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Deputy General Counsel

November 12, 2021

VIA ELECTRONIC FILING

Adam J. Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: *Proposed adoption of Rule 25-18.020, F.A.C., Pole Inspection and Maintenance*; Docket No. 20210138-PU

Dear Mr. Teitzman:

On November 10, 2021, Duke Energy Florida, LLC ("DEF") submitted its Response to Staff's First Data Request (Nos. 1-5) for electronic filing; however, due to a scrivener error listing the incorrect Docket No. on the cover page, DN 12636-2021 was inadvertently filed in the wrong Docket. This corrected filing replaces that DN and should be filed in the above-referenced Docket.

On behalf of DEF, please find enclosed for electronic filing in the above-referenced Docket, DEF's Response to Staff's First Data Request (Nos. 1-5).

Thank you for your assistance in this matter. If you have any questions concerning this Response, please feel free to contact me at (727) 820-4692.

Respectfully,

/s/ Dianne M. Triplett

Dianne M. Triplett

DMT/cmw
Enclosure

cc: Adria Harper

Duke Energy Florida, LLC’s (“DEF”) Response to Florida Public Service Commission’s (“FPSC”) First Data Request (Nos. 1-5) re. Proposed adoption of Rule 25-18.020, F.A.C., Pole Inspection and Maintenance

Docket No. 20210138-PU

1. Is your company obligated to conduct vegetation management, maintain, or inspect any poles that are owned by a communications services provider to which your company has overhead facilities attached? If so, please explain the nature of the obligation.

RESPONSE:

Under its joint-use agreements with incumbent local exchange carriers (“ILECs”), which are the communications service providers that own poles to which DEF’s overhead facilities are attached, DEF is responsible for vegetation management required for its own circuits. Please reference Section 7.3 of DEF’s joint-use agreement with Verizon (now Frontier) and Southern Bell (now AT&T), provided in response to number 2.

Under the joint-use agreements, DEF is not obligated to maintain or inspect any poles owned by the ILECs to which DEF is attached. Under these agreements, responsibility for maintenance falls on the pole owner. See, e.g., Section 8.1 of DEF’s joint-use agreements with Frontier and AT&T.

2. Please file at least two of your company’s attachment agreements with a communications services provider that demonstrate the standard or general terms that are contained in these types of agreements.

RESPONSE:

Please see “Attachment A,” DEF’s joint-use agreements with Frontier and AT&T. Collectively, these two agreements cover more than 14,100 of the approximately 16,200 poles owned by ILECs to which DEF’s overhead facilities are attached. Please note that portions of these agreements are confidential.

The joint-use agreement with AT&T was amended on October 16, 1980, and again on December 20, 1989, but both of these amendments address only the rate or rate methodology within the joint-use agreement, not maintenance or other issues germane to this particular docket.

The joint-use agreement with Frontier (f/k/a Verizon or GTC) was amended on March 12, 1979; December 16, 1980; June 11, 1982; May 24, 1983; June 25, 1984; May 24, 1986; November 20, 2009; and March 13, 2014, but each of these amendments, the most recent two of which are specifically designated as confidential, address only the rate or rate methodology

within the joint-use agreement, not maintenance or other issues germane to this particular docket, so DEF is not producing them as part of this docket.

3. Do your company's attachment agreements with communications service providers reference any standards, codes, or requirements in regard to vegetation management, pole maintenance, or pole inspection. If yes, please provide an example of the standards, codes, or requirements included in the agreement.

RESPONSE:

Yes, please reference section 6.1 of DEF's joint-use agreements with Frontier and AT&T.

4. Order No. PSC-06-0351-PAA-EI, issued on April 25, 2006, in Docket No. 060198-EI, Page 4, states that each IOU's joint-use audit plan shall include pole strength assessments for both poles owned by the electric utility to which other utility attachments are made and poles not owned by the electric utility to which the electric utility has attached its electric equipment. Please confirm that your company's current joint-use audit procedures are consistent with Order No. PSC-06-0351-PAA-EI. Please identify and explain the basis for the standards for the strength assessment for your existing poles and explain whether or not the standards are consistent with Order No. PSC-06-0351-PAA- EI.

RESPONSE:

DEF's joint-use audit plan, developed and filed in compliance with Order No. PSC-2006-0351-PAA and the now-repealed storm hardening rule, has been described and provided in DEF's Annual Service Reliability Reports and Storm Hardening Plans since 2006. With the enactment of the Storm Protection Plan or SPP (Section 366.96, Florida Statutes) and Rules 25-6.030 and 25-6.031, DEF's joint-use audit plan and other storm-related programs have been subsumed by these new SPP requirements. To the extent Order No. PSC-2006-0351-PAA survives the passage of the SPP statute and rules, DEF complies with it through its new SPP filing. Most recently DEF filed details regarding its joint-use audit plan in its June 2020 Storm Protection Plan Report. DEF performs a joint-use pole loading analysis every eight years. Please see DEF's June 01, 2021, filing; specifically, page 15 of 81 [here](#).

5. Please provide a description of your company's emergency response and storm restoration procedures and protocols with respect to poles owned by a communications services provider to which your company has overhead facilities attached.

RESPONSE:

The Company's emergency response and storm restoration procedures do not differ based on the ownership of the poles. Given that DEF is typically the first utility on site in such situations,

DEF replaces the broken poles with new Duke Energy-owned poles. DEF restores the electric service and notifies the telecommunication attachment owners.

Attachment A
(redacted)

JOINT USE AGREEMENT
BETWEEN
FLORIDA POWER CORPORATION
AND
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

Section 0.1 THIS AGREEMENT, made and entered into this first day of June, 1969, by and between FLORIDA POWER CORPORATION, a corporation organized and existing under the laws of the State of Florida, herein referred to as the "Electric Company", and SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY, a corporation organized and existing under the laws of the State of New York, herein referred to as the "Telephone Company".

WITNESSETH

Section 0.2 WHEREAS, the parties hereto desire to cooperate in accordance with terms and provisions set forth in the National Electrical Safety Code in its present form or as subsequently revised, amended or superseded; and

Section 0.3 WHEREAS, the conditions determining the necessity or desirability of joint use depend upon the service requirements to be met by both parties, including considerations of safety and economy, and each of them should be the judge of what the character of its circuits should be to meet its service requirements and as to whether or not these service requirements can be properly met by the joint use of poles.

Section 0.4 NOW, THEREFORE, in consideration of the foregoing premises and of mutual benefits to be obtained from covenants herein set forth, the parties hereto, for themselves and for their successors and assigns, do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 For the purpose of this Agreement, the following terms when used herein, shall have the following meanings:

1.1.1 CODE means the National Electrical Safety Code in its present form or as subsequently revised, amended or superseded.

1.1.2 ATTACHMENTS mean materials or apparatus now or hereafter used by either party in the construction, operation or maintenance of its plant attached to poles.

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

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

1.1.5 NORMAL JOINT USE POLE under this Agreement shall be a pole which meets the requirements set forth in the CODE for support and clearance of supply and communication conductors under conditions existing at the time joint use is established or is to be created under known plans of either party. It is not intended to preclude the use of joint poles shorter or of less strength in locations where such structures will meet the requirements of both parties and the said specifications in Article VI. A normal joint pole for billing purposes shall be:

- (A) In and along public streets, alleys, or roads, a 40 foot class 5 wood pole.
- (B) In all other areas, a 35 foot class 5 wood pole.
- (C) In locations where the Electric Company, at its option, sets a pole of special material such as steel, laminated wood or prestressed concrete in an existing joint use wood pole line, the Telephone Company may attach to these special poles at the rental rate specified in Article X, unless excluded under Section 2.2. The Electric Company will keep the Telephone Company advised of those areas where such special poles are not placed at their option, and in each such event, the Telephone Company may attach by mutual agreement between the parties.

1.1.6 STANDARD SPACE on a joint use pole for the use of each party shall be not less than that required by the CODE and shall be for the exclusive use of the parties except as set forth in the CODE whereby certain attachments of one party may be made in the space reserved for the other party. This standard space is specifically described as follows:

- (A) For the Electric Company, the uppermost ■ feet on 40 foot poles, and the uppermost ■ feet on 35 foot poles.
- (B) For the Telephone Company a space of ■ feet extending upward from a sufficient height above the ground to provide the proper vertical clearance for the lowest line wires or cables attached (in such space) and to provide at all times the minimum clearances required by the specifications outlined in Article VI.
- (C) It is the intention of the parties that any pole space in excess of the aforementioned reservations and clearance requirements shall be between the standard space allocations of the parties. This excess space, if any, is thereby available for the use of either party without creating a necessity for rearranging the attachments of the other party.

1.1.7 OWNER means the party hereto owning the pole to which attachments are made.

1.1.8 LICENSEE is the party having the right under this Agreement to make attachments to a joint use pole of which the other party is the Owner.

