



Town of Chebeague Island

MEMO

To: Bo Beaupre, Chair and Members of the Select Board
From: Viktoria G. Wood, Town Administrator
Date: March 9, 2023
RE: Town Administrators Report

Audit- I heard back on March 8th from the auditors with hopes they could get the audit to me by the end of the week. I hope to have it with you to share if for the first meeting in April.

BOAA application- The town received an application from Michael and Mary Makee appealing the CEO's denial of the shoreland zone permit they resubmitted. The BOAA hearing has been scheduled for Wednesday, March 29th at 5PM at the Hall. Notices to abutters were sent out on March 9th and posting in the newspaper will be the week of March 13th. Attached is the BOAA application for your viewing.

Dredging- I emailed USACG for an update on the status of the dredging project and where they are in the process. I will share any information I have if received by the meeting.

Shelter Logic- A tent has been ordered by FD to protect the back up ambulance. FD will set it up when it arrives.

Stone Wharf RFQ interviews- Bob Earnest, Carol White and I have 3 meetings scheduled for Thursday, March 16th to interview the 3 firms who submitted RFQ's. This will be an agenda item on April 5th.

Winter Storm Elliott- We received an email from Cumberland County EMA. Cumberland County had not met the threshold for public assistance from December 23, 2022, storm damage. State threshold was met but not the county which means there will not be any funding to cover storm damage expenses.

Application for Administrative Appeal to Board of Appeals

1. Name of Appellant Michael and Mary Makee
2. Mailing Address 107 Cottage RD, Chebeague Island Maine 04017
3. Telephone (540) 645-8131
4. Name of Owner of Property Which is Subject of Appeal
Michael and Mary Makee

5. Please describe in detail the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what action you want the board of appeals to take in this matter. If additional space is needed, please continue on a separate sheet of paper and attach it to this application.

We respectfully request an Administrative Appeal in accordance with ToCI Shoreland Zoning Ordinance Section 508.A.1 for the denial of a Shoreland permit by the Code Enforcement Officer. Our application was submitted on 12/20/22 and was denied on 1/31/23. Our permit contained all of the necessary information including our contractor's DEP certificate number, an Erosion Control Plan, and a scaled plot plan. The reason for denial was based on Attorney Burns' email to the CEO dated 1/5/23 @2:14PM. In the email, Attorney Burns agrees that we have "carefully addressed the specific reasons for denial" of our previous Shoreland Permit. However, because the BoAA's previous decision used the phrase "for reasons including," more issues must be overcome. Attorney Burns listed four issues that must be addressed: structure located in the RP district, no Planning Board permit for the driveway, net residential area not met, and not a legal nonconforming lot of record. We are prepared to show concrete proof that our property is not on a coastal bluff, not in the Resource Protection Zone, not subject to "net residential acreage" requirements, and that our land was a lot of record as of the effective date of the Shoreland Zoning Ordinance. We request an objective hearing to present our evidence and for the BoAA to overturn the CEO's decision to deny our Shoreland Permit.

I certify that the information contained in this application is true to the best of my knowledge and belief.

Date 2/27/23
2/27/23

Michael Makee
Signature of Appellant
Mary K Makee

Notice of Administrative Appeal Decision

To: _____ Date: _____

Dear _____:

This is to inform you that the Board of Appeals acted on your application for an administrative appeal at its meeting on _____ and made the following findings and conclusions:

Findings of Fact

1. The owner of the property is _____.
2. The property is located at _____.
_____.
It is in the zoning district and is identified as Assessor's Map _____,
Lot _____. It contains _____ square feet.
3. The applicant is _____
who has demonstrated a legal interest in the property by providing a copy of a _____
_____ (deed, option, purchase agreement, etc.).
4. The applicant proposes to construct _____ on the
subject property/conduct the following use on the property _____.
5. A completed application was submitted on _____.
6. A Public Hearing was held on _____.
7. The relevant sections of the ordinance are _____
_____.
8. Other relevant facts are: _____

_____.

TOWN OF CHEBEAGUE ISLAND

192 North Road
Chebeague Island, ME 04017



Shoreland Project Permit Application

FOR OFFICIAL USE ONLY	
Date Received	12/20/22
Zoning	IR/LR
Property ID	I01-14
Building Code	N/A
Estimated Cost	36,000
Permit Fee	250.00
Receipt Number	
Reviewed By	Jim Butler

Permit Number: _____

Denied See Exhibit A 1/31/2023

1. Please attach all required information detailed on the application check list.
2. If you have questions about what is required in order to obtain a permit, contact the Code Enforcement Office.
3. DEP Certification is required for projects in Shoreland Zoning.
Project Address: 107 Cottage RD, Chebeague Island Maine 04017
Parcel ID#: I01-14
Estimated Cost: \$36,000
Current Use: N/A
Proposed Use: Guesthouse
Please Describe Your Project: Create temporary construction access to a site which will be excavated for the construction of a guest house in the Limited Residential Overlay District. Excavate the site for guesthouse, pour a foundation, and build a guest house. Bury utilities and tie into existing septic outside of the Shoreland Zone. Upon completion of guesthouse construction, modify the construction access to a driveway extension to the new guesthouse.

- Soil Disturbance
 Dock, Pier, Wharf
 Tree Cutting
 Other

Property Owner Information

Owner Name:	Michael and Mary Makee
Mailing Address:	107 Cottage RD, Chebeague Island Maine 04017
Phone Number:	(540) 645-8131
Email Address:	michael.makee@hotmail.com

Contractor or Applicant Information

Contractor Name:	SKB/Brown Builders
Mailing Address:	P.O. Box 335, Cumberland ME 04021
Phone Number:	(207) 653-6661
Email Address:	contractingskb@aol.com
DEP Certification:	1509

Please attach all of the information required on the permit checklist

I hereby certify that I am the Owner of Record of the named property, or that the owner of record authorizes the proposed work, and I have been authorized by the owner to make this application as his/her authorized agent. I agree to confirm to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Officials shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Applicant Signature:	<u>Michael Makee</u>	Date: 12/20/22
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Exhibit: A 1 of 3

Code Office

From: Town admin
Sent: Thursday, January 19, 2023 9:32 AM
To: Code Office
Subject: FW: Request for new SZ Permit

Morning Jim,

Last night there was an update on the Makee property and where things currently stand. BOS did not verbalize opposition to your memo about the stop work order. Natalie additionally provided a legal opinion supporting your decision. The one question that was raised was where this application stands. More specifically, BOS wanted to know whether you responded to Natalie, the property owner or have plans to issue a permit. Gallagher/Grew representation was there and read a letter on their behalf asking if that information was in the folder and available to be seen. Can you provide me some information on where that stands?

Let me know.

Vika



Viktorija G. Wood | Town Administrator
Town of Chebeague Island
192 North Road
Chebeague Island | Maine | 04017
P: 207-846-3148
E: townadmin@townofchebeagueisland.org
www.townofchebeagueisland.org

From: Natalie L. Burns <nburns@jensenbaird.com>
Sent: Thursday, January 5, 2023 2:14 PM
To: Code Office <codeoffice@townofchebeagueisland.org>
Cc: Town admin <townadmin@townofchebeagueisland.org>
Subject: RE: Request for new SZ Permit

Jim,

In reviewing the application and more carefully reviewing the BAA decision, I do not believe that you can grant this application. While the applicant has carefully addressed the specific reasons for denial of the Shoreland permit set forth on page 13 of the decision, there are other findings of fact in the decision that appear to preclude the issuance of any shoreland permit, including one that addresses the three standards. Note that the actual conclusion said that the permit "is

invalid for reasons including....” In addition, the introductory language in the conclusions sections states “For the reasons set forth in the findings of fact...” These phrases indicate that other reasons set forth in the findings of fact also serve as a basis for the denial. In fact, there wouldn’t be a reason for those findings if they weren’t part of the denial. There are a few different findings that preclude the issuance of a permit at this time:

1. Pages 10-11: The Board found that the structure is located in the RP District and SZO Sec. 204.2 “states that the Planning Board, not the CEO is authorized to approve the building of accessory structures in the RP District....” There also was a reference to the need for a setback variance from the BAA, although it is not entirely clear to me whether the Board actually found that a variance was required. But it is clear that the Board found “the CEO was not authorized to approve a SPPA for 107 Cottage Road. The rationale in the Board’s decision is not changed by this new application.
2. There is no Planning Board permit for the new driveway area located in the RP zone, as required by Sec. 310 of the Ordinance (the location of that zone was determined by the BAA as part of this decision) (pp. 12-13) . Further the accessory guest house could not occur in the RP district “defined by steep slopes within a coastal bluff zone.”
3. The net residential area of 30,000 square feet is not met for the proposed structure because there is already a principal structure on the lot and there is not sufficient remaining net residential acreage available (p. 10).
4. Most important, the Board found that 107 Cottage Road is not a nonconforming lot of record because it was split after the Zoning Ordinance effective date of August 1, 1975, referred to in Sec. 204.1.C of the Zoning Ordinance. The Board further found that the lot has never been a legal nonconforming lot of record under the Town’s Zoning Ordinance and that it can’t be built on at all without a variance from the BAA since it does not meet current Shoreland zoning requirements (this is certainly true as to shore frontage, but the Board also found that it did not meet other dimensional requirements (pp. 7, 8). While this is not the effective date set forth in the Shoreland Zoning Ordinance Sec. 512 (which states the Shoreland Zoning Ordinance is effective after December 10, 1991), it is a finding of the Board and therefore is part of the decision that is binding until appealed.

There may be additional findings that preclude the issuance of a new Shoreland permit, but the above 4 at a minimum preclude the issuance of any permit.

Thanks,

Natalie

Natalie L. Burns, Esq.
Attorney

JB JENSEN BAIRD

10 Free Street
P.O. Box 4510
Portland, ME 04112
www.jensenbaird.com

T: [\(207\) 775-7271](tel:2077757271)
F: [\(207\) 775-7935](tel:2077757935)
Email: nburns@jensenbaird.com
Bio: [Natalie L. Burns | Jensen Baird](#)

From: Code Office <codeoffice@townofchebeagueisland.org>
Sent: Wednesday, January 4, 2023 4:54 PM
To: Natalie L. Burns <nburns@jensenbaird.com>
Cc: Town admin <townadmin@townofchebeagueisland.org>
Subject: FW: Request for new SZ Permit

Hi Natalie,

As you are aware I have received this new application for the Makee property. Their attorney has advised them to re-submit with everything that the BAA indicated they felt was lacking. I see no reason not to issue this new SZ permit. Vika wanted me to run it by you to see if you had any legal input.

Thanks

Jim Butler

From: Michael Makee <michael.makee@hotmail.com>
Sent: Tuesday, December 20, 2022 4:06 PM
To: Code Office <codeoffice@townofchebeagueisland.org>
Subject: Request for new SZ Permit

Jim,

Attached is a Shoreland Project Permit Application for 107 Cottage RD. As you know, our last permit was revoked by the BAA for not having the contractor's DEP certificate, an Erosion Control Plan, and a plot plan drawn to scale. The Erosion Control Plan isn't listed as a requirement on the Application Checklist, but I thought I would add it anyway. Please review and let me know if anything needs to be changed or completed. I will pay the fee tomorrow when the town office is open.

Thank you,

Mike

Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message, attachments and/or files, including any contained in your reply.

Town admin

From: Belinda Ray <bray@gpcog.org>
Sent: Thursday, March 9, 2023 11:41 AM
To: Town admin
Subject: Re: consultant to help with grant writing

Hello, Viktoria. Good to hear from you!

Yes - I have a few names to pass along:

First	Last	Email	Phone	Address	Website	Expertise
Bill	Bayreuther	bill@billbayreuther.com	207.242.6029	Readfield, ME	http://www.billbayreuther.com	Bill has been in the business for a long time. He has experience applying for government grants, foundation grants, corporate giving, etc.
Rania	Campbell-Bussiere	rania.bussiere@gza.com	207.358.5106	707 Sable Oaks Drive, SoPo	https://www.gza.com/	Infrastructure is a specialty. Rania works with directly with an GeoEnvironmental firm (GZA); she is the Senior grant specialist - helps find the money and then GZA can also assist with surveys, engineering, etc.
Anne	Gass	agassmaine@gmail.com		Gray, ME	https://www.annebgass.com/abg-consulting	Anne has extensive municipal experience as a former Gray Councilor. She works with nonprofits, local and state governments, and foundations, and she has written many successful grants.

Hope this is helpful. Best,

Belinda

Belinda Ray (she/her/hers)
Director of Strategic Partnerships



(207) 671-4000

From: Matthew Ridgway <ridgway.matthewd@gmail.com>
Sent: Thursday, July 7, 2022 9:48 AM
To: Vika Wood
Subject: Re: grant writing

We just engaged Bridget Alexander Consulting, a development consulting firm, a few months ago. They haven't written any grants for us yet, but are kind of doing a whole development project for us.

They definitely do not specialize in federal, state or municipal grants, which CTC is often ineligible for. We would like to potentially discuss partnering with the Town on grants where it makes sense and our consultant is kind of exploring opportunities that might exist there.

I'll let you know how it goes!

Thanks,

Matt

On Thu, Jul 7, 2022 at 9:26 AM <townadmin@townofchebeagueisland.org> wrote:

Matt,

Does CTC have a consultant you use to help with grant writing?

Vika



Viktoria G. Wood | Town Administrator

Town of Chebeague Island

192 North Road

Chebeague Island | Maine | 04017

P: 207-846-3148

E: townadmin@townofchebeagueisland.org

www.townofchebeagueisland.org

From: Ann Kirkpatrick <kirkpatrick@chebeagueschool.net>
Sent: Thursday, July 7, 2022 9:32 AM
To: Vika Wood
Subject: Re: grant writing

Hi Vika-

For our grants; REAP and LEA, Heather Neal is our business manager in the State Of Maine DOE database. She also writes the grants.

Ann

On Thu, Jul 7, 2022 at 9:27 AM <townadmin@townofchebeagueisland.org> wrote:

Ann,

Does the school have a consultant they use for grant writing?

