

DATED _____

BETWEEN

Fitchburg Gas and Electric Light Company d/b/a UNITIL , (LICENSOR)

AND

(LICENSEE)

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POLE ATTACHMENT AGREEMENT

THIS AGREEMENT, made as of this _____ day of March 2011, between Fitchburg Gas and Electric Light Company d/b/a Unitil, an electric distribution company, organized and existing under the laws of the State of Massachusetts, having its principal office at 357 Electric Ave, Lunenburg, MA 01462 and (“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/Commonwealth of Massachusetts; and

WHEREAS, Licensor is willing to permit, to the extent it may lawfully do so, the placement of cables, equipment, and facilities by Licensee on Licensor’s poles subject to the terms of this Agreement;

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 Attachments. Any of Licensee’s 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.). Attachments, for purposes of this Agreement, shall not include any antenna or related equipment used for wireless telecommunication services. 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.

- 1.5 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.
- 1.6 Joint Owner. A person, corporation or other legal entity having an ownership interest in a pole and/or anchor.
- 1.7 Joint User. 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.
- 1.8 Licensee’s Facilities. The cable and all associated equipment and hardware owned by the Licensee.
- 1.9 Licensee’s Maintenance Work. Work performed by Licensee on its facilities and attachments for repair, replacement and daily servicing of its plant, not associated with any significant overlash or rebuild project.
- 1.10 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 facilities to a pole or anchor.
- 1.11 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.
- 1.12 Periodic Inspection. Licensor’s inspection of Licensee’s facilities performed to determine that attachments are authorized and are maintained in conformance with the required specifications in Article VI of this Agreement.
- 1.13 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.
- 1.14 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.

- 1.15 Rebuild. Work other than Licensee's Maintenance Work performed by Licensee to replace, add to or alter its existing attachments or facilities attached to Licensors poles as more fully defined in Appendix V.
- 1.16 Subsequent Inspections. Inspections performed to confirm the correction of non-conforming conditions, which were observed during Periodic or Post-construction Inspections.
- 1.17 Suspension Strand (Messenger). A metal cable of high tensile strength attached to a pole and used to support facilities.
- 1.18 Utility Pole. A pole solely owned used by the Licensors and used to support its facilities and/or the facilities of an authorized Licensee.

ARTICLE II – SCOPE OF AGREEMENT

- 2.1 Subject to the provisions of this Agreement, Licensors agrees to issue to Licensee for any lawful purpose, revocable, non-exclusive licenses authorizing the attachment of Licensee's Facilities to Licensors Poles. This Agreement governs the fees, charges, terms and conditions under which Licensors issues such licenses to Licensee. Licensee must obtain separate authorization from, and pay all applicable Fees and Charges to, each Licensors and any Joint Owner or 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 Licensors and Licensee with respect to the subject matter contained herein. This Agreement shall govern all existing licenses between Licensee and Licensors as well as all licenses issued subsequent to execution of this Agreement.
- 2.3 No use, however extended, of Licensors pole 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. Licensee's rights herein shall be and remain a license.
- 2.4 Nothing contained in this Agreement shall be construed to require Licensors to construct, retain, extend, place, or maintain any pole or other facilities not needed for Licensors own service requirements.
- 2.5 Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against Licensors entering into agreements with other

- parties regarding the poles covered by this Agreement. The Licensor, in negotiating and entering into any future agreement(s) and arrangement(s), shall give due and reasonable regard to the Licensee's interest in a Pole and Anchor to be covered by such future agreement(s) and arrangement(s). The rights of the Licensee shall at all times be subject to any existing agreement(s) or arrangement(s) between Licensor or Joint User(s) of Licensor's poles.
- 2.6 Nothing contained in this Agreement shall be construed to require Licensor to grant a license where placement of Licensee's Facilities would 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.
- 3.1.2 The Licensor may change the amount of Attachment Fees and Charges specified in APPENDIX I by giving the Licensee not less than sixty (60) days written notice prior to the date the change is to become effective. Upon request, Licensor shall document in writing the justification for any increase in attachment Fees and Charges. Notwithstanding any other provision of this Agreement, Licensee may terminate this Agreement at the end of such sixty (60) day notice period if the change in Fees and Charges is not acceptable to Licensee.