1.1.9 INSTALLED COST is the cost incurred in setting a new pole (either as a new installation or replacement) and includes the cost of material, direct labor, construction and equipment charges, engineering and supervision, and standard overhead charges of the Owner as commonly and reasonably incurred in the joint usage of poles. The installed cost does not include the cost of attaching or transfer costs but does include the cost of ground wires.

1.1.10 COST OF ATTACHING is the cost of making attachments to a new pole and includes the charge for hardware necessary to make the attachment.

1.1.11 TRANSFER COST is the cost of transferring attachments from the replaced pole to the replacement pole and does not include the material cost of replacing hardware.

1.1.12 VERTICAL GROUND WIRE means a suitable conductor, conforming to the requirements of the CODE, attached vertically to the pole and extending through the Telephone Company space to the base of the pole, where it may be either butt wrapped on the pole or attached to a ground electrode.

1.1.13 MULTI-GROUNDED NEUTRAL means an Electric Company conductor, located in the Electric Company space, which is bonded to all Electric Company vertical ground wires.

1.1.14 BONDING WIRE shall mean a suitable conductor conforming to the requirements of the CODE, connecting equipment of the Telephone Company and the Electric Company to the vertical ground wire or to the multi-grounded neutral.

1.1.15 OBJECTIVE PERCENTAGE shall be based on the total combined number of joint use poles in the common operating area and shall mean [REDACTED] of the total joint use poles for the Telephone Company and [REDACTED] of the total joint use poles for the Electric Company.

1.1.16 REMOVAL COST is the cost incurred in removing an existing pole and includes the cost of direct labor, construction and equipment charges, engineering and supervision and standard overhead charges of the Owner as commonly and reasonably incurred in the joint usage of poles.

ARTICLE II

SCOPE OF AGREEMENT

Section 2.1 This Agreement shall be in effect in those parts of the State of Florida now or hereafter served by both the Telephone Company and the Electric Company, and shall cover all poles of each of the parties now existing in such service areas, or hereafter erected or acquired therein, when said poles are brought hereunder in accordance with the procedure hereafter provided.

Section 2.2 Each party reserves the right to exclude from joint use poles which have been installed for purposes other than or in addition to normal distribution of electric or telephone service including, among others, poles which, in the judgement of the Owner (a) are required for the sole use of the Owner, (b) would not readily lend themselves to joint use because of interference, hazards or similar impediments, present or future, or (c) have been installed primarily for the use of a third party. In the event one of the parties deem it desirable to attach to any such excluded poles, the party wishing to attach will proceed in the manner provided in Article III. Where a third party use is involved, approval must be obtained from such third party as a prerequisite to processing under Article III.

Section 2.3 With the exception of Telephone Company service drops on public right of way, the Telephone Company may not make initial or additional attachments to Electric Company transmission line poles (above 35,000 volts phase to phase nominal rating) without the written approval of the Electric Company as provided in Article III of this Agreement.

ARTICLE III

PLACING, TRANSFERRING OR REARRANGING ATTACHMENTS AND BONDING SAID ATTACHMENTS

Section 3.1 Whenever either party desires to reserve space on any pole of the other, for any attachments requiring space thereon not then specifically reserved by application hereunder for its use, it shall make written application to the other party specifying in such application the location of the pole in question. Within ten (10) days after the receipt of such application, the Owner shall notify the applicant in writing, whether or not said pole is one of those excluded from joint use under the provisions of Article II. Upon receipt of notice from the Owner that said pole is not one of those excluded, and after the Owner completes any transferring or rearranging which may then be required in respect to attachments on said poles, including any necessary pole replacements as provided in Article IV, the applicant shall have the right as Licensee hereunder to use said space in accordance with the terms of this Agreement.

Section 3.2 The provisions of Section 3.1 do not apply to the poles of either party being used jointly by the other party as of the effective date of this Agreement; therefore, the Licensee shall have the right to use space on these poles for attachments in accordance with the terms of this Agreement.

Section 3.3 Except as herein otherwise expressly provided, each party shall place, maintain, rearrange, transfer and remove its own attachments 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.

Section 3.4 Each party, regardless of pole ownership, shall be responsible for determining the proper pole strength and arranging for any necessary guying of a joint pole where a requirement therefore is created by the addition or alteration of attachments thereon by such party.

Section 3.5 The Electric Company shall give sixty (60) days written notice to the Telephone Company, advising the Telephone Company of any initial attachments or conversion of any existing attachments that will result in joint use with any of the following conditions:

- (A) The absence of a multiple grounded Electric Company neutral line conductor.
- (B) Voltage in excess of 15,000 volts phase to ground.

If the Telephone Company agrees to joint use with any such change then the joint use of such poles shall be continued with such changes in construction as may be required to meet the requirements of the CODE. If, however, the Telephone Company fails within thirty (30) days from receipt of such written notice to agree in writing to such change then both parties shall cooperate and 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.

Section 3.6 The ownership of any new line constructed in a new location under the foregoing provision shall be vested in the party for whose use it is constructed, unless otherwise agreed by the parties.

Section 3.7 On joint use poles the Telephone Company may, at its own expense, bond its attachments in the Telephone Company space together and to the vertical ground wire where the same exists.

Section 3.8 Under no condition will the Electric Company's vertical ground wire be broken, cut, severed or otherwise damaged by the Telephone Company.

Section 3.9 On joint use poles the Electric Company shall, at its own expense, bond its street light brackets, conduit and other attachments in the Telephone Company space together and to the vertical ground wire where the same exists.

ARTICLE IV

ERECTING, REPLACING OR RELOCATING POLES

Section 4.1 Whenever, for whatever reason, the Owner shall deem it necessary to change the location of a jointly used pole, the Owner shall, before making such change in location, give timely notice thereof to the Licensee in writing (except in cases of emergency when verbal notice will be given, and subsequently confirmed in writing), specifying in such notice the time of such proposed relocation, and the Licensee shall, at a time mutually agreed upon, transfer its attachments to the pole at the new location.

Section 4.2 Whenever either party hereto is about to erect new poles within the territory covered by this Agreement, either as a new pole line, an

extension of an existing pole line, or as the reconstruction of an existing pole line being jointly used hereunder, such party shall immediately notify the other party hereto prior to completion of engineering plans for such erection in order that any necessary joint planning may be coordinated and so that compliance may be had with the provisions of Section 4.3 and 4.4 of this Article IV.

Section 4.3 Where the parties conclude arrangements for joint use and unless it is mutually agreed otherwise, the party owning less than its objective percentage of joint use poles under this Agreement shall erect or replace within a reasonable time any joint use pole, or any pole about to be so used, that is required by either of the parties and be the Owner thereof. This obligation shall include wood poles only. The costs associated with such new and replacement poles and such other changes in the existing pole line as the new conditions may require are to be as outlined in Section 4.4.

Section 4.4 The costs of erecting joint use poles coming under this Agreement shall be borne as provided in one or more of the following Sub-sections:

4.4.1 For a new pole to which no existing facilities of either party are to be attached (e.g., new pole lines) a normal or shorter joint use pole shall be the obligation of the Owner. If a pole taller and/or stronger than a normal joint use pole is required the obligation of the parties for such extra cost shall be in accordance with Section 4.4.5.

4.4.2 For a new pole to which existing facilities of either party must be attached (e.g. adding pole in existing line) and:

- (A) The pole is of benefit to both parties, a normal or shorter joint use pole shall be the obligation of the Owner. If a pole taller and/or stronger than a normal joint use pole is required the obligation of the parties for such extra cost shall be in accordance with Section 4.4.5. Each party shall bear its own cost of attaching.
- (B) The pole is of benefit only to the Licensee, the Licensee shall pay the Owner a sum equal to the installed cost of the required pole plus the cost of attaching the Owner's facilities to said pole.
- (C) The pole is of benefit only to the Owner, the Owner shall pay the Licensee a sum equal to the cost of attaching the Licensee's facilities to said pole.

4.4.3 Where an existing joint use pole is inadequate and said pole is replaced, the party requiring such replacement shall be obligated for the cost as follows:

- (A) If such party is the Owner of both the existing and replacing pole that party shall bear the cost of the pole and the cost of transferring the Licensee's attachments.

- (B) If such party is the Licensee of both the existing and replacing pole that party shall pay the Owner a sum equal to (A) the difference between the installed cost of the required pole and the installed cost of the removed pole, plus (B) the then value in place of the removed pole, plus (C) the removal cost of the pole removed, plus (D) the Owner's transfer cost, less (E) the salvage value of the removed pole.
- (C) If such party is the Owner of the existing pole and the Licensee of the replacing pole such party shall pay the new Owner's transfer cost plus any cost for a pole taller and/or stronger than a normal joint use pole in accordance with Section 4.4.5.
- (D) If such party is the Licensee of the existing pole and the Owner of the replacing pole such party shall bear the cost of the pole and pay the former Owner a sum equal to (A) the then value in place of the removed pole, plus (B) the removal cost of the pole removed, plus (C) the transfer cost, less (D) the salvage value of the removed pole.