Vika



Viktorija G. Wood | Town Administrator

Town of Chebeague Island

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Planning Board annual report to Select Board

March 15, 2023

Currently the Planning Board has five members; Paul Belesca, Aaron Julien, Kyle Koerber, Travis Nadeau, and John Wilson. Recently, the Board lost Esther Danielson to retirement, and her input and wisdom will be missed. With diverse backgrounds and skill sets, the remaining members make up a good team, willing to work towards creative and thoughtful decisions and solutions. With only five members, the PB is below membership level of seven specified by ordinance. A required quorum of four is potentially problematic, although it has not been a problem yet.

The Board meets monthly at the Hall (generally the 2nd Monday of each month) to conduct its ongoing business that includes reviewing the CEO's reports to stay in step with construction and development on the island. The Board has not been called on to conduct project hearings, site walks, or site plan reviews during the past year. One private pier project application was presented to, and reviewed by, the Board, but then the application was withdrawn requiring no further action for the time being. One issue that arose from that project review was that it would be better if applicants were required to have received the required state and federal permits before local deliberations began to prevent unnecessary effort and wheel-spinning.

Both the Growth Management and Planning Board Ordinances were edited, and will be submitted to the Select Board for inclusion on the Town Meeting warrant for public approval. Edits were unanimously approved by the Planning Board.

Growth Management edits were minor, primarily typographical corrections, elimination of irrelevant dates stemming from secession, and some minor clarification. The biggest change was to remove the \$100 fee from the ordinance and to place that fee on the Select Board's Schedule of Fees, therefore its level to be determined by the Select Board.

The Planning Board Ordinance also received some attention for clarity and consistency, and a few such minor edits were made. A line was added permitting the Board the option to meet via "publicly accessible electronic media". This would make legal the remote meetings necessitated by the recent pandemic. More important were the changes made to the ordinance's section on membership, encouraged by the ongoing challenges of recruiting community members to serve on town boards. The required "full staffing" level is dropped to five from seven, quorum to 3 from 5. Membership qualifications were changed to permit the Select Board to consider "Maine residents", not only island residents, in line with Maine statute. Regardless, it would be required that no non-resident be appointed unless four members were island residents. Also added was the option for the Select Board to appoint "two additional non-voting associate members" who could serve as alternates to satisfy quorum requirements in the case of member absence or recusal. Full authority over Board appointments remains with the Select Board.

Ongoing larger-scale projects are to update the Comprehensive Plan, and to re-write (or at least significantly edit) the Zoning Ordinance. The Comprehensive Plans were originally envisioned by the state to be updated every ten years. Abolition of the state planning office' during the LePage administration rendered this requirement inoperative, but updating remains a good idea. The Board discussed updating and decided to create a simple, user-friendly, and relatively brief summary document that:

- Reviews and validates the basic premises and priorities of the 2011 Comprehensive Plan.
- Establishes a timeline and methodology to fully update the CP.
- Restates the important goals & priorities of the original in a simpler format.
- Reviews accomplishments and highlights remaining issues that need to be worked on, with suggested strategies to achieve completion.

This document is underway and should be completed this spring. The Board did not perceive a need for Town Meeting approval, as the update's summary nature won't change any of the basic premises or themes of the original 2011 plan.

The larger and more complex task facing the Board is rewriting the Zoning Ordinance. The important issues identified and discussed to date include:

- Zoning districts; revision, or even combination into a unified "island district".
- Permitted uses; greater flexibility/authority for proposed use review by Appeals & Planning Boards.
- Incorporation of LD 2003 state mandated zoning requirements.
- Review/revise subdivision requirements; potential for incorporation of open space subdivision elements, perhaps even replacing the major subdivision with a set of clustered development, open space requirements.

This effort will take up the coming year and will involve seeking public/official input during the process, requiring eventual approval at a future Town Meeting.

While unknown, there will likely be legal and/or consulting expenses associated with the above efforts. It would be advisable to retain the budget item as currently proposed for Planning Board expenses in case such funds are needed.

Road Update

Indian Island Company
3.14.2023

Background

We have come a long way in the past 2 years . . .

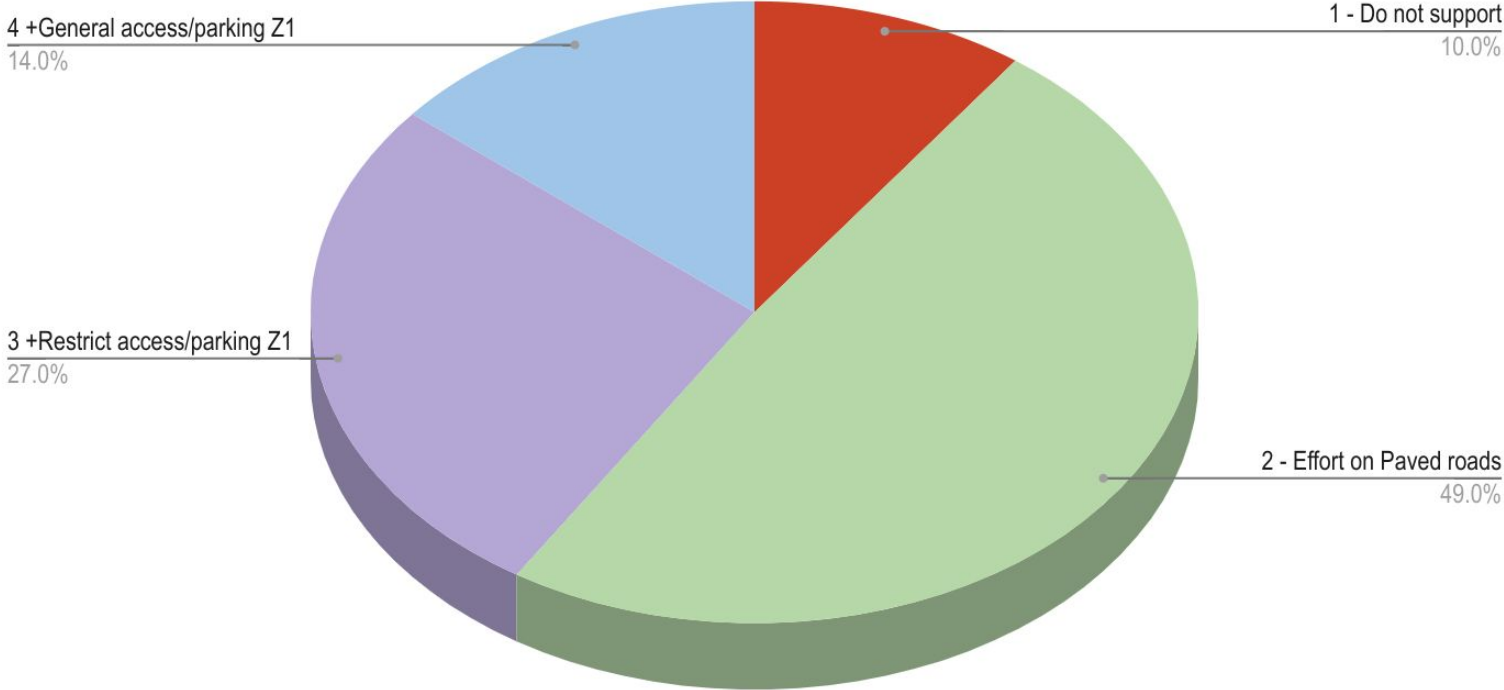
- In May of 2021, when we first met on site with the Town and Maine DEP, both we and the Town were sure that we could and should repair the seawall to keep the road operational.
- When we met with the community in the Town workshop in July 2022, we saw three possible paths forward: 1) to repair and maintain the road; 2) move to a walking model for community access (like Deer Point); or possibly 3), some future new agreement with mutually beneficial outcomes.
- But a lot has changed since then. Climate change has had a greater and a more immediate impact than we had any idea.
- Two storms, at the beginning and the end of 2022, have brought home to us the reality of rising sea levels and climate change.
- We have arrived at a new model for our own use of Indian Point -- *A walking model*
- Hence the time now to take stock of where we are and next steps.

We asked IIC owners:

Should we pursue possible agreement covering --

*Some form of **community vehicle access and/or parking in Zone 1?***

Viewpoints in four groups, based on responses and comments



Feedback from IIC owners

Themes

*from
individual
shareholders'
feedback*

- Adaptation
- Walking Model
- Access
- Conservation values
- Safety -- walking; traffic; parking
- Mission and stewardship
- Importance of collaboration
- Community -- owners and Chebeague
- IIC independence vs collaboration

Where do we go from here?

- Is there interest in constructing and maintaining a walking trail in partnership with the IIC?
- There's interest among IIC Shareholders to ensure that parking along the North Road is safe. Do we have a role in helping determine that?

POLE ATTACHMENT AGREEMENT

DATED

BETWEEN

**CENTRAL MAINE POWER COMPANY
(LICENSOR)**

AND

**TOWN OF CHEBEAGUE ISLAND
(LICENSEE)**

Internal Use

TABLE OF CONTENTS

I.	DEFINITIONS	1
II.	SCOPE OF AGREEMENT	3
III.	FEES AND CHARGES	4
IV.	APPLICATION FOR AND ISSUANCE OF LICENSES	5
V.	PRE-CONSTRUCTION SURVEY and MAKE-READY WORK	6
VI.	SPECIFICATIONS AND LEGAL REQUIREMENTS	7
VII.	CONSTRUCTION AND MAINTENANCE OF ATTACHMENTS	9
VIII.	INSPECTION OF LICENSEE'S FACILITIES	13
IX.	UNAUTHORIZED ATTACHMENTS	14
X.	TERMINATION	15
XI.	ASSIGNMENT OF RIGHTS	17
XII.	SURETY REQUIREMENTS	18
XIII.	LIABILITY AND DAMAGES	18
XIV.	INSURANCE	20
XV.	GENERAL PROVISIONS	21
XVI.	TERM OF AGREEMENT	23

APPENDICES

Appendix I – Schedule of Fees and Charges

Appendix II – Notice Addresses

Appendix III – Form A – Field Survey Form (2934); Form B – Notification of Discontinuance Field Survey Form of Use of Poles; Form C – Bond; Form D – Notification of Completion or Removal of Attachment

Appendix IV – Procedure for Rebuilding of Existing Licensee's Aerial Attachments

Appendix V – Procedure for Placing an Additional Licensee's Cable on Same Licensee's Previously Licensed Aerial Pole Attachments

Appendix VI – Procedure for Obtaining an Attachment License for the Installation of Power Supplies

POLE ATTACHMENT AGREEMENT

THIS AGREEMENT, made as of this ____ day of _____, 2023, between CENTRAL MAINE POWER COMPANY (an electric company), organized and existing under the laws of the State of MAINE, having its principal office at 83 Edison Drive, Augusta, ME 04336 (either or both hereinafter called "Licensor") and Town of Chebeague Island, having its principal office at 192 North Rd, Chebeague Island, ME 04017 (hereinafter called "Licensee").

WITNESSETH

WHEREAS, Licensee for its own use desires to place and maintain, cables, equipment, and facilities on poles of Licensor, specifically in the State of Maine; and within the geographic area served by Central Maine Power Company.

WHEREAS, Licensor is willing to permit, to the extent it may lawfully do so, the placement of antennas, cables, equipment, and facilities by Licensee on Licensor's poles provided such attachments will not and do not adversely affect the public service responsibilities or other public utility operations of Licensor and provided that Licensor is reimbursed for its costs and protected from all liability that may arise directly from Licensee's actions related to this Agreement and subject to the terms of this Agreement and in accordance with all applicable law.

WHEREAS, Licensor and Licensee intend to abide by the Maine Public Utilities Commission's Chapter 880 rules; where terms of this agreement conflict with Chapter 880, Licensor and Licensee agree to follow Chapter 880 rules.

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

ARTICLE I - DEFINITIONS

- 1.1 Anchor. A facility consisting of an assembly of a rod secured to a fixed object or plate designed to resist the pull of guy strand, or strands.
- 1.2 Anchor Attachment. A guy strand attached to an anchor solely owned or jointly owned by Licensor or for which Licensor is responsible for authorizing attachments.
- 1.3 Attachment. ~~Any of Licensee's facilities~~ Facilities in direct contact with or supported by a Utility Pole, and/or any article of equipment attached to a point on a pole not normally occupied by a strand attachment (e.g., power supplies, equipment, cabinets, terminals, etc.). For billing purposes an Attachment is counted for each guy strand and cable supported by a through-bolt and for each article of equipment attached to a Utility Pole.
- 1.4 Attachment Fee. A specified amount revised periodically, billed semi-annually or annually to the Licensee, and calculated consistent with Chapter 880 of the rules of the Maine Public Utilities Commission. The Attachment Fee which may be satisfied by payment from a sub-Licensee.

Commented [MM1]: This definition seems to include the fiber itself (if there is only fiber on a pole and no other equipment). Do we expect to pay an Attachment Fee for each and every CMP, if it is just the fiber and no other equipment?

Commented [MAB2R1]: Yes, the Pole Attachment Agreement requires the payment of fees in order to attach fiber optic cables to CMP's poles.

Commented [CN3R1]: Agree, CMP bills for fiber attachments to each pole.

