

POLE ATTACHMENT LICENSE AGREEMENT

BETWEEN

CITY OF GREENFIELD, INDIANA

AND

MCIMETRO ACCESS TRANSMISSION SERVICES CORP.

TABLE OF CONTENTS

1. SCOPE OF LICENSE.....	1
2. EXPLANATION OF TERMS.....	2
3. PERMITTING OF ATTACHMENTS.....	2
4. INSTALLATION STANDARDS.....	3
5. POLE INSTALLATION	4
6. RELOCATION/REPLACEMENT OF POLES	4
7. REARRANGEMENT OF ATTACHMENTS.....	5
8. GUYING	5
9. RISER INSTALLATION.....	5
10. COMPLIANCE INSPECTIONS.....	5
11. ATTACHMENT INVENTORY	6
12. UNAUTHORIZED ATTACHMENTS	6
13. INTERFERENCE OR HAZARD.....	7
14. THIRD PARTY OVERLASHING.....	7
15. ATTACHMENT REMOVAL.....	7
16. CHARGES AND FEES.....	7
17. TIME OF PAYMENT.....	8
18. INDEMNITY.....	8
19. INSURANCE	9
20. IDENTIFICATION OF LICENSEE'S EMPLOYEES	10
21. EASEMENTS	10
22. PERFORMANCE BOND	10
23. DEFAULT OR NON-COMPLIANCE	11
24. REGULATION	11
25. TERM.....	11
26. PRIOR AGREEMENTS	12
27. TRANSFERS OF OWNERSHIP.....	12
28. GOVERNING LAW.....	12
29. ENFORCEMENT	12
30. NOTICES.....	<u>13</u> <u>13</u>
31. THIRD PARTY.....	13
32. EXECUTION.....	13
33. AGREEMENT MODIFICATIONS	13
34. PRESERVATION OF REMEDIES.....	13
35. HEADINGS.....	<u>14</u> <u>13</u>
36. SURVIVAL OF OBLIGATIONS.....	14

POLE ATTACHMENT LICENSE AGREEMENT

This Agreement is entered into as of _____, 20__ between *the City of Greenfield, Indiana*, which owns and operates a municipal electric utility located in Greenfield, Indiana, (herein called "Owner") and MCImetro Access Transmission Services Corp., (herein called "Licensee"),

BACKGROUND INFORMATION.

- A. Licensee desires to attach aerial wireline, risers and permitted equipment (hereinafter referred to as "Attachments") to certain poles of Owner.
- B. Owner is willing to permit Licensee on a non-exclusive basis to place and maintain the Attachments on said poles, where such Attachments will not interfere with Owner's own use or other existing user's service requirements, pursuant to the terms and conditions of this Agreement as relating to pole attachments.

STATEMENT OF AGREEMENT

The parties acknowledge the accuracy of the above background information and in consideration of the promises and mutual covenants set forth herein agree as follows:

1. SCOPE OF LICENSE

Owner shall grant to Licensee a revocable, non-exclusive and limited license to make future Attachments to Owner's distribution poles in accordance with the terms of this Agreement. In addition, Owner hereby grants Licensee a revocable, non-exclusive and limited license to continue to maintain those Attachments located on Owner's poles, which are now owned by Licensee and which were permitted and approved pursuant to earlier pole attachment agreements. Upon compliance with the permitting requirements hereunder, Licensee shall only use the Attachments for the purpose of providing video, data and related telecommunication services, distributed via wireline.

Nothing in this Agreement shall be construed as a grant by Owner of an exclusive license, right or privilege to Licensee, nor as a limitation, restriction, or prohibition upon Owner's right to grant interests to third parties to the poles licensed hereunder. All poles covered by this Agreement remain the property of Owner regardless of any payment by Licensee toward their cost. No use, however extended, of Owner's poles or payment of any fee or charge required hereunder shall create or vest in Licensee any claim of right, possession, title, interest or ownership in such poles. Nothing in this Agreement shall be construed to compel Owner to construct, reconstruct, retain, extend, repair, place, replace or maintain any pole which, in Owner's sole discretion, is not needed for its own purposes. Owner and its successors and assigns shall have the right to operate, relocate and maintain its poles and attendant facilities in such a manner as will best enable it, in its sole discretion, to fulfill its service requirements.

2. EXPLANATION OF TERMS

For the purpose of this Agreement, certain terms shall have the meanings given in this Section.