4.4.4 Where an existing joint use pole is replaced due to deterioration or damage, each party shall pay its own transfer costs. If a pole taller and/or stronger than a normal joint use pole and the existing pole is required, the provisions of Section 4.4.5 apply.

4.4.5 For any new pole that is taller and/or stronger than a normal joint use pole, the cost of the extra height and/or strength shall be as follows:

- (A) If the extra height and/or strength is due wholly to the Owner's requirements, the entire cost of the pole shall be borne by the Owner.
- (B) If the extra height and/or strength is due wholly to the Licensee's requirements the Licensee shall pay the Owner a sum equal to the difference between the installed cost of the required pole and the installed cost of a normal joint use pole. Notwithstanding the foregoing, where pole line economy resulting from the use of fewer poles can be effected by the Owner increasing the strength of poles, billing would be based only on the extra height.
- (C) Where the extra height and/or strength is due to the requirements of both parties herein to provide CODE clearances or meet the requirements of public authority or property owners, the Licensee shall pay the Owner a sum equal to one-half ($\frac{1}{2}$) the difference between the installed cost of the required pole and the installed cost of a normal joint use pole.

Section 4.5 Any payments made by the Licensee under the foregoing provisions of this Article shall not in any way affect the ownership of said poles.

Section 4.6 When replacing a joint use pole carrying terminals of aerial cable, underground connections or transformer equipment, the replacement pole shall be set in such a location that existing facilities may be transferred at a minimum of cost and inconvenience.

Section 4.7 Whenever, in any emergency, the Licensee replaces a pole of the Owner, the Owner shall reimburse the Licensee all reasonable costs and expenses that would otherwise not have been incurred by the Licensee if the Owner had made the replacement.

ARTICLE V

PERMISSION OF JOINT USE

Section 5.1 Each party hereto hereby permits joint use by the other party of any of its poles when brought under this Agreement as herein provided subject to the terms and conditions herein set forth.

ARTICLE VI

SPECIFICATIONS

Section 6.1 Joint use of poles covered by this Agreement shall at all times be in conformity with the terms and provisions of the National Electrical Safety Code in its present form or as subsequently revised, amended or superseded. Said CODE, by this reference is hereby incorporated herein and made a part of this Agreement.

ARTICLE VII

RIGHT OF WAY FOR LICENSEE'S ATTACHMENTS

Section 7.1 From and after the date of this Agreement, the Owner will, insofar as practicable, obtain suitable right of way easements or permits for both parties on joint poles brought hereunder.

Section 7.2 While the Owner and the Licensee will cooperate as far as may be practicable in obtaining rights of way for both parties on joint poles, no guarantee is given by the Owner of permission from property owners, municipalities or others for use of poles and right of way easements 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 thirty (30) days notice in writing to the Licensee, require the Licensee to remove its attachments from the poles involved and its appurtenances from the right of way easement involved and the Licensee shall, within thirty (30) days after receipt of said notice, remove its attachments from said poles and its appurtenances from said right of way easement at its sole expense. Should the Licensee fail to remove its attachments and appurtenances, as herein provided, the Owner may remove them and the Licensee shall reimburse the Owner for the expense incurred.

Section 7.3 Each party shall be responsible for its own circuits where tree trimming or cutting (e.g., shade trees, side clearances, etc.) is required. Where benefits are mutual and the need for the work is agreed upon beforehand, costs shall be apportioned on an equitable basis.

ARTICLE VIII

MAINTENANCE OF POLES AND ATTACHMENTS

Section 8.1 The Owner shall, at its own expense, maintain its joint poles in a safe and serviceable condition, and in accordance with Article VI of this Agreement, and shall replace, subject to the provisions of Article IV, such of said poles as become defective. Each party shall, at its own expense and at all times, maintain all of its attachments in accordance with the specifications contained in the CODE and keep said attachments in safe condition and in thorough repair.

Section 8.2 Both parties shall, in writing, report to each other all hazardous conditions found to exist in any joint use construction hereunder, immediately upon discovery, and the responsible party shall proceed forthwith to alter such construction so as to remove the hazard. Any existing joint use construction hereunder which does not conform to the specifications set forth in Article VI shall be brought into conformity with said specifications at the earliest possible date.

Section 8.3 The cost of removing hazards and of bringing existing joint use construction into conformity with said specifications, as provided in Section 8.2, shall be borne by the parties hereto in the manner provided in Section 3.3 and Article IV.

ARTICLE IX

ABANDONMENT OF JOINTLY USED POLES

Section 9.1 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 thereupon becomes the property of the Licensee, and the Licensee (a) shall indemnify and save harmless the former Owner of such pole from all obligation, liability, damages, cost, expenses or charges incurred thereafter and arising out of the presence or condition of such pole

or of any attachments thereon; and (b) shall pay said former Owner a sum equal to the then value in place of such abandoned pole, less credit on a depreciated basis for any payments which the Licensee furnishes proof he has made under the provisions of Article IV when the pole was originally set, or shall pay such other equitable sum as may be agreed upon between the parties.

Section 9.2 The Licensee may at any time abandon the joint use of a pole by giving due notice thereof in writing to the Owner and by removing from said pole any and all attachments the Licensee may have thereon.

ARTICLE X

RENTAL AND PROCEDURE FOR PAYMENTS

Section 10.1 The parties contemplate that the use or reservation of space on poles by each party, as Licensee of the other under this Agreement, shall be based on the equitable sharing of the costs and economies of joint use.

Section 10.2 Each party, acting in cooperation with the other and subject to the provisions of Section 10.3 of this Article, shall ascertain and tabulate the total number of poles in use by each party as Licensee as of December 31, which tabulation shall indicate the number of poles in use by each party as Licensee for which an adjustment payment by one of the parties to the other is to be determined as hereinafter provided.

Section 10.3 The parties hereto agree that an attachment count also includes any pole on which it is mutually agreed that space was reserved for the Licensee at the Licensee's request and on which the Licensee has not attached. The Licensee is only liable for billing under this Section until the Licensee makes an initial attachment or an interval of five (5) unattached years elapses from the date of the space reservation, whichever condition occurs first.

Section 10.4 At the end of each calendar year, the party having less than its objective percentage ownership of jointly used poles shall pay an equity settlement to the other party for that calendar year an amount equal to the number of poles it is deficient from its objective percentage ownership times the appropriate adjustment rate given below, which sum shall be due and payable upon the first day of February following each year end determination of the number of jointly used poles owned by each party.

Applicable Adjustment rate to be utilized for each calendar year

1969: [REDACTED] 1971: [REDACTED] 1973 and until revised: [REDACTED]
1970: [REDACTED] 1972: [REDACTED]

Section 10.5 Upon the execution of this Agreement and every five (5) years thereafter, or as may be mutually agreed upon, the parties hereto shall make a joint field check to verify the accuracy of the joint use records hereunder. If the parties mutually agree to postpone the first joint field

check hereunder, the parties shall use their existing records as changed from time-to-time to determine the number of jointly used poles owned by each party until the first joint field check is made hereunder. The said joint inventory shall be a one hundred (100) percent field inventory unless the parties voluntarily and mutually agree to some other method. Upon completion of such inventories the office records will be adjusted accordingly and subsequent billing will be based on the adjusted number of attachments. The corrections to the estimations made over the years elapsed since the preceeding inventory shall be prorated equally (i.e., if the latest joint field check shows 100 more joint use poles owned by one party than office records indicate and if the interval since the last joint field check is 5 years, then each of the intervening annual pole inventory amounts would be adjusted upward by 20 poles). Unless otherwise agreed upon, retroactive billing for the prorated adjustment will be added to the normal billing for the year following completion of the field inventory.

Section 10.6 Rental or other charges paid to the Owner by a third party will in no way affect the rental or charges paid between the parties of this Agreement.

Section 10.7 Payment of all other amounts, provision for which is made in this Agreement, shall be made currently or as mutually agreed thereto.

ARTICLE XI

PERIODIC REVISION OF ADJUSTMENT PAYMENT RATE

Section 11.1 Article X of this Agreement covering Rental and Procedures for Payment shall remain in effect for a minimum term of five (5) years. The adjustment rate shall then become subject to renegotiation at the request of either party annually thereafter upon not less than six (6) months prior notice.

