in Ohio; is that right?

2 A That is correct.

3 Q So explain for me, if you will, how
4 your responsibilities interrelate with those of
5 Ms. Brierly.

6 A The way our group was structured, I
7 handled all the billing for Indiana, Ohio, and
8 Kentucky. I did interpret and take care of all the
9 contracts for Ohio, Indiana, and Kentucky up until
10 about a year ago.

11 Teri was -- took care of the
12 day-to-day work here in Ohio. It's a different
13 situation here than it is in Indiana. It's more
14 centralized. And she was hands-on in the field
15 taking care of things like that.

16 Q Okay. So over the last 13 years you
17 have been responsible for dealing with cable
18 operators' attachments to Duke poles?

19 A Yes.

20 Q And also dealing with attachments by
21 other third parties?

22 A Yes.

23 Q Including those of the phone
24 companies?

1 A That's correct.

2 Q You also have responsibility for
3 dealing with attachments by Current Communications
4 or CCV?

5 A Yes.

6 Q And have you been responsible for
7 dealing with pole attachments by any Duke affiliate
8 or subsidiary?

9 A Anybody that attaches to a Duke pole,
10 whether it's an affiliate or other, I would have
11 involvement with, mainly from the standpoint of
12 billing on some of it, and others with the contract
13 itself.

14 Q Have you been responsible for tracking
15 the number of attachments by third parties?

16 A Yes.

17 Q Have you been responsible for
18 compliance of attaching parties with the NESC?

19 A No.

20 Q Have you had any involvement with
21 compliance by attachers with the NESC?

22 A Only from the standpoint that when we
23 signed agreements we specified where we wanted the
24 individual to be on a pole. Beyond that, no.

1 Q Have you had any responsibility with
2 respect to Duke's compliance with the NESC?

3 A Only limited.

4 Q In what way?

5 A That's an engineering function. And
6 so Duke has very specific guidelines and standards
7 that they go by when they attach to a pole, and
8 those are expected to be done and handled by the
9 engineering department.

10 Q Are you generally knowledgeable about
11 the condition of Duke's outside plant?

12 A In what way?

13 Q With respect to NESC compliance of the
14 various parties on the pole.

15 A Only from the standpoint of
16 contractually working with third parties and limited
17 work with the actual engineers.

18 Q Did you have occasion to ride out the
19 plant frequently over those 13 years?

20 A Yes, I have.

21 Q Okay. We're going to rely on the same
22 exhibits that we have so far, with the addition of
23 them as necessary.

24 Are you prepared to answer questions

1 with respect to any particular areas of the
2 deposition notice that we sent out to Mr. Storck?

3 A Yes.

4 Q Let me ask your counsel --

5 MR. GILLESPIE: -- whether
6 Mr. Angleton is being offered with respect
7 to any of the particular question areas
8 from that deposition, or is he simply
9 appearing pursuant to our notice?

10 MS. SPILLER: The latter.

11 MR. GILLESPIE: Okay. I didn't want
12 to miss some area where you would say, oh,
13 you should have spoken to Mr. Angleton,
14 we're proposing him in that area. That's
15 all.

16 Q Have you discussed any of the
17 questions in the deposition notice with anyone other
18 than your counsel?

19 A No.

20 Q Now, are you familiar with the
21 prefiled testimony from Mr. Storck in this case?

22 A No.

23 MR. GILLESPIE: Let's provide the
24 witness with a copy of Exhibit Number 2.

1 Q I would ask you to look at pages 12
2 through the end. Have you seen any of that before?

3 A No.

4 Q Did you review a draft, any draft of
5 Mr. Storck's testimony?

6 A No.

7 Q So you didn't suggest any possible
8 revisions to Mr. Storck?

9 A Not that I recall.

10 Q Do you recall receiving from
11 Mr. Storck a draft of his testimony?

12 A No.

13 Q Either by e-mail or any other means?

14 A No.

15 Q So are you familiar with Duke's
16 existing pole attachment tariff?

17 A Yes.

18 Q And you're familiar with pole
19 attachment agreements between Duke and cable
20 operators?

21 A I am.

22 Q So you've read them?

23 A Yes.

24 Q What cable companies does Duke have

1 agreements with? Do you know?

2 A Within Ohio, Time Warner Cable; Breyer
3 Communication, it was Rapid; the old Adelphia system
4 which is now also Time Warner. I believe that is
5 all of them in Hamilton County.

6 Q Those are all of them within Duke's
7 service area in Ohio?

8 A Um-hmm.

9 Q And it's been your responsibility for
10 maintaining those agreements?

11 A Yes.

12 Q Are you familiar with the pole
13 attachment tariffs of any other utilities in Ohio?

14 A No.

15 Q Are you familiar with Duke's
16 calculations of pole rates in this case?

17 A I am.

18 Q Were you involved at all in those
19 calculations?

20 A Only from the standpoint that I
21 reviewed them.

22 Q Now, what do you mean, you reviewed
23 them?

24 A Those were done by the rate

1 department, Don Storck.

2 Q Did you provide any input?

3 A No.

4 Q Are you familiar with Duke's tariff in
5 Kentucky?

6 A I am.

7 Q Do you know what the rate is?

8 A It's \$4 -- it depends on how many
9 attachers are on a pole in Kentucky.

10 Q Doesn't it depend on whether it's a
11 two-party or three-party pole?

12 A That is correct.

13 Q And what are those rates? Do you
14 recall?

15 A \$4 and 4.50.

16 Q \$4 for a three-party pole and 4.50 for
17 a two-party pole?

18 A I believe that's right.

19 Q A two-party pole being one that
20 contains attachment by one third party and Duke; is
21 that right?

22 A Yes.

23 Q Are you familiar with the terms and
24 conditions of Duke's tariff in Kentucky?

1 A Only from a standpoint of what the
2 dollar figure is. I've never had any occasion to go
3 back and actually go through that tariff yet.

4 Q When were the rates of \$4 and 4.50
5 set?

6 A I do not know.

7 Q Are you familiar with the pole
8 attachment agreement of Duke's affiliate in North
9 Carolina?

10 A No, I'm not.

11 Q Are you familiar with the pole
12 agreement of Duke's affiliate in Indiana?

13 A Yes, I am.

14 Q What rate is being charged by that
15 affiliate?

16 A \$4.91.

17 Q When was that rate set? Do you know?

18 A That rate was set approximately two
19 years ago.

20 Q And is that rate supposed to follow
21 the FCC formula?

22 A It is.

23 Q Are you familiar with all audits and
24 surveys conducted by or on behalf of Duke regarding

1 authorized or unauthorized attachments to Duke's
2 poles over the last 13 years?

3 A I'm aware of the audits taking place.

4 Q Are you aware -- well, let me put it
5 this way: There wouldn't have been any audit or
6 survey conducted of unauthorized attachments over
7 those 13 years in Ohio that you didn't know about;
8 isn't that right?

9 A Whenever they were done in Ohio, that
10 is one of the areas that I had nothing to do with.
11 My responsibility didn't take in handling of the
12 audits.

13 Q Are you knowledgeable about Time
14 Warner -- about the audit of Time Warner Cable's
15 attachments in 2000 and 2001?

16 A I knew there was an audit. Like I
17 said, I didn't have any personal involvement in it,
18 but I did know there was an audit. Now, whether
19 they did the entire territory, portions of it, I
20 have no idea.

21 Q You would have been responsible for
22 any billings associated with that audit, correct?

23 A I would have been, but I don't recall
24 doing any.

1 Q Okay. Are you knowledgeable about the
2 audit of Adelphia in 2004, 2005?

3 A Yes. In the same context, I knew it
4 was happening.

5 Q And you're aware of the audit of Time
6 Warner Cable in 2005 and 2006?

7 A Yes.

8 Q Are there any other audits or surveys
9 of the attachment of any third party that you're
10 aware of?

11 A Only a limited one in Indiana in the
12 2004 time frame.

13 Q Well, unless I ask more generally, I'm
14 interested in what's going on in Ohio, okay?

15 A Okay.

16 Q Are you familiar with any surveys or
17 inspections conducted by or on behalf of Duke
18 regarding compliance with the NESC?

19 A Only from what I heard, that it was
20 part of the audit taking place in 2006.

21 Q That would have been of Time Warner
22 Cable's plant?

23 A And Adelphia's plant.

24 Q Are you aware of any other surveys or

1 inspections with respect to NESC compliance of any
2 other parties since 2000?

3 A No.

4 Q Are you familiar with the incidence of
5 safety violations on Duke's poles caused by third
6 parties?

7 A Yes.

8 Q Can you tell me about how you are
9 familiar with those.

10 A Those would have been violations
11 noted, and there would be billing involved in that
12 type of thing. As far as the safety violations,
13 only after the audit was done and what I was
14 presented with.

15 Q Okay. This would be in connection
16 with the 2005-2006 audits?

17 A That's correct.

18 Q Okay. You're familiar with Duke's
19 records of attachments by third parties; is that
20 right?

21 A Yes.

22 Q How are those records kept?

23 A There are databases that are in place
24 done by pole number and attacher.

1 Q Are they kept for both cable companies
2 and telephone companies?

3 A Yes.

4 Q Do you know whether the databases are
5 kept with respect to poles attached to or number of
6 attachments?

7 A I know that some of the databases do
8 show how many attachers' attachments are on poles.
9 I can't tell you that they're all that way. I don't
10 know.

11 Q Do you know how Duke tracks changes in
12 pole ownership between Duke and other pole owners
13 such as telephone companies?

14 A Yes, I do.

15 Q How does it?

16 A It does it electronically with a JUR
17 system.

18 Q How long has that been in effect?

19 A Since 1995, I believe.

20 Q Do you know whether all changes in
21 pole ownership have been reflected?

22 A No.

23 Q Does the acquisition of a pole -- if
24 Duke acquires ownership of a pole from Cincinnati

1 Bell, for example, do you know how or whether that
2 acquisition is reflected on Duke's continuing
3 property records?

4 A I know that it is, but I don't know
5 the system that it goes through to have that done.
6 We try and keep a very tight record on the ratio of
7 poles. So any time that that ratio is not what it
8 should be, there's provisions made to transfer
9 ownership of poles.

10 Q Now, what you're referring to is the
11 proportion of ownership of poles between Duke and
12 telephone companies?

13 A (Nods head.)

14 Q Such as Cincinnati Bell?

15 A Yes.

16 Q When a pole changes ownership between
17 -- well, let me take a step back.

18 Duke has those joint ownership
19 arrangements with Cincinnati Bell and what other
20 companies?

21 A The only company that I could say they
22 really have a ratio with would be Cincinnati Bell.
23 We also have AT&T, Embarq, which used to be Sprint,
24 and some other small telephone companies.

1 Those two we share ownership from the
2 standpoint that they're on our poles, we're on
3 theirs. There is a rental and a net billing at the
4 end of the year if the ratio is not even.

5 Q But with respect to Cincinnati Bell,
6 there's an effort to keep the respective pole
7 ownership at the appropriate level?

8 A That is correct.

9 Q And what is the proportion of
10 ownership by each company supposed to be?

11 A I believe right now it's 57.

12 Q 57/43?

13 A 43, yes.

14 Q With Duke owning 57 percent of the
15 poles?

16 A Yes.

17 Q Now, has Cincinnati Bell generally
18 been installing poles to the point where it installs
19 43 percent of the new poles?

20 A Most of the poles set are set by Duke
21 Energy in primary, and Cincinnati Bell pays Duke to
22 do that.

23 Q And then how is that accounted for in
24 terms of the respective percentages of ownership?

1 A It does never affect the percentage of
2 ownership, because generally we're talking about
3 replacing poles.

4 There's not a lot of new plant that is
5 put up. But if there is, each year it's looked at
6 on the percentage of how many we've got plus that
7 they have. They, too, keep a database on the JUR
8 system of their number of poles.

9 Q When Duke installs a pole for
10 Cincinnati Bell and Cincinnati Bell pays for it,
11 that pole is then considered to be owned by
12 Cincinnati Bell; is that right?

13 A That is correct.

14 Q And the idea of the joint ownership
15 ratio is that if Duke owns 57 percent and Cincinnati
16 Bell owns 43 percent of the poles to which they're
17 both attached, then there's no rental that changes
18 hands; is that correct?

19 A That is correct.

20 Q And has Duke been pretty successful at
21 maintaining that ratio at 57/43?

22 A Very successful.

23 Q Through the process that you've been
24 talking?

1 A Yes.

2 Q Now, if there is a Cincinnati Bell
3 pole in the field that changes ownership from
4 Cincinnati Bell to Duke, is there a change in the
5 stamp on the pole?

6 A Generally not to the bet stamp that
7 identifies who set the pole, but the pole number is
8 changed to reflect who owns it.

9 Q So if somebody knows the way the pole
10 numbers work or has the records, they can determine
11 who the owner is?

12 A Yes. And we keep a cross-reference
13 within the database between their pole numbers and
14 our pole numbers.

15 Q Okay. Are you familiar with the FERC
16 accounting used by Duke for pole investment?

17 A Yes, I am.

18 Q Do you know what items of investment
19 or expense are placed in different accounts?

20 A Only if I look at the formula from the
21 FCC on determining the rate for poles.

22 Q Okay. You're talking about rates.
23 I'm talking about actual placing of investment by
24 Duke in to one account or another.

1 A No.

2 Q So you're not familiar with that?

3 A No.

4 Q Do you have any responsibility for
5 seeing that the appropriate items are placed in
6 Account 364 or Account 593?

7 A No.

8 Q Now, are you familiar with pole
9 maintenance by Duke over the last few years?

10 A Yes, I am.

11 Q Do you have any responsibility for
12 what expenses are charged to Account 593, the pole
13 maintenance expense?

14 A I do not have any responsibility.

15 Q Was there anything out of the ordinary
16 regarding pole or overhead line maintenance in 2007
17 that would have caused that expense to be unusually
18 high in 2007?

19 A Not that I'm aware of.

20 Q Okay. Do you know how Duke keeps
21 records of the number of distribution poles that it
22 has?

23 A No, I don't. Most of that is handled
24 with the rate department.

1 Q Okay. Are you knowledgeable about the
2 range of the average cost of buying and installing
3 distribution poles?

4 A Only on a limited basis.

5 Q What's the limited basis?

6 A Whenever -- for example, with
7 Cincinnati Bell, we have to go and -- each year we
8 have to find out what it cost to replace a pole so
9 the cost that we charge them for placing a pole are
10 agreeable and in line with what the actual pricing
11 is.

12 Q Okay. And do you have an annual list
13 of those estimated costs?

14 A We do have.

15 Q And are those the same estimates of --
16 are they estimates, or are they actually used in
17 dealing with Cincinnati Bell?

18 A Those are -- we try and get them as
19 close to actual as we can.

20 Q And does that cost include the
21 material cost to the pole?

22 A It does.

23 Q And the cost of installing the pole?

24 A Yes.

1 Q And the expected cost of guying and
2 anchoring?

3 A Yes.

4 Q And do the costs include Duke's
5 overheads?

6 A Yes, it does.

7 Q So looking at that sheet for 2007, we
8 could determine pretty well what the expected cost
9 would be of installing a certain size pole; is that
10 right?

11 A I suppose.

12 Q And the intention of that list is to
13 be pretty accurate in terms of what it actually
14 costs to install the pole, right?

15 A That's the intent.

16 Q Does it separately account for the
17 cost of guying and anchoring?

18 A That, I don't know.

19 Q Does Duke use those same costs in
20 terms of figuring out the cost of make ready for
21 cable operators?

22 A I can't answer that. I can't say yes
23 to that, because those costs are between Cincinnati
24 Bell and Duke. And based on the way the agreement

1 works, there's some negotiation that takes place in
2 there, and I'm not privy to all of that.

3 Q Now, Duke installs new poles as part
4 of make ready for cable operators and other
5 third-party attachers; is that right?

6 A Yes.

7 Q Okay. So that if a cable operator
8 wants to attach to a pole and there's insufficient
9 space on the pole the way it's configured, the cable
10 operator has to pay to install a new pole; is that
11 right?

12 A That's correct.

13 Q The cable operator also pays to remove
14 the old pole and pays to move any of the equipment
15 from one pole to the next; is that right?

16 A That's correct.

17 Q And how are the costs that Duke
18 charges for installing a new pole for cable
19 operators, a make ready, how are they determined?

20 A Through the same system that they do
21 -- that they figure for the Cincinnati Bell poles.
22 It's done off the Jet system.

23 Q And what's that?

24 A That's the estimating tool for

1 distribution poles.

2 Q How does that work?

3 A I don't use Jet. I've asked for
4 reports from it. Basically it costs out a pole,
5 both manhours and overheads.

6 Q So under the Jet system, if you have a
7 40-foot pole that needs to be installed, Jet will
8 estimate what the cost would be of installing --
9 buying and installing it?

10 A That's correct.

11 Q How long has Duke had the Jet system?

12 A Quite a number of years, dating back
13 into the nineties.

14 Q Can you give me a range for the cost
15 of buying and installing a new 40-foot pole on
16 behalf of Duke?

17 A I couldn't. No. Not without looking
18 at the sheet.

19 Q By the sheet you mean the sheet that
20 contains these costs for Cincinnati Bell?

21 A Yes. Or asking for one out of the Jet
22 system.

23 Q Do you have any experience with other
24 companies' embedded pole investment costs?

1 A Not in Ohio, no.

2 Q Do you have experience in the embedded
3 pole investment costs of Duke's affiliates in
4 Indiana and Kentucky?

5 A No.

6 Q Is there any reason to expect that
7 Duke's poles in Ohio would be substantially
8 different in terms of the amount of investment than
9 Duke's affiliates in Kentucky or North Carolina or
10 Indiana?

11 A I know that they're all different and
12 they're based on prevailing circumstances, as I
13 understand it, between each state.