Upon termination, Licensee shall thereafter remove its facilities and attachments in accordance with the process set forth in Article X, subpart 10.3 of this Agreement.

- 3.1.3 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. Licensee shall have the right to challenge the increase to the Pole Attachment Fees by submitting the issue to the regulatory body asserting jurisdiction over this Agreement for decision. Licensee shall pay the existing Attachment Fees and Charges during the time that the issue is being reviewed by said regulatory body, subject to true-up based on the final determination of

rates by said regulatory body plus any interest prescribed by said regulatory body.

- 3.1.4 Licensor shall provide licensee with an updated APPENDIX I following the effective date of the new Attachment Fees and Charges.

3.2 Attachment Fees

- 3.2.1 Licensees shall pay an Attachment Fee for each attachment made to Licensor's Utility Poles in accordance with Appendix I. 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 are calculated from the first day of the month following the date a license is issued. Fees shall be payable semi-annually or annually in advance, unless otherwise provided. Payment is due within the later of thirty (30) days from the first day of January and the first day of July or thirty (30) days from the date the bill is issued.

3.3 Pre-construction Survey, Make-ready Work and Inspection Charges

- 3.3.1 Licensee shall calculate and pay to Licensor the applicable Pre-construction Survey charge with its License Application. The License Application forms are set forth in APPENDIX IV, attached hereto and made a part hereof. The Pre-construction Survey charge shall be calculated based on the rates and formulas set forth in APPENDIX I.
- 3.3.2 Except as provided in Appendix VI, Licensee shall make an advance payment of the applicable charge to Licensor prior to any performance by Licensor of any Pre-construction Survey, Make-ready Work, Post-construction Inspection or Subsequent Inspection. The charge will be based on an estimate of the costs. For any charges based on an estimate, the Licensee shall be credited for any amount paid in excess of the Licensor's estimated charges, or shall be billed for any amount in addition to Licensor's estimated charges, as compared to the actual costs as finally computed.
- 3.3.3 Licensee shall make payment to the Licensor within thirty (30) days following the invoice date for Periodic Inspections according to subpart 3.3.4 of this Agreement.
 - 3.3.4 Pre-construction Survey, Make-ready Work, and Inspection (Post-construction Inspection, Periodic Inspection and Subsequent Inspection): All charges for Pre-Construction Survey, Inspections, Make-ready Work,

removal of Licensee's facilities from Licensor's poles and any other work performed for Licensee shall be based upon the full cost and expense to Licensor of such work or for having such work performed by an authorized representative

3.4 Payment Requirements

- 3.4.1 For any bill rendered by Licensor to Licensee hereunder, except where advance payment is required, payment is due within thirty (30) 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.
- 3.4.2 Non payment of any amount due hereunder shall constitute a default of this Agreement, and subject this Agreement to termination under the provisions of Article X unless such amount is the subject of a good faith dispute as provided in Section 3.5.1 of this Agreement.
- 3.4.3 For any bill rendered by Licensor to Licensee for advance payment of Pre-construction Survey charges or Make-ready Work charges, hereunder, payment shall be made within thirty (30) days of the bill date. If such advance payment is not received within thirty (30) 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.

3.5 Billing Disputes

- 3.5.1 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 are less than or equal to \$10,000.00, Licensee shall make payment to Licensor and shall be rebated 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.