Annual Attachment Fee – The annual charge per attachment assessed by Owner in accordance with the terms and conditions of this Agreement.

Attachment – any item owned by Licensee that is attached to Owner's pole. Such items would include individual wirelines, risers and permitted equipment (e.g., power supplies, amplifiers, etc.).

Attachment Standards or Design Standard – All applicable regulations or codes promulgated by any federal, state, local or other governmental authority having jurisdiction, including, but not limited to, the National Electrical Safety Code and Owner's design or attachment requirements.

Contract Year – The annual rental period of July 1 to the succeeding June 30 of each year.

Incremental Cost – The difference between the Total Cost of installing a pole to accommodate both Owner and Licensee(s) on a new pole (either as new construction or replacement of an existing pole at Owner's initiation) and the Total Cost of installing a pole that meets Owner's needs.

Interest Rate – 1.5% per month (18% annual).

Total Cost – The total cost of performing work (including make-ready) to accommodate the Licensee on Owner's pole, including all applicable materials, labor and overheads. When replacing an existing pole due solely to the Licensee's requirements, Total Cost shall also include the cost of transferring/installing Owner's facilities and removal of the old pole, with book value credit for any material actually salvaged by Owner.

Wireline Attachment – an individual conductor attached to Owner's pole, which occupies one point of attachment. Each individual wireline, including service drops to individual residences, attached to the pole (either at a single point or multiple points) shall be considered a separate Wireline Attachment, except for billing purposes.

3. PERMITTING OF ATTACHMENTS

Licensee shall submit a Request (see Exhibit A) prior to installing or modifying any Attachments on any pole of Owner. Within sixty (60) working days after receipt of the completed Request of no more than 40 poles and an additional sixty (60) days for each Request of 40 poles or greater and three hundred sixty (360) days for Owner's construction of 40 poles. Owner shall review the design, strength and loading characteristics of the pole and notify Licensee whether Owner will permit the proposed use by Licensee of such pole pending any necessary rearrangements and/or pole replacements. If such permission is granted (either verbally or in writing), Licensee shall have the right to use such pole in accordance with the terms of this Agreement and any further direction by Owner concerning the location and design of the

Attachment. Licensee shall reimburse Owner for all of Owner's expenses incurred in reviewing such Request(s). Notwithstanding the above, overloading of Licensee's own Facilities, shall require written prior notice (such notice shall include loading calculations and calculations of any required make-ready) and service drops shall not require such advance written notice. Licensee will provide Owner written notice of service drops within ten (10) business days immediately following the Attachment.

If make ready work is necessary to prepare any poles for the proposed Attachments, then Licensee shall not contact such poles until Licensee receives notice from Owner that the make ready work is completed. A sample Request Form is attached hereto as Exhibit B.

All materials submitted by Licensee in connection with pole permit applications are to be handled and reviewed only by employees or officials responsible for the coordination and administration or their supervisors or other officials. Such materials may be of a confidential, proprietary, and commercially sensitive nature if so marked and shall not be disclosed by Owner or its employees for any reason to process and administer Licensee's pole permit application request except as required by law. Owner shall make additional copies of Licensee's permit application materials only as necessary for administration of this Agreement or as required by law.

4. INSTALLATION STANDARDS

All Attachments and any associated equipment permitted by Owner shall be installed in a manner which does not interfere with the present or any future use which Owner may desire to make of its poles. Owner shall determine, in its sole discretion, whether the Attachments interfere with Owner's present or future pole use plans and shall provide written notification to Licensee when granting permission for such Attachments pursuant to Section 3 above if Owner reasonably determines that Licensee's proposed installation plan shall interfere with such present or future use. If such a determination is made, Owner shall work with Licensee to develop a mutually agreed plan that avoids such interference. All Attachments made hereunder shall be installed and maintained by Licensee in compliance with Owner's Attachment Standards.

If requested by Owner, Licensee shall identify all Attachments at each pole location using an industry-standard tagging system approved by Owner.

Licensee acknowledges that the poles licensed hereunder have energized facilities installed upon them and that working in the vicinity of energized facilities poses potential dangers. At all times during the term of this Agreement, and particularly during the time of any construction, repair, or maintenance of Attachments covered by this Agreement, Licensee shall consider the electric wires of Owner to be energized. Licensee shall warn all of its employees, agents, contractors and subcontractors, or any other parties who may be working on behalf of the undersigned, of the potential dangers. Licensee shall take any necessary precautions by the installation of protective equipment, or other means, to protect all persons and property of all kinds against injury or damage occurring by reason of Licensee's Attachments on Owner's poles.