14 Q Do you know any reason why the
15 investment in poles in Ohio would be significantly
16 higher than Kentucky or Indiana?

17 A No, I don't.

18 Q Do you know whether Duke or any of its
19 affiliates offer any kind of video or communication
20 services?

21 A No.

22 Q Are you aware of a company named CG&E
23 Fiber Optic?

24 A That doesn't sound familiar.

1 Q Do you know whether Duke has a pole
2 attachment agreement or some arrangement with CG&E
3 Fiber Optic?

4 A If they did, I had nothing to do with
5 that agreement.

6 Q Okay. Does Duke retain records of how
7 much revenue was received from different entities
8 for pole attachments of different years?

9 A Yes.

10 Q And Duke has records of how many
11 attachments different entities have had on Duke's
12 poles?

13 A Yes.

14 Q What's the form of those records? Are
15 they -- are there summaries provided, prepared?

16 A There were at one time. I don't know
17 of any lately that's been put together.

18 Q You could run a summary off a computer
19 spreadsheet with that information?

20 A Oh, yes. Yeah.

21 Q Would it be relatively easy to have a
22 computerized summary of the number of attachments of
23 the different parties on Duke's poles?

24 A Oh, yes.

1 Q And in some cases that would be of
2 attachments, and in some cases that would be the
3 number of poles attached to?

4 A Yes.

5 Q Would it also be relatively easy to
6 pull from Duke's records the revenue received from
7 third parties for pole attachments?

8 A Yes.

9 Q From each of the different companies?

10 A Yes.

11 Q Okay. Do you know whether Duke or any
12 parent or sister company or any affiliate owns any
13 interest in other entities that offer communication
14 services?

15 A I don't.

16 Q Do you know whether Duke has an
17 ownership interest in Current Technologies or CCB?

18 A I knew that they did have at one
19 time. I don't know if that's -- if they still have
20 it.

21 Q Okay. Have you in your job had any
22 involvement with broadband over power line?

23 A Other than billing, no.

24 Q What do you mean, other than billing?

1 A We were aware that they were attached
2 to the pole. We kept the records on where they
3 attached, and then we charged them for the
4 attachments.

5 Q Now, does Duke use any poles owned by
6 other parties? Let me rephrase that.

7 Duke attaches to Cincinnati Bell
8 poles, right?

9 A Correct.

10 Q And the idea is that in the
11 arrangement Cincinnati Bell will own 43 percent of
12 the poles?

13 A Yep.

14 Q Does Duke attach to poles owned by any
15 other parties other than Cincinnati Bell?

16 A Yes. Embarq, AT&T.

17 Q Okay. Does Duke have records of the
18 rates charged by AT&T and Embarq?

19 A Yes.

20 Q And it has records of the amount paid
21 every year to those companies?

22 A Yeah.

23 Q With respect to AT&T, is there an
24 expectation with respect to the number of -- or the

1 percentage of poles that will be owned by AT&T as
2 opposed to Duke?

3 A There were at one time, but Cincinnati
4 Bell is one of the very few telephone companies that
5 has actually tried to maintain a ratio. Due to the
6 scaling down of workforces, it turns out that Duke
7 ends up owning more poles than the telephone
8 company. That's why we have a net billing for those
9 who don't have a close ratio.

10 Q So the concept with respect to Duke
11 and AT&T set forth in the agreement says that Duke
12 is supposed to own a certain percentage and AT&T is
13 supposed to own a certain percentage. So, again,
14 there should be no net billing between one party and
15 the other, right?

16 A That's the idea.

17 Q Okay. But to the extent that AT&T has
18 not kept up with the ownership percentage that it's
19 supposed to have, Duke bills it for attachments to
20 Duke's poles, right?

21 A That's correct.

22 Q And what rate does Duke bill AT&T at?
23 Do you know?

24 A Without having those figures in front

1 of me, I honestly can't tell you.

2 Q And Embarq has also not kept up the
3 ownership percentage that is called for in the
4 agreement, right?

5 A Right.

6 Q And so there is a rental amount that
7 is charged by Duke to Embarq to the extent that it
8 doesn't own the right percentage; is that right?

9 A Correct.

10 Q Now, for AT&T and Embarq, is the ratio
11 of ownership reflected in the rental rates, or is
12 there a percentage of ownership that is actually
13 set?

14 Let me explain my question. One way
15 to deal with the percentage of ownership is to say
16 you're supposed to own 43 percent and I'm supposed
17 to own 57 percent, and the rental rate can be \$2 or
18 a hundred dollars. There shouldn't be any.

19 A (Nods head.)

20 Q The other way to do it is to say
21 you're supposed to own 60 percent and I'm supposed
22 to own 40 percent -- or let's say I'm supposed to
23 own 60 percent, you're supposed to own 40 percent,
24 and so your rental rate will be 40 bucks and my

1 rental rate will be 60 bucks. And if we each own
2 the relative correct percentages, there's no rental
3 rate that passes?

4 A That's the theory on it.

5 Q Now, is it the latter theory that
6 works with AT&T and Embarq, or is there a set
7 percentage?

8 A The way it works with the other
9 telephone companies, if they don't own a percentage
10 of poles, Duke pays them for the six foot of pole
11 that they're on.

12 Where Embarq attaches to Duke poles,
13 they pay for a percentage of the poles that they're
14 on. Generally the old agreements called for three
15 foot of space. So they'll pay for three foot of
16 space on all those Duke poles that are beyond the
17 percentage.

18 Q Okay. And do you know what the rate
19 is that's charged by AT&T of Duke?

20 A I don't at this point.

21 Q And do you know what the rate is that
22 is charged by Duke to Embarq?

23 A It's -- I know Embarq is around \$18,
24 but I'm not sure.

1 Q Do you know what rate Duke pays to
2 attach to Embarq poles?

3 A No. Because those come out in net
4 billing.

5 Q So it's only -- you only charge for
6 the difference?

7 A Yes.

8 Q So if Embarq is supposed to own 50
9 percent of the poles and it ends up owning ten poles
10 less than 50 percent, then Embarq pays a rental rate
11 for those ten poles?

12 A Yes.

13 Q And the same is the way it works with
14 AT&T, whatever the rate is?

15 A Right. With all telephone companies.
16 Because all old phone agreements are pretty much the
17 same. They all call for trying to keep a ratio.

18 Q We call those joint use agreements,
19 right?

20 A Yes.

21 Q Now, there is a current joint use
22 agreement between Duke and Cincinnati Bell; is that
23 right?

24 A Yes.

1 MR. GILLESPIE: Amy, is that the
2 agreement that was not supplied to me?

3 MS. SPILLER: You have an agreement
4 with Cincinnati Bell.

5 MR. GILLESPIE: I don't have the
6 current joint use agreement.

7 MS. SPILLER: You have the agreement
8 that's in effect.

9 THE WITNESS: It's a very old
10 agreement.

11 MR. GILLESPIE: I only have one copy
12 of these. Let me have these marked as
13 Exhibit Number 15. It's a revised joint
14 use agreement. It's actually between
15 Cincinnati Gas & Electric and The
16 Cincinnati Suburban Bell Telephone
17 Company, and it has -- this agreement is
18 dated 1957, and it has some other
19 amendments to it, including some that are
20 dated in 2004.

21 (Whereupon, Deposition Exhibit Number
22 OCTA 15 was marked for identification.)

23 Q Is that the current joint use
24 agreement between Duke and Cincinnati Bell?

1 A It is.

2 Q So that's still in place?

3 A Yes.

4 Q So that is the primary agreement under
5 which Duke and Cincinnati Bell operate?

6 A Yes, it is.

7 MR. GILLESPIE: Let me have marked as
8 OCTA 16 a document that says
9 Telecommunications Pole Attachment
10 Agreement between Cincinnati Bell
11 Telephone and the Cincinnati Gas &
12 Electric Company, dated May 1, 2000.

13 (Whereupon, Deposition Exhibit Number
14 OCTA 16 was marked for identification.)

15 Q Are you familiar with that document?

16 A Yes, I am.

17 Q What is that?

18 A This document is to cover Cincinnati
19 Bell Telephone when they're out of service territory
20 when they become a CLEC instead of an ILEC.

21 Q About how many of Cincinnati Gas &
22 Electric's poles are -- does Cincinnati Bell attach
23 to under that second agreement, the OCTA 16?

24 A I can't tell you the exact number. I

1 know it's a number of poles, but I can't tell you --
2 without -- without looking at the billing, I
3 couldn't tell you.

4 Q But you have those records?

5 A Yes. We have those records.

6 Q So are those the only agreements
7 between Cincinnati Bell and Duke?

8 A Yes.

9 Q Does Duke have records of all
10 attachments by Cincinnati Bell to Duke's poles?

11 A Yes.

12 Q How much space is Cincinnati Bell
13 generally entitled to on Cincinnati Gas & Electric's
14 poles?

15 A The agreement stipulates three foot of
16 space.

17 Q And how much space is Embargo generally
18 entitled to when it attaches to Duke poles?

19 A Three foot of space.

20 Q And AT&T?

21 A Same, three foot.

22 Q Now, does Cincinnati Bell apply to
23 Duke to attach to drop poles?

24 A Drop poles now are considered plan,

1 and have been for some time, and we do put -- they
2 are put in the system.

3 Q Well, you say now considered plan.

4 What do you mean by that?

5 A At one time there was a label put on
6 drop poles. They were called CC poles because they
7 weren't in line on a regular distribution line and
8 they were not counted in the regular plan. Some
9 years later they were added to the plan.

10 Q Okay. And does Cincinnati Bell apply
11 to attach to drop poles now?

12 A They apply to attach to all poles in
13 the JUR system.

14 Q And do they apply to attach to drop
15 poles before they attach?

16 A That, I don't know. I would have to
17 say -- I'll say I don't know.

18 Q Okay. How does the JUR system work?

19 A Whenever there's a proposal to attach
20 to a pole -- JUR system is an electronic system that
21 both Time Warner Cable, Cincinnati Bell Telephone,
22 and other cable companies use to make a request to
23 get on a pole, and it starts the ball rolling as far
24 as the proposal, and drawings are attached.

1 Once that comes in, it goes to a tech,
2 goes out and looks at the pole, and determinations
3 are made. It's either approved or not approved or
4 whatever concessions need to be made to allow
5 attachment to that pole at that time.

6 Q Has Duke participated in any surveys
7 of Cincinnati Bell's attachments to Duke's poles to
8 count them?

9 A I don't know. Not that I'm aware of.

10 Q Okay. Are you aware of any surveys of
11 Cincinnati Bell attachments by Duke to see if they
12 are consistent with the National Electrical Safety
13 Code?

14 A I'm not familiar with whether they
15 have or not.

16 Q Do you know whether there's an
17 infrastructure sharing agreement between Duke and
18 Current or one of Current's affiliates in addition
19 to the pole attachment agreement?

20 A No, I don't.

21 Q You don't know?

22 A (Shakes head.)

23 Q Do you know whether there have been
24 any audits conducted of attachments by Current or

1 any of Current's affiliates to Duke's poles?

2 A No.

3 Q Do you know of any safety inspections
4 involving Current or Current's affiliates?

5 A Any time an attachment is put on a
6 pole, the process is to do a post inspection to make
7 sure that that attachment is in compliance.

8 Q Other than the post-construction
9 inspections, are you aware of any audits or surveys
10 of Current's facilities?

11 A No.

12 Q Are you aware of complaints having
13 been made by cable operators about the manner in
14 which Current or CG&E was attaching Current's
15 facilities to Duke's poles?

16 A No.

17 Q Do phone companies have power supplies
18 on Duke's poles?

19 A They have terminal boxes generally
20 mounted on their own poles. I'm sure there are some
21 on Duke poles, but the intent is to keep them on
22 telephone poles.

23 Q To the extent that they have terminal
24 boxes on Duke's poles, do they pay a separate rental

1 rate for that?

2 A No.

3 Q Do phone companies have risers on
4 Duke's poles?

5 A They do.

6 Q Do they pay a separate, additional
7 rate for risers?

8 A No.

9 Q Now, you said that at one time drop
10 poles had a designation of CC?

11 A That was current contact.

12 Q And so they were not included in the
13 poles for terms of sharing arrangements; is that
14 right?

15 A As far as I know.

16 Q As far as you know they were not?

17 A Yeah. That, I really don't know for
18 sure.

19 Q Has Duke conducted any kind of an
20 audit to identify all of Duke's drop poles to which
21 the phone companies may be attached?

22 A I'm not aware of it.

23 Q When the phone companies were
24 attaching to drop poles under the CC system, were

1 there records kept of those?

2 A That, I don't know.

3 Q You haven't seen any such records?

4 A I haven't seen any, no.

5 Q Does Duke intend to apply the new
6 tariff charge in this proposed tariff to power
7 supplies by cable operators?

8 A We looked at -- we're looking at doing
9 them in the future, yes.

10 Q Okay. So the idea is that the tariff
11 charge proposed to be \$14.42 would apply to power
12 supplies; is that right?

13 A Yes.

14 Q If a power supply -- let's consider a
15 situation where a cable operator has an attachment
16 on a pole, a horizontal attachment above minimum
17 grade height, and it also has a power supply, and
18 the power supply is, let's say, 25 inches long.
19 What, under the tariff, would Duke intend to charge
20 the cable operator for that pole? Do you know?

21 A That hasn't been determined.

22 Q It hasn't been determined whether
23 there would be any charge?

24 A The thought is for every foot of space

1 you would pay that charge.

2 Q So if the power supply took up 25
3 inches, that would be --

4 A Two feet.

5 Q Two feet, or three feet?

6 A Well, 25 inches --

7 Q Say 30 inches.

8 A 30 inches, they would pay three
9 attachments.

10 Q For the power supply?

11 A Yes.

12 Q Now, where on the poles are power
13 supplies located?

14 A Generally they're located somewhere
15 within six foot of ground level.

16 Q Would you agree with me that the
17 useable space on the pole starts at no lower than 18
18 feet from the ground?

19 A Not if you use it.

20 Q So you would consider that to be
21 useable space?

22 A Well, useable space is any space
23 that's used. The term "non-useable space" is only
24 in the relevance to the lowest part of a pole that

1 the NESC says you can attach to, and that's for a
2 vertical attachment.

3 Q So whose interpretation is this? Is
4 this yours?

5 A I would say at this point it probably
6 is, but...

7 Q Okay. Are you aware that the FCC
8 considers useable space to start at 18 feet above
9 the ground?

10 A Yes, I am.

11 Q And that's considered the space that
12 is used for attachment of horizontal attachments?

13 A That's correct.

14 Q And power supplies don't occupy that
15 space, correct?

16 A No.

17 Q They occupy space below that?

18 A Yes.

19 Q Does a power supply attached at six
20 feet above the ground prevent use of any of the
21 pole's useable space, that is, the space above 18
22 feet?

23 A No. But it still has a burden on the
24 pole.

1 Q What is the burden on the pole?

2 A Any time you attach any device that
3 has weight constraints to it, it causes an extra
4 burden to the pole. And without doing a load study,
5 it could actually bring it out of compliance on what
6 the NESC says is the strength needed.

7 Q Do you know whether the FCC has
8 considered the issue of whether or not placing a
9 so-called burden on a pole should affect the
10 application of the rental rate?

11 A No.

12 Q If a power supply were to affect the
13 ability of that pole to withstand wind loading,
14 okay, and if it were to increase the wind loading so
15 the pole violated the NESC, Duke wouldn't allow that
16 power supply to be attached, would it?

17 A No. They shouldn't.

18 Q All right. Do you know what a riser
19 is?

20 A Yes.

21 Q What's your definition of a riser?

22 A A riser is the pipe, the -- whatever
23 you want to call it, the enclosure that allows you
24 to distribute either electrical or communication

1 down the pole into the ground.

2 Q Typically used where you're switching
3 from underground to vertical or overhead surface,
4 right?

5 A That's correct.

6 Q And so if a pole has a cable riser, it
7 will usually also have an electric riser and a
8 telephone riser if a telephone is attached?

9 A Generally, yes.

10 Q So all parties typically have risers
11 on the same poles?

12 A Yes. Generally, yes.

13 Q Is Duke proposing to apply a charge to
14 cable companies for having risers on poles?

15 A No.

16 Q Do you know whether in the cable
17 industry or in the -- I guess the pole attachment
18 industry, let's say, whether drop and lift poles are
19 typically covered by some notice or application
20 after the fact?

21 A I know there's some arrangements made
22 by some companies to do that. It's usually a
23 negotiated item.

24 Q Okay. Do you know whether the fact

1 that a drop pole may need to be attached to a cable
2 company is typically known by that cable company
3 before they go to sign up a customer?

4 A No.

5 Q Do you know how Duke's affiliates in
6 Kentucky, North Carolina, and Indiana deal with drop
7 pole attachments by cable operators?

8 A No, I don't.

9 Q So you don't know whether the cable
10 operators apply to attach after the fact?

11 A I don't know that.

12 Q You don't know one way or the other
13 then?

14 A No.

15 Q Is that correct?

16 A Usually -- no. I don't know one way
17 or the other.

18 Q Okay.

19 A Usually that's an engineering function
20 that's handled by the people in the field.

21 Q Do you know whether Time Warner Cable
22 has historically had attachments to Duke's drop
23 poles?

24 A I know that they do.

1 Q Do you know how long this has been
2 going on?

3 A I would have to estimate a number of
4 years. I don't know.

5 Q You've been riding around Duke's
6 outside plant Ohio for how many years?

7 A 13.

8 Q You weren't riding around prior to
9 that?

10 A Yes, I was.

11 Q Looking at the plant?

12 A Yes. Yes.

13 Q You could see whether there is a drop
14 attachment evident from riding around; isn't that
15 true?

16 A Well, that's true if that's what
17 you're looking for.

18 Q So you weren't necessarily looking for
19 this before 13 years ago; is that right?

20 A That's right.

21 Q So you don't know whether cable
22 operators were attached to Duke's drop poles prior
23 to 13 years ago? You just didn't notice?