- 3.5.2 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) or fails to establish an escrow account for disputed amounts more than \$10,000, 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, 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 therefor in the forms attached in APPENDIX IV. Licensor may update these forms from time to time during the term of the Agreement.
- 4.2 Licensee agrees to limit the filing of applications for pole attachment licenses to include not more than 200 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 Planning Manager's 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 pole and anchor for which an Attachment is requested to determine the adequacy of the pole and anchor to accommodate Licensee's Attachments and facilities. The Pre-construction Survey will be performed jointly by representatives of Licensor, or Joint User, and Licensee unless otherwise agreed to by all parties.
- 5.2 Licensor will process all requests for access to 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 and the correct Survey Fee payment, Licensor shall perform or have performed a Pre-construction Survey and present the Survey results. The Survey results will contain one of the following statements:
 1. If no Make-ready Work is required, a license shall be issued for the attachment.
 2. If Licensor determines that the 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 itemized invoice for such anticipated Make-ready Work. The Make-ready Work will be performed following receipt by Licensor of advance payment, but not before a Pole Attachment Agreement has been fully executed by both the Licensee and Licensor. Upon receipt of the advance payment, Licensor will provide the Licensee with the estimated start and estimated construction completion date of the Make-ready Work.
 3. If Licensor determines that the pole may not reasonably be rearranged or replaced to accommodate Licensee's Facilities for reasons of capacity, safety, reliability or generally applicable engineering purposes, the Licensor may refuse to grant a license for attachment. Licensor shall provide the specific reason(s) for such denial. Licensor shall not unreasonably exercise the right reserved hereunder.

If for any reason, access is not granted within 45 days of the request for access, the utility must confirm the denial in writing by the 45th day. If Licensee has not received a response from Licensor within ten (10) business days from the date Licensee submits its initial application or the results of the Licensee self-survey, Licensee shall contact Licensor at (800-641-2299) to verify receipt of the application or Licensee self survey.

- 5.4 Licensor shall make every reasonable effort to complete Make-ready Work within six (6) months of receipt of payment for Make-ready Work from Licensee, except for reasons beyond Licensor's control. For applications consisting of six (6) or fewer poles requiring Make-ready Work, and where Unitil is the only party required to perform make-ready work, Unitil will complete the make-ready work within 45 days.
- 5.5 To the extent practicable, Licensor shall provide Licensee, no less than sixty (60) days prior written notice of any modification of 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. As soon as practicable after Licensor becomes aware that it will undertake a pole modification, replacement or relocation in response to an emergency or governmental authority, Licensor shall notify Licensee.

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.; 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 poles. Licensee shall be responsible for obtaining permission from any Joint Owner(s) or Joint User(s) of the pole before making any attachment thereto. This permission shall be in the form of a license or other writing. Where Licensor has an easement over a public or private right of way sufficiently broad under applicable state law to permit Licensee attachment, Licensee shall not be required to obtain independent permission of the property owner to attach. In any case where the Licensor seeks to obtain any necessary permission from a property owner for Licensee's attachments, the fully allocable costs for such efforts shall be paid by the Licensee along with make-ready costs, if any.
- 6.3 No license granted under this Agreement shall extend to any of the Licensor's poles where the placement of Licensee's attachments would result in a forfeiture of the rights of Licensor, or Joint User(s) to occupy the property on which such

poles are located. The Licenser does not warrant the validity or apportionability of any rights it may hold to place facilities on public or private property. The Licenser will, upon written request by the Licensee, provide available information and copies of any documents in its files pertinent to the nature of the rights the Licenser possesses over private property. The cost of providing such information and reproducing documents shall be borne by Licensee.