5. POLE INSTALLATION

A. Poles installed in new locations: Where Owner decides to install a new pole in a location where facilities have not been previously placed, and Licensee proposes to attach to such pole, the following rules shall apply:

1. Owner shall make a determination of the size and height of the pole necessary to accommodate its facilities alone and shall calculate the Total Cost of procuring and installing such pole.
2. Licensee shall submit a Proposal, pursuant to the Proposed Attachments Article above, setting forth a description of the facilities that Licensee intends to install.
3. Licensee shall pay Owner the cost of the extra height and/or strength of the pole, if required as a result of Licensee's planned Attachment. The cost of such extra pole height or strength shall equal the Total Cost of the pole necessary to accommodate Owner and Licensee's facilities, less the Total Cost of the pole necessary to only accommodate Owner's facilities. Title to the new pole will remain with the original Owner.

B. Replacement of Poles: Where, in Owner's sole judgment, an existing pole must be replaced solely to adequately provide for Licensee's proposed Attachment, Licensee agrees to pay Owner the Total Cost of the replacement pole. When replacing a pole due solely to the Licensee's requirements, Total Cost shall include the cost of transferring facilities and removal of the old pole, with book value credit for any reuseable/salvageable material. Title to the new pole will remain with the original Owner.

C. General Issues: If Licensee opts to not occupy poles which have been or were to be replaced or rearranged per Licensee's request in order to accommodate Licensee's facilities, then Licensee shall remain responsible for all charges set forth hereunder (exclusive of pole attachment fees) in order to compensate Owner for its actual costs incurred in planning and implementing the pole/facilities modification before Licensee withdrew its request.

6. RELOCATION/REPLACEMENT OF POLES

Where Owner must replace or relocate a pole, Owner shall provide Licensee at least sixty (60) days advance written notice before undertaking such replacement or relocation. A sample Transfer Notice is attached hereto as Exhibit B.

Licensee shall transfer its Attachments within ten (10) days of receiving notice that the new pole is in place. If Licensee does not transfer its Attachments within such ten (10) days, then Owner may transfer the Attachments at Licensee's expense. If Owner is required to make a return trip to remove a pole as a result of Licensee failing to transfer its Attachments within the time set forth herein, then Licensee shall reimburse Owner for the Total Cost incurred by such return trip.

To facilitate transfers, Owner and Licensee may elect to enter into a separate and non-exclusive transfer agreement. Such an agreement would not negate the need for Licensee to fulfill its obligations under the terms of this Agreement in instances where Owner could not or chose not to perform the transfer(s) of Licensee's facilities.

7. REARRANGEMENT OF ATTACHMENTS

If Licensee's desired Attachments can be accommodated by rearranging Owner's facilities, then Licensee shall reimburse Owner for the respective Total Cost incurred in making such rearrangement. This provision would apply equally regarding rearrangement of Owner's facilities on poles not owned by Owner. Owner will notify Licensee of the need for such rearrangement at the time it grants a Request pursuant to Section 3 and will finalize such rearrangement within sixty (60) days thereafter.

Similarly, if another party is requested to rearrange its facilities on Owner's pole to accommodate Licensee's attachments, Licensee shall be responsible for any costs incurred by the other party (ies). This provision would apply equally if another party is requested to rearrange its facilities on Owner's pole to accommodate Licensee's attachments, such other party (ies) shall be responsible for any costs incurred by Owner or Licensee. Owner will notify other party (ies) of the need for such rearrangement at the time it grants a Request pursuant to Section 3 and along with the requirement to finalize such rearrangement within sixty (60) days thereafter.

8. GUYING

Any guying required pursuant to the Design Standards shall be installed by and at the expense of Licensee. Licensee shall not use any of Owner's guys or anchors without Owner's express written permission.

9. RISER INSTALLATION

Licensee shall not install any risers upon Owner's poles without the consent of Owner, which consent may be withheld in Owner's reasonable discretion. If Licensee desires to install a riser to a new or existing pole, Licensee shall submit in writing the installation design, including the size of the proposed riser and adequate loading data to assess the impact on the existing pole. Owner may require a riser bracket be installed on any pole where a new riser of the Licensee is approved and where one or more risers currently exist. If such is required, Licensee shall pay the Total Cost of the riser bracket, including all costs associated with the transfer of existing risers to the riser bracket. All risers shall be installed in accordance with Owner's instructions.