24 A Oh, I had -- yes, I noticed they were.

1 Q Okay. So some time prior to 13 years
2 ago you know this has been taking place, right?

3 A Yes.

4 Q And do you think it's been evident to
5 other people in Duke that cable companies have been
6 attached to Duke's drop poles for a period of time?

7 A Yes.

8 Q And are you aware that cable operators
9 have traditionally not applied to Duke before the
10 fact to make attachments to drop poles?

11 A Since I'm not working in Ohio, I don't
12 know what the application was. I would have to say
13 they probably didn't. I don't know.

14 Q You weren't working in Ohio?

15 A No.

16 Q Now, are you aware of the fact that
17 for many years cable companies in Ohio did not apply
18 or provide notice to Duke of attaching to drop
19 poles?

20 MS. WATTS: I'm going to note a
21 continuing objection here to relevancy.

22 MR. GILLESPIE: Fine.

23 MS. WATTS: You can go ahead and
24 answer.

1 A No.

2 MR. GILLESPIE: Could we have that
3 reread, the question and the answer.

4 THE COURT REPORTER: Question: Now,
5 are you aware of the fact that for many
6 years cable companies in Ohio did not
7 apply or provide notice to Duke of
8 attaching to drop poles?

9 Answer: No.

10 Q So did Duke perform an audit of Time
11 Warner Cable's attachments in 2000, 2001?

12 MS. WATTS: Objection.

13 Go ahead.

14 A I understand they did.

15 Q Do you know what the purpose of that
16 was?

17 A No.

18 Q So you don't know whether it was to
19 determine the number of attachments for which to
20 bill?

21 A That, I do know.

22 Q Pardon me?

23 A Yes.

24 Q It was for that purpose?

1 A As I understand it, it was.

2 Q Do you know whether that audit counted
3 drop poles?

4 A I do not.

5 Q Who would know? Do you know?

6 A Pardon?

7 Q Who would know?

8 A Oh, geez. That was back in 2000. I'm
9 trying to -- I'm trying to think who would have been
10 here at that time to do that. Teri Brierly may
11 know. She didn't have any direct dealing in the
12 audit, but she might know who was there at that
13 time.

14 Q So she might know who would know? Is
15 that --

16 A Yes.

17 Q -- what you're saying?

18 A Yes.

19 Q What department conducted that audit?
20 Do you know?

21 A That was the engineering department
22 that conducted the audit, as I remember.

23 Q Do you know whether there were any
24 documents associated with that audit?

1 A I do not.

2 Q So you don't know who performed it or
3 what the purpose was or what the universe was of the
4 poles covered or whatever?

5 A No. My dealings basically at that
6 time were in Indiana. I wasn't privy to that, other
7 than knowing that there was a -- it wasn't an
8 audit. It was an inventory, as I remember.

9 Q What, in your mind, is the difference
10 between an inventory and an audit?

11 A In our world an audit is when you look
12 at a pole, you not only count attachments, but also
13 look for violations to make sure that it's in
14 compliance with the NESC standards.

15 Q That's your definition of an audit?

16 A Yeah. And an inventory, on the other
17 hand, is just counting attachments.

18 Q So the 2000-2001, that was an
19 inventory, in your mind?

20 A I think it was. I wasn't involved
21 with it.

22 Q So you don't know whether the auditors
23 used maps or whether they -- how they determined --

24 A No.

1 Q -- who owned the pole, right?

2 A No.

3 Q You don't know whether they looked at
4 drop poles, right?

5 A No. I don't have any idea what the
6 criteria of it was.

7 Q Okay. Do you know whether there were
8 any unauthorized attachments or penalties imposed as
9 a result of that audit?

10 A No.

11 Q Do you know whether that was
12 discussed?

13 A I do not.

14 MR. GILLESPIE: Let me have marked as
15 Exhibit Number 17 a document with a cover
16 letter dated May 9, 2001 from Ronald C.
17 McMains, CG&E joint use facilities, to Ron
18 Beuerlein at Time Warner Cable.

19 (Whereupon, Deposition Exhibit Number
20 OCTA 17 was marked for identification.)

21 Q Now, were you responsible in 2001 for
22 billing?

23 A No, I wasn't.

24 Q Who was responsible?

1 A Ronald McMains.

2 Q Is he still with the company?

3 A He is not.

4 Q He's not?

5 A No.

6 Q Who has his responsibilities at the
7 company?

8 A I do.

9 Q So you took over this responsibility
10 after he left?

11 A I did.

12 Q Okay. You see that in connection with
13 this portion of the audit that there is an annual
14 rental billing adjustment of 2,300 poles?

15 A Yes.

16 MS. WATTS: Again, I would object as
17 to the relevancy of this document.

18 MR. GILLESPIE: That's fine.

19 Q So you don't know what type of
20 attachments were included in this addition of 2,300;
21 is that right?

22 A No, I don't.

23 Q Do you know whether these 2,300 poles
24 were added to the billing inventory?

1 A Looking at the bill, I would have to
2 say yes, they were.

3 Q Do you know whether these poles were
4 added to the records of Duke in terms of poles that
5 were authorized and being billed for?

6 MS. WATTS: If you know.

7 A I would assume so, looking at the
8 records, but I don't know. We record all of our
9 poles.

10 Q But you don't know whether these 2,300
11 poles were added to the inventory, do you? I mean
12 what -- let me put it this way: You believe that
13 there were an additional 2,300 poles that were then
14 henceforth billed to Time Warner Cable, right?

15 A Yes.

16 Q But do you know which poles those
17 were, and whether the records of Duke were updated
18 to reflect that Duke was aware of these 2,300
19 attachments?

20 A Yes.

21 Q You know that?

22 A If they were billed, they're in the
23 database.

24 Q How do you know that?

1 A Because whenever anybody goes to do
2 the billing, they go to the database first to look
3 at the number of poles to bill.

4 Q Right. So you know that Time Warner
5 Cable was billed for these 2,300 attachments?

6 A Yes.

7 Q But in doing another survey, do you
8 know whether these 2,300 poles would be found by the
9 auditors as having been authorized? Do you
10 understand my question?

11 A I understand your question. And the
12 answer is that these would have been already in the
13 system. Any additional poles would be the ones that
14 they were looked at.

15 Q How would these have been added to the
16 system?

17 A They would have been added to the
18 database and on our maps.

19 Q Okay. You know nothing about this
20 survey?

21 A No.

22 Q But you're testifying that you know
23 that these 2,300 poles were added to the database?
24 Is that your testimony?

1 A I would have to assume that they
2 were. I don't know for sure.

3 Q Who would know for sure?

4 A Rick Schuler. He takes care of our
5 databases.

6 Q So he was there then?

7 A Yes.

8 Q And he's there now?

9 A Yes.

10 Q Who would know whether there were any
11 charges for unauthorized attachments that were
12 billed in association with this audit?

13 A I don't know. When I look at this,
14 this is the only record that I see of it, so I have
15 no knowledge of any billing for unauthorized
16 attachments.

17 MR. GILLESPIE: Okay. Let me have
18 marked as Exhibit Number 18 a one-page
19 invoice from Cincinnati Gas & Electric to
20 Warner Cable.

21 (Whereupon, Deposition Exhibit Number
22 OCTA 18 was marked for identification.)

23 Q Do you understand that this is in
24 connection with the same or a similar audit, but in

1 a different area than Exhibit 17?

2 A Judging from the date, yes.

3 Q Also you note that Exhibit 17 was
4 billed to Time Warner Cable and Exhibit 18 is billed
5 to Warner Cable, right?

6 A Yes.

7 Q Was it your understanding that under
8 CG&E's billing that those two entities were
9 considered to cover different areas?

10 A Yes.

11 Q Now, you see that this has an audit
12 cost of a dollar per pole for 81,000 poles?

13 A I do.

14 Q Can you tell me in 2000 and 2001 about
15 how many attachments Time Warner Cable was being
16 billed for annually by Duke?

17 A I cannot. I did not do billing at
18 that time.

19 Q Do you know what the basis is of the
20 annual rental billing adjustment that's reflected
21 there of \$8,020?

22 A I see it.

23 Q Do you know what the basis was for
24 that?

1 A Nope. I would imagine --

2 Q Well, we don't want you to imagine.

3 A Okay.

4 Q You see the annual billing adjustment
5 for multiple attachments, 1,214?

6 A Yes, I do.

7 Q Do you know what that is for?

8 A No.

9 Q Who would know?

10 A Whoever was in charge of the audit at
11 that time, the inventory.

12 Q And you don't know?

13 A I don't.

14 Q Mr. Schuler would know whether
15 additional or multiple attachments that were picked
16 up in this inventory were henceforth reflected on
17 Duke's records?

18 A I would think so, but I can't be sure.

19 Q Okay.

20 MR. GILLESPIE: I would just like to
21 state on the record that I asked for
22 documents with respect to any audits and
23 surveys conducted by Duke since 2000 that
24 would cover this, I believe, and I've not

1 seen any. These documents I already had.

2 Q Do you know whether there's been a
3 recent agreement among the field personnel at Duke
4 and Time Warner Cable to apply for drop poles after
5 the fact?

6 A I know of the conversation, that that
7 has come up. What the resolve of that is, I'm not
8 sure.

9 Q Would Teri Brierly likely know?

10 A She would know.

11 MR. GILLESPIE: Let's take a short
12 break.

13 (A brief recess was taken.)

14 Q Mr. Angleton, do you know whether Duke
15 has an obligation to conduct inspections of its
16 plant to be sure it's kept safe?

17 A Say that again, please.

18 Q Do you know whether Duke has an
19 obligation to conduct inspections of its own plant
20 to be sure it's safe?

21 A Yes.

22 Q Do you know whether Duke has been
23 doing this?

24 A Yes, I do.

1 MS. WATTS: Objection; relevancy.

2 Q And it has been; is that right?

3 A Yes.

4 Q As part of these inspections, does it
5 inspect its poles to determine whether there are
6 violations of the NESC?

7 A I don't know what the criteria of the
8 inspectors are.

9 Q So you don't know whether they inspect
10 their own conductors to see if there are violations
11 of the NESC?

12 A No.

13 Q Do you know whether Duke adopted the
14 recommendations of the staff in 2005 that Duke
15 revise its pole maintenance and inspection plan?

16 MS. WATTS: Objection.

17 A No.

18 Q Who would know that?

19 A I don't --

20 Q You don't know who would know it?

21 A (Shakes head.)

22 Q Would this be something that would be
23 done by the engineering group?

24 MS. WATTS: Objection to the

1 foundation here. It's not clear that the
2 witness has any knowledge of anything the
3 staff has recommended.

4 Q You can answer.

5 A No.

6 Q You don't know?

7 A No.

8 Q Now, Duke's records of attachments by
9 third parties, what information is contained in
10 those records with respect to the attachments?

11 A The pole number and the company on the
12 pole.

13 Q Do those records include what
14 equipment is attached?

15 A I'm not sure.

16 Q So you don't know whether it contains
17 the number of cables?

18 A No.

19 Q You don't know, or it does not?

20 A Did you say the number of cables?

21 Q Yeah. You said no. I'm just trying
22 to understand whether -- you don't know, whether
23 that meant you don't know, or whether it does not
24 include.

1 A I don't know if they do or not.

2 Q Who would know that?

3 A Rick Schuler.

4 Q So he would know about these records?

5 A Yes.

6 Q So you wouldn't know, then, when or if
7 attaching parties were required to supply that kind
8 of information; is that right?

9 A No.

10 Q You don't know?

11 A No.

12 Q And you wouldn't know whether phone
13 companies supply information like that; is that
14 right?

15 A No, I don't know.

16 Q Do you know whether Duke has records
17 of multiple attachments to a pole?

18 A No.

19 Q Or how much space is used on a pole?

20 A We have -- we have set standards on
21 where attaching entities are to be placed on a pole.

22 Q My question is whether you have
23 records of where the attachment is made or how much
24 space is used.

1 A No.

2 Q You don't have them?

3 A Don't know.

4 Q Mr. Schuler would know that?

5 A I don't know if he would know that or
6 not.

7 Q Okay. Do you know whether Duke has
8 found attachments by phone companies that have not
9 been recorded on Duke's records?

10 A I do not know.

11 Q I think you said earlier that you're
12 not aware of any audits or inventories of them; is
13 that right?

14 A That's correct.

15 Q When Duke works on a pole, does it
16 review whether all the attachments on the pole have
17 been included within its records?

18 A I don't know.

19 Q Okay. When it works on a pole, does
20 it update its records based on that work?

21 A I do not know.

22 Q Do you know whether the people working
23 on the pole would know whether an attachment by a
24 third party was authorized or not?

1 A No. I wouldn't know that.

2 Q Do you know who would know that?

3 A No, I don't.

4 Q Do you know whether records of
5 attachments by third parties are kept on Duke's GIS
6 system?

7 A Not on our GIS system, no.

8 Q They're not?

9 A (Shakes head.)

10 Q Does Duke have maps that reflect the
11 locations of its poles?

12 A Yes.

13 Q And those are based on GIS records?

14 A No.

15 Q Does Duke have GIS records of its pole
16 locations?

17 A I don't know if they do or not on all
18 of them.

19 Q Do they have it on some of them?

20 A Yes.

21 Q So it has coordinates for the
22 locations of some of its poles?

23 A Yes.

24 Q And you don't know whether that covers

1 all of its poles?

2 A I do not.

3 Q Do you know when and how the GIS
4 coordinates for Duke's poles were determined?

5 A No, I don't.

6 Q So you don't know who performed that?

7 A No.

8 Q Or when?

9 A No, sir.

10 Q Do you know who would know?

11 A No, I don't. That's a completely
12 different department.

13 Q It is? What department would that be?

14 A Here in Ohio, I don't know.

15 Q Do you know whether there's any
16 reconciliation between the continuing property
17 records and GIS mapping?

18 A I have no way of knowing that.

19 Q Do you know whether Duke has records
20 of attachments to drop poles by any party?

21 A No.

22 Q So you don't know whether Duke has
23 records of phone company attachments to drop poles?

24 A No.

1 Q You don't know?

2 A Don't know.

3 Q Do you know about how many
4 attachments, third-party attachments, Duke bills for
5 every year?

6 A Not without having the records in
7 front of me, no.

8 Q Mr. Storck testified that there were
9 118,624 documented pole attachments charged at \$4.25
10 per attachment. Do you know where that number comes
11 from?

12 A Repeat that question.

13 MR. GILLESPIE: Sure. Could I have
14 that read back, please.

15 THE COURT REPORTER: Question:
16 Mr. Storck testified that there were
17 118,624 documented pole attachments
18 charged at \$4.25 per attachment. Do you
19 know where that number comes from?

20 A That number would have had to have
21 come from billing records.

22 Q Are you responsible for billing
23 records?

24 A Yes, I am.

1 Q Isn't it true that Duke bills Time
2 Warner Cable, for example, for more than 160,000
3 attachments?

4 A I don't know. I would have to --

5 Q You would have to look at the billing
6 records?

7 A (Nods head.)

8 Q Is that right? We need an answer.

9 A I would have to look at billing
10 records.

11 Q Okay. Are you familiar with the
12 audit/inspection conducted by Duke in 2005 and 2006?

13 A I'm aware that it went on.

14 Q Were you asked to search your
15 documents related to this audit?

16 A No.

17 Q Do you have any documents related to
18 this audit?

19 A I do not.

20 Q So who was responsible for that audit?

21 A That was done in engineering.

22 Q So you're not familiar with any
23 documents regarding the agreement with the auditor
24 or correspondence between Duke and the auditor or

1 internal analyses by Duke and so on; is that right?

2 A No.

3 Q You're not familiar?

4 A I had nothing to do with it.

5 Q Do you know whether there was any
6 analysis by Duke as to whether or not that audit
7 accurately determined unauthorized attachments?

8 A I do not.

9 Q Do you know who would know?

10 A The auditors.

11 Q Are you aware of allegations by Time
12 Warner Cable that the audit was not reliable with
13 respect to unauthorized attachments?

14 MS. WATTS: Objection.

15 Go ahead.

16 A I'm aware that there's been statements
17 made that they were not in compliance with it.

18 Q Well, my question was whether you're
19 aware of allegations by Time Warner Cable that the
20 audit was not reliable with respect to the --

21 A I'm aware of allegations.

22 Q Okay. Do you know whether Duke has
23 analyzed those allegations?

24 A I do not know.

1 Q You're aware that a portion of that
2 audit covered Milford?

3 A Yes, I am.

4 Q You're aware that Time Warner Cable
5 alleged that the allegations of unauthorized
6 attachments from that portion of the audit had some
7 attachments alleged on poles that Duke didn't own
8 and other attachments that Time Warner Cable had
9 applied for and things like that? Are you aware of
10 those allegations?

11 A I'm aware of the allegations.

12 Q Do you know whether Duke looked in to
13 determining whether or not those allegations were
14 accurate?

15 A I know they're continuing to look in
16 to any allegations.

17 Q What has Duke done so far to look in
18 to those allegations? Do you know?

19 A They've worked with Time Warner Cable
20 and actually done some ride-outs, the extent of
21 which I'm not sure at this point.

22 Q Okay. So you don't know whether the
23 ride-outs included Milford, do you?

24 A No.

1 Q Who would know?

2 A Teri Brierly would probably know. She
3 probably went on the ride-outs or some of them.

4 Q Do you know whether there's been any
5 analysis of whether attachments allegedly not
6 authorized have a higher percentage of safety issues
7 than authorized attachments?

8 MS. WATTS: Could I have that read
9 back.

10 MR. GILLESPIE: Let me ask it again.

11 Q Do you know whether Duke has performed
12 any analysis of whether the attachments allegedly
13 not authorized have a higher percentage of safety
14 issues than authorized attachments?