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 Licenser's poles in a safe condition and in accordance with governing standards identified in Section 6.1 herein. Licensee shall construct and maintain its attachments and facilities so as not to conflict with the use of Licenser's poles by Licenser or by other authorized users of Licenser's poles, nor electrically interfere with Licenser's facilities attached thereto. Licenser shall not use, nor shall Licenser permit its lessees, Licensees, employees invitees or agents to use any portion of Licenser's poles in any way which materially interferes with the operations of Licensee
- 7.1.2 Licenser shall specify the point of attachment on each of Licenser's poles to be occupied by licensee's attachment. Where multiple licensees' attachments are involved, Licenser shall attempt, to the extent practical, to designate the same relative position on each pole for each licensee's attachments.
- 7.1.3 Licensee shall provide written notice to the Licenser of the actual dates of attachment within thirty (30) days of the date of attachment so that Licenser may promptly schedule a Post-construction Inspection.
- 7.1.4 Licensee may attach its guy strand to Licenser's existing anchor rod at no charge where Licenser determines that adequate capacity is available; provided that Licensee agrees to secure any necessary right-of-way therefor from the appropriate property owner. Should Licenser, or Joint User(s), if any, for its own service requirements, need to increase its load on the anchor rod to which Licensee's guy is attached, Licensee will either arrange its guy strand on the anchor rod or transfer it to a replacement anchor as determined by Licenser.
- 7.1.5 Should Licenser, Joint User(s), or other Licensee need to attach additional facilities to any of Licenser's poles, to which Licensee is attached,

Licensee will upon written notice from the Licensor either rearrange its attachments on the pole or transfer them to a replacement pole as reasonably determined by Licensor so that the additional facilities of Licensor, Joint Owner(s) Joint User(s) or other Licensee may be attached provided that, except to the extent such relocation is required to accommodate the needs of Licensor, Joint User(s), such 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 entity including Licensor or other Licensees. Any rearrangement costs shall be borne by the entity or entities requesting rearrangement. Licensee shall be solely responsible for collecting any rearrangement costs incurred pursuant to this paragraph. Licensor's sole responsibility shall be limited to reimbursement of its pro rata share of such costs caused by its own additional occupancies. 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.

7.1.6 If Licensee does not rearrange or transfer its attachments within fifteen (15) days after receipt of written notice from Licensor requesting such rearrangement or transfer and indicating that such pole is ready for rearrangement or transfer by Licensee, Licensor, or Joint User(s) may perform or have performed such rearrangement or transfer, and, notwithstanding the provisions of subpart 7.1.7, Licensee agrees to pay the cost thereof. 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. If Licensee claims non-payment from a new 3rd party commercial attaching entity, it shall so notify Licensor of such non-payment in writing and the 15 day notice period shall be extended until Licensee notifies Licensor that such payment has been received.

7.1.7 Licensee shall not be required to bear any of the costs of rearranging or replacing its attachment if such rearrangement or replacement is necessitated solely as a result of an additional attachment or modification of an existing attachment sought by another party (including the Licensor, or Joint User(s)) and should be paid for any work it performs to accommodate such request. 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.

- 7.1.8 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 contractors approved by and under the direction of Licensor, at the sole expense of the Licensee.
 - 7.1.9 Any such tree trimming that may be required on Licensee's customer's premises, to clear Licensee's cable drop, shall be performed by the Licensee at its expense.
 - 7.1.10 Tree trimming needed as a result of adverse weather conditions such as wind, snow or ice storms, shall be performed by Licensor or its approved contractors. Since such tree trimming benefits Licensor, Licensee and other parties that may be lawfully attached to Licensor's poles, Licensee agrees to negotiate in good faith with the Licensor, on a case-by-case basis, to establish an appropriate sharing of costs associated with the tree trimming projects.
 - 7.1.11 For each new facility attached by Licensee to Licensor's poles, on or after the date of execution of this Agreement, Licensee shall place identification tags on cables located on 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.
 - 7.1.12 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 poles at Licensee's expense. Licensor shall make reasonable efforts to contact Licensee as circumstances permit.
- 7.2 Licensee's Maintenance Work, Overlash, Rebuild Work and Placement of Power Supplies
- 7.2.1 Licensee shall work cooperatively with Unitil when performing routine Licensee's 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 or fewer adjacent spans, shall be presumed to be routine Licensee's 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 V, VI and VII, hereof, in performing Rebuild or Overlash work and placing power supplies.