Section 11.2 In the event the parties cannot, within six (6) months after a request under Section 11.1 is made, agree upon rental payments, this Agreement shall terminate and be of no further force and effect insofar as the making of attachments to additional poles. All other terms and provisions of this Agreement shall remain in full force and effect solely and only for the purpose of governing and controlling the rights and obligations of the parties herein with respect to existing joint use poles; except that all pole replacements shall be the obligation of the party owning less than its objective percentage. In the event that the party owning less than its objective percentage fails to replace the pole within a reasonable period of time, the other party may replace the pole and the party owning less than its objective percentage shall pay the party owning greater than its objective percentage a sum equal to the installed cost of the new pole and assume ownership thereof.

ARTICLE XII

DEFAULTS

Section 12.1 If either party shall default in any of its obligations (other than to meet money payment obligations) under this Agreement and such default shall continue for sixty (60) days after notice thereof in writing from the other party, all rights of the party in default hereunder, insofar as such rights may relate to the further granting of joint use of poles hereunder shall be suspended; and such suspension shall continue until the cause of such default is rectified by the party in default or the other party shall waive such default in writing.

Section 12.2 If either party shall default in the performance of any work which it is obligated to do under this Agreement 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 total cost thereof. Failure on the part of the defaulting party to make such payment within sixty (60) days after presentation of bills therefore shall constitute a default under Section 12.3.

Section 12.3 If the default giving rise to a suspension of rights involves the failure to meet a money payment obligation hereunder, and such suspension shall continue for a period of sixty (60) days, then the party not in default may forthwith terminate the rights of the other party to attach to the poles involved in the default.

ARTICLE XIII

LIABILITY AND DAMAGES

Section 13.1 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:

13.1.1 Each party shall be liable for all damages for such injuries, to all persons (including employees of either party) or property, caused solely by its negligence or solely by its failure to comply at any time with the specifications as provided for in Article VIII hereof.

13.1.2 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.

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

13.1.4 Where, on account of injuries of the character heretofore described in this Article, either party hereto shall make payments to injured employees or to their relatives or representatives in conformity with (a) 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 (b) 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 Subsections 13.1.1 and 13.1.2 and shall be paid by the parties hereto accordingly.

13.1.5 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 ($\frac{1}{2}$) 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.

13.1.6 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, including court costs, attorneys' fees, valid disbursements and other proper charges and expenditures, incurred by the parties in connection therewith.

ARTICLE XIV

ASSIGNMENT OF RIGHTS

AND

EXISTING RIGHTS OF OTHER PARTIES

Section 14.1 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 written notification to 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 a business of the same general character as that of such party, or to enter into any merger or consolidation; and, in the 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 leasee, transferee, merging or consolidating company, as the case may be.

Section 14.2 If either of the parties hereto has, as Owner, 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, all attachments of any such third party shall be treated as attachments belonging to the Owner, and, except as modified by Section 14.3, the rights, obligations and liabilities hereunder of said Owner in respect to such attachments shall be the same as if it were the actual owner thereof.

Section 14.3 In the event that attachments to be made by a third party require rearrangements or transfer of the Licensee's attachments to maintain STANDARD SPACE (as defined in Section 1.7), and STANDARD CLEARANCE (as outlined in the CODE), the Licensee shall have the right to collect from said third party, all costs to be incurred by the Licensee to make such required rearrangements or transfers prior to doing the work.

Section 14.4 Each Owner reserves the right to use, or permit to be used by other third parties, such attachments on poles owned by it which would not interfere with the rights of the Licensee with respect to use of such poles.

Section 14.5 Third party space requirements must be accommodated without permanent encroachment into the standard space allocation of the Licensee; therefore, neither party hereto shall, as Owner, lease to any third party, space on a joint use pole within the allotted standard space of the Licensee without adequate provision for subsequent use of such standard space by Licensee without cost to the Licensee.

Section 14.6 Where either party allows the use of its poles for fire alarm, police or other like signal systems, or where such systems are presently or hereafter permitted by the Owner to occupy its poles, such use shall be permitted under and in accordance with the terms of this Article.

ARTICLE XV

SERVICE OF NOTICES

Section 15.1 Whenever in this Agreement notice is provided to be given by either party hereto to the other, such notice shall be in writing and given by letter mailed, or by personal delivery, to the Electric Company at its principal office at St. Petersburg, Florida, or to the Telephone Company at its principal office at Jacksonville, Florida, as the case may be, or to such other address as either party may, from time to time, designate in writing for that purpose.

ARTICLE XVI

TERM OF AGREEMENT

Section 16.1 Subject to the provisions of Articles XI and XII herein, the provisions of this Agreement, insofar as the same may relate to the further granting of joint use of poles hereunder, may be terminated by

either party, after the first day of January, 1979, upon six (6) months notice in writing to the other party; provided, however, that, if such provisions shall not be so terminated, said Agreement in its entirety shall continue in force thereafter until partially terminated as above provided in this Section by either party at any time upon six (6) months notice in writing to the other party as aforesaid; and provided, further, that notwithstanding any such termination, other applicable provisions of 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 XVII

WAIVER OF TERMS OR CONDITIONS

Section 17.1 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 XVIII

EXISTING CONTRACTS

Section 18.1 All existing Agreements between the parties hereto for the joint use of poles upon a rental basis within the territory covered by this Agreement are, by mutual consent, hereby abrogated and annulled.

ARTICLE XIX

SUPPLEMENTAL ROUTINES AND PRACTICES

Nothing herein shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement.

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

(Seal)
Attest

Betty M Clayton
Secretary

FLORIDA POWER CORPORATION

By *Richard E. Raymond*
Senior Vice President

SOUTHERN BELL TELEPHONE
AND TELEGRAPH COMPANY

Witness:

Nathan H. Wilson

By *J. H. Brown*
Vice President and
General Manager

APPROVED AS TO
FORM AND LEGALITY
N. H. Wilson
GENERAL ATTORNEY

JOINT USE AGREEMENT
BETWEEN
FLORIDA POWER CORPORATION
AND
GENERAL TELEPHONE COMPANY OF FLORIDA

Section 0.1 THIS AGREEMENT, made and entered into this 12 day of Nov, 1974, by and between FLORIDA POWER CORPORATION, a corporation organized and existing under the laws of the State of Florida, herein referred to as the "Electric Company", and General Telephone Company of Florida, a corporation organized and existing under the laws of the State of Florida, herein referred to as the "Telephone Company".

WITNESSETH

Section 0.2 WHEREAS, the parties hereto desire to cooperate in accordance with terms and provisions set forth in the National Electrical Safety Code in its present form or as subsequently revised, amended or superseded; and

Section 0.3 WHEREAS, the conditions determining the necessity or desirability of joint use depend upon the service requirements to be met by both parties, including considerations of safety and economy, and each of them should be the judge of what the character of its circuits should be to meet its service requirements and as to whether or not these service requirements can be properly met by the joint use of poles.

Section 0.4 NOW, THEREFORE, in consideration of the foregoing premises and of mutual benefits to be obtained from covenants herein set forth, the parties hereto, for themselves and for their successors and assigns, do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 For the purpose of this Agreement, the following terms when used herein, shall have the following meanings:

1.1.1 CODE means the National Electrical Safety Code in its present form or as subsequently revised, amended or superseded.

1.1.2 ATTACHMENTS mean materials or apparatus now or hereafter used by either party in the construction, operation or maintenance of its plant attached to poles.

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

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

1.1.5 NORMAL JOINT USE POLE under this Agreement shall be a pole which meets the requirements set forth in the CODE for support and clearance of supply and communication conductors under conditions existing at the time joint use is established or is to be created under known plans of either party. It is not intended to preclude the use of joint poles shorter or of less strength in locations where such structures will meet the requirements of both parties and the said specifications in Article VI. A normal joint pole for billing purposes shall be:

- (A) In and along public streets, alleys or roads, a 40 foot class 5 wood pole.
- (B) In all other areas, a 35 foot class 5 wood pole.
- (C) In locations where the Electric Company, at its option, sets a pole of special material such as steel, laminated wood or prestressed concrete in an existing joint use wood pole line, the Telephone Company may attach to these special poles at the rental rate specified in Article X, unless excluded under Section 2.2. The Electric Company will keep the Telephone Company advised of those areas where such special poles are not placed at their option, and in each such event, the Telephone Company may attach by mutual agreement between the parties.

1.1.6 STANDARD SPACE on a joint use pole for the use of each party shall be not less than that required by the CODE and shall be for the exclusive use of the parties except as set forth in the CODE whereby certain attachments of one party may be made in the space reserved for the other party. This standard space is specifically described as follows and indicated on attached Exhibit A:

1. For a 40 foot class 5 wood pole

- (A) For the Electric Company, the uppermost [REDACTED] feet on a normal joint use pole.
- (B) Neutral space, the next 3'4", and
- (C) For the Telephone Company, the next [REDACTED]

2. For a 35 foot class 5 wood pole

- (A) For the Electric Company, the uppermost [REDACTED] feet on a normal joint use pole.
- (B) Neutral space, the next 4'4" with provision for a point of attachment by a third party, and
- (C) For the Telephone Company, the next [REDACTED] feet.