15 MS. WATTS: Do you understand --

16 A No. I wouldn't --

17 MS. WATTS: -- the question?

18 A -- have any way of knowing that.

19 Q Do you know whether unauthorized
20 attachments or attachments that have not been
21 permitted increase Duke's maintenance expenses?

22 A No, I don't.

23 Q So you're aware of the inspection of
24 Adelphia's attachments in 2004 through 2006?

1 A I'm aware it went on, same as the Time
2 Warner Cable.

3 Q But you're not aware of any
4 particulars of that audit?

5 A No. As I understood, they both were
6 done around the same time.

7 Q Do you know whether that audit turned
8 up safety violations created by Duke?

9 A No.

10 Q You don't know?

11 A I do not know.

12 Q I assume you don't know whether Duke
13 has fixed any safety violations that were
14 identified; is that right?

15 A Generally if Duke has worked on their
16 own pole, they notify all attachers. So I would
17 have to assume that whoever was attached to the pole
18 didn't correct what they needed to correct.

19 Q Well, what's that assumption based on?

20 A My experience in engineering.

21 Q And your experience in engineering is
22 that Duke has fixed all the violations that it has
23 created; is that right?

24 A And what's your --

1 Q Is that your experience?

2 A Duke -- what kind of violations are we
3 talking about that they created?

4 Q Are you aware that as part of the
5 2005-2006 audit of Time Warner Cable that Teri
6 Brierly did a ride-out of certain attachments and
7 agreed that Duke had created a number of them? Are
8 you aware of that?

9 A That was an assumption --

10 MS. WATTS: You know, Gardner, we've
11 been very patient with this line of
12 questioning. It has absolutely nothing to
13 do with our distribution rate case.

14 MR. GILLESPIE: That's not true at all
15 because --

16 MS. WATTS: I think it is true.

17 MR. GILLESPIE: Well, that's fine. You
18 can argue that, but --

19 MS. WATTS: Well, at some point if
20 you're going to keep going down this path
21 we'll just take it to the attorney
22 examiners and see what they think, because
23 this is unconscionable for you to do this.

24 MR. GILLESPIE: Well, let me just

1 explain for you what this has to do with
2 it, all right? I'm not required to, but I
3 will.

4 Mr. Storck purports to rely on this
5 2005-2006 audit in his testimony as to why
6 in his opinion Duke needs to have
7 unauthorized attachment penalties and
8 safety violation penalties. And so that
9 audit was brought up by Mr. Storck, not
10 me.

11 Now, it turns out that I don't
12 believe that Mr. Angleton has any
13 knowledge about this, and that was fine as
14 long as that was his answer to questions.

15 When he starts making assumptions
16 about what Duke does or doesn't do to
17 correct violations, then I have to go in
18 to it. I'm sorry.

19 MS. WATTS: Well, you know what, even
20 if all of that is true, how Duke maintains
21 its own systems and whether or not Duke
22 has safety violations of its own is still
23 completely irrelevant.

24 MR. GILLESPIE: That's not true.

1 Because if Duke wants to fine cable
2 operators 200 bucks for every safety
3 violation that they create, I think it's
4 very relevant whether Duke creates safety
5 violations and what it does about it.

6 MS. WATTS: I don't think so, because
7 if it's in our tariff then we're entitled
8 to charge that.

9 MR. GILLESPIE: It's not in your
10 tariff. It's proposed to be in your
11 tariff. And that's the question, as to
12 whether it's reasonable or not.

13 MS. WATTS: Well, that's a question
14 for the staff to consider. I don't really
15 think it's relevant in this deposition.

16 MR. GILLESPIE: I don't think the
17 witness has any particular knowledge about
18 whether or not these safety violations
19 have been fixed, but I'm just asking to
20 get his answer.

21 Q Do you know whether Duke has fixed any
22 safety violations that it has determined that it
23 created that were identified in the 2005-2006 audit?

24 MS. WATTS: Objection as to relevancy.

1 A I can't answer that question.

2 Q Okay. Do you know whether Time Warner
3 Cable has notified Duke of safety violations it has
4 found in the field?

5 A No, I don't.

6 Q You don't know?

7 A (Shakes head.)

8 MR. GILLESPIE: Okay. I have no
9 further questions of you, Mr. Angleton.
10 Thank you.

11 (Deposition concluded at 2:35 p.m.)

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A C K N O W L E D G E M E N T

STATE OF OHIO :
COUNTY OF HAMILTON :

I, Ulrich Angleton, have read the transcript of
my testimony given under oath on December 15, 2008.

Having had the opportunity to note any
necessary corrections of my testimony on the errata
page, I hereby certify that the above-mentioned
transcript is a true and complete record of my
testimony.


ULRICH ANGLETON

CIN-TEL CORPORATION
813 Broadway, Suite 200
Cincinnati, Ohio 45202
(513) 621-7723

Deponent: _____ Date: JAN 14, 2009

46 11 Surrender Contact, Should be Clearance Contact

26 6 BET STAMP, Should be BOTI STAMP

C E R T I F I C A T E

2 STATE OF OHIO :

3 :SS

4 COUNTY OF HAMILTON :

5 I, Renee Rogers, the undersigned, a duly
6 qualified and commissioned notary public within and
7 for the State of Ohio, do hereby certify that before
8 the giving of his aforesaid deposition, the said
9 Ulrich Angleton was by me first duly sworn to depose
10 the truth, the whole truth, and nothing but the
11 truth; that the foregoing is a deposition given at
12 said time and place by Ulrich Angleton; that said
13 deposition was taken in all respects pursuant to
14 Notice and agreement of counsel as to the time and
15 place; that said deposition was taken by me in
16 stenotypy and transcribed by computer-aided
17 transcription under my supervision, and that the
18 transcribed deposition is to be submitted to the
19 witness for his examination and signature.

20 I further certify that I am neither a relative
21 of nor attorney for any of the parties to this
22 cause, nor relative of nor employee of any of their
23 counsel, and have no interest whatsoever in the
24 result of the action.

1 In witness whereof, I hereunto set my hand and
2 official seal of office at Cincinnati, Ohio, this
3 20th day of December, 2008.

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8 My commission expires: Renee Rogers

9 April 13, 2011 Notary Public State of Ohio

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REVISED JOINT USE AGREEMENT
AMENDMENT 1962 ATTACHED

THIS AGREEMENT, made this 31st day of December, 1957, by and between The Cincinnati and Suburban Bell Telephone Company, hereinafter referred to as the "Telephone Company", and The Cincinnati Gas and Electric Company, hereinafter referred to as the "Power Company", each being a corporation organized and existing under the laws of the State of Ohio

WITNESSETH:

WHEREAS, under and pursuant to agreement made January 1, 1936, between The Power Company and The Telephone Company, the companies established joint use of their respective poles on a flat rental per pole basis; and

WHEREAS, it is desirable in all cases where joint use has been established and in all future cases, where joint use is agreed upon, for one party to use the other's pole upon a reciprocal or rent free basis; and

WHEREAS, it is desirable to make changes in said agreement to convert existing jointly used plant to such reciprocal basis; and

WHEREAS, it is desirable to make other changes in said agreement to correct personnel changes in the negotiation clause, due to organizational changes in the companies of both parties and further to provide for the setting up of an Operating Routine to adopt the general principles of said agreement to a day-by-day jointly used pole operation and to interpret the intent of certain sections of said agreement; and

WHEREAS, it is desirable to continue in force and affect other provisions of said agreement of January 1, 1936, as to which no change is now contemplated.

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

DEPOSITION
EXHIBIT

OCTA 15

12-15-08

(20)

SECTION I

GENERAL

ARTICLE ONE

SCOPE AND EFFECT

(a) This agreement is effective January 1, 1937 and supersedes said agreement of January 1, 1936 and all provisions thereof except those relating to accounting and payment of rentals and charges for use of poles before January 1, 1937.

(b) This agreement shall be in effect in the following described territory, to wit: Hamilton, Clermont, Butler and Warren Counties, Ohio, and any adjoining counties into which the parties may extend their operations, and shall cover all poles of each of the parties now existing or hereafter erected in the above territory when said poles are brought hereunder in accordance with the procedure hereinafter provided. Each party 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 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. It is also agreed that neither party will underbuild or overbuild a pole line owned or used by the other party without first giving to said party a thirty day written notice of such intention. If the said other party desires to form a joint line, it shall make arrangements under this agreement within the said thirty day period.

(c) The poles, stubs, anchors, guys, and other supports jointly used on the reciprocal or rent free basis by the parties hereto, shall be recorded in "Schedules" attached to and made a part of this agreement.

ARTICLE TWO

EXPLANATION OF TERMS

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

(a) "Clearance Attachment" is an attachment, usually at a crossing, placed by one party on the other party's poles primarily for the purpose of obtaining standard clearance for wires, cables, and suspension strands from other wires, guys, cables, suspension strands, transformers, etc. Such attachments shall be considered as "Clearance Attachments", as defined above, 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 that point.

(b) "Reciprocal Attachment" is an attachment placed by one party on the other party's pole, under circumstances other than those previously described for the "Clearance Attachment".

(c) "Power Attachment" shall be understood to be the attachment of any electric equipment, wires, cables and/or supports to a telephone pole.

(d) "Telephone Attachment" shall be understood to be the attachment of any telephone equipment, wires, cables and/or supports to a power pole.

(e) "True Value In Place" means the value obtained by multiplying the reproduction cost of the pole or other item of plant by the per cent condition determined from field inspection.

(f) "Standard Joint Pole" is a 35' wood pole for rear property line construction and a 40' wood pole for street construction.

(g) "Standard Space" is the following described space on a joint pole.

(1) For the Power Company, the uppermost seven feet of the pole.

(2) For the Telephone Company, a space of three feet at a sufficient distance below the space of the Power Company to provide at all times the minimum clearance required by the specifications and at a sufficient height above the ground to provide the proper vertical clearance for the lowest horizontal run line wires or cables attached in such space.

The space assigned to each party is for its exclusive use, except in cases where the specifications permit certain attachments of one party to be located in or below the space assigned to the other party.

It is further agreed that the parties hereto 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 of poles or the replacement of existing poles.

ARTICLE THREE

NEGOTIATIONS AND OPERATING ROUTINE

(a) The negotiations for the establishment and maintenance of jointly used lines shall be handled by the Chief Engineer of the Telephone Company and the Manager of the Electric Distribution Department of the Power Company or by their representatives. If the above named negotiators cannot agree in any particular case, the matter shall be referred to a Vice-President of each of the parties hereto.

(b) Since this agreement merely states definitions and general principles, an Operating Routine shall be jointly prepared by the parties hereto consisting of instructions for administering this agreement. The Operating Routine shall be approved by the Chief Engineer of the Telephone Company and the Manager of the Electric Distribution Department of the

Power Company. The Operating Routine shall be based on this agreement and shall give the detailed methods and procedures which will be followed in establishing, maintaining and discontinuing the joint use of poles. The Operating Routine may be changed at any time upon the approval of the Chief Engineer of the Telephone Company and the Manager of Electric Distribution Department of the Power Company, providing such changes do not conflict with the general principles of this agreement.

ARTICLE FOUR

SPECIFICATIONS

(a) The joint use of the poles covered by this agreement shall at all times be in conformity with the terms and provisions of Administrative Order No. 72, Public Utilities Commission of Ohio, except that such requirements, ordinances and lawful rulings of public authorities of any territory covered by this agreement, as are in excess of the specifications referred to above, shall govern as nearly as practical such joint use.

(b) The lowest permanent pole step on any jointly used pole shall be placed at a height of not less than six and one-half feet from the ground. Between this point and the ground, a lag seven to accommodate a detachable pole step of a type agreeable to both parties may be placed at a height of three and one-half feet from the ground.

(c) 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:

1. Both parties hereto shall exercise due diligence in bringing into conformity with the specifications referred to above. As the occasion may arise, any existing joint use construction.
2. When any of the existing joint use construction of either party is reconstructed, or any changes are made in the arrangement or characteristics of their circuits or attachments, the new or changed parts shall be brought into conformity with said specifications.
3. The cost of bringing such joint use construction into conformity with said specifications shall be borne by the parties hereto in accordance with the terms of this agreement.

ARTICLE FIVE

LIABILITY AND DAMAGES

Whenever any liability is incurred by either or both of the parties hereto for damages for injuries to the employees or for injury to the property of either party, or for injuries to other persons or their property, arising out of the joint use of poles under this agreement, or due to the proximity of

the wires and fixtures of the parties hereto attached to the jointly used poles covered by this agreement, the liability for such damages, as between the parties hereto, shall be as follows:

(a) Each party shall be liable for all damages for such injuries to persons or property caused solely by its negligence or solely by its failure to comply at any time with the specifications herein provided for, provided that construction temporarily exempted from the application of said specifications under the provisions of section (c) of Article Four shall not be deemed to be in violation of said specifications during the period of such exemption.

(b) Each party shall be liable for all damages for such injuries to its own employees or its own property that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of the other party.

(c) Each party shall be liable for one-half (1/2) of all damages for such injuries to persons other than employees of either party, and for one-half (1/2) of all damages for such injuries to property not belonging to either party, that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced to the sole negligence of the other party.

(d) Where, on account of injuries of the character described in the preceding paragraphs of this article, either party hereto shall make any payments to injured employees or to their relatives or representatives in conformity with (1) the provision of any workmen's compensation act or any act creating a liability in the employer to pay compensation for personal injury to an employee by accident arising out of and in the course of the employment whether based on negligence on the part of the employer or not, or (2) any plan for employees' disability benefits or death benefits now established or hereafter adopted by the parties hereto or either of them, such payments shall be construed to be damages within the terms of the preceding paragraphs (a) and (b) and shall be paid by the parties hereto accordingly.

(e) All claims for damages arising hereunder that are asserted against or affect both parties hereto shall be dealt with by the parties hereto jointly; provided, however, that in any case 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 said terms are acceptable may, at its election, pay to the other party one-half (1/2) of the expense which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.

(f) In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall comprise costs, reasonable attorneys' fees, disbursements and other proper charges and expenditures.

(g) The liability of either party, or both parties, for damages arising out of the joint use of poles under this agreement, shall be finally determined by the parties hereto in accordance with the foregoing provisions of this article, and such determination shall not be dependent upon, nor governed by, the outcome of any litigation against either party or against both parties, either prior or subsequent to such final determination, except, however, where settlement has been made in accordance with paragraphs (c) and (f) of this article.

ARTICLE SIX

ATTACHMENTS OF OTHER PARTIES

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 or privileges to use any poles covered by this agreement, nothing herein contained shall be construed as affecting said rights or privileges, and either party hereto shall have the right, by contract or otherwise, to continue and extend such existing rights or privileges; it being expressly understood, however, that for the purpose of this agreement, the attachments of any such 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. Where municipal regulations require either party to allow the use of its poles for fire alarm, police or other like signal systems such use shall be permitted under the terms of this article.

ARTICLE SEVEN

DEFAULTS

(a) 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, and if such default shall continue for a period of sixty (60) days after such suspension, the other party hereunder may forthwith terminate this agreement as far as concerns future granting of joint use.

(b) If either party shall make default in the performance of any work which it is obligated to do under this contract at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the other party for the cost thereof. Failure on the part of the defaulting party to make such payment within sixty (60) days upon presentation of bills therefor shall, at the option of the other party constitute a default under paragraph (a) of this article.

ARTICLE EIGHT

TERM OF AGREEMENT

Subject to the provisions of Article Seven, this agreement may be terminated, so far as concerns further granting of joint use by either party, after January 1, 1958 upon one (1) year's notice in writing to the other party, provided, that if not so terminated it shall continue in full force thereafter until terminated by either party at any time upon one (1) year's notice in writing to the other party as aforesaid, and provided further that notwithstanding such termination, this agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination.

ARTICLE NINE

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 mortgage any or all of its property, rights, privileges and franchises, or lease or transfer 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 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 consolidated company, as the case may be, and provided further that subject to all of 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, and controlled by it, or associated or affiliated with it in interest, or connecting with it, the use of all or any part of the rights reserved hereunder or any pole covered by this agreement for the attachments used by such party, in the conduct of its said business; and for the purposes 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 TEN

WAIVER OF TERMS OR CONDITIONS

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

ARTICLE ELEVEN

EXISTING CONTRACTS

This agreement supercedes all existing agreements between the parties hereto for the joint use of poles within the territory covered by this agreement which are, by mutual consent, hereby abrogated and annulled.

ARTICLE TWELVE

SERVICES 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 Power Company at its office at Fourth and Main Streets, Cincinnati, Ohio, or to The Telephone Company at its office at 225 East Fourth Street, Cincinnati, Ohio, as the case may be. In case of emergency, a written notice may be waived by mutual agreement of responsible agents of both parties. However, in all cases, verbal notices must be confirmed by written notices.

ARTICLE THIRTEEN

MARKING OF POLES

Each party may suitably mark all jointly used poles for identification purposes.

SECTION II

CONDITIONS GOVERNING THE ESTABLISHMENT OF JOINT
USE ON A RECIPROCAL OR RENT FREE BASIS

ARTICLE ONE

PLACING, TRANSFERRING, OR REARRANGING ATTACHMENTS

(a) Whenever either party desires to reserve space on any pole of the other, for any attachments requiring space thereon, not then specifically reserved hereunder for its use, it shall make written application therefor, specifying in such notice the location of the pole in question, and the number and kind of attachments which it 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 Applicant whether or not said pole is excluded from joint use. Upon receipt of notice from the Owner that said pole is not of those excluded, and after the completion of any transferring or rearranging which is then required in respect to attachments on said poles, including any necessary pole replacements, the Applicant shall have the right as licensee hereunder to use said space for attachments and circuits of the character specified in said application in accordance with the terms of this agreement.