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 poles and/or anchors. Licensor shall provide Licensee with a copy of any written report of such inspection within thirty (30) days following the inspection. Charges and billing for Inspections as set forth in Article III shall apply, provided that Unitil commences Post-construction and Subsequent Inspections within 90 days after notification from Licensee that the work is complete.
- 8.2 Except as provided in Appendix VI and VII, Post-construction Inspections shall consist of a 10 percent sample of the poles to which the Licensee has attached facilities after completion of work. If Unitil determines that the Licensee is not in compliance at greater than 2 percent of the sampled locations, Unitil 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 non-complying conditions within thirty (30) days of the date of the written notice from the Licensor or as otherwise agreed to by the parties. If after said 30-day period Licensee has not corrected all such non-complying conditions, Licensor may notify Licensee that if all such non-complying 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.
- 8.4 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. In such circumstances, Licensor will provide

- five (5) business days notice to Licensee prior to performing such corrective action.
- 8.5 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.
- 8.6 Licensor reserves the right to make Periodic Inspections of all or any part of the attachments or facilities of Licensee at the expense of Licensee, upon sixty (60) days prior written notice to the Licensee. Periodic Inspections of the entire plant of the Licensee will not be made more often than once every five 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 poles without being licensed, Licensor may recover fees as specified in subpart 9.2, without prejudice to its other rights or remedies under this Agreement 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 within thirty (30) days of the final date for submitting the required application, or Licensor may remove Licensee's unauthorized attachments or facilities without liability at the Licensee's expense.
- 9.2 Upon discovery of an unauthorized attachment, Licensee agrees to pay an amount equal to five times the current applicable annual Attachment Fee specified in APPENDIX I times the number of unauthorized attachments. The penalty shall be in addition to all other amounts due and owing to Licensor under this Agreement.

ARTICLE X – TERMINATION

10.1 60-Day Termination

In addition to rights of termination provided to the Licensor under other provisions of this Agreement and subject to Section 10.1.1, 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 pole or anchor covered by the authorization and has not sought judicial or regulatory review of any decision that (1) acted to terminate such authority or (2) declared that Licensee lacks such authority;
- (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;
- (e) the Licensee, subject to provisions specified in Article II, ceases to provide its services;
- (f) the Licensee sublets or apportions 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 Article 11.2.
- (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 under Article III or to 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 by a final, non-appealable order or decision.

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 non-compliance 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 poles and/or 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 its facilities from the 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 its facilities within the specified period, the Licensor shall have the right to remove such facilities at the Licensee's expense and without liability on the part of the Licensor for damage or injury to such facilities or interruption of Licensee services.

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

10.2.3 Any license issued under this Agreement shall 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 pole covered by the license. Such 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 from a 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 IV hereto. Licensor shall verify and execute such form within thirty (30) days of submission. Billing for the attachment shall cease as of the last day of the month in which verification occurs. Licensor may update this form from time to time during the term of this Agreement.

10.3.2 Following such removal, no attachment shall again be made to such 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 the document of assignment (Appendix IV, Form 20). 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. Notwithstanding anything herein to the contrary, Licensee may, 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 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. Upon Licensee's assignment of the Agreement in compliance with the terms set forth herein, including Article 11.3 below, Licensee shall be relieved of its obligations hereunder.
- 11.3 All notice of such assignments shall include any change to the notice address provided in Article III (8). Within sixty (60) days of receipt of the document of assignment from Licensee, Licensor will execute the document of assignment. The assignment requirements herein shall be deemed met if Licensor fails to respond within sixty (60) days of such documentation receipt by Licensor. Appendix IV Form 20 shall not be changed materially without the prior written consent of the Licensee and Licensor.