- 1.5 Attachment Fees and Charges. The Attachment Fee and the other charges payable by Licensee pursuant to Article III.
- 1.6 Guy Strand. A metal cable of high tensile strength which is attached to a pole and anchor or another pole for the purpose of reducing pole stress.
- 1.7 Joint Owner. A person, corporation or other legal entity having an ownership interest in a ~~Utility pole~~ Pole and/or anchor.
- 1.8 Joint User. A party to whom use of the ~~Utility P~~ pole or ~~anchor~~ Anchor has been extended by the owner of the facility. The term “Joint User” shall not include Licensees.
- 1.9 Licensee’s Facilities. The cable and all associated equipment (including but not limited to, antennae, support mast and mounts, fiber optic cable and cable equipment, amplifiers, conduits, coaxial cable, receivers, battery units, equipment cabinets, through bolts, washers, nuts, power supply cabinets, power meters, grounding or bond wires, and all other Licensor approved equipment) that is owned, controlled, and/or used by Licensee. Licensee shall provide a detailed description in its application of such equipment and the number of proposed Attachments to Licensor’s poles.
- 1.10 Licensee’s Maintenance Work. Work performed by Licensee on its facilities and ~~attachments~~ Attachments for repair, replacement and daily servicing of its plant, not associated with any significant ~~overlash~~ Overlash or ~~rebuild~~ Rebuild project.
- 1.11 Make-ready Work. All work, including, but not limited to rearrangement and/or transfer of existing facilities, replacement of a pole or any other changes required to accommodate the attachment of ~~licensee’s~~ Licensee’s facilities ~~Facilities~~ to a ~~Utility pole~~ Pole or ~~anchor~~ installation of an Anchor.
- 1.12 Overlash. The act of attaching any single strand, hardware, cable, wires and/or apparatus owned by Licensee to same Licensee’s existing strand, hardware, cable, wires and/or apparatus.
- 1.13 Periodic Inspection. Licensor’s inspection of Licensee’s ~~facilities~~ Facilities performed to determine that ~~attachments~~ Attachments are authorized and are maintained in conformance with the required specifications in Article VI of this Agreement.
- 1.14 Pre-construction Survey. There are two elements of the Pre-construction Survey: 1.) field inspection of the existing pole and anchor facilities to determine any necessary Make-ready Work, and 2.) administrative effort required to process the application ~~and to prepare the charges for Make ready Work, if applicable.~~
- 1.15 Post-construction Inspection. Inspection performed to measure and/or to visually observe Licensee’s Facilities, during or shortly after completion of construction to ensure the attachment and the installation of the Licensee’s Facilities conform to the standards required by this Agreement.

Commented [MAB4]: Not sure why this is deleted.

Commented [CN5R4]: This was left in the final version

- 1.16 Rebuild. Work other than Licensee’s Maintenance Work performed by Licensee to replace, add to or alter its existing attachments or facilities attached to Licensor’s Utility poles~~Poles~~.
- 1.17 Subsequent Inspections. Inspections performed to confirm the correction of non-conforming conditions, which were observed during Periodic or Post-construction Inspections.
- 1.18 Suspension Strand (Messenger). A metal cable of high tensile strength attached to a pole and used to support facilities.
- 1.19 Unit Cost. A dollar amount subject to periodic revision by Licensor, associated with ~~Pre-construction Surveys, Make-ready Work and Inspections applicable to~~ specific work operations and functions.
- 1.20 Utility Pole. A pole solely owned, jointly owned, or jointly used by the Licensor and used to support its facilities and/or the ~~facilities~~Facilities of an authorized Licensee.

Commented [MM6]: These costs are exempt pursuant to 65-407-880 ME. Code R. §5

Commented [MAB7R6]: The referenced rule exempts municipalities from make-ready work but not pre-construction surveys or inspections. Also, since this is just a defined term, I think the language can remain.

Commented [CN8R6]: CMP agrees, surveys and other administrative fees are still able to be billed to Chebeague

ARTICLE II – SCOPE OF AGREEMENT

- 2.1 Subject to the provisions of this Agreement, Licensor agrees to issue to Licensee for any lawful purpose, revocable (only pursuant to law), non-exclusive licenses authorizing the attachment of Licensee’s Facilities to Licensor’s Utility poles~~Poles~~. This Agreement governs the fees, charges, terms and conditions under which Licensor issues such licenses to Licensee. Licensee must obtain separate authorization from, and pay all applicable fees and charges to, ~~each~~ Licensor and any Joint Owner of any Utility Pole. Licensee must further obtain separate authorization from each Joint User of any Utility Pole. This Agreement is not in and of itself a license, and before making any attachment to any Utility Pole, Licensee must apply for and obtain a license.
- 2.2 This Agreement supersedes all previous aerial agreements between Licensor and Licensee with respect to the subject matter contained herein. This Agreement shall govern all existing licenses between Licensee and Licensor, if any, as well as all licenses issued subsequent to execution of this Agreement.
- 2.3 No use, however extended, of Licensor’s Utility poles~~Poles~~ or payment of any fees or charges required under this Agreement shall create or vest in Licensee any ownership or property rights in such ~~poles~~Utility Poles. Licensee’s rights herein shall be and remain a license. None of the obligations and undertakings herein creates a partnership or joint venture between the Licensor and Licensee.
- 2.4 Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against Licensor entering into agreements with other parties regarding the poles covered by this Agreement. provided however Licensor may not entire into any other agreement which interferes with Licensee’s quiet enjoyment of its rights hereunder. The rights of the Licensee shall at all times be subject to any existing agreement(s) (as of the date set forth above) or arrangement(s) between Licensor and any Joint Owner(s) or Joint User(s) of Licensor’s Utility poles~~Poles~~.

Commented [MM9]: CMP: Can you confirm there are no other existing licenses held by the Town under a different agreement?

Commented [MAB10]: I believe this is covered in § 7.4.

Commented [CN11R10]: CMP removed this language from the final version

2.5 Nothing contained in this Agreement shall be construed to require Licensor to grant a license where Licensor believes that placement of Licensee's Facilities would materially interfere with Licensor's existing service requirements, or the use of Licensor's facilities by other parties, or create a hazardous or unsafe condition.

ARTICLE III – FEES AND CHARGES

3.1 General

3.1.1 Licensee agrees to pay to Licensor the applicable Attachment Fees and Charges as specified in and in accordance with the terms and conditions of subpart 3.2 of this Agreement and of APPENDIX I, attached hereto and made a part hereof.

All attachment fees shall be calculated consistent with Chapter 880 of the rules of the Maine Public Utilities Commission. Licensor may change the amount of Attachment Fees and Charges specified in APPENDIX I by sixty (60) day advance written notice to Licensee. The changes shall become effective on the date specified by Licensor after the 60-day notice period. The changes shall be presumed acceptable unless at least thirty (30) days prior to the end of the sixty (60) day notice period Licensee advises Licensor in writing that the changes are unacceptable. If Licensee gives Licensor written notice that the changes are unacceptable, Licensee may terminate this Agreement by written notice to Licensor within six (6) months of the date of Licensor's notice of the change. If Licensee terminates this Agreement under this Article, Licensee shall remove its facilities and attachments in accordance with the process set forth in Article X, subpart 10.3 of this Agreement. Licensee shall pay the new Attachment Fees and Charges until terminated pursuant to this Article. Licensee may also pursue any rights it has under state law.

Changes in the amount of Attachment Fees and Charges specified in APPENDIX I shall become effective on the date specified by Licensor, subject to the sixty (60) day advance written notice.

3.2 Attachment Fees

3.2.1 Licensee shall pay an Attachment Fee for each Attachment made to Licensor's Utility Poles. For the purpose of computing the Attachment Fees due hereunder, the Fee shall be based upon the number of attachments for which licenses have been issued.

3.2.2 Attachment Fees shall be assessed in accordance with Appendix I Schedule of Fees and Charges.

3.3 Payment Requirements

3.3.1 For any bill rendered by Licensor to Licensee hereunder, except where advance payment is required, payment is due within sixty (60) days from the date of the bill. ~~Late payment of any bill is subject to a late fee of 1.5% per month applied to the outstanding balance from the due date of the bill. Licensor, at its sole discretion, may change this late fee from time to time during the term of this Agreement to reflect prevailing market conditions.~~

3.3.2 Except as provided in Section 3.4.1 of this Agreement, repeated, non-payment of any a material amount due hereunder shall constitute a default of this Agreement, and subject this Agreement to termination under the provisions of Article X.

3.3.3 For any bill rendered by Licensor to Licensee for advance payment of Make-ready Work charges (if applicable), hereunder, payment shall be made within sixty (60) days of the bill date. If such advance payment is not received within sixty (60) days, Licensor shall have the right to issue a letter of cancellation no sooner than fifteen (15) days thereafter, which will cancel the Licensee's application for the license. Thereafter, if Licensee wishes to proceed, Licensee shall submit a new application for a license, as if it had never submitted the initial application.

3.4 Billing Disputes

3.4.1 Where Licensee in good faith disputes a bill or invoice rendered by Licensor, Licensee shall make payment of all portions of said bill or invoice not in dispute as provided in Article III. Where the cumulative amount of all of Licensee's bills or portions(s) of bills in dispute is in excess of \$10,000.00, Licensee shall deposit said cumulative disputed amounts in an interest-bearing escrow account until such time as the disputes are resolved. The disputed amount deposited together with the proportional interest, shall be distributed immediately to Licensor and/or Licensee in accordance with and upon resolution of the dispute. Where the cumulative amount of all of Licensee's bills or portions of bills in dispute is less than or equal to \$10,000.00, Licensee shall make-retain payment and payment will be made to Licensor and shall be rebated in an appropriate amount (including interest computed at the prime rate at a bank mutually agreed to by the parties) based on the resolution of the dispute.

3.4.2 Where Licensee fails to pay an amount due and owing under this Agreement (including amounts in dispute that are less than or equal to \$10,000.00) or fails to establish an escrow account for disputed amounts more than \$10,000.00, or fails to invoke the dispute-resolution procedures set forth in subpart 15.10 of this Agreement within six (6) months of the establishment of amounts disputed in good faith, in addition to all other remedies available to Licensor including termination under provisions of Article X of this Agreement, Licensor may refuse to perform any survey, or inspection or Make-ready Work for Licensee and may refuse to issue any license to Licensee until such time as the amount is paid or is deposited in an escrow account.

ARTICLE IV - APPLICATION FOR AND ISSUANCE OF LICENSES

4.1 Before Licensee makes an Attachment to any pole, Licensee shall make application for and have received a license by way of electronic notification through the Licensor's system.

Commented [MM12]: This is inconsistent with 65-407-880 ME. Code R. §5

Commented [MAB13R12]: Agreed, if the criteria for the exemption are met. Also provided by statute, 35-A M.R.S. § 2524.

Commented [CN14R12]: Modified by preamble clause that was added by CMP

- 4.2 Licensee agrees to limit the filing of applications for pole attachment licenses to include not more than 300 poles on any one application. Licensor reserves the right to limit the filing for pole attachments to no more than 2,000 poles on all applications that are pending approval by Licensor at any one time within a single geographical area. Licensee further agrees to designate a desired priority of completion of the Pre-construction Survey and Make-ready Work for each application relative to all other of its applications on file with Licensor at the same time.
- 4.3 Properly completed license applications received by Licensor on the same day from two or more licensees for attachment accommodations on the same pole(s), shall be processed together. All Pre-construction Survey or Make-ready Work required to accommodate the applicants will be completed simultaneously for the benefit of all applicants. All applicants will be rebated with the pro rata share of costs based on the number of applicants.

ARTICLE V – PRE-CONSTRUCTION SURVEY and MAKE-READY WORK

- 5.1 A Pre-construction Survey is required for each Utility Pole and Anchor for which an Attachment is requested to determine the adequacy of the Utility Pole and Anchor to accommodate Licensee’s Attachments and facilities. The Pre-construction Survey will be performed jointly by representatives of Licensor, Joint Owner and/or Joint User, and Licensee unless otherwise agreed to by all parties. Each party will bear their own costs associated with a Pre-construction Survey.
- 5.2 Licensor will process all requests for access to Utility Poles on a non- discriminatory basis in the order such requests are received.
- 5.3 Within forty-five (45) days of receipt of written notification in the form of a complete license application Licensor shall perform or have performed a Pre-construction Survey and present the Pre-construction Survey results. The Pre-construction Survey results will contain one of the following statements:
 - (a) If no Make-ready Work is required, a license shall be issued for the Attachment.
 - (b) If Licensor determines that the Utility Pole or Anchor to which Licensee desires to make Attachments is inadequate or otherwise needs rearrangement of the existing facilities thereon to accommodate the Licensee’s Facilities, in accordance with the specifications set forth in Article VI, Licensor will provide Licensee with an invoice for such anticipated Make-ready Work, unless the Licensee is exempt from such charges under Chapter 880 of the rules of the Maine Public Utilities Commission and/or 35-A M.R.S. § 2524. The Make-ready Work will be performed following receipt by Licensor of advance payment if applicable (provided that this Agreement has been fully executed by both the Licensee and Licensor). Upon receipt of the advance payment (if applicable), Licensor will provide the Licensee with the estimated start and estimated construction completion date of the Make-ready Work.
 - (c) If Licensor determines that the Utility Pole may not reasonably be rearranged or replaced to accommodate Licensee’s Facilities for reasons of capacity, safety,

Commented [MM15]: This is inconsistent with 65-407-880 ME. Code R. §5

Commented [MAB16R15]: Only if the criteria for the exemption are met.

reliability or engineering, the Licensor may refuse to grant a license for the Attachment. Licensor shall provide the specific reason(s) for such denial. Licensor shall not unreasonably exercise the right reserved under this subpart 5.3(c).

- (d) For Licensee's Attachments to be installed in the electric space on Utility Poles pursuant to Article 6.1 Licensee shall coordinate directly with Licensor's representative to design solutions for attachments in the electric space and collectively determine if (i) the existing Utility Pole is capable of supporting attachments in the electric space, (ii) if the existing Utility Pole requires replacement.

5.4 _____

Licensor shall complete Make-Ready ~~work~~ Work for attachments consistent with section 2 of the Maine Public Utilities Commission Chapter 880 Rules. For the avoidance of doubt, Licensor will bear the cost of all Make-Ready ~~costs~~ Work and may not include, mark-up or pass forward to Licensee, any costs relating to the Make-Ready ~~work~~ Work, pursuant to ~~65-407-880 ME. Code R~~ Chapter 880 or 35-A M.R.S. § 2524, if Licensee meets the criteria for exemption.

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- 5.5 To the extent practicable, Licensor shall provide Licensee, no less than sixty (60) days prior written notice of any modification of Utility Poles (such as pole replacement or relocation) other than routine maintenance, or modifications in response to emergencies, or to a request from a governmental authority.