(b) Except as herein otherwise expressly provided, each party shall place, maintain, rearrange, transfer and remove its own attachments, (including any tree trimming or cutting incidental thereto) at its own expense 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 TWO

ERECTING, REPLACING OR RELOCATING POLES

(a) Whenever any jointly used pole, or any poles about to be so used under the provisions of this agreement, is insufficient in length or strength for the proposed immediate additional attachments to be made thereon, the Owner shall promptly replace such pole with a new pole of the necessary length and strength, and make such other changes in the existing pole line in which such pole is included, as the conditions may then require. The cost of such replacement or changes shall be borne as hereinafter provided in this article.

(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 requirements of a property owner, the Owner shall, before making such change in location, notify the Licensor, specifying the time of the relocation, and the Licensor shall, at the time so specified, transfer its attachments to the pole at the new location.

(c) Whenever either party hereto is about to erect new poles 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, it shall notify the other in writing at least ten (10) days before beginning the work (shorter notice, including verbal notice subsequently confirmed in writing 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 and the character of the circuits it will use thereon. The other party shall within five (5) days after the receipt of such notice, reply in writing to the party erecting the new poles, stating whether such other party does, or does not, desire space on the said poles, and if it does desire space thereon, the character of the circuits it desires to use, the size and number of wires or cables that will be erected and the amount of space it wishes to reserve. If such other party requests space on the new poles and if the character and number of circuits and attachments are such that the owner does not wish to exclude the poles from joint use, then poles suitable for the said joint use shall be erected in accordance with the provisions of paragraphs (d) and (e) of this article.

(d) In any case where the parties hereto shall conclude arrangements for the joint use hereunder of any new poles to be erected, or for replacing existing jointly used poles, the ownership of such poles shall be determined by mutual agreement, due regard being given to the desirability of avoiding mixed ownership in any given line, and such ownership of poles shall be so allocated that The Telephone Company shall at all times severally own forty-five (45) per cent of the total number of all poles jointly used by the parties, and The Power Company shall own the remainder or fifty-five (55) per cent of the total number of all poles jointly used by the parties. In the event of disagreement as to allocation of ownership of any pole, it shall be allocated to the party then owning a smaller number of poles than the ratio established herein, except that the Power Company shall always own any poles supporting conductors classed at 5000 volts or above.

(e) 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 standard, shall be erected at the sole expense of the Owner.

(2) A pole taller than the standard, the extra height 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 than standard, the extra height of which is due wholly to the Licensee's requirements, including tree trimming, the Licensee shall pay to the Owner an sum equal to the difference between the cost in place of such pole and the cost in place of a standard joint pole, the rest of the cost of erecting such pole to be borne by the Owner.

(4) In the case of a pole taller than standard, the extra height of which is due to the requirements of both parties, or to meet the requirements of public authorities or property owners, the cost of such extra height shall be divided equally between the two Companies. Any additional height requirements of such pole to meet the requirements of either party shall be at the sole expense of such party.

(5) If within three years of original date of setting of a pole, it is replaced with another pole solely because such original pole is not tall enough to provide adequately for the licensee's requirements, and where such other pole, whether it carry wires reserved for the licensee's use or not, had at the time of its erection, been pronounced by the licensee as satisfactory and adequate for its requirements, the licensee shall, upon erection of the new pole, pay to the Owner, in addition to any amounts payable because of excess height, a sum equal to the then value in place of the pole which is to be replaced less the net salvage value of said pole.

(6) Any payments made by the licensee under the foregoing provisions of this article for poles taller than standard shall be for the purpose of equalizing valuations and shall not in any way affect the ownership of the poles.

(7) When replacing a jointly used pole carrying aerial cable terminals, underground connections or transformer equipment, the new pole shall be set in the same hole which the replaced pole occupied, unless special conditions make it necessary to set it in a different location.

ARTICLE THREE

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 thirty (30) days notice to the other party of such contemplated change and in the event that the 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 specifications for the character of circuits involved. In event, however, that the other party fails within fifteen (15) days from receipt of such notice to agree in writing to such change then both parties shall cooperate in accordance with the following plan:

(a) The parties hereto shall determine the most practical and economical method of effectively providing for separate lines and the party whose circuits are to be moved shall promptly carry out the necessary work.

(N) The cost of re-establishing such circuits in the new location as are necessary to furnish the same business facilities that existed in the joint use at the time such change was decided upon, shall be equitably apportioned between the parties hereto. In event of disagreement as to what constitutes an equitable apportionment of such cost, the licensee shall bear the said net costs.

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 among other items the cost of the new pole line including rights of way, the cost of removing attachments from the old poles to the new location, and the cost of placing the attachments on the poles in the new location.

ARTICLE FOUR

RIGHT OF WAY FOR LICENSEE'S ATTACHMENTS

No guarantee is given by the Owner of permission from property owners, municipalities or others for the use of its poles by the Licensee, and if objection is made thereto and the Licensee is unable to satisfactorily adjust the matter within a reasonable time, the Owner may at any time upon written notice to the Licensee, require the Licensee to remove its attachments from the poles involved, and the Licensee shall, within thirty (30) days after receipt of said notice, remove its attachments from such poles at its sole expense. However, the parties hereto agree that the party securing right-of-way for a pole line on private property, for which arrangements have been made for joint use, shall obtain the said right-of-way for said pole line in the name of both parties.

ARTICLE FIVE

MAINTENANCE OF POLES AND ATTACHMENTS

(a) The Owner shall, at its own expense, maintain its jointly used poles in a safe and serviceable condition, so as to adequately support the wires, cables and appurtenances of both parties, and in accordance with the specifications and good practices and shall replace in accordance with this agreement, such of said poles as become defective. Each party shall, at its own expense, at all times keep all of its attachments in safe condition and thorough repair.

(b) Each party agrees that it will examine each jointly used pole before performing any work on its equipment on said pole, and if the pole is unsafe or unsound, and/or the equipment supported on said pole is not in accordance with the

specifications, it will take proper steps to correct said unsafe and unsound condition, or notify the other party hereto of such condition if the said condition is caused by the other party.

ARTICLE SIX

ABANDONMENT OF JOINTLY USED POLES

(a) If the Owner desires at any time to abandon any jointly used 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 Licensor 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 attachment thereon; 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. Credit shall be allowed for any payments which the Licensee may have made under the provisions of Article Two, paragraph (a) when the pole was originally set.

(b) The Licensee may at any time abandon the use of a joint pole by giving due notice thereof in writing to the Owner and by removing therefrom any and all attachments it may have thereon.

ARTICLE SEVEN

MAINTENANCE OF POLE OWNERSHIP RATIO

(a) No rentals payable under Article Seven or any other article of agreement of January 1, 1936, shall be paid or payable by either party to, or received or receivable by either party from the other for or on account of any pole usage extended after December 31, 1935.

(b) Subsequent to the date of December 31, 1935, each party to this agreement shall extend to the other the use of its poles on a reciprocal basis in accordance with the terms of this joint use agreement, the number of poles so extended by each party to be as included in approved statements required under paragraph (c) herein, in a ratio or allocation as agreed upon above in Section II, Article Two, paragraph (d). No rental shall be charged by either party for the use of such jointly used poles, the intention of this agreement being, that the ownership of such poles is to be maintained on an equitable basis as herein set forth.

(c) As soon as possible following the first day of January and the first day of July, and not later than the following March 1 or September 1 respectively of each year, each party shall submit to the other a written statement in a form acceptable to such other party giving the number of poles of each party on which space was occupied or reserved for the attachments of the other party, and

each such statement when approved by the Chief Engineer for the Telephone Company and the Manager of the Electric Distribution Department for the Power Company or by their representatives, shall be used as the basis for determining the number of rent-free poles to be extended to the other party on a reciprocal basis as herein provided. Clearance attachments shall not be included in such written statements. Every such statement shall be deemed to be correct unless written notice of errors claimed to exist therein shall be given within thirty (30) days from the receipt of such statement to the party submitting the statement by the party to which the statement was submitted. In cases 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 the receipt of the 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 both parties such statement shall, if shown incorrect, be corrected accordingly. If, as of January 1 of any year the ratio between the number of poles listed by the parties varies from the ratio determined by mutual agreement of the parties by more than 3 per cent of all poles so in use or reserved, the excess number shall be reduced as follows:

(1) By having the company owning a smaller number of existing jointly used poles than the ratio set forth under Paragraph (d), Article Two, Section II, get the majority of the proposed jointly used poles,

(2) By permitting the company owning such smaller number of existing jointly used poles than the ratio set forth under Paragraph (d), Article Two, Section II, to make an outright purchase of a sufficient number of jointly used poles owned by the other company. Title to such poles purchased shall be transferred by bill of sale, or

(3) By permitting the company owning such smaller number of existing jointly used poles than the ratio set forth under Paragraph (d), Article Two, Section II, to replace poles of the other company when such replacements are in order.

Adjustment of pole ownership ratio by setting proposed and/or replacing existing jointly used poles under subparagraphs (1) and (3) above shall be made so as to avoid or minimize rapid changes in the work load of either party's construction force.

(d) Where both parties require anchors in the same location, the Owner of the pole shall place anchor or anchors adequate for normal requirements for both parties at no cost to the licensee, and each party shall erect and maintain its own guy. This clause does not require the Owner to replace existing anchors.

ARTICLE EIGHT

PERIODIC ADJUSTMENTS OF RATIO, ETC.

On January 1, 1958 and at the end of every one year thereafter, the ratios of ownership of poles and the percentage variations therefrom as fixed on the foregoing Paragraph (d) of Article Two, Section II, and Paragraph (c) of Article Seven, Section II, shall be subject to readjustment at the request of either party made in writing to the other party not later than thirty (30) days before the end of any such one year period.

ARTICLE NINE

Nothing contained in Section II of this agreement shall be construed so as to give either of the parties hereto any proprietary right or ownership in the poles, lines, conduits, or any property of the other party covered hereto; it is understood as an arrangement providing solely for a license to the respective parties to jointly use the instrumentalities of the other herein referred to, and to so use them only under the terms thereof.

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 duly authorized, on the day and year first above written.

THE CINCINNATI AND SUBURBAN
BELL TELEPHONE COMPANY

By L. P. Johnston

ATTEST

[Signature]
Secretary

THE CINCINNATI GAS & ELECTRIC COMPANY

By S. W. H. H. H.

Vice President

ATTEST

[Signature]
Secretary

Approved
As to form
LEGAL DEPT.
By [Signature]
Date 11/1/57

No. 15

**AMENDMENT TO REVISED JOINT USE AGREEMENT BETWEEN
THE CINCINNATI GAS & ELECTRIC COMPANY AND CINCINNATI BELL, INC.**

This Amendment to the Revised Joint Use Agreement (Amendment) by and between The Cincinnati Gas & Electric Company (hereinafter referred to as the Power Company), and Cincinnati Bell, Inc. (hereinafter referred to as the Telephone Company) (each a Party and collectively the Parties) is effective September 1, 2004 (Effective Date).

WITNESSETH:

WHEREAS, the Telephone Company and the Power Company executed a Revised Joint Use Agreement ("Agreement") dated December 31, 1957, to establish joint use of their respective poles on a reciprocal or rent-free basis; and

WHEREAS, the Parties now desire to amend the Agreement to acknowledge mutual obligations to accommodate lawful "third party" pole occupancies on jointly used poles; and

WHEREAS, it is desirable to continue in force and effect other provisions of the Agreement as to which no change is now contemplated; and

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, the Parties hereto, for themselves, their successors and assigns, do hereby amend the Revised Joint Use Agreement of December 31, 1957, as follows:

SECTION I. ARTICLE TWO - EXPLANATION OF TERMS:

Replace item (g) in its entirety as follows:

(g) "Standard Space" is the following described space on a joint pole.

- (1) For the Power Company and Power Company Licensees only, the uppermost seven feet of a standard pole.
- (2) For the Telephone Company and other "communications space" attachers Licensed by the Pole Owner, at least three feet of a standard pole, located at a sufficient distance below the Standard Space of the Power Company to provide at all times the minimum clearance required by the specifications, and at a sufficient height above the ground to provide the proper vertical clearance for the lowest horizontal run line wires or cables attached in such space.

It is further agreed that the Parties hereto 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 of poles or the replacement of existing poles.

SECTION I. ARTICLE SIX - ATTACHMENTS OF OTHER PARTIES:

Replace the existing paragraph in its entirety as follows:

If either of the Parties should confer upon others, not parties to this Agreement, by contract or otherwise, rights or privileges to use any poles covered by the Agreement, the obligations and liabilities hereunder of the grantor in respect to such attachments shall be the same as if it were the actual owner thereof.

SECTION II. ARTICLE TWO - ERECTING, REPLACING OR RELOCATING POLES:

Replace item (d) in its entirety as follows:

(d) In any case where the Parties hereto shall conclude arrangements for the joint use hereunder of any new poles to be erected, or for replacing existing jointly used poles, the ownership of such poles shall be determined by mutual agreement, due regard being given to the desirability of avoiding mixed ownership in any given line. Such ownership of poles shall be so allocated that the Telephone Company shall at all times severally own

forty-two (42) percent of the total number of all poles jointly used by the Parties, and the Power Company shall own the remaining fifty-eight (58) percent of the total number of all poles jointly used by the Parties.

SECTION II. ARTICLE SEVEN - MAINTENANCE OF POLE OWNERSHIP RATIO:

Replace item (c) in its entirety with the following:

(c) The Parties will periodically report to each other information concerning reciprocal pole usage in accordance with methods and procedures agreed to in the Operating Routine prepared under authority of Section One, Article Three of this Agreement. The Parties will confirm by January 31 of each year whether, as of January 1 of that calendar year, the ratio between the numbers of poles listed by the Parties varies from the ratio required by paragraph (d) of Section II, Article Two by more than 2 percent, with any such excess over 2 percent to be cured as follows:

- (1) By having the company owning a smaller number of existing jointly used poles than the ratio set forth under paragraph (d) Article Two, Section II, set the majority of new jointly used poles, or
- (2) By permitting the company owning a smaller number of existing jointly used poles than the ratio set forth under paragraph (d) Article Two, Section II, to make an outright purchase of a sufficient number of jointly used poles owned by the other company (Title to such poles purchased to be transferred by Bill of Sale).

For each year in which the ratio between the number of poles listed by the Parties varies from the ratio required by paragraph (d) of Section II, Article Two by more than 2 percent, the Parties shall work in good faith, with due consideration of best practices, to agree on which of the two cures set forth in this Section II, Article Seven, or combination thereof, shall be utilized to reconcile the variance over 2 percent.

ALL OTHER PROVISIONS of the Revised Joint Use Agreement dated December 31, 1957, are herewith ratified and continued in full force and effect without change thereto.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by its proper corporate officers thereunto duly authorized as of the day, month and year first above written.

THE CINCINNATI GAS & ELECTRIC COMPANY

CINCINNATI BELL, INC.

By: _____
John C. Procario,
Senior Vice President

By: _____
Dennis Hinkel,
Senior Vice President

AMENDMENT TO REVISED JOINT USE AGREEMENT

THIS AGREEMENT, made this 23rd day of June, 1962, by and between The Cincinnati and Suburban Bell Telephone Company, hereinafter called the "Telephone Company", and The Cincinnati Gas & Electric Company, hereinafter called the "Power Company", corporations under the laws of Ohio,

WITNESSETH:

WHEREAS, the Telephone Company and the Power Company executed a Revised Joint Use Agreement dated December 31, 1957, to establish joint use of their respective poles on a reciprocal or rent-free basis; and

WHEREAS, the parties now desire to make changes in said Agreement of December 31, 1957, to authorize different voltage limitations on jointly used poles and to provide for tree trimming incidental to the establishment of joint use of poles; and

WHEREAS, it is desirable to continue in force and effect other provisions of said Agreement of December 31, 1957, as to which no change is now contemplated;

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto, for themselves, their successors and assigns, do hereby amend the Revised Joint Use Agreement of December 31, 1957, as follows:

1. SECTION II, ARTICLE ONE-(b) Delete the words "including any tree trimming or cutting incidental thereto."
2. SECTION II, ARTICLE TWO-(d) Delete the words "at 5000 Volts or above" and place in their stead the following words "above 15000 Volts between conductors (8700 Volts between conductor and ground)."
3. SECTION II, ARTICLE TWO-(c)-(3) Delete the words "including tree trimming."
4. SECTION II, ARTICLE TWO-(1) add this new paragraph (1) to read as follows:

"Whenever tree trimming is associated with work contemplated under this agreement, whether in

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constructing a new pole line, converting an existing pole line or rebuilding a pole line, the responsibility for necessary tree trimming and the cost thereof shall be determined in accordance with the detailed methods and procedures agreed to in the Operating Routine prepared under authority of Section One, Article Three of this Agreement.

All other provisions of the Revised Joint Use Agreement dated December 31, 1957, are herewith ratified and continued in full force and effect without change thereto.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to the Revised Joint Use Agreement dated December 31, 1957, to be executed in duplicate, and their corporate seals to be affixed thereto by their respective officers therunto duly authorized, on the day and year first above written.

THE CINCINNATI AND SUBURBAN
BELL TELEPHONE COMPANY

By H. D. Johnston
Vice President

ATTEST:

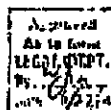
[Signature]
Secretary

THE CINCINNATI GAS & ELECTRIC COMPANY

By S. M. Hamill
Vice President

ATTEST:

[Signature]
Secretary



June 20, 1992

LETTER OF UNDERSTANDING

This Letter of Understanding is associated with the Revised Operating Routine of the Revised Joint Use Agreement between The Cincinnati Gas & Electric Company and Cincinnati Bell Telephone Company.

This Letter replaces the Letter of Understanding between the two companies executed on 05-01-90 as well as all other confirmatory letters regarding the field trialing of Cincinnati Gas & Electric provided pole line services to Cincinnati Bell Telephone.