ARTICLE XII - SURETY REQUIREMENTS

12.1 Licensee shall furnish either a Surety Bond or irrevocable Letter of Credit at Licensee's option, satisfactory to the Licensor according to the following criteria:

Poles	Security
1 – 50	\$10,000
51 – 500	\$75,000
501 – 2000	\$300,000
2001 – 3000	\$450,000
3,000 +	\$500,000 minimum

- 12.2 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 nationally recognized and rated surety company or bank 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.
- 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 and to operate its facilities in conjunction therewith in such a manner as will best enable it to fulfill its own service requirements consistent with applicable law. 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 negligence or willful misconduct, out of the use of Licensor's poles.
- 13.2 Licensor shall exercise reasonable care to avoid damaging the facilities of Licensee attached to 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.
- 13.3 Licensee shall exercise reasonable care to avoid damaging the facilities of Licensor and of others attached to Licensor's poles, and shall make an immediate report of damage caused by Licensee to the owner of facilities so damaged.

- 13.4 Licensors and Licensees shall each indemnify, protect and save harmless each other from and against any and all claims, demands, causes of actions and costs, including reasonable attorneys' fees, for damages to the property of the other party and other persons and injury or death to the other party'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 negligence or intentional misconduct of the indemnifying party as it relates to the erection, maintenance, presence, use or removal of the indemnifying party's facilities, or by any act or omission of the indemnifying party'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 solely arise from the negligence, misconduct or other fault of the other party. It shall apply, however, if a claim is the result of the joint negligence, joint misconduct or joint fault of Licensee and Licensor, their agents, employees or contractors, but in such case the amount of the claim for which each party is entitled to indemnification shall be limited to that portion of such claim attributable to the negligence, misconduct or other fault of the respective party.
- 13.5 Each party shall indemnify, protect and save harmless the other party from any and all claims, demands, causes of action and costs, including reasonable attorneys' fees, which arise directly from or are caused by the negligence or intentional misconduct of the indemnifying party, its agents, employees, and contractors, as it relates to the construction, attachment or operation of its facilities on Licensor's 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 the indemnifying party's facilities in combination with poles or otherwise. The foregoing indemnity shall not apply in the case of claims, which solely arise from the negligence, misconduct or other fault of the other party. It shall apply, however, if a claim is the result of the joint negligence, joint misconduct, or joint fault of Licensee and Licensor, their agents, employees or contractors, but in such case the amount of the claim for which each party is entitled to indemnification shall be limited to that portion of such claim attributable to the negligence, misconduct or other fault of the respective party.
- 13.6 Licensors and Licensees shall promptly advise the other of all claims relating to damage to property or injury to or death of persons, arising or alleged to have been caused 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 Notwithstanding anything to the contrary herein, neither Licensor nor Licensee shall be liable to the other for any special, consequential or other indirect damages arising under this Agreement, including without limitation loss of profits and revenues.
- 13.8 The provisions of this Article shall survive the expiration or earlier termination of this Agreement or any license issued hereunder.

ARTICLE XIV - INSURANCE

- 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 two million dollars (\$2,000,000) combined single limit for each occurrence.
 - (b) 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.
 - (c) 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 All policies provided by the Licensee shall be deemed primary and non-contributory to all other applicable coverages. 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 poles and shall remain in force until such facilities have been removed from all such poles. For all insurance, the Licensee must deliver an industry-recognized certificate of insurance evidencing the amount and nature of the coverage and the expiration date of the policy. Licensee agrees that it will not cancel or change any such policy of insurance required hereunder, except after the giving of not less than thirty (30) days' written notice to Pole Owner. Licensee also agrees that it will provide written notice to Licensor within: (I) twenty (20) days of receipt of written notice from an insurer of cancellation (except for non-payment of premium), intent to non-renew, or material change in any coverage required hereunder or (ii) within five (5) business days of receipt of notice of cancellation for non-payment of premium. 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.
- 14.4 Licensee 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.

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 pole covered by this Agreement.

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. Any legal notice to be given to the

Licensee pursuant to Article X of this Agreement shall be sent by certified mail, return receipt requested or by a nationally recognized overnight carrier service to:

Licensee: _____
Street Address: _____
Municipality, State, Zipcode: _____
Attention: _____

With a copy to:

Licensee Legal Department: _____
Street Address: _____
Municipality, State, Zipcode: _____
Attention: _____

Any such notice shall be effective immediately upon receipt.