1.1.7 OWNER means the party hereto owning the pole to which attachments are made.

1.1.8 LICENSEE is the party having the right under this Agreement to make attachments to a joint use pole of which the other party is the Owner.

1.1.9 INSTALLED COST is the cost incurred in setting a new pole (either as a new installation or replacement) and includes the cost of materials, direct labor, construction and equipment charges, engineering and supervision, and standard overhead charges of the Owner as commonly and reasonably incurred in the joint usage of poles. The installed cost does not include the cost of attaching or transfer costs but does include the cost of ground wires.

1.1.10 COST OF ATTACHING is the cost of making attachments to a new pole and includes the charge for hardware necessary to make the attachment.

1.1.11 TRANSFER COST is the cost of transferring attachments from the replaced pole to the replacement pole and does not include the material cost of replacing hardware.

1.1.12 VERTICAL GROUND WIRE means a suitable conductor, conforming to the requirements of the CODE attached vertically to the pole and extending through the Telephone Company space to the base of the pole, where it may be either butt wrapped on the pole or attached to a ground electrode.

1.1.13 MULTI-GROUNDED NEUTRAL means an Electric Company conductor located in the Electric Company space, which is bonded to all Electric Company vertical ground wires.

1.1.14 BONDING WIRE shall mean a suitable conductor conforming to the requirements of the CODE, connecting equipment of the Telephone Company and the Electric Company to the vertical ground wire or to the multi-grounded neutral.

1.1.15 REMOVAL COST is the cost incurred in removing an existing pole and includes the cost of direct labor, construction and equipment charges, engineering and supervision and standard overhead charges of the Owner as commonly and reasonably incurred in the joint usage of poles.

1.1.16 ANNUAL COST as referred to in Section 10.10 refers to the annual carrying charges on a standard joint use pole and is arrived at by using historical investment in joint use poles at a given time and then applying a percentage (a fixed charge rate which includes the average of all related costs associated with ownership thereto covering current fixed charges).

1.1.17 SALVAGE VALUE shall be $\frac{1}{2}$ the material cost. See Exhibit B.

ARTICLE II

SCOPE OF AGREEMENT

Section 2.1 This Agreement shall be in effect in those parts of the State of Florida now or hereafter served by both the Telephone Company and Electric Company, and shall cover all poles of each of the parties now existing in such service areas, or hereafter erected or acquired therein, when said poles are brought hereunder in accordance with the procedure hereafter provided.

Section 2.2 Each party reserves the right to exclude from joint use poles which have been installed for purposes other than or in addition to normal distribution of electric or telephone service including, among others, poles which, in the judgement of the Owner (a) are required for the sole use of the Owner, (b) would not readily lend themselves to joint use because of interference, hazards or similar impediments, present or future, or (c) have been installed primarily for the use of a third party. In the event one of the parties deem it desirable to attach to any such excluded poles, the party wishing to attach will proceed in the manner provided in Article III. Where a third party use is involved, approval must be obtained from such third party as a prerequisite to processing under Article III.

Section 2.3 The Telephone Company may not make initial or additional attachments to Electric Company transmission line poles (above 35,000 volts phase to phase nominal rating) without the written approval of the Electric Company as provided in Article III of this Agreement.

ARTICLE III

PLACING, TRANSFERRING OR REARRANGING ATTACHMENTS AND BONDING SAID ATTACHMENTS

Section 3.1 Whenever either party desires to reserve space on any pole of the other, for any attachments requiring space thereon not then specifically reserved by application hereunder for its use, it shall make written application to the other party specifying in such application the location of the pole in question. Within ten (10) days after the receipt of such application, the Owner shall notify the applicant in writing, whether or not said pole is one of those excluded from joint use under the provision of Article II. Upon receipt of notice from the Owner that said pole is not one of those excluded, and after the Owner completes any transferring or rearranging which may then be required in respect to attachments on said poles, including any necessary pole replacements as provided in Article IV, the applicant shall have the right as Licensee hereunder to use said space in accordance with the terms of this Agreement.

Section 3.2 The provisions of Section 3.1 do not apply to the poles of either party being used jointly by the other party as of the effective date of this Agreement; therefore, the Licensee shall have the right to use space on these poles for attachments in accordance with the terms of this Agreement.

Section 3.3 Except as herein otherwise expressly provided, each party shall place, maintain, rearrange, transfer and remove its own attachments 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.

Section 3.4 Each party, regardless of pole ownership, shall be responsible for determining the proper pole strength and arranging for any necessary guying of a joint pole where a requirement therefore is created by the addition or alteration of attachments thereon by such party.

Section 3.5 For poles owned by the Electric Company, the Electric Company shall give sixty (60) days notice to the Telephone Company, advising the Telephone Company of any initial attachments or conversion of any existing attachments that will result in joint use with any of the following conditions:

- (A) The absence of a multiple grounded Electric Company neutral line conductor.
- (B) Voltage in excess of 15,000 volts phase to ground.

If the Telephone Company agrees to joint use with any such change, then the joint use of such poles shall be continued with such changes in construction as may be required to meet the requirements of the CODE. The Electric Company will reimburse the Telephone Company for protection costs necessitated by the upgrading of the voltage of Electric Company lines. If, however, the Telephone Company fails within thirty (30) days from receipt of such written notice to agree in writing to such change, then both parties shall cooperate and 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.

Section 3.6 For poles owned by the Telephone Company, the Electric Company shall give sixty (60) days notice to the Telephone Company of any initial attachments or conversion of any existing attachments that will result in joint use with any of the conditions as outlined in Section 3.5. If the Telephone Company agrees to joint use with any such change, then both parties shall cooperate and determine the most practical and economical method of effectively providing for the adjustment of each company's facilities. If, however, the Telephone Company fails within thirty (30) days from receipt of such written notice to agree in writing to such change, then the Electric Company will, at its option, relocate its facilities to its own pole line.

Section 3.7 The ownership of any new line constructed in a new location under the foregoing provision shall be vested in the party for whose use it is constructed, unless otherwise agreed by the parties.

Section 3.8 On joint use poles the Telephone Company may, at its own expense, bond its attachments in the Telephone Company space together and to the vertical ground wires where the same exists.

Section 3.9 Under no condition will the Electric Company's vertical ground wire be broken, cut, severed or otherwise damaged by the Telephone Company.

Section 3.10 On joint use poles the Electric Company shall, at its own expense, bond its street light brackets, conduit and other attachments in the Telephone Company space together and to the vertical ground wire where the same exists.

ARTICLE IV

ERECTING, REPLACING OR RELOCATING POLES

Section 4.1 Whenever, for whatever reason, the Owner shall deem it necessary to change the location of a jointly used pole, the Owner shall, before making such change in location, give timely notice thereof to the Licensee in writing (except in cases of emergency when verbal notice will be given, and subsequently confirmed in writing), specifying in such notice the time of such proposed relocation and the Licensee shall, at a time mutually agreed upon, transfer its attachments to the pole at the new location.

Section 4.2 Whenever either party hereto is about to erect new poles within the territory covered by this Agreement, either as a new pole line, an extension of an existing pole line, replacing a deteriorated pole, or as the reconstruction of an existing pole line being jointly used hereunder, such party shall immediately notify the other party

hereto prior to completion of engineering plans for such erection in order that any necessary joint planning may be coordinated and so that compliance may be had with the provisions of Section 4.3 and 4.4 of this Article IV.

Section 4.3 Where the parties conclude arrangements for joint use and unless it is mutually agreed otherwise, the party owning the lesser number of joint use poles under this Agreement shall erect or replace within a reasonable time any joint use pole or any pole about to be so used, that is required by either of the parties and be the Owner thereof. In the event either party cannot, for whatever reason, set a joint use pole to meet his obligation, the second party may set the pole(s) for the first party and charge the first party for all costs associated with the installation of the pole(s), the first party becoming the Owner thereof. Due regard should be given to the desirability of avoiding mixed ownership in any given line. This obligation shall include wood poles only. Related costs associated with such new and replacement poles and such other changes in the existing pole line as the new conditions may require are to be as outlined in Section 4.4.

Section 4.4 The costs of erecting joint use poles coming under this agreement shall be borne as provided in one or more of the following Subsections:

4.4.1 For a new pole to which no existing facilities of either party have been previously attached (e.g., new pole lines) a normal or shorter joint use pole shall be the obligation of the Owner. If a pole taller and/or stronger than a normal joint use pole is required, the obligation of the parties for such extra cost shall be in accordance with Section 4.4.5.