10. COMPLIANCE INSPECTIONS

Owner may conduct, at Licensee's expense, a post-construction, compliance inspection of all new Attachment installations or modifications of existing Attachments. In addition, Owner may make additional inspections at Licensee's expense, if Owner has reasonable cause to believe that Licensee is not maintaining its Attachments in accordance with the terms of this Agreement. Licensee shall pay Owner's reasonable, actual costs for such inspection(s). Owner's right to make any inspections and any inspection made pursuant to such right shall not relieve Licensee of any responsibility,

obligation or liability assumed under this Agreement to maintain its Attachments in accordance with the Attachment Standards and other prudent practices.

11. ATTACHMENT INVENTORY

Using the inception year of this Agreement (or the inception year of a previously assigned or prior Agreement covering the same area and facilities, if applicable), as the starting year, Owner may conduct a complete field inventory of its poles for the purpose of verifying the number and location of all Attachments of Licensee in the area covered by this Agreement. Such inventory may be conducted anytime after the execution of this Agreement and not more often than every fifth year thereafter. Owner shall give to Licensee at least thirty (30) days' prior notice of such inventory and Licensee shall advise Owner if Licensee desires to make or participate in such an inventory with Owner.

Licensee shall reimburse Owner for Owner's reasonable, actual expenses incurred in making such inventory, whether or not Licensee elects to participate. Owner shall furnish a summary report of such inventory within a reasonable time after its completion.

12. UNAUTHORIZED ATTACHMENTS

Any Attachment made without the approval of Owner pursuant to the terms of this Agreement, or any prior agreement governing such facilities, shall be considered an Unauthorized Attachment.

Upon discovery of an Unauthorized Attachment, Owner may elect either of the following options after providing Licensee written notice: (i) order Licensee to remove the Attachment within thirty (30) days of such written notice, or (ii) review such Attachment, at Licensee's expense, to determine if the Attachment is in compliance with the Design Standards and, if necessary, order Licensee to comply with the Design Standards. If rearrangement or pole replacement (pursuant to Rearrangement of Attachments Section or the Pole Installation Section above) is required, Licensee shall comply or remove its affected Attachment(s) within thirty (30) days of such written notice or such additional time as may be mutually agreed. Alternatively, Licensee may provide Owner written documentation within thirty (30) days that such Attachment(s) had been previously authorized by Owner.

For each Unauthorized Attachment, Licensee shall also pay Owner the applicable annual attachment fee hereunder for a period of time equal to the greater of: (i) five years, or (ii) the number of years since the last Attachment Inventory, plus the current Interest Rate compounded annually. Licensee shall also pay Owner any and all non-recurring administrative expenses Owner incurs as a result of processing and documenting such Unauthorized Attachments. In addition, there shall be a fine of \$100 per attachment for each Unauthorized Attachment discovered by Owner which shall be paid to Owner within thirty (30) business days after receipt of an invoice and if not paid within said time, Owner shall have the right to remove any Unauthorized Attachment.

13. INTERFERENCE OR HAZARD

Whenever Owner notifies Licensee in writing or orally, with written confirmation, that any Attachment made hereunder does not comply with the Design Standards in place at the time the Attachment was installed, Licensee shall within thirty (30) days of receiving such notice, either remove such non-complying attachment, or bring such Attachment in compliance with the Design Standards. If non-compliance of such Design Standards is causing interference with Owner's use or maintenance of the pole, or is causing a hazard, then Licensee shall undertake the remedial efforts promptly, but not more than ten (10) days after receiving notice from Owner. If the Design Standards have changed since the Attachment was installed, Licensee shall bring such Attachment in compliance with the revised Design Standards the next time Licensee has need to touch such Attachment(s). However, if Attachment(s) are determined to be a safety hazard, Licensee shall within thirty (30) days of receiving such notice, either remove such non-complying attachment, or bring such Attachment in compliance with the revised Design Standards.

In the case of an emergency, which in Owner's reasonable judgment requires Owner to immediately remove or relocate the Licensee's Attachments, Owner may remove or relocate such Attachments as required, at Licensee's expense, without prior notice or responsibility for any damage to Licensee caused by such removal or rearrangement. In such instances, Owner will notify Licensee of its actions as soon as is practical.