ARTICLE VI - SPECIFICATIONS AND LEGAL REQUIREMENTS

- 6.1 Licensee's Facilities shall be placed and maintained in accordance with the requirements and specifications of the latest editions of the "Blue Book - Manual of Construction Procedures" (Blue Book), published by Telcordia Technologies Inc.; the "National Electrical Code" (NEC), published by the National Fire Protection Association, Inc.; the "National Electrical Safety Code" (NESC), published by the Institute of Electrical and Electronics Engineers, Inc.; Central Maine Power Distribution Construction Standards; and rules and regulations of the U.S. Department of Labor issued pursuant to the "Federal Occupational Safety and Health Act of 1970", as amended, (OSHA) or any governing authority having jurisdiction over the subject matter. Where a difference in specifications may exist, the more stringent shall apply.
- 6.2 Licensee shall be responsible for obtaining from the appropriate public and/or private authority any required authorization to construct, operate and/or maintain Licensee's Facilities on public and private property at the location of Licensor's Utility Poles. Licensee shall be responsible for obtaining permission from any Joint Owner(s) or Joint User(s) of the Utility Pole before making any Attachment thereto. This permission shall be in the form of a license or other writing.
- 6.3 No license granted under this Agreement shall extend to any of the Licensor's Utility Poles where the placement of Licensee's Attachments would result in a forfeiture of the rights of Licensor, Joint Owner(s), or Joint User(s) to occupy the property on which such Utility Poles are located. In such event and upon notice to Licensee, Licensee shall be

solely responsible for obtaining from the appropriate private landowner(s) any required authorization(s) or real property interests needed to construct, operate, and/or maintain Licensee's Equipment at the location of attachment to Licensor's Pole(s). ~~By this Agreement, Licensor does not represent or warrant the use or sufficiency of any of Licensor's real property rights to Licensee, including but not limited to easements and rights of way.~~ Upon request Licensee shall provide Licensor with a copy of any easement, permit, right of way, or other authorization by which Licensee asserts access to the landowner's property. The Licensor has the discretionary right of review the Licensee's property right authorizations but has no obligation to confirm or verify that Licensee has obtained all necessary approvals. Licensor shall indemnify, defend, and hold Licensee harmless from and against any actual or threatened losses Licensee has or may incur as a result of Licensor's violation of, or failure to secure any of the consents, and required pursuant to this Article.

Commented [MM17]: CMP must have these rights.

- 6.4 Licensee shall indemnify, defend, and hold Licensor harmless from and against any actual or threatened losses Licensor has or may incur as a result of Licensee's violation of, or failure to secure any of the franchises, permits, licenses, consents, and/or certifications required pursuant to this Article.
- 6.5 Licensor desires to mitigate the safety and reliability risks associated with the placement of antennas above electrical distribution lines. Accordingly, Licensee's Attachments will only be placed or affixed above Licensor's electrical distribution facilities if there are no viable alternatives to pole top attachments and only if the attachment in the electrical space will not result in unacceptable electric reliability risks nor likely create unsafe conditions for workers and/or the public during installation or operations.
- 6.6 Licensee acknowledges and agrees that at all times its use of Utility Poles shall not adversely impact Licensor's service and operating requirements. Nothing contained herein shall be construed to preclude Licensor from taking any action that it considers reasonably necessary or appropriate to maintain the reliability or quality of such service and to ensure the safety of its employees and customers, or the public. In the event of any emergency or condition during installation or operation that threatens persons or property, Licensor may, in its sole discretion, order Licensee to stop work as appropriate. Licensor will give such order and notice in such manner as is practicable under the circumstances. Licensor's permission to Licensee to use the Utility Poles under this Agreement shall in no way limit Licensor's use of Utility Poles for its own business operations, or the rights or privileges previously granted by Licensor to any third parties, not party to this Agreement, to use any Utility Poles, whether or not such Utility Poles are at any time occupied by Licensee's Communications Facilities. Licensee further acknowledges and agrees that the uninterrupted operation of Licensor's facilities and the provision of electric service to its customers are of paramount importance hereunder and, therefore, Licensee shall be solely responsible, subject to applicable law, to mitigate and remediate any physical, electronic, or inductive interference that may be caused by Licensee's Facilities, now or in the future with Licensor's current or future facilities, at Licensee's sole expense, through adjustment(s) to Licensee's own Facilities or by termination of the applicable license. Except as expressly provided under this Agreement, under no circumstances shall Licensor be required to interrupt, suspend or alter its uses of

the Utility Pole(s) or its facilities in order to accommodate Licensee's Facilities, unless such interruption, suspension or alteration will not materially affect Licensor's operations.

- 6.7 In all cases where communications equipment located by Licensee in the electric space on Licensor's Utility Poles, Licensee shall use qualified contractors, for all installation, maintenance, repair and removal actions necessary or desirable through the term of the Agreement.

ARTICLE VII - CONSTRUCTION AND MAINTENANCE OF ATTACHMENTS

7.1 General Provisions

7.1.1 Licensee shall, at its own expense, construct and maintain its Attachments and facilities on Licensor's Utility Poles in a safe condition and in a manner acceptable to Licensor. Licensee shall construct and maintain its Attachments and facilities so as not to conflict with the use of Licensor's Utility Poles by Licensor or by other authorized users of Licensor's Utility Poles, nor electrically interfere with Licensor's facilities attached thereto.

7.1.2 Licensor shall specify the point of attachment on each of Licensor's Utility Poles to be occupied by Licensee's Attachment. Where multiple Licensees' Attachments are involved, Licensor shall attempt, to the extent practical, to designate the same relative position on each Utility Pole for each Licensee's Attachments.

7.1.3 Licensee shall provide written notice to the Licensor of the actual dates of attachment within thirty (30) days of the date of attachment so that Licensor may promptly schedule a Post-construction Inspection.

7.1.4 Any guying determined by Licensor to be necessary for Licensee's proposed attachments shall be installed by Licensor, at the expense of the Licensee, unless Licensor agrees to allow Licensee to install its own guys and ~~anchors~~ Anchors under condition satisfactory to Licensor.

7.1.5 Should Licensor, Joint Owner(s), Joint User(s), or other ~~Licensee~~ need to attach additional facilities to any of Licensor's Utility Poles, to which Licensee is attached, Licensee shall upon written notice from the Licensor either rearrange its Attachments on the Utility Pole or transfer them to a replacement Utility Pole, as reasonably determined by Licensor, so that the additional facilities of Licensor, Joint Owner(s) Joint User(s) or other ~~Licensee-licensee~~ may be attached. If the relocation is required to accommodate the needs of another ~~Licensee-licensee~~ (but not the Licensor, Joint Owner or Joint User), such rearrangement may only take place if the rearrangement does not materially reduce, impair or otherwise diminish Licensee's operations ~~from the property~~ and subject to receipt of all necessary government permits and approvals for such rearrangement or transfer. Licensee shall not be required to bear any of the costs of rearranging its facilities if such rearrangement is required as a result of an additional occupancy by any

Commented [MM18]: Pursuant to the definition of Licensee above, only the Town of Chebeague Island is defined as Licensee.

Commented [MAB19R18]: Agreed.

Commented [CN20R18]: CMP made these updates to licensee vs Licensee

other ~~Licensee~~licensee(s). Any rearrangement costs shall be borne by the entity or entities requesting rearrangement, except as required by Section ~~75(A)(1)~~ of Chapter 880 of the Maine Public Utility Commission's Rules ~~and 35-A M.R.S. § 2524~~. ~~Licensee-Licensor~~ shall be solely responsible for collecting any rearrangement costs incurred pursuant to this paragraph ~~and remitting payment timely to Licensee~~. ~~However, Licensor shall, upon receipt of written request, provide Licensee with any information in Licensor's possession which may facilitate Licensee's collection of such costs~~. Where multiple parties join in a modification, each party's proportionate share of the total cost will be based on a ratio of the amount of new space occupied by that party to the total amount of new space occupied by all parties joining in the modification. Licensor shall not be required to use revenue that may result from the use of any additional space resulting from such replacement or rearrangement to compensate parties that paid for the modification. In the event rearrangement or transfer is required by Licensor, Joint Owner, or Joint User, the Licensee shall bear all costs of transfer or rearrangement to accommodate additional facilities of Licensor, provided that such facilities are used ~~primarily solely~~ in connection with Licensor's electric business.

Commented [MM21]: Licensee would not have contractual privity with any new licensee, but Licensor would. Licensor should collect and remit.

Commented [MAB22R21]: Why is CMP paying the Town in this situation?

Commented [CN23R21]: CMP could not agree to these changes and removed them from the final version.

7.1.6 If Licensee does not rearrange or transfer its Attachments within fifteen (15) days after receipt of written notice from Licensor or from another licensee with information provided by Licensor, Joint Owner or Joint User requesting such rearrangement or transfer and indicating that such Utility Pole is ready for rearrangement or transfer by Licensee, Licensor, Joint Owner(s) or Joint User(s) may perform or have performed such rearrangement or transfer, and, notwithstanding the provisions of subpart 7.1.5, ~~Licensee-Licensor~~ agrees to ~~seek payment for the cost thereof from the licensee requesting such rearrangement. The foregoing shall not preclude Licensee from thereafter seeking reimbursement of such rearrangements costs as if it had performed the work in accordance with this paragraph.~~

Commented [MAB24]: I don't believe these changes are necessary.

Commented [CN25R24]: CMP agrees, and the original language is in the final version

7.1.7 Unless otherwise governed by law, all tree trimming made necessary, in the opinion of the Licensor, by reason of the Licensee's proposed Attachments at the time of attachment (provided the owner(s) of such trees grant permission to the Licensor) shall be performed by Licensor or contractors approved by and under the direction of Licensor, at the sole expense of the Licensee.

7.1.8 Any such tree trimming that may be required on Licensee's customer's premises shall be performed by the Licensee at its expense.

7.1.9 Any tree trimming required by Licensee after attaching its Facilities to Licensor's Utility Pole shall be performed at Licensee's expense.

7.1.10 For each new facility attached by Licensee to Licensor's Utility Poles, on or after the date of execution of this Agreement, Licensee shall place identification tags on cables located on Utility Poles and identification apparatus tags on any associated items of Licensee's Facilities. Licensee shall also place these

identification tags when engaged in an Overlash or Rebuild project. Overlashed bundles require one tag per bundle, per Licensee. The requirements for identification tags are set forth in the Blue Book. Licensee agrees to reimburse Licensor for any costs incurred by Licensor as a result of Licensee's failure to properly mark its cables. Additionally, Licensee agrees to defend, indemnify and hold harmless Licensor and reimburse Licensor any costs including any reasonable attorney's fees Licensor incurs as a result of having to defend itself against any action caused by Licensee's failure to properly mark its cables.

7.1.11 When Licensor deems it an immediate threat to safety and/or an emergency exists, it may rearrange, transfer, or remove Licensee's Attachments to Licensor's Utility Poles at Licensee's expense. Licensor shall make reasonable efforts to contact Licensee as circumstances permit, but in no event longer than twenty-four hours after Licensor takes any such action.

7.1.12 Licensee shall complete all pole attachment work within one hundred and eighty days (180) of the first day an Attachment is made to a Utility Pole, following issuance of license by Licensor. If for reasons beyond control of the Licensee its work cannot be completed within 180 days, the Licensee must notify Licensor's in writing and include an estimated time of completion. Under no circumstances will the Licensor's approve an extension beyond two hundred and seventy (270) days from the issuance of the license. If Licensee cannot complete its work within the additional time frame, then any outstanding work will be canceled and the Licensee must apply for a new license from the Licensor(s). If Licensee's application is cancelled due to the expiration of the time allowed for completion of Licensee's work, then the subsequent application from the Licensee will be considered to be a new application, and will be handled in the same manner as any other new application(s). In the event of cancellation of Licensee's license due to Licensee's inability to complete its work in the allotted time frame, it will be the responsibility of the Licensee to notify the Licensor in writing. Failure of the Licensee to notify the Licensor will result in continued billing for the affected pole attachments by the Licensor to the Licensee. Licensee will be expected to remove its cable(s) and associated equipment from Licensor's poles and related equipment in accordance with the terms and conditions of Article X-Termination, of the pole attachment agreement, between the Licensor and the Licensee.

Commented [MM26]: Reserving rights to confirm with Axiom.

7.2 Licensee's Routine Maintenance, Overlash, Rebuild Work and Placement of Power Supplies

7.2.1 Licensee shall work cooperatively with Licensor and other attachers when performing routine Maintenance Work on its facilities and/or Attachments. Cooperative practices shall include a system of notification by phone, facsimile, answering system, or otherwise for scheduling purposes. Any work, which involves six (6) or fewer adjacent spans, shall be presumed to be routine Maintenance Work. Significant simultaneous maintenance activity within a geographic area may be deemed by Licensor to be Rebuild activity.

7.2.2 Licensee shall follow the procedures set forth in APPENDICES IV,V, and VI, hereof, in performing Rebuild or Overlash work and placing power supplies.

7.3 Licensee will install communications Attachments of the type and frequency that will not cause interference (including, but not limited to, blocking of access to the utility pole, radio frequency (RF) interference, mechanical interference or any interference with underground utilities) with other users of the Utility Pole, provided that such other users' installation predates the installation of such communications Attachment and such other user is operating in accordance with applicable law. In the event such interference occurs, Licensee will exercise its best efforts to (i) remedy such interference within thirty six (36) hours after receipt of written notice from Licensor, or (ii) except for intermittent testing, cease or power down operation of its communications Attachments until such interference can be eliminated. If such interference is not eliminated within said thirty six (36) hour period, Licensor will have the right, in addition to any other rights that it may have at law or in equity, to take all necessary and reasonable steps, at Licensee's sole cost and expense, to eliminate such interference (after giving reasonable prior notice to Licensee of its intent to do so), and should it be unable to so eliminate such interference, Licensor shall have the right to terminate the license solely related to the particular communications Attachments causing such interference by giving at least sixty (60) days' notice to Licensee, in which case any and all future obligations Licensor may have hereunder (except for the indemnities and hold harmless provisions contained elsewhere in this Agreement) will cease with respect to such terminated license. The Licensee's obligations under this paragraph are subject to applicable law and also apply to situations where new equipment (owned by the Licensor and related directly or used primarily in connection with Licensor's status as a state regulated provider of electrical service) is installed after the Licensee has installed its communications Attachments.

Commented [MM27]: Reserving rights to confirm with Axiom.

Notwithstanding the above, Licensor, at its reasonable discretion and, at the Licensee's reasonable cost and expense, may remove or disable any of Licensee's equipment should it pose an immediate threat to safe or reliable electrical service. Before deactivation, Licensor shall endeavor, to the extent practical, to give Licensee prior notice. If any deactivation would last for more than twenty four (24) hours, Licensor and Licensee will cooperate to allow Licensee to locate a "cell on wheels" or other temporary antenna facility or Attachment in the vicinity.