4.4.2 For a new pole to which existing facilities of either party must be attached (e.g. adding pole in existing line) and:

- (A) The pole is of benefit to both parties, a normal or shorter joint use pole shall be the obligation of the Owner. If a pole taller and/or stronger than a normal joint use pole is required, the obligation of the parties for such extra cost shall be in accordance with Section 4.4.5. Each party shall bear its own cost of attaching.
- (B) The pole is of benefit only to the Licensee, the Licensee shall pay the Owner a sum equal to the installed cost of the required pole plus the cost of attaching the Owner's facilities to said pole.
- (C) The pole is of benefit only to the Owner, the Owner shall pay the Licensee a sum equal to the cost of attaching the Licensee's facilities to said pole.

4.4.3 Where an existing joint use pole is inadequate and said pole is replaced, the party requiring such replacement shall be obligated for the cost as follows:

- (A) If such party is the Owner of both the existing and replacing pole, that party shall bear the cost of the pole and the cost of transferring the Licensee's attachments.
- (B) If such party is the Licensee of both the existing and replacing pole, that party shall pay the Owner a sum equal to (A) the difference between the installed cost of the required pole and the installed cost of the removed pole, plus (B) the then value in place of the removed pole, plus (C) the removal cost of the pole removed, plus (D) the Owner's transfer cost, less (E) the salvage value of the removed pole.

- (C) If such party is the Owner of the existing pole and the Licensee of the replacing pole, such party shall pay the new Owner's transfer cost plus any cost for a pole taller and/or stronger than a normal joint use pole in accordance with Section 4.4.5.
- (D) If such party is the Licensee of the existing pole and the Owner of the replacing pole, such party shall bear the cost of the pole and pay the former Owner a sum equal to (A) the then value in place of the removed pole, plus (B) the removal cost of the pole removed, plus (C) the transfer cost, less (D) the salvage value of the removed pole.

4.4.4. Where an existing joint use pole is replaced due to deterioration or damage, each party shall pay its own transfer costs. If a pole taller and/or stronger than a normal joint use pole and the existing pole is required, the provisions of Section 4.4.5 apply.

4.4.5 For any new pole that is taller and/or stronger than a normal joint use pole, the cost of the extra height and/or strength shall be as follows:

- (A) If the extra height and/or strength is due wholly to the Owner's requirements, the entire cost of the pole shall be borne by the Owner.
- (B) If the extra height and/or strength is due wholly to the Licensee's requirements, the Licensee shall pay the Owner a sum equal to the difference between the installed cost of the required pole and the installed cost of a normal joint use pole. Notwithstanding the foregoing, where pole line economy resulting from the use of fewer poles can be effected by the Owner increasing the strength of poles, billing would be based only on the extra height.
- (C) Where the extra height and/or strength is due to the requirement of both parties herein to provide CODE clearances or meet the requirements of public authority or property owners, the Licensee shall pay the Owner a sum equal to one-half ($\frac{1}{2}$) the difference between the installed cost of the required pole and the installed cost of a normal joint use pole.

4.4.6 Where an existing pole is replaced that is not joint use and where the installation of such pole complied with Section 4.2 and where it is desired by the party that is not the Owner to make the pole a joint use pole, the costs associated with such changes as may be required shall be as follows:

- (A) If the party desiring the change is not to be the Owner of the new pole, the party desiring the change shall pay the Owner the sums (A), (B), (C) and (D), less (E) in Section 4.4.3(B).
- (B) If the party desiring the change is to be the Owner of the new pole, the new Owner shall pay the former Owner the sums (A), (B) and (C), less (D) in Section 4.4.3(D).

Section 4.5 Any payments made by the Licensee under the foregoing provisions of this Article shall not in any way affect the ownership of said poles. The Power Company may from time to time set poles for the Telephone Company where high voltage conditions exist. The Electric Company will then bill the Telephone Company for associated costs.

Section 4.6 When replacing a joint use pole carrying terminals of aerial cable, underground connections or transformer equipment, the replacement pole shall be set in such a location that existing facilities may be transferred at a minimum cost and inconvenience.

Section 4.7 Whenever, in any emergency, the Licensee replaces a pole of the Owner, the Owner shall reimburse the Licensee all reasonable costs and expenses that would otherwise not have been incurred by the Licensee if the Owner had made the replacement.

ARTICLE V

PERMISSION OF JOINT USE

Section 5.1 Each party hereto hereby permits joint use by the other party of any of its poles when brought under this Agreement as herein provided subject to the terms and conditions herein set forth.

ARTICLE VI

SPECIFICATIONS

Section 6.1 Joint use of poles covered by this Agreement shall at all times be in conformity with the terms and provisions of the National Electric Safety Code in its present form or as subsequently revised, amended or superseded. Said CODE by this reference is hereby incorporated herein and made a part of this Agreement.

ARTICLE VII

RIGHT OF WAY FOR LICENSEE'S ATTACHMENTS

Section 7.1 From and after the date of this Agreement, the Owner will insofar as practicable, jointly coordinate with the Licensee in obtaining suitable right of way easements or permits for both parties on joint poles brought hereunder.

Section 7.2 While the Owner and the Licensee will cooperate as far as may be practicable in obtaining rights of way for both parties on joint poles, no guarantee is given by the Owner of permission from property owners, municipalities or others for use of poles and right of way easements 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 thirty (30) days notice in writing to the Licensee, require the Licensee to remove its attachments from the poles involved and its appurtenances from the right of way easement involved and the Licensee shall, within thirty (30) days after receipt of said notice, remove its attachments from said poles and its appurtenances from said right of way easement at its sole expense. Should the Licensee fail to remove its attachments and appurtenances, as herein provided, the Owner may remove them and the Licensee shall reimburse the Owner for the expense incurred.

Section 7.3 Each party shall be responsible for its own circuits where tree trimming or cutting (e.g. shade trees, side clearances, etc.) is required. Where benefits are mutual and the need for the work is agreed upon before hand, costs shall be apportioned on an equitable basis.

ARTICLE VIII

MAINTENANCE OF POLES AND ATTACHMENTS

Section 8.1 The Owner shall, at its own expense, maintain its joint poles in a safe and serviceable condition, and in accordance with Article VI of this Agreement, and shall replace, subject to the provisions of Article IV, such of said poles as become defective. Each party shall, at its own expense and at all times, maintain all of its attachments in accordance with the specifications contained in the CODE and keep said attachments in safe condition and in thorough repair. It will be the responsibility of the Licensee to instruct its personnel to inspect all poles prior to climbing.

Section 8.2 Both parties shall, in writing, report to each other all hazardous conditions found to exist in any joint use construction hereunder, immediately upon discovery, and the responsible party shall proceed forthwith to alter such construction so as to remove the hazard. Any existing joint use construction hereunder which does not conform to the specifications set forth in Article VI shall be brought into conformity with said specifications at the earliest possible date.

Section 8.3 The cost of removing hazards and of bringing existing joint use construction into conformity with said specifications, as provided in Section 8.2, shall be borne by the parties hereto in the manner provided in Section 3.3 and Article IV.

ARTICLE IX

ABANDONMENT OF JOINTLY USED POLES

Section 9.1 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 thirty (30) 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 thereupon becomes the property of the Licensee, and the Licensee shall indemnify and save harmless the former Owner of such pole from all obligation, liability, damages, cost, expenses or charges incurred thereafter and arising out of the presence or condition of such pole or of any attachments thereon. Further, the Licensee shall pay to the Owner the depreciated value of the pole.

Section 9.2 The Licensee may at any time abandon the joint use of a pole by giving due notice thereof in writing to the Owner and by removing from said pole any and all attachments the Licensee may have thereon.

ARTICLE X

ADJUSTMENT RATES AND PROCEDURE FOR PAYMENTS

Section 10.1 The parties contemplate that the use or reservation of space on poles by each party, as Licensee of the other under this agreement, shall be based on the equitable sharing of the costs and economics of joint use.

Section 10.2 In the event the number of poles occupied by one of the parties as Licensee under this agreement, or specifically reserved for such Licensee's use during any one year, shall exceed [REDACTED]

[REDACTED] then the party occupying [REDACTED] as Licensee shall pay to the other party as a rental payment a sum as specified in Article 10.5 per year [REDACTED] as hereinafter provided.

Section 10.3 The parties hereto agree that an attachment count also includes any pole on which it is mutually agreed that space was reserved for the Licensee at the Licensee's request and on which the Licensee has not attached. The Licensee is only liable for billing under this Section until the Licensee makes an initial attachment or an interval of five (5) unattached years elapses from the date of the space reservation; whichever condition occurs first.

Section 10.4 Within ten days after the first day of each month during which this agreement shall be in effect, each party hereto shall submit to the other a statement setting forth the number of jointly used poles which are owned as of the first day of the month by the party submitting such statement.