14. THIRD PARTY OVERLASHING

Licensee shall not overlash any Attachments upon a non-affiliated third party's facilities which are attached to Owner's poles, or permit third parties to overlash Licensee's facilities, without the prior written consent of Owner. Owner shall not unreasonably withhold its consent, provided such third party overlashed facilities are reviewed by Owner pursuant the request procedure set forth in the Permitting Of Attachments Section above, and both overlashing parties consent to such overlashing in a written format acceptable to Owner.

15. ATTACHMENT REMOVAL

Licensee may, at any time, abandon the use of a pole hereunder by giving written notice to Owner and removing from the pole all of its Attachments. A sample Notification of Removal is attached hereto as Exhibit C.

16. CHARGES AND FEES

- A. *Non-Recurring Expenses.* Except as otherwise set forth herein, Licensee shall reimburse Owner for the Total Cost of all non-recurring expenses incurred by Owner, which are caused by or attributable to Licensee's Attachments.
- B. *Annual Attachment Fee.* During the initial Contract Year of this Agreement, an Annual Attachment Fee of \$9.44 per Attachment will be billed for the Attachments made to each of Owner's poles. For subsequent years following the initial Contract Year, the Annual Attachment Fee shall be annually adjusted in proportion to the change in

the CPI-U during the previous calendar year (as of December 31), rounding the rental rate to the nearest cent. Billing of annual charges shall be rendered, in arrears, annually on or about July 1 of each year for the use of Owners poles during the previous Contract Year. Service drops nor Overlashings shall be subject to an Annual Attachment Fee.

The first such billing, under the terms of this new Agreement, shall be rendered on or about July 1. This does not, in any way, nullify Owner's ability to collect any past due rental amounts reasonably due under the conditions of any prior arrangements with Licensee.

- C. *General.* Licensee shall pay the applicable Annual Attachment Fee, in arrears upon the next annual billing, for each new Attachment made during the Contract Year. There shall be no proration of fees hereunder, including adjustments in billing for those Attachments made or removed during the Contract Year.

17. TIME OF PAYMENT

Unless otherwise set forth herein, payments due hereunder shall be made within thirty (30) days from the date of the invoice therefor. On all amounts not so paid, an additional charge for interest at the Interest Rate, compounded daily, will be assessed. Where the provisions of this Agreement require any payment by Licensee to Owner other than for the Annual Attachment Fee, Owner may, at its option, require that the estimated amount thereof be paid in advance of permission to use any pole or the performance by Owner of any work.

18. INDEMNITY

To the extent permitted by law, Licensee for itself and its contractors and subcontractors hereby releases Owner, its affiliates, and their respective directors, officers, employees and agents (collectively, "Indemnitees"), from any and all liability for loss of or damage to the Licensee's Attachments and for any interruption to, or failure of, the service rendered by Licensee or others in which such Attachments are used, except that Licensee's obligation to indemnify Indemnitees shall not apply to any liabilities to the extent arising from Indemnitees' sole negligence or willful misconduct. Licensee for itself and its contractors and subcontractors further hereby agrees to indemnify, hold harmless, and defend Indemnitees from and against any and all losses, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings whatsoever, including, without limitation, all judgments rendered against, and all fines and penalties imposed upon Indemnitees, and any reasonable attorneys' fees and any other costs of litigation (hereinafter collectively referred to as "liabilities") arising, directly or indirectly, out of the interruption or loss of Licensee's, its subscribers, affiliates, or sub licensees' services or because of any interference with communication reception of such services, or out of injuries to persons, including disease or death, or damage to property, or in any other way attributable to or arising either directly or indirectly out of, the attachment, installation, operation, presence, use, maintenance, or removal of Licensee's facilities to Owner's poles, or by the proximity of Licensee's facilities to all other parties, including the Owner, occupying space on Owner's poles,

except that Licensee's obligation to indemnify Indemnitees shall not apply to any liabilities to the extent arising from Indemnitees' sole negligence or willful misconduct. The Indemnitees shall give the Licensee prompt notice of any claim for which indemnification is or will be sought under this Section 18 and shall cooperate and assist Licensee in the defense of the claim as required.

It is further agreed between the parties hereto, that to the extent any of the provisions of this Section are determined to be contrary to law or held to be invalid by any court of competent jurisdiction, this Section shall be construed and applied as if such invalid provisions were not contained herein, attempting at all times to conform, to the extent possible, to the intent of the parties as herein stated, and provide the maximum indemnity allowed by law. With respect to claims against one party by the other party's employees, the latter party agrees to expressly waive its immunity, if any, as a complying employer under the workers' compensation law but only to the extent that such immunity would bar or affect recovery under or enforcement of the indemnification obligations set forth in this Section.