Any other notice to be given to Licensee under this Agreement may be sent using first class mail or, if time sensitive, facsimile or electronic mail to:

Licensee: _____
Street Address: _____
Municipality, State, Zipcode: _____
Attention: _____

Such notice shall be deemed effective as of the date the notice is sent.

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 or Commonwealth where the Licensor's 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 Commonwealth 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.

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.

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. 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 Access to Records

Licensor, upon receipt of written request, shall provide access to Licensor's pole records in accordance with "Job Aid for Requests to Records" attached hereto as APPENDIX VIII. Licensor may update this form from time to time during the term of this Agreement.

15.10 Dispute Resolution

In the case where Licensee claims that a term or condition is unjust or unreasonable or any dispute arises between the parties relating to this agreement, Licensee shall submit a complaint to the Manager-License Administration Group, specifying all information and its argument relied on to justify its claim. Licensors 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 Manager-License Administration 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 or judicial body of competent jurisdiction and nothing herein shall be deemed to limit the information relied upon or arguments raised before such body.

15.11 Emergency Conditions

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

15.12 Waiver of Landlord's Lien

Licensors hereby waives any and all lien rights it may have, statutory or otherwise concerning Licensee's Facilities or any portion thereof, which shall be deemed personal property for the purposes of this License, whether or not the same is deemed real or personal property under applicable laws, and Licensors gives Licensee and secured parties the right to remove all or any portion of the same from time to time, whether before or after a default under this License, in Licensee's and/or such secured party's sole discretion and without Licensors's consent.

ARTICLE XVI - TERM OF AGREEMENT

Except as provided below, this Agreement shall remain in effect; provided, however, that the Licensors may, not less than two years from this date and upon written notice, require the Licensee to engage in good-faith negotiations with the Licensors to amend the Agreement to comport with regulatory changes or obligations. If, the parties cannot agree to an amendment, they shall submit the matter to the regulatory agency with jurisdiction to resolve the matter. The Agreement may be terminated by Licensee by written notice of termination no less than 30 days prior to the effective date of such termination; provided, however, that such early termination shall not become effective until the Licensee has discontinued all existing licenses and has removed any and all facilities. The

Agreement may be terminated upon written notice by the Licenser if, within one year from the date of this Agreement, the Licensee has placed no facilities on the Licenser's poles in accordance with the Agreement. Notwithstanding the foregoing, such one (1) year period shall be extended upon written notice from Licensee that Licensee has made and continues to make a good faith effort to obtain any necessary Government approval, initiate material construction or similar activity related to its Attachment.

Upon execution, this Agreement cancels and supersedes all previously executed Agreements between the parties with respect to the subject matter contained herein.

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

Fitchburg Gas and Electric Light Company

By: _____

(Print Name) _____

(Title) _____

(Date) _____

(Licensee)

By: _____

(Print Name) _____

(Title) _____

(Date) _____

APPENDICES

I. ATTACHMENT FEES and CHARGES

II. NOTICE ADDRESSES

III. PLANNING MANAGER’S AREA

IV. LICENSE APPLICATIONS FORMS

Application and Pole Attachment License	Form 1
Authorization for Field Survey Work	Form 2
Itemized Pole Make-ready Work and Charges	Form 3
Authorization for Pole Make-ready Work	Form 4
Licensee Itemized Self Survey	Form 5
Notification of Discontinuance of Use of Poles	Form 6
Project Management Request	Form 7
Licensee to LAG Notification	Form 8
Power Supply Schematic	Form 10
Document of Assignment	Form 20

V. REBUILD

VI. OVERLASH BY LICENSEE TO THEIR OWN FACILITIES

VII. POWER SUPPLIES

VIII. JOB AID FOR REQUESTS TO RECORDS