It is intended that this Letter will permit both companies to proceed with the controlled introduction of a "one crew" approach to the replacement and removal of jointly used poles.

Both companies agree to the following pursuant to Section 8 of the Operating Routine:

In those situations where it is mutually agreed upon by both parties, Cincinnati Bell Telephone as owner of certain jointly used poles authorizes The Cincinnati Gas & Electric Company as its licensee to set replacement poles and anchors and provide other related pole line services. The administration of such services will be in accordance with the Operating Routine. Upon completion, The Cincinnati Gas & Electric Company will bill Cincinnati Bell Telephone Company in accordance with Attachment 1 of this Letter of Understanding.

In those situations where it is mutually agreed upon by both parties, The Cincinnati Gas & Electric Company as owner of certain jointly used poles authorizes Cincinnati Bell Telephone Company as its licensee to remove and dispose of replaced poles and anchors and provide other related pole line services. The administration of such services will be in accordance with the Operating Routine. Upon completion, Cincinnati Bell Telephone Company will bill The Cincinnati Gas & Electric Company in accordance with Attachment 1 of this Letter of Understanding.

Attachment 1 to this Letter of Understanding will continue in effect for a period ending sixty days following notification by either party of its cancellation or until an adjustment of charges have been mutually agreed upon by both parties.

DATE: 7-1-92

BY: H. L. Tomasiotti
Manager, EOE Department
Cincinnati Gas & Electric Company

DATE: 6-25-92

BY: R. J. Terunian
for Vice President, RGNTS
Cincinnati Bell Telephone Company

2004
Joint Cost Agreement
Cinergy and Cincinnati Bell Telephone
Effective January 1, 2004

<u>LENGTH</u>	<u>CLASS</u>	<u>MATERIAL</u> <u>(% OF COST)</u>	<u>COST IN PLACE</u>	<u>REMOVAL</u>
20'	ALL	25%	\$ 375.00	\$ 180.00
25'	ALL	25%	\$ 450.00	\$ 180.00
30'	ALL	25%	\$ 550.00	\$ 230.00
* 35'	ALL	25%	\$ 820.00	\$ 230.00
** 40'	ALL	25%	\$ 915.00	\$ 260.00
45'	ALL	30%	\$ 1,070.00	\$ 280.00
50'	ALL	30%	\$ 1,012.00	\$ 280.00
55'	ALL	35%	\$ 1,151.00	\$ 300.00
60'	ALL	40%	\$ 1,315.00	\$ 300.00
65'	ALL	45%	\$ 1,725.00	\$ 300.00
70'	ALL	50%	\$ 2,041.00	\$ 300.00
75'	ALL	50%	\$ 2,240.00	\$ 300.00
80'	ALL	50%	\$ 2,725.00	\$ 300.00

New Standard Pole Construction:

35' pole in rear lots - off streets (see * above), otherwise, 40' pole (see ** above). The "Cost causer" will pay for any "additional height" requested.

Sacrificed Life - Sale of Poles:

Basis for determining "in place" value of poles: depreciate "cost in place" amount at a simple rate of 4% per year - up to a maximum of 76% (see, Table 1).

Pole Replacements:

1. If the Licensee requests replacement of an existing joint pole, it will reimburse Owner for the full cost of the new pole (in lieu of: "sacrificed life" - "cost of removal"). Owner to remove the existing pole at its cost. Ownership is not affected.
2. Licensee will not be responsible for any pole replacement costs if the Owner initiates the replacement.
3. The Pole Owner will replace a joint use pole with a "standard pole" as required for any public road work.
4. The Owner and Licensee will share any required "additional height" required to resolve a "common obstacle."
5. Ground Rod Assemblies to be included with pole sets performed for "Cost in Place" amounts shown above.

Joint Anchors:

1. Whenever a "joint anchor" will eliminate the need for multiple anchors, the pole Owner will provide a "joint anchor" suitable for the load of a single phase primary circuit and one telephone distribution cable.
2. With the exception of a "joint anchor," the "cost causer" will pay the full cost of any new anchor installed.
3. The "in place" value of any existing anchor sold will be fifty percent (50%) of its installed "cost in place."

**- Miscellaneous Cost Items -
2004**

**Joint Cost Agreement
Cinergy and Cincinnati Bell Telephone
Effective January 1, 2004**

COST IN PLACE

POLES SET IN CONCRETE:

1 yard concrete	\$ 250.00
2 yards concrete	\$ 350.00
Anchor Rods - when poles are set in concrete (all sizes)	\$ 70.00

ANCHORS:

Screw anchors all sizes (8" or 14") (36 MAD / MAT)	\$ 210.00
Concrete or Patent Anchors (18MAD/18 MAT)	\$ 350.00
Salvage of an existing anchor/rod (all years)	50% of installed cost

POLE KEY ASSEMBLY:

As required	\$ 100.00
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ADDITIONAL POLE REPLACEMENT COSTS:

Transfer of all cables and fixtures at poles with cable risers when "Place In Place" not feasible (includes any - corner/dead-end pole transfers, or any equipment cabinets)	Estimate of Actual Cost
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- CONTINUED -

2004

Joint Cost Agreement
Cinergy and Cincinnati Bell Telephone
Effective January 1, 2004

<u>ITEM</u>	<u>DESCRIPTION OF CBT WORK OPERATIONS</u>	<u>UNIT COST</u>
1.	Place Key Planks - New or Existing Pole	\$ 200.00
2.	Shift Existing Guy Wire	\$ 175.00
3.	Shift Terminal (All)	\$ 830.00
4.	Shift Cable and any wires on Dead-End Pole	\$ 350.00
6.	Shift Load Coil Case on Existing Pole (No Splicing Required)	\$ 510.00
7.	Shift Cross Connecting Terminal, SAI, Control Point, Access Point on existing or replaced pole, Load Coil Case, Cross Connecting Terminal, SAI, Control Point or Access Point Requiring Splicing, or any other Operation Not Detailed Above.	Estimate of Actual Cost

- CONTINUED -

2004

Joint Cost Agreement

Cinergy and Cincinnati Bell Telephone

Effective January 1, 2004

<u>ITEM</u>	<u>DESCRIPTION OF CINERGY WORK OPERATIONS</u>	<u>COST</u>
9.	Shift secondary rack (1W)	\$ 65.00
10.	Shift secondary rack (3W)	\$ 110.00
11.	Shift street light, including mast arm or bracket	\$ 315.00
12.	Install new ground connection of concentric neutral cable in Underground Residential Development system (during construction)	\$ 76.00
13.	Install new ground connection of concentric neutral cable in Underground Residential Development system (post construction)	\$ 347.00
14.	Install insulator in headguy/downguy	\$ 250.00
15.	Shift or transfer transformer or capacitor, feeder tie switch installation, extend underground service, crossarms, shift or transfer primary underground terminal pole equipment or other special unusual installation	Estimate of Actual Cost

TABLE 1

**DEPRECIATION FACTORS BY YEAR FOR DETERMINING
COST IN PLACE - TRANSFER OF OWNERSHIP
EFFECTIVE JANUARY 1, 2004**

To determine "Cost in Place" charges:

1. Using Schedule A, determine the sum of COST IN PLACE values for existing poles.
2. Using the Table below, determine the appropriate DEPRECIATION FACTOR based on the year of placement.
3. Multiply the sum of COST IN PLACE values by the DEPRECIATION FACTOR.
4. MINIMUM COST OF "IN PLACE" POLES (year not known) based on a minimum 24% value: (In 2004, this will be comparable to the value of a pole placed in 1985)

<u>YEAR SET</u>	<u>PERCENT</u>	<u>FACTOR</u>
2004	100	1.00
2003	96	.96
2002	92	.92
2001	88	.88
2000	84	.84
1999	80	.80
1998	76	.76
1997	72	.72
1996	68	.68
1995	64	.64
1994	60	.60
1993	56	.56
1992	52	.52
1991	48	.48
1990	44	.44
1989	40	.40
1988	36	.36
1987	32	.32
1986	28	.28
1985 and all OTHER YRS	24	.24

- APPROVALS -
2004 Joint Cost Agreement

This "Cost Agreement" to become effective for all JUR Proposals initiated after January 1, 2004.

For Cinergy Corp. Companies:

Date: 30 DEC 03 By: Richard H. Hoff
Title: SUPERVISOR

For Cincinnati Bell Telephone NE&C:

Date: Jan 5, 2004 By: Larry Lee
Title: Senior Manager - OSP Infrastructure

2005
Joint Cost Agreement
Cinergy and Cincinnati Bell Telephone
Effective January 1, 2005

<u>LENGTH</u>	<u>CLASS</u>	<u>MATERIAL</u> <u>(% OF COST)</u>	<u>COST IN PLACE</u>	<u>REMOVAL</u>
20'	ALL	25%	\$ 375.00	\$ 275.00
25'	ALL	25%	\$ 450.00	\$ 275.00
30'	ALL	18%	\$ 550.00	\$ 275.00
* 35'	ALL	19%	\$ 820.00	\$ 275.00
** 40'	ALL	26%	\$ 1,061.00	\$ 275.00
45'	ALL	26%	\$ 1,166.00	\$ 310.00
50"	ALL	29%	\$ 1,230.00	\$ 310.00
55'	ALL	32%	\$ 1,308.00	\$ 310.00
60'	ALL	38%	\$ 1,482.00	\$ 310.00
65'	ALL	44%	\$ 1,922.00	\$ 325.00
70'	ALL	49%	\$ 2,226.00	\$ 325.00
75	ALL	51%	\$ 2,443.00	\$ 325.00
80	ALL	56%	\$ 2,944.00	\$ 325.00

New Standard Pole Construction:

35' pole in rear lots - off streets (see * above), otherwise, 40' pole (see ** above). The "Cost causer" will pay for any "additional height" requested.

Sacrificed Life - Sale of Poles:

Basis for determining "in place" value of poles: depreciate "cost in place" amount at a simple rate of 4% per year - up to a maximum of 76% (see, Table 1).

Pole Replacements:

1. If the Licensee requests replacement of an existing joint pole, it will reimburse Owner for the full cost of the new pole (in lieu of: "sacrificed life" - "cost of removal"). Owner to remove the existing pole at its cost. Ownership is not affected.
2. Licensee will not be responsible for any pole replacement costs if the Owner initiates the replacement.
3. The Pole Owner will replace a joint use pole with a "standard pole" as required for any public roadwork.
4. The Owner and Licensee will share any required "additional height" required to resolve a "common obstacle."
5. Ground Rod Assemblies to be included with pole sets performed for "Cost in Place" amounts shown above.

Joint Anchors:

1. Whenever a "joint anchor" will eliminate the need for multiple anchors, the pole Owner will provide a "joint anchor" suitable for the load of a single-phase primary circuit and one telephone distribution cable.
2. With the exception of a "joint anchor," the "cost causer" will pay the full cost of any new anchor installed.
3. The "in place" value of any existing anchor sold will be fifty percent (50%) of its installed "cost in place."

**- Miscellaneous Cost Items -
2005
Joint Cost Agreement
Cinergy and Cincinnati Bell Telephone
Effective January 1, 2005**

COST IN PLACE**POLES SET IN CONCRETE:**

1 yard concrete	\$ 250.00
2 yards concrete	\$ 350.00
Anchor Rods - when poles are set in concrete (all sizes)	\$ 70.00

ANCHORS:

Screw anchors all sizes (8" or 14") (36 MAD / MAT)	\$ 210.00
Concrete or Patent Anchors (18MAD/18 MAT)	\$ 350.00
Salvage of an existing anchor/rod (all years)	50% of installed cost

POLE KEY ASSEMBLY:

As required	\$ 200.00
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ADDITIONAL POLE REPLACEMENT COSTS:

Transfer of all cables and fixtures at poles with cable risers when "Place In Place" not feasible (includes any - corner/dead-end pole transfers, Or any equipment cabinets)	Estimate of Actual Cost
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- CONTINUED -

2005

Joint Cost Agreement
Cinergy and Cincinnati Bell Telephone
Effective January 1, 2005

<u>ITEM</u>	<u>DESCRIPTION OF CBT WORK OPERATIONS</u>	<u>UNIT COST</u>
1.	Place Key Planks - New or Existing Pole	\$ 200.00
2.	Shift Existing Guy Wire	\$ 175.00
3.	Shift Terminal (All)	\$ 830.00
4.	Shift Cable and any wires on Dead-End Pole	\$ 350.00
6.	Shift Load Coil Case on Existing Pole (No Splicing Required)	\$ 510.00
7.	Shift Cross Connecting Terminal, SAI, Control Point, Access Point on existing or replaced pole, Load Coil Case, Cross Connecting Terminal, SAI, Control Point or Access Point Requiring Splicing, or Any other Operation Not Detailed Above.	
Cost		Estimate of Actual

- CONTINUED -
2005
Joint Cost Agreement
Cinergy and Cincinnati Bell Telephone
Effective January 1, 2005

ITEM	DESCRIPTION OF CINERGY WORK OPERATIONS	COST
9.	Shift secondary rack (1W)	\$ 65.00
10.	Shift secondary rack (3W)	\$ 110.00
11.	Shift street light, including mast arm or bracket	\$ 315.00
12.	Install new ground connection of concentric neutral cable in Underground Residential Development system (during construction)	\$ 76.00
13.	Install new ground connection of concentric neutral cable in Underground Residential Development system (post construction)	\$ 347.00
14.	Install insulator in headguy/downguy	\$ 250.00
15.	Shift or transfer transformer or capacitor, feeder tie switch installation, extend underground service, crossarms, shift or transfer primary underground terminal pole equipment or other special unusual installation	Estimate of
Actual Cost		

TABLE 1

**DEPRECIATION FACTORS BY YEAR FOR DETERMINING
COST IN PLACE - TRANSFER OF OWNERSHIP
EFFECTIVE JANUARY 1, 2005**

To determine "Cost in Place" charges:

1. Using Schedule A, determine the sum of COST IN PLACE values for existing poles.
2. Using the Table below, determine the appropriate DEPRECIATION FACTOR based on the year of placement.
3. Multiply the sum of COST IN PLACE values by the DEPRECIATION FACTOR.
4. MINIMUM COST OF "IN PLACE" POLES (year not known) based on a minimum 24% value: (In 2005, this will be comparable to the value of a pole placed in 1986)

<u>YEAR SET</u>	<u>PERCENT</u>	<u>FACTOR</u>
2005	100	1.00
2004	96	.96
2003	92	.92
2002	88	.88
2001	84	.84
2000	80	.80
1999	76	.76
1998	72	.72
1997	68	.68
1996	64	.64
1995	60	.60
1994	56	.56
1993	52	.52
1992	48	.48
1991	44	.44
1990	40	.40
1989	36	.36
1988	32	.32
1987	28	.28
1986 and all OTHER YRS	24	.24

Approvals
2005 Joint Pole Cost Agreement

This Cost Agreement to be applied to all JUR Proposals initiated after January 1, 2005.

DATE: _____ BY: _____

Supervisor - T. & D. Engineering
Cincinnati Gas & Electric / ULH&P
Cinergy Corp. Companies

DATE: _____ BY: _____

Senior Manager - OSP Infrastructure
OSP Engineering & Construction
Cincinnati Bell Telephone

50 12607

PERMIT # 1-MAY-00

BAR CODE 00000 #73

TELECOMMUNICATIONS
POLE ATTACHMENT
AGREEMENT

between

CINCINNATI BELL TELEPHONE

and

THE CINCINNATI GAS & ELECTRIC COMPANY

Dated: May 1, 2000

(R 04/99)

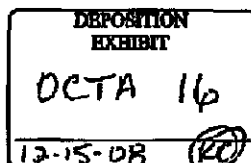


TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE (s)</u>
1	Scope of Agreement	1-3
2	Term of Agreement	3
3	Definition of Terms	4
4	Placing, Transferring or Rearranging Attachments	5-8
5	Governmental Approvals and Easements	8-9
6	Field Inventories and Inspections	9-10
7	Removal of Attachments	10
8	Rental and Procedure for Payments	11-13
9	Revision of Attachment Rental Rate	13
10	Defaults	14
11	Liability and Insurance	14
12	Rights of Other Parties	18
13	Assignment of Rights/ Delegation of Duties	18
14	Waiver of Terms or Conditions	18
15	Bonding to Electric Company Ground	19-20
16	Miscellaneous Provisions	0-22

TELECOMMUNICATION POLE ATTACHMENT AGREEMENT

THIS AGREEMENT, is effective this 18th day of February, 2000, and is by and between The CINCINNATI GAS & ELECTRIC COMPANY, a Cinergy Company, with its principal office located at 139 East Fourth Street, Cincinnati, Ohio, 45202, herein referred to as "CG&E," and CINCINNATI BELL TELEPHONE, and maintaining its principal office for the conduct of business at 201 East Fourth Street 103-1175, Cincinnati, Ohio 45202, herein referred to as "Licensees";

WITNESSETH:

WHEREAS, Licensees purposes to furnish telecommunications services in areas of Ohio in which CG&E's poles are located, intends to erect and maintain serial telecommunication facilities throughout the area to be served, and desires to attach such telecommunication facilities to poles owned and/or maintained by CG&E, hereinafter referred to as "Poles"; and

WHEREAS, CG&E is willing, during the term of this Agreement, to permit Licensee to attach said telecommunication facilities to the Poles subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereby mutually agree as follows:

SCOPE OF AGREEMENT

SECTION 1.1 This Agreement shall be in effect in any area in Ohio where Licensee is authorized by law to provide telecommunications service and in which the Poles are located. Upon complying with all of the applicable terms and conditions of said law(s) and this Agreement, Licensee is authorized to make attachments of its telecommunications facilities to the

Poles for the purpose of providing telecommunications service to its customers. The terms "telecommunications facilities" does not include facilities for Licensee's electric power supply. The attachment of electric power supply facilities will be considered by CG&E on a case-by-case basis and may require a separate license agreement.