7.4 Licensee agrees to, and to cause any Joint Owner(s) to agree to include the requirements of Section 7.3 in all future agreements for communications Attachments in the electric space with any other licensee. Subsequent to the installation of licensee's communications Attachments, Licensor will not knowingly permit the installation or modification by third parties of any other Attachment on the Utility Pole that causes RF interference with Licensee's then existing communications Attachments. Licensor and Licensee acknowledge that the Licensor, Licensee and other attachers which emit RF on Licensor's poles are under a duty and obligation in connection with the operation of its own facilities, now existing or in the future, to protect against RF interference to the RF signals of Licensor, Licensee, and such other attachers, as applicable, as may emanate or arise. Pursuant to applicable law, each party to this Agreement and all others on poles or

facilities shall endeavor to correct any interference to other networks created by its RF emissions promptly and shall coordinate and cooperate with each other relating to the same.

- 7.5 Licensor shall have no obligation to take any action with respect to radio frequency interference between Licensee's communications Attachments and any communications attachments on another Utility Pole, and any such interference shall be resolved between the respective communications attachment owners.
- 7.6 Should Licensor, Licensee, or other authorized users require access to the Utility Pole and such access is restrained as a result of Licensor's or Licensee's operational equipment, Licensee and Licensor shall work cooperatively to develop and support access requirements to the extent that such actions do not materially and adversely impact Licensor's obligations to provide safe and reliable electric services to its customers. Work shall be performed in accordance with Licensor safety standards, which may require temporarily ceasing Licensee's operations to comply with such standards.
- 7.7 If Licensor or any of its employees or agents need to move closer to the communications Attachment then the minimum distance shown on appropriate signage, the Licensee and Licensor agree to establish a mutually agreeable time for the communications Attachment to be deactivated (wilted) or powered down by disconnect at the antenna site. The deactivation will de-energize all sources of power, including battery backup and RD emission. In an emergency situation not presenting a safety hazard, Licensee will immediately deactivate the antenna upon request. In the event of an emergency situation that poses immediate threat to life or property (such as, but not limited to a downed pole), Licensor shall have the right to make the area safe, including disconnection of all devices at the Licensee's sole cost and expense. Licensor shall not be liable for any damages to Licensee's equipment and Licensee shall indemnify Licensor for any third-party claims related to any such disconnection, unless caused by Licensor's gross negligence or willful misconduct. Before deactivation, Licensor shall endeavor, to the extent practical, to give Licensee prior notice and to restore service promptly. If any deactivation would last for more than twenty-four (24) hours, Licensor and Licensee will cooperate to allow Licensee to locate a "cell on wheels" or other temporary antenna facility in the vicinity.

ARTICLE VIII - INSPECTION OF LICENSEE'S FACILITIES

- 8.1 ~~The~~ Licensor reserves the right to make Post-construction, Subsequent, and Periodic Inspections of any part or all of Licensee's facilities attached to Licensor's Utility Poles and/or Anchors. Where reasonably practical, Licensor will notify Licensee of the pending inspections and Licensee or its representative may attend. Licensor shall provide Licensee with a copy of any written report of such inspection. Charges and billing for inspections as set forth in Article III shall apply, provided that Licensor commences Post-construction and Subsequent Inspections within ninety (90) days after notification from Licensee that the work is complete. At the completion of a Post-construction Inspection, the Licensor shall notify the Licensee in writing of the Post-construction inspection and its findings.

- 8.2 Except as provided in Appendix V and VI, Post-construction Inspections shall consist of a ten (10) percent sample of the poles to which the Licensee has attached facilities after completion of work. If Licensor determines that the Licensee is not in compliance at greater than two (2) percent of the sampled locations, Licensor may inspect and bill Licensee to inspect all poles involved in the project. Within ten (10) days of the completion of a Post- construction Inspection, the Licensor shall notify the Licensee in writing of the date of completion of Post-construction inspection and its findings.
- 8.3 Where Post-construction Inspection by the Licensor has been completed and non-complying conditions have been identified, Licensee shall correct any noncomplying conditions within thirty (30) days of the date of the written notice from the Licensor. If after said 30-day period Licensee has not corrected all such noncomplying conditions, Licensor may notify Licensee that if all such noncomplying conditions are not corrected within an additional 30-day period, no further attachment authorizations shall be issued to Licensee until Licensee's Facilities are brought into compliance. If corrections are not made by Licensee within 30 days from the second notification by Licensor, the Licensor may perform or have performed such corrections and Licensee shall pay to the Licensor the cost of performing such work. Licensor may undertake Subsequent Inspections to determine if appropriate corrective action has been taken by Licensee. If the Subsequent Inspection finds continued non-complying conditions, Licensor may perform or have performed corrective action at the sole expense of the Licensee or Licensor may terminate the license pursuant to Article X.
- 8.4 The making of Post-construction, Subsequent and/or Periodic Inspections or the failure to do so shall not operate to relieve Licensee of any responsibility, obligation, or liability specified in this Agreement.
- 8.5 Licensor reserves the right to make Periodic Inspections of all or any part of the ~~attachments-Attachments~~ or ~~facilities-Facilities~~ of Licensee at the expense of Licensee, upon sixty (60) days prior written notice to the Licensee. Periodic Inspections of all or any part of the entire plant of ~~the~~ Licensee will not be made more often than once every five (5) years unless, in Licensor's judgment, such inspections are required for reasons involving safety or because of an alleged violation by Licensee of the terms of this Agreement. Licensor shall make a reasonable effort to coordinate its Periodic Inspections with any Joint Owner and Licensee.

ARTICLE IX - UNAUTHORIZED ATTACHMENTS

- 9.1 If any of Licensee's Facilities are attached to Licensor's Utility Ppoles without being licensed, Licensor, may recover fees as specified in subpart 9.2, without prejudice to its other rights or remedies under this Agreement, including termination, or otherwise, and require Licensee to submit in writing, within thirty (30) days after receipt of written notification from Licensor of the unauthorized attachment, a pole attachment application. If such application is not received within the specified time period, Licensee shall remove its unauthorized ~~attachments-Attachments~~ within thirty (30) days of the final date for submitting the required application, or Licensor may remove Licensee's Attachments or facilities without liability at the Licensee's expense.

9.2 Licensee shall pay Licensor the fees and charges specified in Appendix I for the number of years the attachment is deemed to have existed as provided herein whether or not Licensee is permitted to continue the ~~Utility pole-Pole attachment~~Attachment. For the purpose of determining the applicable charge, absent evidence to the contrary satisfactory to Licensor, the unauthorized pole attachment shall be deemed as having existed since the date of the last attachment survey or five (5) years, whichever is shorter.

ARTICLE X – TERMINATION

10.1 60-Day Termination

In addition to rights of termination provided to the Licensor under other provisions of this Agreement, the Licensor shall have the right to terminate Licensee's license, authorizations and/or rights granted under provisions of this Agreement where:

- (a) the Licensee's Facilities are maintained or used in violation of any law or in aid of an unlawful act or undertaking;
- (b) the Licensee ceases to have authority to construct and operate its facilities on public or private property at the location of the particular Utility Pole or Anchor covered by the authorization;
- (c) the Licensee fails to comply with any of the terms and conditions of this Agreement or defaults in any of its obligations thereunder;
- (d) the Licensee attaches to a Utility Pole and/or Anchor without having first been issued authorization therefor ~~and does not remove the~~the Attachment when notified by Licensor;
- (e) the Licensee, subject to provisions specified in Article II, ceases to provide its services;
- (f) the Licensee sublets or apports part of the licensed assigned space or otherwise permits its assigned space to be used by an entity or an affiliate not authorized pursuant to subpart 11.2. however, Licensor acknowledges that Licensee maintains its network for and on behalf of Licensee's third party customers and that such third party customers may now or in the future own the Attachments which make up Licensee's facilities, provided that Licensee assumes and accepts full and sole responsibility for the installation, maintenance, repair, removal and relocation of such the Attachments pursuant to the terms and conditions contained herein and agrees to indemnify Licensor against any claims by such third party customers.
- (g) except in circumstances in which Licensor has accepted evidence of self-insurance in accordance with Article XIV, the Licensee's insurance carrier shall at any time notify the Licensor that the policy or policies of insurance as required in Article XIV will be or have been cancelled or amended so that those requirements will no longer be satisfied;

- (h) the Licensee shall fail to pay any sum due or deposit any sum required under this Agreement, or shall fail to maintain satisfactory surety as required in Article XII;
- (i) any authorization that may be required by any governmental or private authority for the construction, operation and maintenance of the Licensee's facilities on a pole or anchor is denied, revoked or cancelled.
- (j) Licensor determines that Licensor or Licensee does not have sufficient rights for the applicable Utility Pole, Wires, Guys, Guy Strand, Anchor, Anchor Attachments, Attachments or Suspension Strand, such as easements or road location permits.

10.1.1 The Licensor will notify the Licensee in writing of any instances cited in this subpart. The Licensee shall take corrective action as necessary to eliminate the non-compliance and shall confirm in writing to the Licensor within sixty (60) days following such written notice that the noncompliance has ceased or been corrected. If Licensee fails to discontinue or correct non-compliance and fails to give the required written confirmation to the Licensor within the time stated above, the Licensor may terminate the license(s), authorization and/or rights granted hereunder for the Utility Poles and/or ~~anchors~~ Anchors at which such non-compliance has occurred.

10.2 General

10.2.1 In the event of termination of any of the Licensee's licenses, authorization and/or rights hereunder, the Licensee shall remove Licensee's Facilities from the Utility Poles and Anchors within sixty (60) days of the effective date of the termination; provided, however, that Licensee shall be liable for and pay all fees and charges pursuant to provisions of this Agreement to the Licensor until Licensee's Facilities are actually removed from the Utility Pole(s) and Anchor(s). If the Licensee fails to remove Licensee's Facilities within the specified period, the Licensor shall have the right to remove Licensee's Facilities at the Licensee's expense and without liability on the part of the Licensor for damage or injury to Licensee's Facilities or interruption of Licensee services.

10.2.2 When Licensee's Facilities are removed from a Utility Pole or Anchor, no Attachment to the same Utility Pole or Anchor shall be made until the Licensee has first complied with all of the provisions of this Agreement as though no such Utility Pole or Anchor Attachment had been made previously and all outstanding charges due to the Licensor for such Utility Pole or Anchor have been paid in full.

10.2.3 Any license issued under this Agreement shall automatically terminate when Licensee ceases to have authority to construct, operate and/or maintain its attachments on the public or private property at the location of the particular Utility Pole covered by the license. Such automatic termination shall be stayed if the Licensee has sought judicial or regulatory review of the decision that: (1) has acted to terminate such authority or (2) has declared that the Licensee lacks such authority.

10.3 Licensee's Removal of Attachments

10.3.1 Licensee may at any time remove its ~~attachments~~-Attachments from a Utility Pole or Anchor after first giving Licensor written notice of such removal. Licensee shall complete and provide to Licensor the Notification of Discontinuance of Use of Poles as contained in APPENDIX III hereto. Licensor shall verify and execute such form within thirty (30) days of submission. Billing for the attachment shall cease as of the date of the first bill following verification. Licensor may update this form from time to time during the term of the Agreement.

10.3.2 Following such removal, no Attachment shall again be made to such Utility Pole until Licensee shall have complied first with all of the provisions of this Agreement as though no such Attachment had been made previously.

ARTICLE XI - ASSIGNMENT OF RIGHTS

11.1 Licensee shall not assign or transfer any license or any authorization granted under this Agreement, and such licenses and authorizations shall not inure to the benefit of Licensee's successors or assigns, without the prior written consent of Licensor, which shall be in the form of an assignment agreement satisfactory to the Licensor. Licensor shall not unreasonably withhold, condition, or delay such consent.

11.2 In the event such consent or consents are granted by Licensor, then the provisions of this Agreement shall apply to and bind the successors and assigns of Licensee. Licensee may, however, assign this Agreement without Licensor's consent to an entity controlling, controlled by, or under common control with Licensee or to an entity acquiring fifty-one percent (51%) or more of Licensee's stock or assets provided that any such assignment shall be subject to the assignee's being capable of assuming all of the obligations of Licensee hereunder. Any such assignment shall impose no obligations upon or be effective against Licensor, and Licensor shall have no liability to any assignee of such assignment, until Licensor has received prior written notice of any such assignment. Licensee may also assign this Agreement, without Licensor's consent and without prior notice to Licensor, to an institutional mortgagee or lender providing financing to Licensee with respect to Licensee's Facilities in the event such institutional mortgagee or lender exercises its foreclosure right against Licensee and operates the Licensee Facilities on the right of way; provided such institutional mortgagee or lender is capable of assuming all of the obligations of the Licensee hereunder and further provided that such assignment shall not be effective against Licensor unless and until written notice of such assignment and exercise of rights is provided to Licensor. Anything herein to the contrary notwithstanding, Licensee shall not be relieved of any of its obligations hereunder without Licensor's prior written consent.

11.3 All notice of such assignments shall include any change to the notice address provided in subpart 15.3. Within thirty (30) days of the assignment, Licensor and assignee shall execute an assignment agreement.

ARTICLE XII - SURETY REQUIREMENTS

12.1 Licensee shall furnish a bond or other security satisfactory to Licensor in the following amounts: Security in the amount of \$20.00 shall be required for each authorized pole attachment. The total amount of security required hereunder shall not exceed \$1,000,000 or be less than \$1,000, unless otherwise agreed upon. Security will not be required where Licensee's total attachment authorizations do not exceed ten (10).

Commented [MM28]: Reserving rights in this section.

12.2 The maximum security limit required for all Attachments is \$1,000,000 in the aggregate. If the financial security is in the form of a bond, irrevocable letter of credit, or other security as deemed acceptable by Licensor, such instrument shall be issued by a surety company or bank satisfactory to the Licensor and shall guarantee Licensee's obligations under the agreement. The Licensee is obligated to maintain the security in the full amount for the terms of the agreement the duration of the license.

12.3 The amount of the bond or the financial security shall not operate as a limitation upon the obligations of the Licensee.