Section 10.5 Within ten days after the receipt of such written statement, the party occupying [REDACTED] as Licensee, unless such party shall dispute the accuracy of such statement within five days from receipt thereof, shall pay to the other party [REDACTED]

Applicable Adjustment Rate to be Utilized for Each Calendar Year

1975, 1976 and until revised: [REDACTED]

Section 10.6 By December 1, 1974, and every two (2) years thereafter, or as may be mutually agreed upon, the parties hereto shall make a joint field check to verify the accuracy of the joint use records hereunder. If the parties mutually agree to postpone the first joint field check hereunder, the parties shall use their existing records as changed from time-to-time to determine the number of jointly used poles owned by each party until the first joint field check is made hereunder. The said joint inventory shall be a one hundred (100) percent field inventory unless the parties voluntarily and mutually agree to some other method. Upon completion of such inventories the office records will be adjusted accordingly and subsequent billing will be based on the adjusted number of attachments. The corrections to the estimations made over the years elapsed since the preceding inventory shall be prorated equally (i.e., if the latest joint field check shows 100 more joint use poles owned by one party than office records indicate and if the interval since the last joint field check is 5 years, then each of the intervening annual pole inventory amounts would be adjusted upward by 20 poles). In calculating retroactive billing for the years elapsed since a preceding inventory, full consideration will be given for the cost of money over that period. The prime annual interest rate used in calculating the annual cost of money will be determined by using average annual interest rate + an adjustment for the existing compensating balances for the 7 southeast centers, Bank rates on short-term business loans, money and interest rates, Survey of Current Business, as published by the United States Department of Commerce/Social and

Economic Statistics Administration/Bureau of Economic Analysis.

Section 10.7 Rental or other charges paid to the Owner by a third party will in no way affect the rental or charges paid between the parties of this agreement.

Section 10.8 Either party will have the right to contract with a third party for attachment rights on poles which it owns. Payments for all third party attachments will be paid directly to the Owner.

Section 10.9 Payment of all other amounts, provision for which is made in this agreement, shall be made currently or as mutually agreed hereto.

Section 10.10 In the event either party hereto shall terminate this Agreement as provided in Article XVI or as otherwise provided in this Agreement, the adjustment payment rate for each calendar year in accordance with Section 10.5 shall be adjusted annually to a figure equal to [REDACTED]

ARTICLE XI

PERIODIC REVISION OF ADJUSTMENT PAYMENT RATE

Section 11.1 Article X of this Agreement covering Adjustment Rates and Procedure for Payment shall remain in effect until December 31, 1976 and until revised. The adjustment rate and Flat Rate charges specified in Exhibit B for 1976 and thereafter shall be subject to renegotiation at the request of either party annually thereafter upon not less than six (6) months notice prior to January 1 of the year affected.

Section 11.2 In the event that the parties cannot, within six (6) months after a request under Section 11.1 is made, agree upon rental payments, this Agreement shall terminate and be of no further force and effect insofar as the making of attachments to additional poles. All other terms and provisions of this Agreement shall remain in full force and effect solely and only for the purpose of governing and controlling the rights and obligations of the parties herein with respect to existing joint use poles; except that all pole replacements shall be the obligation of the party owning the lesser number of total joint use poles. In the event that the party owning the lesser number of total joint use poles fails to replace the pole within a reasonable period of time, the other party may replace the pole and the party owning the lesser number of total joint use poles shall pay the party owning the greater number of total joint use poles a sum equal to the installed cost of the new pole and assume ownership thereof.

ARTICLE XII

DEFAULTS

Section 12.1 If either party shall default in any of its obligations (other than to meet money payment obligations) under this Agreement and such default shall continue for sixty(60) days after notice thereof in writing from the other party all rights of the party in default hereunder, insofar as such rights may relate to the further granting of joint use of poles hereunder shall be suspended; and such suspension shall continue until the cause of such default is rectified by the party in default or the other party shall waive such default in writing.

Section 12.2 If either party shall default in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work, and the party in default shall reimburse the party for the total cost thereof. Failure on the part of the defaulting party to make such payment within sixty (60) days after presentation of bills therefore shall constitute a default under Section 12.3.

Section 12.3 If the default giving rise to a suspension of rights involves the failure to meet a money payment obligation hereunder, and such suspension shall continue for a period of sixty (60) days, then the party not in default may forthwith terminate the rights of the other party to attach to the poles involved in the default.

ARTICLE XIII

LIABILITY AND DAMAGES

Section 13.1 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:

13.1.1 Each party shall be liable for all damages for such injuries, to all persons (including employees of either party) or property, caused solely by its negligence or solely by its failure to comply at any time with the specifications as provided for in Article VIII hereof.

13.1.2 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.

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

13.1.4 Where, on account of injuries of the character heretofore described in this Article, either party hereto shall make payments to injured employees or to their relatives or representatives in conformity with (a) 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 (b) 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 preceding Subsections 13.1.1 and 13.1.2 and shall be paid by the parties hereto accordingly.

13.1.5 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 ($\frac{1}{2}$) 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.

13.1.6 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, including court costs, attorneys' fees, valid disbursements and other proper charges and expenditures, incurred by the parties in connection therewith.

13.1.7 It is understood by and between the parties hereto that nothing herein contained or contemplated is intended to or shall increase the Electric Company's risk or liability for death, personal injury or property damage beyond that which the Electric Company might have had prior to the bonding of Telephone Company equipment to the vertical ground wire on joint use poles, and it is hereby expressly understood that the Electric Company does not assume any such additional risk; and the Telephone Company, for itself and its successors and assigns, hereby agrees to indemnify, save harmless and defend the Electric Company from and against any and all claims, demands or expense for loss, damage or injury to persons or property in any manner directly or indirectly connected with or growing out of the bonding of Telephone Company equipment to the vertical ground wire on joint use poles.

ARTICLE XIV

ASSIGNMENT OF RIGHTS AND EXISTING RIGHTS OF OTHER PARTIES

Section 14.1 Neither party, as Licensee, shall sub-lease its attachment space to a third party.

Section 14.2 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 written notification to 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 a business of the same general character as that of such party, or to enter into any merger or consolidation; and in the 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 leasee, transferee, merging or consolidating company, as the case may be.

Section 14.3 If either of the parties has heretofore 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 rights, 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, all attachments of any such third party shall be treated as attachments belonging to the Owner, and (except as modified by Section 14.4) the rights, obligations and liabilities hereunder of said Owner in respect to such attachments shall be the same as if it were the actual owner thereof.

Section 14.4 The Licensee may attach within the third party neutral space, as an exception, if the proposed installation is approved by the owner in writing. In the event that attachments to be made by a third party require rearrangements or transfer of the Licensee's attachments to maintain STANDARD SPACE (As defined in Section 1.1.6) and STANDARD CLEARANCE (as outlined in the CODE) the Licensee shall have the right to collect from said third party, all costs to be incurred by the Licensee to make such required rearrangements or transfers prior to doing the work.

Section 14.5 Each Owner reserves the right to use, or permit to be used by other third parties, such attachments on poles owned by it which would not interfere with the rights of the Licensee with respect to use of such poles.

Section 14.6 Third party space requirements must be accommodated without permanent encroachment into the standard space allocation of the Licensee: therefore, neither party hereto shall, as owner, lease to any third party, space on a joint use pole within the allotted standard space of the Licensee without adequate provision for subsequent use of such standard space by Licensee without cost to the Licensee.

Section 14.7 Where either party allows the use of its poles for fire alarm, police or other like signal systems, or where such systems are presently or hereafter permitted by the Owner to occupy its poles, such use shall be permitted under and in accordance with the terms of this Article.

ARTICLE XV

SERVICE OF NOTICES

Section 15.1 Whenever in this agreement notice is provided to be given by either party hereto to the other, such notice shall be in writing and given by letter mailed, or by personal delivery to the Electric Company at its principal office at St. Petersburg, Florida, or to the Telephone Company at its principal office at Tampa, Florida, as the case may be, or to such other address as either party may, from time to time, designate in writing for that purpose.

ARTICLE XVI

TERM OF AGREEMENT

Section 16.1 Subject to the provisions of Article XI and XII herein, the provisions of this agreement, insofar as the same may relate to the further granting of joint use poles hereunder, may be terminated by either party, after the first day of December 1980, upon six (6) months notice in writing to the other party; provided, however, that, if such provisions shall not be so terminated, said agreement in its entirety shall continue in force thereafter until partially terminated as above provided in this Section by either party at any time upon six (6) months notice in writing to the other party as aforesaid; and provided, further, that notwithstanding any such termination, other applicable provisions of 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 XVII

WAIVER OF TERMS OR CONDITIONS

Section 17.1 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 XVIII

EXISTING CONTRACTS

Section 18.1 All existing agreements between the parties hereto for the joint use of poles upon a rental basis within the territory covered by this agreement are, by mutual consent, hereby abrogated and annulled.