SECTION 1.2 CG&E reserves the right to deny attachment by Licensee of its telecommunication facilities to any of the Poles including, but not limited to, Poles which in the reasonable judgment of CG&E (i) are required for the sole use of CG&E, (ii) are not acceptable for attachment by Licensee because of safety or reliability considerations, or because of incompatibility with existing or committed attachments of others within the available space on the existing Poles, or (iii) have been installed primarily for the use of a third party. A "committed attachment" for purposes of this Agreement shall be an attachment which is permitted under an existing agreement between the attachment owner and CG&E but which has not been made by said owner on the Pole. For any Pole which Licensee desires an attachment, CG&E shall disclose to Licensee the name and address of any 'committed attachment' owner. Licensee shall be responsible to obtain the written consent from any committed attachment owner, which if specified in the agreement with CG&E, shall not be unreasonably withheld, and which may be necessary for Licensee to attach its telecommunications facilities to any Pole. CG&E shall make a reasonable effort to accommodate Licensee's request to utilize a Pole, wherever possible: provided, however, CG&E shall not be required to replace, relocate or modify any Pole or its facilities contained thereon to facilitate an attachment by Licensee. Upon the written request of Licensee, CG&E may at its sole discretion and at the cost and expense of Licensee, conduct such replacement, relocation or modification.

SECTION 1.3 Any unauthorized attachment to a Pole shall be subject to removal. CG&E will provide written notice to Licensee allowing thirty (30) days in which to remove or to make suitable license arrangements with CG&E for the unauthorized attachment. If no removal or arrangements have been made within that time period, CG&E shall then have the right to remove the unauthorized attachment at the cost and expense of Licensee.

SECTION 1.4 If it shall become necessary for CG&E to use the space on the Pole occupied, or contracted for, by Licensee, Licensee shall, upon receipt of 30-days' written notice, either vacate the space by the removal of its attachment or shall authorize CG&E to replace the Pole at the cost and expense of Licensee; provided, Licensee has not heretofore paid for the replacement, relocation or modification of such Pole.

TERM OF AGREEMENT

SECTION 2.1 Unless terminated by CG&E as provided herein or by Licensee upon at least ninety (90) days prior written notice to CG&E, this Agreement shall extend for an initial term of five (5) years and shall automatically extend for successive three (3)-year terms unless and until terminated at the end of such initial or extended term, by either party providing the other with at least ninety (90) days' written notice prior to the expiration of such initial or extended term. Upon termination of this Agreement as provided herein, Licensee shall commence, within 30 days, the removal of its telecommunications facilities from all of the Poles. Licensee shall complete the removal of its telecommunications facilities within four (4) months from the termination date or at a minimum rate of 5,000 attachments per month. If Licensee does not complete said removal in this manner, CG&E shall have the right to remove the remaining telecommunications facilities at the cost and expense of Licensee. CG&E shall have a lien upon any telecommunications facilities of Licensee so removed by CG&E upon the termination of this Agreement for the amount of the cost and expense of removal.

transport, and storage of the telecommunications facilities, and any other amounts then due to CG&E under this Agreement which are not covered by the deposit per Section 8.4 of this Agreement. All such telecommunications facilities shall be released by CG&E to Licensee at the site where they are being stored upon the payment by Licensee to CG&E of all amounts then owed to CG&E.

DEFINITION OF TERMS

SECTION 8.1 For purposes of this Agreement, the following terms shall have the following meanings:

Attachment: The term "attachment" shall mean the necessary contact on the Pole to accommodate a single messenger strand (support wire) system, with or without telecommunications cable(s) lashed to it. This includes service drops and multiple contacts where required for construction on this single messenger strand system. Any additional contact required for a second messenger strand system will be considered as a second attachment. Multiple service drops attached to a single lift (drop) Pole and positioned in close proximity to one another will be considered as one attachment. Any other appurtenance affixed to a Pole not herein defined shall be considered separate attachment.

Distribution Pole: The term "Distribution Pole" is defined as wood, concrete or metal pole owned and/or maintained by CG&E on which is supported supply conductors energized at less than 50KV and is included in FERC Account 364, Distribution Plant Poles, Towers and Fixtures. Normally this Pole will have a length of less than fifty-five (55) feet. This includes lift (drop) Poles which normally support only service drops to a customer.

NESC: The term "NESC" shall mean the current edition of the National Electrical Safety Code which includes any modification or supplements thereof.

PLACING, TRANSFERRING OR REARRANGING ATTACHMENTS

SECTION 4.1 Before making any attachment of its telecommunication facilities to any Pole of CG&E, Licensee shall make application to CG&E for a permit in the form of Exhibit "A", attached hereto. No attachment, or lashing of additional cables to an existing messenger strand, shall be made by Licensee prior to receipt from CG&E of an approved permit, which will be processed by CG&E within a reasonable time frame, with the exception of additional attachments made during emergency repair work which should be reported to CG&E as soon as possible after the emergency subsides. Licensee shall ensure that each permitted attachment is made in accordance with the terms of this Agreement and in accordance with any additional terms and conditions which the permit may contain. The failure of Licensee to obtain such a permit prior to making an attachment shall constitute a trespass and a willful violation of this Agreement. Recurrent violations in this regard may result among other things, in termination of said Agreement in its entirety.

SECTION 4.2 Licensee's telecommunications facilities shall be erected, operated and maintained in accordance with the current requirements of CG&E, as may be amended or revised. Existing telecommunications facilities which comply with NESC requirements may be operated in place until rebuild, relocation, etc., provides Licensee with the opportunity to upgrade them to current CG&E requirements. In addition, Licensee will comply with the NESC standards.

SECTION 4.1 CG&E shall have the right to conduct a pre-attachment field inspection of all proposed attachment locations covered by a permit application. Also, post-attachment field inspections will be conducted after attachment by Licensee. Licensee shall reimburse CG&E upon written demand, of all costs of such inspection not recovered by CG&E in its annual rental fee. Failure by CG&E to assess or collect such costs at the time of such inspection shall not constitute waiver of CG&E's right to assess or collect such cost for any future inspections. Subject to CG&E's right per Section 1.2, in the event that any Poles of CG&E to which Licensee desires to make attachments are inadequate to support Licensee's facilities in accordance with the aforesaid specifications, CG&E may so notify Licensee, in writing, including a detailed description of the make-ready work necessary to provide adequate facilities, together with the estimated cost thereof, to Licensee, and any other specifications with which the attachment must comply as a condition of the permit approval. If Licensee still desires to make the attachment, and so advises CG&E in writing, thereby agreeing to reimburse CG&E for the entire cost and expense thereof, including, but not limited to, the increased cost of larger Poles, cost of removal less any salvage value and the expense of transferring CG&E's facilities, from the old to the new Poles, etc., CG&E shall replace such inadequate facilities. Upon completion, CG&E will notify Licensee granting authorization to attach. Where Licensee's desired attachments can be accommodated on present Poles of CG&E by rearranging CG&E's facilities thereon and CG&E is willing hereunder to make such rearrangement, Licensee shall pay CG&E for the entire cost and expense of completing such rearrangement. Licensee shall also make arrangements with the owners of other facilities attached to the Poles for any cost and expense incurred by them in transferring or rearranging their other facilities. Any additional support of Poles, including, but not limited to, guying required by CG&E to accommodate the attachments of Licensee shall be provided by and at the cost and expense of licensee. Licensee shall not set any poles under or in close proximity to

CG&E's facilities. Licensee may, however, request CG&E to set such poles as Licensee may desire and have the right to set. If such request is granted by CG&E, Licensee shall pay CG&E for the entire cost and expense of setting such poles. Notwithstanding any reimbursement, the Pole(s) shall remain the property of CG&E.

SECTION 4.4 It shall be the duty and responsibility of Licensee to maintain accurate, up-to-date location maps and records of all its attachments on CG&E's Poles. CG&E shall have the right to inspect, and upon request, obtain a copy of said location maps and records at any time during regular business hours upon the giving of reasonable notice.

SECTION 4.5 Licensee shall, at its own expense, make and maintain its attachments to CG&E's Poles in a safe and workmanlike manner in accordance with applicable CG&E standards, industry standards, and applicable codes. Such attachments shall not conflict or unreasonably interfere with the primary use of said Poles by CG&E, or by any existing or committed attachment owner. Licensee shall immediately, upon written notice, and at its own cost and expense, remove, relocate, replace or renew its facilities placed on any Poles, or transfer them to substituted Poles, or perform any other work in connection with its facilities that may be required by CG&E requirements or the NESC. However, in an emergency situation, CG&E shall have the right to relocate, replace or renew the facilities placed on Poles by Licensee, transfer them to substituted Poles, or perform any other work in connection with said facilities that may be required in the maintenance, replacement, removal or relocation of said Poles, the facilities thereon, or for the service needs of CG&E. Licensee shall, on written demand, reimburse CG&E for all reasonable expenses incurred by CG&E pursuant to the provisions of this Section. Nothing in this Agreement shall be construed to relieve Licensee from maintaining adequate work forces readily available to promptly repair, service and maintain Licensee's facilities as herein required.

SECTION 4.6 CG&E reserves to itself, its successors and assigns, the right to maintain its Poles and to operate its facilities thereon in such manner as will best enable it to fulfill its own electric service requirements, and it accordance with the NESC or any amendments or revision of said Code. Notwithstanding any provision to the contrary contained in this Agreement, CG&E shall not be liable to Licensee for any interruption to its telecommunications service, for any interference with the operation of the telecommunications facilities of Licensee, or for any consequential damages sustained by Licensee.

SECTION 4.7 Licensee shall exercise proper precautions to avoid damage to facilities of CG&E and of others supported on the Poles, and hereby assumes all responsibility for any and all loss or damage caused by Licensee. Licensee shall make an immediate report to CG&E of the occurrence of any damage and hereby agrees to reimburse CG&E for any reasonable cost and expense incurred by CG&E in making repairs. Licensee hereby assumes full responsibility for any and all damages to its own plant or facilities and damages to any appliances or equipment of any subscriber to Licensee's service, arising from accidental contact with CG&E's energized conductors.

GOVERNMENTAL APPROVALS AND EASEMENTS

SECTION 5.1 Prior to making any attachment, Licensee affirmatively warrants and represents to CG&E that it has the legal right to operate its telecommunications facilities upon such Pole by having obtained all applicable governmental reviews and approvals. Upon request, Licensee shall make available to CG&E copies of any written approvals.

SECTION 5.2 It shall be the sole responsibility of Licensee to obtain for itself such easements or licenses as may be appropriate for the placement and maintenance of its attachments to the Poles located on public or private property. Nothing in this Agreement shall constitute or create an assignment to Licensee by CG&E of any easement or license held by CG&E or of any rights under any easement or license held by CG&E. Prior to making any attachment, Licensee affirmatively warrants and represents to CG&E that it has the legal right to place such attachment on the property of any person owing or claiming any interest in the property over which such attachment will be located pursuant to the terms of this Agreement.

FIELD INVENTORIES AND INSPECTIONS

SECTION 6.1 CG&E shall have the right to conduct periodic inspections of Licensee's telecommunications facilities and attachments on the Poles and Licensee shall reimburse CG&E upon written demand by CG&E, for the reasonable cost and expense incurred in obtaining such audit inspections. CG&E may obtain inspections as it deems necessary, within reason, and upon reasonable written notice. The provisions of this Section and the rights contained herein shall not operate to relieve Licensee of any responsibility, obligation or liability under this Agreement.

SECTION 6.2 In order to verify the number of attachments made by Licensee to the Poles, CG&E shall have the right to conduct a field inventory once every year, or more frequently upon reasonable cause. Licensee shall reimburse CG&E, upon written demand, for the reasonable cost and expense of any such inventory obtained by CG&E. The provisions of this Section and the rights contained herein, shall not operate to relieve Licensee of any responsibility, obligation or liability under this Agreement.

SECTION 6.3 Bills for inspections, field inventories, expenses and other charges under this Agreement, shall be payable within thirty (30) days after mailed to Licensee. Non-payment by Licensee within the thirty (30)-day period shall constitute a default under this Agreement.

REMOVAL OF ATTACHMENTS

SECTION 7.1 Licensee may at any time remove its attachments from the Poles and it shall immediately give CG&E written notice of such removal in the form of Exhibit "A", attached hereto. No refund or proration of any prepaid attachment fee shall be given on account of such removal. Licensee shall continue to be responsible for payment of the applicable attachment fee for previously permitted facilities until the end of the billing period during which notice of removal of said facilities is received by CG&E.

SECTION 7.2 Upon written notice from CG&E to Licensee that any governmental authority has objected to or disputed the right of Licensee to use any of the Poles for the attachment of telecommunications facilities, the permit covering the use of such Poles shall terminate and the telecommunications facilities of Licensee shall be removed at once from the affected Poles unless within fifteen (15) days from said notice, Licensee shall make provision reasonably satisfactory to CG&E for the protection of CG&E's interest in connection with any such dispute or controversy. Notwithstanding the existence of any such dispute or controversy, Licensee shall have the right to pursue a permit from CG&E for any other Poles.

RENTAL AND PROCEDURE FOR PAYMENTS

SECTION 8.1 The total annual attachment rental fee is equal to the rate as specified in Exhibit "B" attached hereto, multiplied by the total number of attachments on the CG&E poles. The rental period is the twelve (12)-month period beginning July 1 of the current year to June 30 of the following year. The annual rental rate per contact shall apply to any attachments made during the year, and shall be calculated as of the date the Exhibit "A" permit is issued by CG&E. Licensee will pay one-twelfth (1/12) of the annual rental fee for each month remaining in the rental period. CG&E reserves the right to revise the rental rate annually upon the last thirty (30) days' written notice to Licensee prior to the end of the annual period. Any and all amendments of the rental rate shall be made on a new Exhibit "B" superseding the preceding Exhibit "B" which will be attached hereto and made a part thereof. In all other respects except for any changes in the number of Pole attachments as provided in Section 2, this Agreement shall remain in full force and effect.

SECTION 8.2 If CG&E makes a field inventory of the telecommunications facilities of Licensee in accordance with Section 6.2 of this Agreement, and CG&E finds that the total number of actual attachments is greater than the aggregate number reflected in all current attachment permits, then upon completion of such inventory, CG&E's attachment record will be adjusted accordingly and subsequent billing will be based on the adjusted number of attachments. Retroactive billing will be prorated equally from the date of the previous field inventory or the effective date of this Agreement, whichever is later, together with the appropriate attachment rate in effect at that time and interest rate, based on the IRS statutory rate for underpayment of income taxes, compounded annually. In no event will retroactive billing be more than five (5) years. Licensee's acceptance and payment of monthly invoices issued by CG&E

shall constitute its verification that said invoice is correct as to the number of attachments. Should the field inventory by CG&E determine that Licensee has made attachments without a permit or without having paid the proper rental charge by correcting an invoice to reflect such additional attachments, Licensee agrees to pay an unauthorized attachment charge of \$25 per Pole for each unauthorized Pole attachment in excess of ten (10) or two percent (2%) of the last verified reported total, whichever is larger. The payment of the aforesaid penalty hereunder by Licensee shall not negate CG&E's right to terminate this Agreement under Section 4.1 above.

SECTION 8.3 All Billings by CG&E under this Agreement are due and payable within thirty (30) days after they are mailed by CG&E. If for any reason Licensee is delinquent in the payment of any billing under this Agreement, Licensee shall pay interest on such unpaid amount from the date such invoice was mailed until it is paid. The interest rate shall be the maximum permitted by law in the State of Ohio. In order to dispute any portion of a bill, Licensee shall notify CG&E in writing of the amount of the disputed charge and the nature of the dispute within thirty (30) days of the date of the invoice. The disputed and undisputed portion of the bill shall remain due and payable as rendered. CG&E will then evaluate the dispute within sixty (60) days, and notify Licensee of its evaluation of the disputed portion. If the dispute is resolved in favor of Licensee, CG&E shall refund the disputed amount to Licensee within thirty (30) days from the resolution.

SECTION 8.4 Licensee shall furnish a deposit in the form of cash, irrevocable letter of credit or performance bond acceptable to CG&E, to guarantee the payment of any sums which may become due to CG&E for rentals, inspections, or make-ready work performed for the benefit of Licensee under this Agreement, including the removal of attachments upon termination of this Agreement by any of its provisions. The amount of the deposit shall be determined and maintained thereafter as provided on the Exhibit "C" Schedule of Required Deposit attached hereto. The Schedule of Required

Deposit will be subject to revision by CG&E from time to time to be consistent with any change in construction costs or rental attachment rates. CG&E shall give Licensee ninety (90) days notification prior to the effective date of any such schedule revision. Cash deposits will not earn interest for the benefit of Licensee. Any irrevocable letter of credit or performance bond furnished pursuant to this Section shall be in a form reasonably acceptable to CG&E. Any irrevocable letter of credit shall be issued by a banking corporation or institution duly authorized to transact business and have an office located in the State of Ohio.

REVISION OF ATTACHMENT RENTAL RATE

SECTION 9.1 CG&E shall have the right to revise the attachment rental rates annually for Poles as set forth in Section 8.1 in accordance with the following methodology. The annual Distribution Pole attachment rental fee will not exceed forty percent (40%) of the annual carrying charge of the Distribution Pole as determined by CG&E. Distribution Pole FERC account information will be used for calculating this charge.

CG&E will provide written notice to Licensees of such revision with supporting data not less than thirty (30) days prior to the effective date of any such revision. The anticipated effective date of any such revision shall be July 1 of a given year and shall remain in effect through June 30 of the following year.