ARTICLE XIII - LIABILITY AND DAMAGES

13.1 Licensor reserves to itself, its successors and assigns, the right to locate and maintain its poles Utility Poles and to operate its facilities in conjunction therewith in such a manner as will best enable it to fulfill its own service requirements. Licensor shall not be liable to Licensee for any interruption of Licensee's service nor for interference with the operation of Licensee's communications services arising in any manner, except from Licensor's gross negligence or willful misconduct, out of the use of Licensor's Utility poles Poles.

13.2 Licensor shall exercise reasonable care to avoid damaging Licensee's Facilities attached to Utility Poles under this Agreement, and shall make an immediate report to Licensee of the occurrence of any such damage caused by Licensor's employees, agents or contractors. Licensor agrees to reimburse Licensee for all reasonable costs incurred by Licensee for the physical repair of damage to such Licensee's facilities proximately caused by the gross negligence of Licensor; however, Licensor shall not be liable to Licensee for any loss of Licensee's revenue or profits resulting from any interruption of Licensee's service caused by such damage or interference with the operation of Licensee's Facilities caused by such damage.

13.3 Licensee shall exercise reasonable care to avoid physically or electronically damaging the facilities of Licensor and of others attached to Licensor's Utility poles Poles, and shall make a prompt report of damage to the owner of facilities so damaged by Licensee. Licensee assumes all responsibility for all reasonable expenses to correct such damage or interference, including but not limited to any reimbursement claim for actual expenses from customers of Licensor for such physical or electronic damage. Licensee shall reimburse Licensor (within 30 days of Licensor's request for reimbursement) for all actual damages, costs, fees and expenses (evidenced and pursuant to documentation satisfactory to Licensee) including lost business profits and business interruption damages sustained by Licensor, its employees, agents and/or Licensor's electric customers. To the fullest extent permitted by law, Licensor shall indemnify, defend, and hold Licensee harmless from and against any Losses arising from or attributable to the

gross negligence or willful misconduct of Licensor. Licensor's indemnification obligations shall not apply to the extent any such Loss results from or is attributable to the negligence or willful misconduct of Licensee.

- 13.4 Licensee shall indemnify, protect and save harmless Licensor from and against any and all claims, demands, causes of actions and costs, including reasonable attorneys' fees, for damages to property and injury or death to Licensee's employees or other persons, including but not limited to, payments under any Workers Compensation law or under any plan for employee's disability and death benefits, which may arise out of or be caused by the erection, maintenance, presence, use or removal of Licensee's Facilities or by their proximity to the facilities of all parties attached to Licensor's poles, or by any act or omission of the Licensee's employees, agents or contractors on or in the vicinity of Licensor's poles. The foregoing indemnity, hold harmless and defense provisions shall not apply in the case of claims, which arise from the gross or sole negligence or willful misconduct of Licensor. It shall apply, however, if a claim is the result of the negligence of Licensee and gross negligence or willful misconduct of Licensor, resulting in joint misconduct or joint fault of Licensee and Licensor, but in such case the amount of the claim for which Licensor is entitled to indemnification shall be limited to that portion of such claim attributable to the negligence, misconduct or other fault of Licensee. Licensee specifically waives any immunity from the enforcement of this indemnification provision that might otherwise be provided by Maine Workers' Compensation law or by other state or federal law or judicial decision disallowing or limiting such indemnification, including without limitation, Diamond International Corp. v Sullivan & Merritt, Inc., 493 A2d. 1043 (Me. 1985).

~~13.5 The Licensee shall indemnify, protect and save harmless Licensor from any and all claims, demands, causes of action and costs, including reasonable attorneys' fees, which arise directly or indirectly from the construction, attachment or operation of Licensee's Facilities on Licensor's Utility Poles, including but not limited to damages, costs and expense of relocating poles due to the loss of right of way or property owner consents, taxes, special charges by others, claims and demands for damages or loss from infringement of copyright, for libel and slander, for unauthorized use of television or radio broadcast programs and other program material, and from and against all claims, demands and costs, including reasonable attorneys' fees, for infringement of patents with respect to the manufacture, use and operation of Licensee's Facilities in combination with Utility Poles or otherwise. The foregoing indemnity shall not apply in the case of claims, which arise from the gross or sole negligence or willful misconduct or other fault of Licensor. It shall apply, however, if a claim is the result of the negligence of Licensee and gross negligence or willful misconduct of Licensor, resulting in joint misconduct, or joint fault of Licensee and Licensor, but in such case the amount of the claim for which Licensor is entitled to indemnification shall be limited to that portion of such claim attributable to the negligence, misconduct or other fault of Licensee. Licensee specifically waives any immunity from the enforcement of this indemnification provision that might otherwise be provided by Maine Workers' Compensation law or by other state or federal law or judicial decision disallowing or limiting such indemnification, including without limitation, Diamond International Corp. v Sullivan & Merritt, Inc., 493 A2d. 1043 (Me. 1985).~~

Commented [MM29]: This largely repeats 13.4 and includes indemnity for things like copyright, libel and slander, and television programs, none of which are relevant here.

13.6 Licensor and Licensee shall promptly advise each other of all claims relating to damage to property or injury to or death of persons, arising or alleged to have arisen in any manner by the erection, maintenance, repair, replacement, presence, use or removal of facilities governed by this License Agreement. Copies of all accident reports and statements made to a Licensor's or Licensee's insurer by the other Licensor or Licensee or affected entity shall be furnished promptly to the Licensor or Licensee.

13.7 The provisions of this Article shall survive the expiration or earlier termination of this Agreement or any license issued hereunder.

13.8 The parties acknowledge that Licensee is a political subdivision of the State of Maine to which the Maine Tort Claims Act applies. Nothing in this Agreement is intended, or shall be construed, to constitute a waiver of any defense, immunity or limitation of liability that may be available to Licensee, its officers, agents and employees, pursuant to the Maine Tort Claims Act or as otherwise provided by law.

ARTICLE XIV - INSURANCE

Commented [MM30]: Reserving rights on this section for our insurance carrier to comment.

14.1 Licensee shall secure and maintain (and ensure its subcontractors, if any, secure and maintain) all insurance and/or bonds required by law or this Agreement including without limitation:

(a) Commercial General Liability insurance (including, but not limited to, premises-operations; explosion, collapse and underground hazard; broad form property damage; products/completed operations; contractual liability; independent contractors; personal injury) with limits of at least five million dollars (\$5,000,000) combined single limit for each occurrence. Commercial Automobile Liability insurance with limits of at least two million dollars (\$2,000,000) combined single limit for each occurrence. Notwithstanding, if the Licensee does not own or operate any vehicles or automobiles associated with the Licensee's business or associated with the work related to this Agreement, then Licensee must only provide satisfactory evidence that its subcontractor(s) have purchased and maintained Commercial Automobile Liability insurance in such amount.

(b) Workers' Compensation insurance as required by statute and Employer's Liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence.

14.2 The above limits may be satisfied by a combination of underlying/primary and excess/umbrella insurance. All policies provided by the Licensee shall be deemed primary and non-contributory to all other applicable coverages. The Licensee shall waive its right of subrogation for all insurance claims. The Commercial General Liability and Commercial Auto Liability policies must name Licensor, its subsidiaries and affiliates as additional insureds. The Licensee's insurance companies must be licensed to do business in the applicable state(s) and must meet or exceed an A.M. Best rating of A-X or its equivalent.

14.3 All insurance must be in effect before Licensor will authorize Licensee to make attachment to Licensor's Utility Poles and shall remain in force until such facilities have

been removed from all such Utility Poles. For all insurance, the Licensee must deliver an industry-recognized certificate of insurance evidencing the amount and nature of the coverage, the expiration date of the policy and the waiver of subrogation and stating that the policy of insurance issued to Licensee will not be cancelled or changed without thirty (30) days written notice to Licensor. Also, where applicable, such certificate of insurance shall evidence the name of the Licensor as an additional insured. The Licensee shall submit such certificates of insurance annually to the Licensor as evidence that it has maintained all required insurance. Licensee will provide copies of the applicable insurance policies to Licensor upon request.

- 14.4 Licensor is responsible for determining whether the above minimum insurance coverages are adequate to protect its interests. The above minimum coverages shall not constitute limitations upon Licensee's liability.
- 14.5 The minimum insurance coverages are subject to review and revision by Licensor in the event Licensor determines that they are not adequate to protect Licensor's interests.

ARTICLE XV - GENERAL PROVISIONS

15.1 Authorization Not Exclusive

Nothing herein contained shall be construed as a grant of any exclusive authorization, right or privilege to Licensee. Licensor shall have the right to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any Utility Pole covered by this Agreement, provided however no such other user may be permitted to interfere with Licensees' use of its license.

15.2 Failure to Enforce

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

15.3 Notices

APPENDIX II sets forth where written notices required under this Agreement shall be sent to Licensor and Licensee. Notice shall be acceptable in the following forms: first class mail, or if time-sensitive, facsimile followed by first class mail or overnight mail with receipt. Licensee shall complete APPENDIX II and submit it to Licensor with this Agreement.

15.4 Severability

If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the

particular invalid or unenforceable provision or provisions. If the invalid or unenforceable provision or provisions shall be considered an essential element of this Agreement, the parties shall promptly attempt to negotiate a substitute therefor.

15.5 Choice of Law

The construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State where the Licensor's ~~poles-Utility Poles~~ are located, as set forth in this Agreement, without regard to the principles of conflicts of law. All actions under this Agreement shall be brought in a court of competent subject-matter jurisdiction of the county of the capital of such State or a regulatory agency with subject-matter jurisdiction, and both parties agree to accept and submit to the personal jurisdiction of such court or regulatory agency. ~~Licensee also agrees to submit to the jurisdiction of any court in the United States wherein an action is commenced against Licensor based on a claim for which Licensee has indemnified Licensor hereunder.~~

15.6 Compliance with Laws

The parties hereto shall at all times observe and comply with, and the provisions of this Agreement are subject to, all laws, ordinances, and regulations which in any manner affect the rights and obligations of the parties hereto under this Agreement, so long as such laws, ordinances, or regulations remain in effect. In the event of any legislative amendment, or any legally binding legislative, regulatory, or judicial order, rule or regulation or other legal action that revises or reverses applicable law or regulations, either Party may by providing written notice to the other Party require that the affected provisions be renegotiated in good faith and this Agreement be amended accordingly to reflect the pricing, terms and conditions of each such Amendment. In the event that such new terms are not negotiated within ninety (90) days after such notice, or if at any time during such 90-day period the Parties shall have ceased to negotiate such new terms for a continuous period of fifteen (15) days, the dispute shall be resolved as provided in for in this Agreement.

15.7 Survival

All rights and obligations hereunder granted or incurred prior to and which by their nature would continue beyond the cancellation, termination, or expiration of this Agreement shall survive such cancellation, termination, or expiration.

15.8 Use of Information

Licensee may provide to Licensor license applications and business plans of its future needs for ~~pole attachments~~ Attachments. Such information will allow Licensor to better forecast personnel and equipment requirements. However, as to business plans, such information shall be deemed for use as advance planning purposes only, and no obligation shall be created that Licensor hire personnel or purchase equipment, or Licensee submit license applications for the pole attachments. Such information shall be used only by such employees or contractors of Licensor who have responsibilities relating to the administration of, or to work to be performed under, this Agreement and

said employees shall treat such information as Licensor treats its own confidential information of similar type and value. Licensor's obligations hereunder shall not extend to any information that are now available to the public or become available by reason of acts or omissions not attributable to Licensor.

15.9 Dispute Resolution

In case where Licensee claims that a term or condition is unjust or unreasonable, Licensee shall submit a complaint to the Supervisor-Joint Use of Plant Group, specifying all information and its argument relied on to justify its claim. Licensor shall provide a written response to such complaint within ten (10) business days after receipt of the complaint. Such response shall specifically address all contentions made by Licensee. If Licensee continues to have issues, it may request a meeting with Supervisor-Joint Use of Plant Group to discuss such issues. Such meeting shall be held within five (5) business days. If the Licensee is not satisfied with the results of such meeting, it may file a complaint with the regulatory body of competent jurisdiction in accordance with Chapter 880 of the Maine Public Utilities Commission's Rules.

15.10 Emergency Conditions

All parties shall work cooperatively in the case of an emergency to restore service to their respective customers.

15.11 Time Frame

The parties to this agreement are unsure as to the operational challenges that may accompany certain ~~attachments~~Attachments, the parties have negotiated reasonable time frames, to the extent feasible, all parties to this agreement will work in good faith to either provide greater notice than required to the other party or to complete their work in a shorter timeframe than anticipated in the agreement.

ARTICLE XVI - TERM OF AGREEMENT

The initial term of this Agreement shall be for five (5) years commencing on the date stated in the first paragraph of this Agreement. Thereafter, the term of this Agreement shall be automatically renewed annually unless notice of termination is given by either Licensor or Licensee not fewer than one hundred twenty (120) days prior to the end of the then expiring term. This Agreement may be terminated by Licensee by written notice of termination not fewer than thirty (30) days prior to the effective date of such termination. Any termination by Licensee shall not become effective until the Licensee has discontinued all existing licenses and has removed any and all facilities. This Agreement may be terminated upon written notice by the Licensor if, within ~~one-two~~ (+2) years from the date of this Agreement, the Licensee has placed no Licensee's Facilities on the Licensor's Utility Poles in accordance with the Agreement. The attached Appendices to this Pole Attachment Agreement, between Licensor, and Licensee, ~~is-are~~ a part of this Agreement and amends and supplements the terms hereof, but only as it relates to the parties to said Appendices.