ARTICLE XIX

MISCELLANEOUS

Section 19.1 The Equal Employment Opportunity clause in Section 202, Paragraphs 1 through 7 of Executive Order 11246, as amended, relative to equal employment opportunity, and the implementing Rules and Regulations of the Office of Federal Contract Compliance are incorporated herein by specific reference, where applicable.

ARTICLE XIX

SUPPLEMENTAL ROUTINES AND PRACTICES

Nothing herein shall preclude the parties to this agreement from preparing such supplemental operating routines or working practices as mutually agree to be necessary or desirable to effectively administer the provisions of this agreement.

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

FLORIDA POWER CORPORATION

Attest:

Betty M. Clayton
Asst. Secretary

By A. J. Armiston
Vice-President

(SEAL)

General Telephone Company of Florida

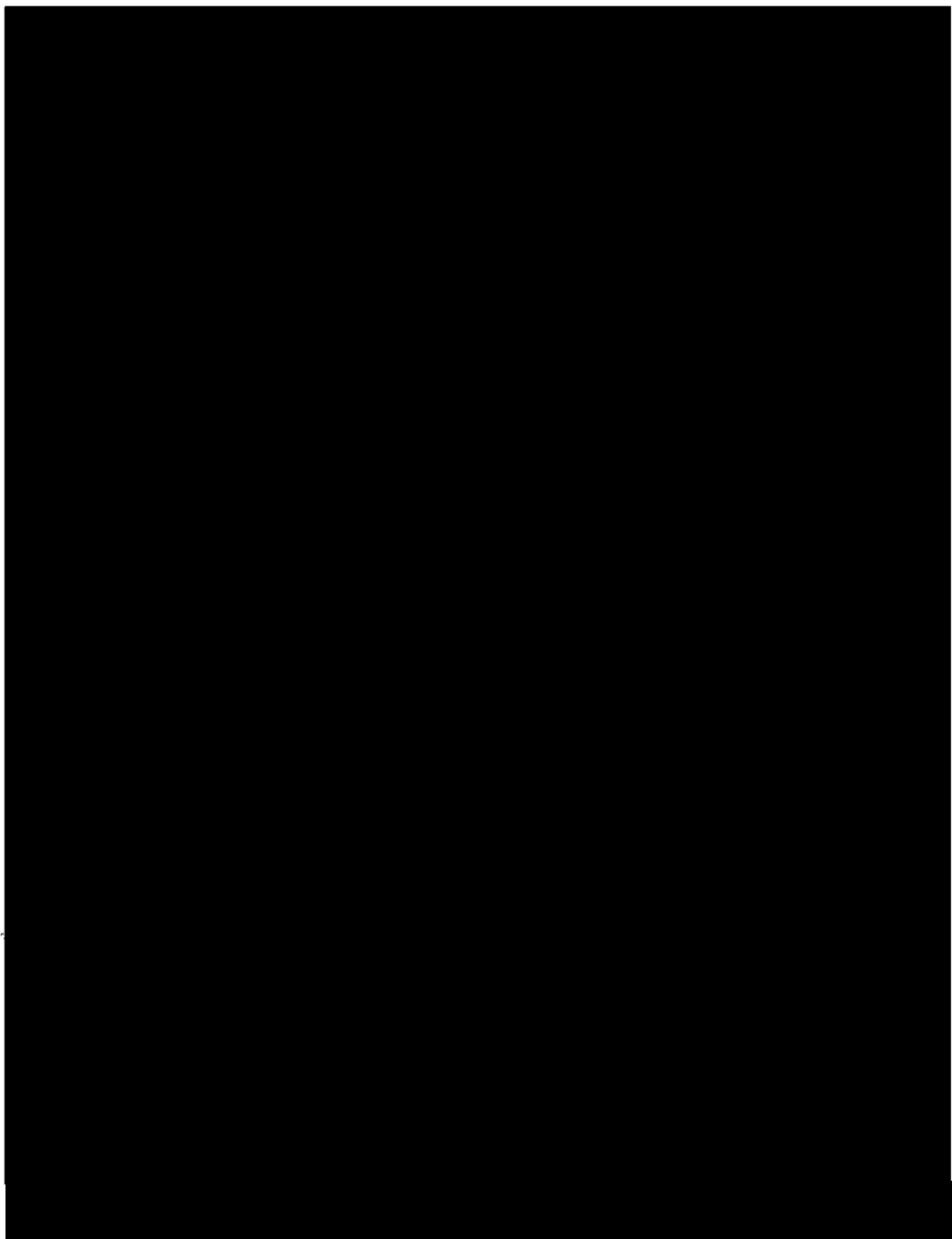
Attest:

Victor Leavengood

By E. E. Starnes
Vice President - Operations

(SEAL)

REDACTED




REDACTED

EXHIBIT B

Page 1 of 3

SCHEDULE OF FLAT RATE PRICES FOR WORK OPERATIONS PERFORMED FLORIDA POWER CORPORATION

<u>ITEM</u>	<u>DESCRIPTION OF WORK OPERATIONS</u>	<u>FLAT BILLING CHARGES</u>
1	INSTALL 8" ANCHOR	
2	INSTALL 10" ANCHOR	
3	GROUND BRACE EXISTING POLE (TOP ONLY)	
4	REARRANGE ANCHOR OR POLE TO POLE GUY	
5	SHIFT POLE (TRENCH MOVE) in-out & Trfr	
6	CONNECT TELEPHONE COMPANY GROUND WIRE TO ELECTRIC COMPANY NEUTRAL	
7	REARRANGE OR RELOCATE SECONDARY CONTACT	
8	REARRANGE OR RELOCATE PRIMARY CROSSARM OR REARRANGE OR RELOCATE PRIMARY POST INSULATORS	
9	REARRANGE OR RELOCATE SECONDARY DEADEND	
10	REARRANGE OR RELOCATE SERVICE WIRES	
11	RELOCATE SINGLE PHASE TRANSFORMER INSTALLATION 25 KVA SIZE AND SMALLER	
12	RELOCATE SINGLE PHASE TRANSFORMER INSTALLATION OVER 25 KVA SIZE (SINGLE UNIT ONLY)	
13	REARRANGE OR MOVE CABLE RISER (ON SAME POLE) SECONDARY ONLY	
14	ACTUAL COST TO BE USED FOR ANY ITEMS NOT LISTED	

NOTE:








REDACTED

EXHIBIT B

SCHEDULE OF FLAT RATE PRICES FOR WORK OPERATIONS PERFORMED BY GENERAL TELEPHONE COMPANY OF FLORIDA

<u>ITEM</u>	<u>DESCRIPTION OF WORK OPERATIONS</u>	<u>FLAT BILLING CHARGES</u>
1	INSTALL 8" ANCHOR	
2	INSTALL 10" ANCHOR	
3	GROUND BRACE EXISTING POLE (TOP ONLY)	
4	REARRANGE ANCHOR OR POLE TO POLE GUY	
5	SHIFT POLE (TRENCH MOVE)	
6	RECONCENTRATE SERVICE WIRE TO NEW TERMINAL	
7	REARRANGE OR MOVE CROSSARMS	
8	REARRANGE OR MOVE CABLE (100 PAIR OR LESS)	
9	REARRANGE OR MOVE CABLE (100 PAIR OR LARGER)	
10	REARRANGE OR MOVE COVERED WIRE	
11	REARRANGE OR MOVE CABLE RISER (ON SAME POLE)	
12	TRANSFER TERMINAL	
13	ACTUAL COST TO BE USED FOR ANY ITEMS NOT LISTED	

NOTE :





EXHIBIT B

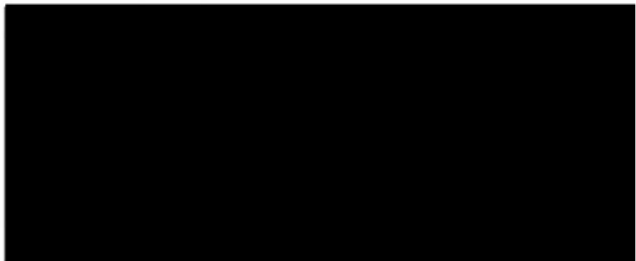
RECIPROCAL
FLAT RATE CHARGES
FOR POLE INSTALLATIONS AND REMOVALS

Wood Pole Height: 30' 35' 40' 45' 50'

Installed Cost of Pole:

Cost of Removal:

Salvage:



The above costs apply to installations and removals made by utilizing standard equipment. For installations and removals in back-lot lines, etc., inaccessible to trucking, the Owner, at his option, can bill the Licensee for actual cost incurred.