DEFAULTS

SECTION 10.1 If Licensee shall fail to comply with any material provision of this Agreement, or default in any material obligation under this Agreement, and such non-compliance or default shall continue for thirty (30) days after receipt of written notice by Licensee from CG&E specifying such non-compliance or default, all rights of Licensee to apply for additional attachment permits shall be suspended on said thirtieth day (suspension date). If such non-compliance or default shall continue for a period of an additional thirty (30) days after such suspension date, CG&E may, at its option and in addition to any other rights herein or at law or in equity, terminate this Agreement or any permit issued pursuant thereto; provided, however, so long as Licensee is using its best and reasonable efforts to expeditiously correct the non-compliance or default, Licensee shall have an additional period of time not to exceed six (6) months after such suspension date to correct the non-compliance or default. In case of such termination, no refund of the applicable prepaid rentals shall be made.

SECTION 10.2 During any period of suspension of Licensee's right pursuant to Section 10.1 above, CG&E will not process or approve any application for a permit for additional attachments until Licensee has corrected such underlying non-compliance or default, unless otherwise agreed to between the parties.

LIABILITY AND INSURANCE

SECTION 11.1 Licensee shall be liable for any damage to CG&E's property which arises from this Agreement although caused in whole or in part by any act or omission, negligent or otherwise, of CG&E or its agents but excluding the willful or intentional misconduct of CG&E or its agents.

11.1.1 Licensee hereby releases and shall hold harmless CG&E and its agents from all liability for damage to Licensee's property which arises from this Agreement although caused in whole or in part by any act or omission, negligent or otherwise, of CG&E or its agents but excluding the willful or intentional misconduct of CG&E or its agents.

11.1.2 Licensee shall defend, indemnify, and hold harmless CG&E from any claim or lawsuit (and costs and expenses incurred by CG&E related to any such claim or lawsuit) by third parties, including Licensee's employees and other agents, for personal injury including death or property damage including the loss of use thereof, which arises out of or is related to (i) Licensee's telecommunications facilities; (ii) the exercise of Licensee's rights or obligations pursuant to this Agreement; (iii) the use of CG&E's Poles by Licensee; or (iv) the performance or failure to perform any work or service by Licensee or its agents, although caused in whole or in part by any act or omission, negligent or otherwise, of CG&E or its agents but excluding the willful or intentional misconduct of CG&E or its agents. CG&E shall give Licensee reasonably prompt written notice of any claim or lawsuit, and an opportunity to defend the claim or lawsuit along with reasonable cooperation at Licensee's expense.

11.1.3 If any of the foregoing provisions under this Section are found to be contrary to law in whole or in part by a court of competent jurisdiction, the remainder of the provisions shall, in all other respects, be and remain legally effective and binding.

SECTION 11.2 It is understood and agreed that Licensee shall install, maintain and operate its facilities in such a manner as not to interfere in any way with other telecommunication systems or with television or radio reception by the public. If any of Licensee's telecommunications facilities are found to be the cause of any such interference, Licensee shall take immediate steps to eliminate the cause and if such interference is not or cannot be expeditiously eliminated, Licensee shall remove from operation the interfering

cause. The liability imposed upon Licensee in Section 11.1 is applicable to any liability imposed upon CG&E, which arises out of any interference to other communication systems or to television or radio reception of the public.

SECTION 11.3 Licensee shall cause, and shall direct each of its subcontractors to cause, the insurance company providing Workmen's Compensation insurance for the Licensee or subcontractors during the whole of the effective period of this Agreement to file the applicable documents with the appropriate Board within the State of Ohio to certify to the satisfaction of said Board that Licensee and its subcontractors have complied with all applicable requirements of "The Ohio Workmen's Compensation Act as amended to date. Licensee shall pay all compensation, awards, allowances, physicians' fees, hospital fees, nurse's charges and burial expenses due to any person on account of the injury, death, treatment, hospitalization, care or burial of any employee of Licensee who may suffer injury, occupational illness or death in the course of the performance of any part of the work under this Agreement, as Licensee may be required to do by any state or federal workmen's compensation law or employers' liability law applicable; and shall defend, indemnify and save harmless CG&E from any and all claims for any compensation, award, allowance, physician's fee, hospital fee, nurse's charge or burial expense, including third party tortfeasor suits instituted under the appropriate section of "The Ohio Workmen's Compensation Act" in accordance with this Section.

SECTION 11.4 Licensee shall procure, and keep in force during the entire period while this Agreement is in effect, a policy or policies of insurance, in a form reasonably acceptable to CG&E and issued by an insurance company reasonably acceptable to CG&E, adequately protecting Licensee and CG&E from and against any and all claims, losses or actions arising out of Licensee's activities pursuant to this Agreement or in any way connected with Licensee's telecommunications facilities to be installed

pursuant to this Agreement. Any such insurance policy or policies except for Workmen's Compensation shall specifically designate CG&E as a named additional insured, and within ten (10) days of execution of this Agreement, Licensee shall provide CG&E with Certificates of Insurance, for itself and each of Licensee's subsidiaries within CG&E's service territory in the State of Ohio, which shall provide evidence of insurance in amounts of not less than:

Workmen's Compensation	Statutory Requirements
Employer's Liability	\$100,000 Each Person
Comprehensive General Liability	
Bodily Injury	\$1,000,000 Each Person
Bodily Injury	\$3,000,000 Each Occurrence
Property Damage	\$3,000,000 Each Occurrence
Contractual Liability	
Bodily Injury	\$1,000,000 Each Person
Bodily Injury	\$3,000,000 Each Occurrence
Property Damage	\$3,000,000 Each Occurrence

Licensee shall provide CG&E with additional certificates of insurance on or before each annual renewal date of this Agreement.

RIGHTS OF OTHER PARTIES

SECTION 12.1 Nothing herein contained shall be construed to confer on Licensee an exclusive right to make attachments to the Poles.

ASSIGNMENT OF RIGHTS/DELEGATION OF DUTIES

SECTION 13.1 Licensee shall not assign its right or delegate its duties herein without the prior written consent of CG&E, which consent shall not be unreasonably withheld by CG&E. Licensee shall have the right to assign its right and delegate its duties herein to an affiliated corporation; provided, however, that such Licensee shall remain secondarily responsible for the faithful performance of its duties herein. Prior to any assignment notice or request by Licensee herein, Licensee shall provide CG&E with a fully completed and executed Exhibit "D" Certificate.

SECTION 13.2 Any use of the Poles by Licensee under this Agreement shall not create or vest the Licensee any ownership or property right including an irrevocable license in said Poles or facilities of CG&E. Licensee's rights herein shall be and remain limited to attaching its telecommunications facilities to the Poles strictly in accordance with the terms and conditions of this Agreement. Nothing herein contained shall be construed to require CG&E to maintain any of said Poles for a period longer than demanded by its own service requirements.

WAIVER OF TERMS OR CONDITIONS

SECTION 14.1 Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

BONDING TO ELECTRIC COMPANY GROUND

SECTION 15.1 For Section 15.1 to 15.5, inclusive, the following terms when used herein shall have the following meaning, to wit:

15.1.1 "Vertical Ground Wire" shall mean a wire conductor of CG&E attached vertically to the Pole and extended from CG&E's Multi-Grounded Neutral (defined below) through Licensee's space to the base of the Pole where it may be either butt wrapped on the Pole or attached to a grounded electrode.

15.1.2 "Multi-Grounded Neutral" shall mean a CG&E conductor located in CG&E's space which is bonded to all of CG&E's Vertical Ground Wires.

15.1.3 "Bonding Wire" shall mean a Number 6 AWG copper wire or its equivalent conductor connecting equipment of Licensee and CG&E to the Vertical Ground Wire.

SECTION 15.2 At the time Licensee's telecommunications facilities are installed, Licensee shall install a Bonding Wire on every Pole where a Vertical Ground Wire exists, in accordance with the NESC. Any part of Licensee telecommunications facilities attached to a CG&E Pole which does not have a Vertical Ground Wire shall be bonded to Licensee's facility support wire.

SECTION 15.3 Under no condition may the CG&E Vertical Ground Wire be broken, cut, severed, or otherwise damaged by Licensee.

SECTION 15.4 CG&E reserves the right to install, at Licensee's cost and expense, a Bonding Wire to any part of the telecommunications facilities where, in the opinion of CG&E, a potential safety hazard is created or may exist in the future.

SECTION 15.5 It shall be the responsibility of Licensee to instruct its personnel working on the Poles of the potential danger of bonding its wires to CG&E's Vertical Ground Wire and to furnish adequate protective equipment to protect its personnel from bodily harm. CG&E assumes no responsibility for instructing, furnishing equipment to, or for the training or job qualifications of Licensee's personnel, including contractor employees, working on the Poles.

MISCELLANEOUS PROVISIONS

SECTION 16.1 This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio.

SECTION 16.2 CG&E may make reasonable alterations or additions to the form or content of the Exhibits attached to this agreement.

SECTION 16.3 In the event that this Agreement is applicable to telecommunications facility attachments previously made to CG&E's Poles by Licensee or any of its predecessors, and said existing attachments will continue to be used by Licensee in its operations, Licensee shall furnish to CG&E a Certificate of Existing Telecommunications Facility Attachments on CG&E Poles on the form attached hereto as Exhibit "D".

SECTION 16.4 Commencing with the effective date of this Agreement, the submittal of Exhibit "A" attached hereto, shall be the exclusive procedure to be used by Licensee in obtaining permits to attach or remove its telecommunications facilities to/from CG&E Poles. This will also adjust the inventory of attachments from which billing is generated. Any Exhibit "A" attachment/removal request shall be submitted to:

Joint Use Facilities Administrator-WP656
CINCINNATI GAS & ELECTRIC COMPANY
1000 East Main Street
Plainfield, IN 46186-1782

SECTION 16.5 Any notice or approval provided for in this Agreement shall be considered as having been given if faxed and mailed by certified mail-return receipt requested:

- a) To Licenses as follows:

Cincinnati Bell Telephone
201 East Fourth Street, 103-1175
Cincinnati, Ohio 45202

Phone:

Fax:

- b) To CG&E as follows:

Joint Use Facilities Administrator-WP656
CINCINNATI GAS & ELECTRIC COMPANY
1000 East Main Street
Plainfield, IN 46186-1782
Telephone No. (317) 838-6359
Fax No. (317) 838-4612

SECTION 16.6 This Agreement shall supersede and terminate any existing attachment agreement between the parties relating to telecommunications facility attachments including, but not limited to, that certain agreement(s) between the parties as shown on the Exhibit "E" Schedule of Superseded Agreements attached hereto. By entering into this Agreement, it is expressly understood and agreed that neither party shall be deemed to have waived any rights or remedies which have accrued under any superseded agreement prior to the commencement date of this Agreement.

SECTION 16.7 This Agreement shall not become effective and binding upon CG&E until it is approved and executed by an authorized representative of CG&E, and until a fully executed copy hereof is delivered to Licensee. This Agreement shall be modified or amended only by a written document signed by an authorized representative of each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, by their respective duly authorized representatives on the dates indicated below but effective as of the day, month and year stated above.

CINCINNATI BELL TELEPHONE

Licensee

By: Harold V Rankin III
Printed Name: HAROLD V RANKIN III
Printed Title: STRUCTURE ENGINEER
Dated: 9-27-00

THE CINCINNATI GAS & ELECTRIC COMPANY
CG&E

By: Ulrich Angleton
Printed Name: ULRICH ANGLETON
Printed Title: JOINT-USE ADMINISTRATOR
Dated: MAY 1, 2000

EXHIBIT "A"

REQUEST RE POLE ATTACHMENTS

PERMIT NO.

DATE 9-26-2000

The following plant rearrangements, changes, or additions are proposed (provide location and brief description of project):

CINCINNATI BELL TELEPHONE REQUESTS PERMISSION
TO ATTACH (1) 6m STRAND WITH A FIBER CABLE
LASHED TO IT THAT IS .5 INCH IN DIAMETER AND
WEIGHTS 84 LBS PER KFT. ON (7) CGE POLES
ALONG BETHANY RD. W/OF SR741 IN WARREN CO. OHIO
W3-230E
NPT
W3-231E
W3-232E
W3-233E
W3-234E
W3-235E

EXHIBIT "B"

Dated: October 1, 1999

(Superseding Exhibit "B" dated N/A)

Licenses shall pay to CG&E a rate of \$ 18.00 per year for each
Distribution Pole attachment.

Other exhibits?

And to CG&E 7/29/01

Cinergy Corp.
1000 East Main Street
Plainfield, IN 46168-1782

May 9, 2001 .

Time Warner Cable
Attn: Ron Bauerlein
11252 Cornell Park Dr.
Cincinnati, OH 45242

CINERGY.

Dear Ron:

As you are aware, CG&E has completed an audit of the former Warner Cable East CATV system in CG&E's service territory. The audit indicated that Warner Cable East had 8416 attachments on CG&E poles. The number of attachments that CG&E added to the billing records as a result of the audit is 2300.

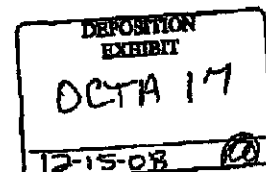
Pursuant to Section 6 of the PUCO Tariff of The Cincinnati Gas & Electric Co., we are enclosing an invoice for the audit at the cost of \$1.00 per pole and the amount due for the Annual Rental Billing adjustment.

We are attaching reports that give a breakdown of the pole attachment numbers listed above. If you have any questions, please call me at 1-800-428-4337 Ext. 6354.

Sincerely,

Ronald L. McMains

Ronald L. McMains
CG&E Joint Use Facilities



CINCINNATI GAS & ELECTRIC CO.

A **CINERGY** COMPANY

Joint Use Facilities, WP656
1000 E. Main St.
Plainfield, IN 46168-1782

DATE: 5/9/2001

Time Warner Cable
Attn: Ron Benerlein
11252 Cornell Park Dr.
Cincinnati, OH 45252

INVOICE NO.

2001EE1305

DUE DATE 6/8/2001

TERMS	CORP	2001 ANNUAL POLE RENTAL	ACCT REC WORK CODE
Net 30	010		172910 Subl 8800

ITEM	LOCATION/DESCRIPTION	QUANTITY	RATE	AMOUNT
Audit Cst WCE	Audit Cost @ \$1.00 Per Pole Per PUCO Tariff	8,416	1.00	8,416.00
WCE Audit	Annual Rental Billing Adjustment Per PUCO Tariff	2,300	4.25	9,775.00
<i>File John Benerlein</i> <i>RAB</i> <i>5-29-01</i>				

MAKE CHECK PAYABLE TO: CINCINNATI GAS & ELECTRIC CO., AND
INDICATE INVOICE NUMBER ON CHECK STUB

Total \$18,191.00

1.5% INTEREST SHALL APPLY IF NOT PAID WITHIN 30 DAYS. FOR QUESTIONS CONCERNING THIS INVOICE PLEASE CALL THE
JOINT USE ADMINISTRATOR AT 800-428-4337 EXT. 6354

15

Warner Cable East Poles Added - 2300

1/1/01 5/26/01
Community/Village/Township Number of Poles

FAYETVILLE (VILLAGE OF)	89
GOSHEN TWP	510
GREEN TWP	5
JACKSON TWP	71
JEFFERSON TWP CORR	33
MARION TWP	12
NEWTONSVILLE (VILLAGE	1
OWNESVILLE (VILLAGE OF)	2
PERRY TWP CORR	274
ST. MARTIN (VILLAGE OF)	45
STERLING TWP	3
STONEELICK TWP	420
WAYNE TWP (A.B.)	825

4/16/01

Thursday, May 03, 2001

Page 1 of 1

4/16/01

Warner Cable East Poles Audited .8416

2300
6 116

Community/Village/Township Number of Poles

FAYETVILLE (VILLAGE OF)	152
GOSHEN TWP	2301
GREEN TWP	44
HAMILTON TWP	16
JACKSON TWP	497
JEFFERSON TWP CORR	328
MARION TWP	12
MIDLAND (VILLAGE OF)	84
NEWTONSVILLE (VILLAGE	74
OWNESVILLE (VILLAGE OF)	112
PERRY TWP CORR	1031
ST. MARTIN (VILLAGE OF)	47
STERLING TWP	18
STONELOCK TWP	1710
WAYNE TWP	2008 - 5 2 -

CINCINNATI GAS & ELECTRIC CO.A **CINERGY** COMPANY

Joint Use Facilities, WP656
1000 E. Main St.
Plainfield, IN 46168-1782

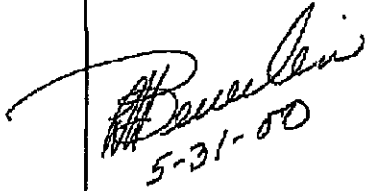
DATE: 4/17/2000

Warner Cable
Attn: Ron Beuerlein
11252 Cornet Park
Cincinnati, OH 45242

INVOICE NO.

2000CE1091

TERMS	CORP	2000 ANNUAL POLE RENTAL	ACCT REG WORK CODE
Net 30	010		172910 Subl 8000

ITEM	LOCATION/DESCRIPTION	QUANTITY	RATE	AMOUNT
WAC Audit	Annual Rental Billing Adjustment Per PUCO Tariff		8,020.43	8,020.43
Audit Cost	Audit Cost @ \$1.00 Per Pole Per PUCO Tariff	81,396	1.00	81,396.00
WAC Audit	Annual Rental Billing Adjustment For Multiple Attachments Per PUCO Tariff	1,214	4.25	5,159.50
				

MAKE CHECK PAYABLE TO: CINCINNATI GAS & ELECTRIC CO., AND
INDICATE INVOICE NUMBER ON CHECK STUB

Total \$94,575.93

1.5% INTEREST SHALL APPLY IF NOT PAID WITHIN 30 DAYS. FOR QUESTIONS CONCERNING THIS INVOICE PLEASE CALL THE
JOINT USE ADMINISTRATOR AT 800-428-4337 EXT. 6354