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

CENTRAL MAINE POWER COMPANY (Licensor)

By: _____

(Print Name) _____

(Title) _____

(Date)_____

By: _____

(Print Name) _____

(Title) _____

(Date)_____

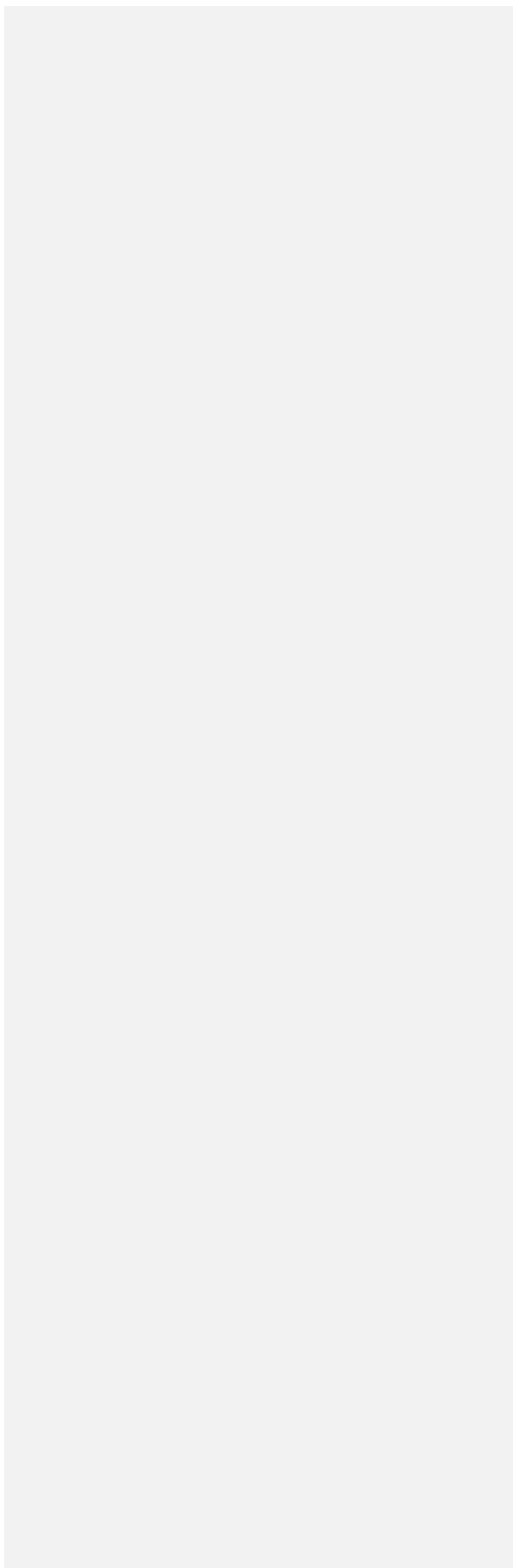
TOWN OF CHEBEAGUE ISLAND (Licensee)

By: _____

(Print Name)_____

(Title)_____

(Date)_____



APPENDIX I
SCHEDULE OF FEES AND CHARGES
POLE ATTACHMENTS

I. Attachments

A. General

The Licensee shall pay CMP an attachment fee for use of each and every pole covered by this Agreement as herein specified. Such fee shall be payable to CMP as detailed below:

B. Cable Attachment Fee

The Licensee shall pay to CMP, as owner or joint owner, an annual fee per attachment for each calendar year or any portion thereof as follows:

1. Waived ~~\$500~~ One-time fee to cover engineering and contract administrative costs.
2. \$8.21 Per attachment per pole solely owned by CMP.
3. \$4.11 Per attachment per pole jointly owned by CMP and Tel.Co.

C. Attachment Fee for Pole Top Antenna

The Licensee shall pay to CMP, as owner or joint owner, an annual fee per attachment for each calendar year or any portion thereof as follows:

1. Waived One-time fee to cover engineering and contract administrative costs.
2. \$8.21 Per attachment per pole solely owned and used by CMP.
3. \$4.11 Per attachment per pole jointly owned by CMP and Tel.Co.

D. Attachment Fee for Side Mounted Antenna

The Licensee shall pay to CMP, as owner or joint owner, an annual fee per attachment for each calendar year or any portion thereof as follows:

1. Waived One-time fee to cover engineering and contract administrative costs.
2. \$24.63 Per attachment per pole solely owned and used by CMP.
3. \$12.32 Per attachment per pole jointly owned by CMP and Tel.Co.

Commented [MM31]: Engineering and administrative costs are part of Make Ready Work which cannot be charged to municipalities.

Rates shall be adjusted annually based on the FCC Cable Rate formula as prescribed in Maine Public Utilities Commission Chapter 880.

CMP will submit to the Licensee annual billing for yearly attachments on or about January 1 of each year payable within sixty (60) days from the date the bill is received by Licensee.

The attachment rate payable to the Telephone Company will be covered by the execution of a separate agreement between the Telephone Company and Licensee.

II. Other Charges

Computation

All charges for field survey, inspections, removal of Licensee's facilities from CMP's poles and any other work performed for Licensee shall be based upon the cost and expense to CMP of such work or for having such work performed by an authorized representative plus, unless waived by CMP, an amount equal to twenty-one percent (21%) of CMP's cost.

III. Cost of Pole Replacements, Rearrangements and Changes

Whenever any pole is, in the opinion of CMP, insufficient in height or strength for the Licensee's proposed attachments thereon or Licensee's requirement for additional space in addition to the existing attachments of CMP and municipality, CMP shall replace such pole with a new pole of the necessary height and class and shall make such other changes in the existing pole line in which such pole is included as the conditions may then require. Unless otherwise approved in writing by CMP, which approval shall not be unreasonably withheld, the Licensee shall within thirty (30) days either remove its existing attachments or pay CMP as follows:

- A. The net loss to CMP on the replaced pole based on a reasonable estimate of the net book value of the pole and supporting equipment which have been replaced.
- B. The difference between the cost for the taller pole and supporting equipment and the cost for a new standard pole and supporting equipment necessary by reason of the Licensee's attachments.
- C. The cost of transferring CMP's attachments from the old to the new pole.
- D. The cost of any other rearrangements and changes plus material replacements or additions made necessary by reason of the Licensee's proposed attachments or requirement for additional space.

[Unless Licensee is exempt from such charges in accordance with Section 5\(A\)\(1\) of Chapter 880 of the Maine Public Utilities Rules, and/or 35-A M.R.S. § 2524](#)

IV. Payment Date

The Licensee shall pay all bills due to CMP within sixty (60) days from the date of receipt of the bill. Unless waived by CMP, Licensee shall be assessed an interest rate of 1½ percent per month on all bills which remain unpaid beyond the dates specified herein.

APPENDIX II

NOTICE ADDRESSES

Licensors – Central Maine Power Company (CMP)

All Notices are to be sent to:

Central Maine Power Co.
Attention: Joint Use of Plant
83 Edison Drive
Augusta, ME 04330

Tel: (207) 629-2135
Fax: (207) 629-2198
Email: JointUseOfPlant@cmpco.com

Licensee:

All Notices will be sent to the contacts as listed in the attached Customer Profile form.

A Customer Profile form may also be utilized to provide CMP with updated notice addresses as necessary. Please send the updated form to:

Central Maine Power Co.
Manager, Joint Use of Plant
83 Edison Drive
Augusta, ME 04330

JointUseOfPlant@cmpco.com

**APPENDIX III
FORM B
NOTIFICATION OF DISCONTINUANCE OF USE OF POLES**

This form is to be completed and mailed to CENTRAL MAINE POWER CO. 83 Edison Dr., Augusta, ME 04336 or email to JointUseofPlant@cmpco.com.

Licensee _____
 Street Address _____
 City and State _____ Date _____

In accordance with the terms of Pole Attachment License Agreement dated _____, this serves as written notification from Licensee that attachment(s) to the following pole(s) in the municipality of _____, State of Maine, are being discontinued (removed) on _____.
 These attachments are covered by Pole Attachment License Application number _____.

<u>Pole Number</u>	<u>Location</u>	<u>Attachment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total number of attachments to JO¹ poles to be discontinued _____.
 Total number of attachments to FO² poles to be discontinued _____.
 Total number of attachments to JU³ poles to be discontinued _____.
 Total number of Power Supplies/Other Equipment to be discontinued _____.
 Said license is to be canceled **in its entirety / partially** as above.
 (circle one)

Licensee _____ Print Name _____

Signature _____ Tel. No. _____ Fax No. _____
 Title _____ Date _____

APPLICATION # _____
LICENSEE NAME _____
MUNICIPALITY _____ **STATE** _____

To be completed by Licensor :
It has been verified by Licensor that the number of attachments to be discontinued have been removed from Licensor's poles and the number of attachments have been adjusted as appropriate on the preceding page.

Attachment Co. Representative (Print Name) _____

Signature _____ Title _____
 Tel. No. _____ Date: _____

(1) JO = Jointly Owned - a pole in which two parties have 50/50 ownership interest.
 (2) FO = Fully Owned/Solely Owned – a pole that is solely owned by either party.

APPENDIX III

FORM B

- (3) JU = Joint Use – A party to whom use of the pole or anchor has been extended by the owner of the facility. The term “Joint User” shall not include Licensees.

**APPENDIX III
FORM C**

(NAME OF INSURANCE COMPANY)
BOND

Bond No.

KNOW ALL MEN BY THESE PRESENTS, THAT _____, a corporation of the _____ located at _____, (hereinafter called the Principal), as Principal and the _____, a corporation organized under the laws of _____ and authorized to do business in the State of _____ and having its office at _____ (hereinafter called the Surety), as Surety, are held firmly bound unto the Central Maine Power Company, a Maine corporation, hereinafter referred to as Obligee, in the full and just sum of _____ to the payment of which sum well and truly to be made, the Principal and Surety bind themselves, and each of their successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Agreement, dated the ___day of ____, 20__, with Obligee, wherein the Obligee has granted permission to the Principal to make attachment of Cables together with the necessary Appurtenant Facilities including attachments for service wires leading from poles to Principal's customers, to certain poles of the Obligees, located in the City/Town of _____.

WHEREAS, THE OBLIGEE is willing to permit such attachments to be made subject to the terms and conditions of the aforesaid agreement and providing a bond is given by the Principal covering the true and faithful performance of said Agreement, which Agreement is or may be attached hereto for reference.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall well and truly perform and carry out the covenants, terms and conditions of said agreement, then this obligation shall be void; otherwise it shall remain in full force and effect.

The surety may cancel and terminate this Bond by giving thirty (30) days written notice thereof by Registered Mail to the Obligee, in which event the cancellation and termination shall be effected thirty (30) days after said Obligee receives such notice, but notwithstanding said cancellation or said expiration date, this bond shall remain in full force and effect as to attachments authorized under said agreement prior to the effective date of cancellation or expiration date until all of said attachments shall have been removed and as to any other obligations or responsibilities accrued prior to said cancellation date or said expiration date.

SIGNED, SEALED AND DATED this _____ day of _____, 20__.

(PRINCIPAL)

By:

ATTEST:

(SURETY)

By: _____

By: _____

APPENDIX III
FORM D
Notification of Completion or Removal of Attachment

Licensee Name _____
Municipality _____
State _____ CMP Application # _____

- This is to notify you that the facilities (cables, power supplies) have been placed in association with the above application on _____20__.

- This is to notify you that an overlash project has been Started Completed (choose one) in association with the above application on _____20__.

- This is to notify you that a rebuild project has been completed in association with the above application on _____20__.

- This is to notify you that a pre-construction survey is necessary for the poles listed on the above application requiring Make_Ready work.

Email to JointUseofPlant@cmpco.com or Mail to Joint Use of Plant, Central Maine Power Co., 82 Edison Drive, Augusta, ME 04330.

APPENDIX IV
Procedure for Rebuilding of Existing Licensee's Aerial Attachments
(Commonly known as Rebuild)

1 – SCOPE

In the process of replacing its existing facilities, it may be necessary for the Licensee to conduct a rebuild project that may involve placing new facilities while keeping existing facilities in operation. Central Maine Power Company is referred to herein as “CMP”.

2 - DEFINITIONS

- a) **Rebuild** – the act of a Licensee replacing existing facilities, for other than maintenance purposes, accomplished in the following manner:
 - 1) The lowering or raising of facilities by a Licensee to a temporary location thereby clearing previously licensed space for a new installation.
 - 2) The placement and activation of new facilities by a Licensee that replace existing Licensee facilities.
 - 3) The transfer of a Licensee's existing customer facilities to Licensee's new facilities being placed.
 - 4) The de-activation and removal of Licensee's replaced facilities.
- b) **Post-construction Inspection** - A CMP inspection consisting of a ten (10) percent sample of the poles after completion of Licensee's rebuild project. Licensee shall pay for the Post-construction Inspection based on the Unit Pricing Schedule.
- c) **Post-construction Subsequent Inspection** – An inspection, subsequent to the Post-construction Inspection, required as the result of finding greater than 2% non-compliance after the Post-construction Inspection of the 10% sample performed by CMP. Licensee shall pay for the Post-construction Subsequent Inspection based on the Unit Pricing Schedule.
- d) **Self Pre-survey**– The performance of a field review by a Licensee to survey the routing of a proposed path where the rebuild project is planned, to determine if any Make-ready Work is required. The Licensee shall adhere to all requirements of the most recent edition of the National Electrical Safety Code (NESC) and the “Manual of Construction Procedures” (Blue Book), published by Telcordia Technologies Inc. This survey is performed without the presence of a CMP representative and the results of the Self Pre-survey shall be provided to CMP with documentation of any Subsequent Make-ready Work required before Licensee begins construction of the rebuild project.
- e) **Subsequent Make-ready Work** – Rearrangement of CMP's facilities by CMP as determined by the Licensee's Self Pre-survey to provide for clearance and separation requirements for all pole attachments relative to the latest edition of the Blue Book published by Telcordia and the latest edition of the NESC.
- f) **Charges** – CMP's costs in the Unit Pricing Schedule, based on current CMP unit pricing methodology, for any Post-construction Inspections, Post-construction Subsequent Inspections and Subsequent Make-ready Work performed by CMP.

Commented [MM32]: This is not a permitted charge under 65-407-880 Me. Code R§5.

3 – SPECIFICATIONS

Licensee shall conform to the terms and conditions contained within the Specifications Section of the most current Pole Attachment Agreement, including:

The National Electrical Safety Code (NESC)
“Manual of Construction Procedures” (Blue Book), published by Telcordia Technologies Inc.

4 - NOTIFICATION

Licensee shall provide ten (10) days advance notice in writing to CMP and coordinate its rebuild work with the local CMP Service Center and telephone coordinator to avoid any scheduling conflicts with any CMP construction or maintenance work. Licensee shall submit written notification within thirty (30)

days to CMP after the rebuild work has been completed. CMP will facilitate the Post-construction Inspection.

5 – PROCEDURES

- a) Upon receipt of notification from Licensee of a planned rebuild, CMP will initiate and Licensee shall attend a local meeting with CMP engineers to discuss construction schedules, Self Pre-survey, Pre-construction Survey, and Post-construction Inspections.
- b) Licensee shall provide CMP with the following information relative to the rebuild project:
 - 1) Copies of strand maps indicating those poles where Licensee intends to rebuild their existing pole attachments.
 - 2) Tension measurements and weight per foot of total facilities that will be attached upon completion of the rebuild project. (per span average)
- c) Licensee shall perform a Self Pre-survey of all routes included in the rebuild project and shall provide written results to CMP.
- d) Licensee shall submit a written request to CMP to arrange for a Pre-construction Survey of all locations where Licensee has determined Subsequent Make-ready Work is necessary by CMP to accommodate Licensee's proposed work.
- e) Licensee shall also notify any other attacher, Joint Owner or Joint User on the pole that may be affected by the rebuild project.
- f) CMP shall notify the Licensee of the applicable charges for any type of Make-ready Work, unless Licensee is exempt from such charges in accordance with Section 5(A)(1) of Chapter 880 of the Maine Public Utilities Rules, and/or 35-A M.R.S. § 2524. Prior to CMP initiating Make-ready Work, Licensee will forward a check to CMP covering Subsequent Make-ready Work charges, unless Licensee is exempt as set forth above.
- g) CMP will provide the Licensee with an associated work schedule and estimated construction completion date for the Make-ready Work.
- h) Licensee may proceed to conduct the rebuild project in sections of aerial facilities requiring no Make-ready Work. Licensee shall not perform any rebuild work until the necessary Make-ready Work has been completed by CMP.
- i) Licensee shall notify CMP, in writing, that the rebuild project has been completed.
- j) Within ninety (90) days of receipt of notifying CMP of completion of rebuild Project, CMP may perform a Post-construction Inspection consisting of a ten (10) percent sample of the poles included in the Licensee's rebuild project.
 - 1) If CMP performs a Post-construction Inspection and all work is in compliance with the requirements and specifications, no further inspection will be required. CMP will provide the Licensee with the results of the inspection within thirty (30) days.
 - 2) If CMP performs the Post-construction and all work is not in compliance on two (2) percent or more of the ten (10) percent sample inspected, CMP may perform and bill Licensee for a complete Post-construction Subsequent Inspection of all poles involved in the rebuild project. CMP will provide Licensee with the results of the inspection within thirty (30) days in order that the Licensee may bring its facilities into compliance.
 - 3) CMP may revoke Licensee's right to conduct Self Pre-surveys for future rebuild projects if more than 2% of the 10% pole sample is found to be in non-compliance.
- k) If the results of the Post-construction Subsequent Inspections show results that are in non-compliance with the aforementioned requirements and specifications, Licensee shall correct such non-conforming condition within thirty (30) days of written notification from CMP.
- l) Where Licensee fails to correct the stated non-conforming condition within thirty (30) days, CMP may revoke Licensee's right to perform rebuild Self Pre-survey and Licensee shall be responsible for any costs associated with correcting such non-conforming conditions.

APPENDIX V

Procedure for Placing an Additional Licensee's Cable on Same Licensee's Previously Licensed Aerial Pole Attachments (Commonly Known as Overlash)

1 – SCOPE

In the process of upgrading cable plant capacity, it may be necessary for the Licensee to augment the number of its cables and equipment lashed or attached to its existing strand. Central Maine Power Company is referred to herein as “CMP”.

2 - DEFINITIONS

- f) **Overlash** – The act of attaching any single strand, hardware, cable, wires and/or apparatus owned by Licensee to same Licensee's existing strand, hardware, cable, wires and/or apparatus.
- g) **Post-construction Inspection** - A CMP inspection of the poles after completion of Licensee's Overlash project at its own cost except that Licensee shall pay CMP for the inspection of those poles found not in compliance as a result of the Inspection.
- h) **Post-construction Subsequent Inspection** – An inspection, subsequent to the Post-construction Inspection, required as the result of finding poles in non-compliance after the Post-construction Inspection performed by CMP. Licensee shall prepay CMP for the Post-construction Subsequent Inspection based on the Unit Pricing Schedule.
- i) **Self-Pre-survey** – The performance of a field review by a Licensee to survey the routing of a proposed path where additional overlashed cable facilities are planned, to determine if any Make-ready Work is required. The Licensee shall adhere to all requirements of the most recent edition of the National Electrical Safety Code (NESC) and the “Manual of Construction Procedures” (Blue Book), published by Telcordia Technologies Inc. This survey is performed without the presence of a CMP representative and the results of the Self Pre-survey shall be provided to CMP with documentation of any Subsequent Make-ready Work required before Licensee begins construction of the Overlash project.
- j) **Subsequent Make-ready Work** – Rearrangement of CMP facilities by CMP as determined by the Licensee's Self Pre-survey to provide for clearance and separation requirements for all pole attachments relative to the latest edition of the Telcordia Blue Book and the latest edition of the NESC.
- f) **Charges** – CMP's costs in the Unit Pricing Schedule, based on current CMP unit pricing methodology.

3 – SPECIFICATIONS

Licensee shall conform to the terms and conditions contained within the Specifications Section of the most current Pole Attachment Agreement, including:

The National Electrical Safety Code (NESC)

Part 2 Section 26-261K2 Strength Requirements.

Part 2 Section 25-250 Loading Requirements

**“Manual of Construction Procedures” (Blue Book), published by
Telcordia Technologies Inc.**

Section 4.2 Table 4 – 1 and Note 2

Appendix V - 1

Internal Use

Section 3 Clearances

4 - NOTIFICATION

- a) Licensee shall provide 5 days advance notice, in writing to CMP prior to the Overlash work being started. Licensee will coordinate its Overlash work with the local CMP service center and telephone coordinator to avoid any scheduling conflicts with any CMP construction or maintenance work.
- b) Licensee shall submit written notification within thirty (30) days to CMP after Licensee's Overlash work has been completed to enable CMP to facilitate the post-construction inspection.

5 - PROCEDURES

- m) Licensee shall perform a Self-Pre-survey of all routes where it proposes to Overlash cable to its existing licensed facility and provide written results (Form 5) to CMP.
- n) Licensee will submit a written request to CMP to arrange for a Pre-construction Survey of all locations where Licensee has determined Subsequent Make-ready Work is necessary by CMP to accommodate Licensee's proposed work.
- o) CMP will notify the Licensee of the applicable charges for any type of Make-ready Work, unless Licensee is exempt from such charges in accordance with Section 5(A)(1) of Chapter 880 of the Maine Public Utilities Rules, and/or 35-A M.R.S. § 2524.
- p) Licensee will submit a check covering Make-ready work charges.
- q) CMP will provide the Licensee with an associated work schedule and estimated construction completion date for the Make-ready Work.
- r) Licensee may proceed to place the overlashed cable in sections of aerial facilities requiring no Make-ready Work. Licensee may proceed to place the overlashed cable in sections of aerial facilities requiring Make-ready Work when all parties affected concur that non-compliance will either be corrected by the Licensee concurrently with the Overlash project, or by any other attacher, Joint Owner or Joint User after the Overlash project has been completed.
- s) Licensee shall notify CMP in writing that the Overlash project has been completed. CMP may perform a Post-construction Inspection of the poles included in the Licensee's Overlash project within ninety (90) days of receipt of notification.
 - 4) If CMP performs a Post-construction Inspection of the poles involved in the Licensee's Overlash project and all work is in compliance with the requirements and specifications, the cost of the inspection will be borne by CMP, and no further Post-construction Inspection will be required. CMP will provide the Licensee with the written results of the inspection within thirty (30) days.
- t) If CMP performs the Post-construction Inspection of the poles involved in the Licensee's Overlash project and determines that Licensee's work is not in compliance, Licensee will pay CMP for the inspection of those poles found in noncompliance. CMP will provide the Licensee with the charges for the inspection. In addition, CMP may perform and Licensee will prepay for the Post-construction Subsequent Inspection of those poles found to be in noncompliance in order to ensure that the Licensee has brought its facilities into compliance. CMP will provide Licensee with the results of the inspection, within thirty (30) days of the inspection in order that the Licensee may bring its facilities into compliance.
- u) CMP will continue to conduct Post-construction Subsequent Inspections until all of Licensee's facilities as a result of the Overlash project have been made compliant. If the results of the Post-construction Subsequent Inspections show results that are in non-compliance with the aforementioned requirements and specifications, Licensee shall correct such non-conforming condition within thirty (30) days of written notification from CMP. Where Licensee fails to correct the stated non-compliant condition within thirty (30) days, CMP may revoke Licensee's right to perform Overlash Self Pre-survey and Licensee shall be responsible for any costs associated with correcting such non-compliant conditions.

APPENDIX VI

Procedure for Obtaining an Attachment License for the Installation of Power Supplies

1 – SCOPE

In the process of providing or upgrading service, it may be necessary for a Licensee to place power supplies requiring a Pole Attachment License from Central Maine Power Company (CMP).

2 - DEFINITIONS

- a) **Power Supply** – Any of Licensee’s facilities in direct contact with or supported by a utility pole including a piece of equipment, cabinet, or associated apparatus for the purpose of providing power for the Licensee’s facilities, with the exception of any cable attachments.
- b) **Self Pre-survey** – The performance of a field review by a Licensee to survey the pole locations where proposed power supplies are planned to determine if any Make-ready Work is required. The Licensee shall adhere to all requirements of the most recent edition of the National Electrical Safety Code (NESC) and the “Manual of Construction Procedures” (Blue Book), published by Telcordia Technologies Inc. This survey is performed without the presence of a CMP representative and the results of the Self Pre-survey shall be provided to the CMP with documentation of any Make-ready Work required before Licensee begins any work relative to placement of the Power Supply.

3 – SPECIFICATIONS

Licensee shall conform to the terms and conditions contained within the Specifications Section of the most current Pole Attachment Agreement, including:

The National Electrical Safety Code (NESC)

“Manual of Construction Procedures” (Blue Book), published by Telcordia Technologies, Inc. – Section 13

4 – APPLICATION

Licensee shall provide CMP with a completed Pole Attachment License Application for all pole locations where it proposes to make its Power Supply attachments. In addition, the Licensee shall provide the following information:

- a) An approved Power Company Power Supply installation diagram and associated specifications must be included, if not already on file with CMP. CMP will retain this master copy for each individual power company. Licensee is responsible for updating this information as installation diagrams and equipment specifications change.
- b) If pole Make-ready Work is required, Licensee shall submit a separate application listing those locations in need of Make-ready Work.

- c) Licensee shall not place any Power Supply until Licensee has received a Pole Attachment License for the pole location identified in the Application for the Pole Attachment License.

5 – PROCEDURE

The following procedure shall be followed when Licensees perform Self Pre-survey for Power Supplies:

- a) Licensee shall perform a Self Pre-survey of all poles where it proposes to place Power Supplies.
- b) Licensee shall submit a Pole Attachment License Application for those poles where no Make-ready Work is required to place a Power Supply as a result of the Self Pre-survey. CMP will then issue the Pole Attachment License for the Licensee's Power supply.
- c) Licensee shall submit a Pole Attachment License Application to CMP to arrange for a Pre-construction Survey of all locations where Licensee has determined Make-ready Work is required by CMP as a result of the Self-Pre-survey to accommodate Licensee's proposed work.
 - 1.) Upon receipt of the Pole Attachment Application, CMP will contact the Telephone Company and the Licensee to arrange a date for a field survey. The survey will be performed to determine the scope of Make-ready Work necessary to provide the required clearances for the Licensee's Power Supply.
 - 2.) Upon completion of the field survey, CMP shall notify the Licensee of any Make-ready Work charges. The Licensee shall submit to CMP an advance check before commencing any Make-ready Work, unless Licensee is exempt from such charges in accordance with Section 5(A)(1) of Chapter 880 of the Maine Public Utilities Rules, and/or 35-A M.R.S. § 2524.
 - 3.) Once all required Make-ready Work has been completed, CMP will then issue the Pole Attachment License for the Licensee's Power Supply
- d) Licensee shall submit notification within 30 (thirty) days to CMP after their Power Supply attachments have been completed.
- e) CMP may perform a Post-construction Inspection of the poles included in the Licensee's Power Supply project with 90 (ninety) day of receipt of notice of attachment.
 - 1.) If CMP performs a Post-construction Inspection and all work is in compliance with the requirements and specifications, no further inspection will be required.
 - 2.) If CMP performs the Post-construction Inspection and determines that any of Licensee's Power Supply work is not in compliance with Section 3 Specifications, CMP will provide Licensee with the results of the inspection within 30 (thirty) days in order that the Licensee may bring its facilities into compliance.
 - 3.) CMP will continue to conduct Post-construction Subsequent Inspections until all of Licensee facilities, as a result of the Power Supply Project, have been made compliant. If the results of the Post-Construction Subsequent Inspections show results that are in non-compliance with the requirements and specifications, Licensee shall correct such non-conforming conditions within 30 (thirty) days of written notification from CMP, CMP will provide Licensee with the results of the Subsequent Inspection to the Licensee to bring its facilities into compliance.
- f) Licensee shall correct any non-conforming conditions within 30 (thirty) days of written notification from CMP. Where Licensee fails to correct stated non-conforming condition with 30 (thirty) days, CMP may revoke Licensee's future right to perform Self Pre-survey of Power Supplies. Licensee shall be responsible for any costs associated with correcting such non-conforming conditions.
- g) If at any time in the future, following the attachment of a Power Supply, CMP requests the Licensee to either reconfigure its equipment, or locate to a new pole, the Licensee agrees to perform this work with 30 (thirty) days of any such request at the Licensee's expense.
- h) No Power Supply construction shall take place on any pole requiring Make-ready Work until any such work has been paid for in advance, completed by CMP, and the Licensee has been notified of its completion by CMP

- i) If a Power Supply is placed before a license is issued, its presence shall be considered as unauthorized and charges shall be as specified for unauthorized attachments in ARTICLE IX – UNAUTHORIZED ATTACHMENTS in the POLE ATTACHMENT AGREEMENT.