The terms of this indemnity and any other indemnities set forth in this Agreement shall survive the termination of this Agreement. In the event that Owner becomes aware of a claim affecting Licensee under the terms of this indemnification clause, Owner shall endeavor to put Licensee on timely notice of such claim.

19. INSURANCE

Licensee shall obtain and furnish the insurance described below. Licensee shall maintain and cause its subcontractors to maintain this insurance at all times during the performance of this Agreement.

- A. Coverage for the legal liability of Licensee under the workers' compensation and occupational disease law of the State of Indiana. If Licensee is a legally permitted and qualified workers compensation self-insurer in the State of Indiana, it may furnish proof that it is such a self-insurer in lieu of submitting proof of insurance.
- B. Commercial general liability insurance with limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate.
- C. Commercial automobile liability insurance with a combined single limit for bodily injury and property damage of \$1,000,000 each accident.

Licensee will not be permitted to access Owner's poles until Owner receives from Licensee one copy of an acceptable certificate of insurance covering the terms of Subsections A-C above. Such certificate shall state that the insurance carrier has issued the policies providing for the insurance specified above. Upon receipt of notice from its insure(s) Licensee shall provide the Owner with, thirty (30) days prior written notice of cancellation of such policies. . Licensee shall obtain waivers of subrogation on all of their insurance. Such waivers shall be for the benefit of Owner and its affiliated companies. Licensee acknowledges that continued maintenance of the insurance requirements under this Agreement is a substantial and important part of this Agreement and that any lapse in insurance coverage shall be corrected so that

coverage will be in place during the period required hereunder, with no gaps or lapses in coverage.

The amounts of insurance required under this Agreement shall, upon notice to review and acceptance by Licensee, be increased as Owner may reasonably require from time to time to account for inflation, generally increased insurance settlements, court verdicts or any other business purposes. If Licensee does not timely deliver to Owner a certificate showing all of the required insurance to be in full force and effect as required by this Agreement, Owner may declare Licensee to be in substantial default under the terms of this Agreement upon which event this Agreement shall automatically terminate within sixty (60) days without the need for any further notice.

20. IDENTIFICATION OF LICENSEE'S EMPLOYEES

In furtherance of the purpose of laws, rules and regulations relating to sabotage, espionage and subversive activities, Licensee shall identify each of its employees and agents accessing Owner's poles and will require its contractors who will have occasion to perform work on or about Owner's poles, wires and other facilities to have suitable means of identification and recognizable as contractors of Licensee. Upon written request of the Owner, the Licensee shall promptly remove or cause the removal of any employee, agent or contractor from performing any work on or about Owner's poles, wires and other facilities, reasonably found by the Owner to be unqualified or unfit for the performance of such work or who fails to comply with the term of this Agreement.

21. EASEMENTS

Licensee shall secure any right, license or permit from any governmental body, authority or other person or persons which may be required for the construction or maintenance of Licensee's Attachments. Owner does not grant, convey nor guarantee any easements, rights-of-way or franchises for the construction and maintenance of the Attachments. Licensee hereby agrees to indemnify and save Owner harmless from any and all claims, including the expenses incurred by Owner to defend itself against such claims, resulting from or arising out of the failure of Licensee to secure such right, license, permit or easement for the construction or maintenance of the Attachments on Owner's poles, the loss of right-of-way or property owner consent, of the costs of relocating any of Owner's facilities or other attachments on Owner's poles. In the event that Owner becomes aware of a claim affecting Licensee under the terms of this provision, Owner shall endeavor to put Licensee or timely notice of such claim. However, such notice obligation of Owner does not extend to permits or franchises required by governmental entities. As applicable, all of the terms of the indemnity set forth in this Agreement are incorporated herein and shall apply with equal force to the indemnity set forth in this Section.

22. PERFORMANCE BOND

Owner may require Licensee, on demand, to furnish a bond or irrevocable letter of credit in an amount equal to one (1) year's Annual Attachment Fees for all Attachments, or \$10,000 dollars, whichever is greater, as a payment and/or performance guaranty.

23. DEFAULT OR NON-COMPLIANCE

If Licensee fails to comply with any of the provisions of this Agreement, or defaults in the performance of any of its obligations under this Agreement, and fails within thirty (30) days, after written notice from Owner to correct such default or noncompliance, Owner may, at its option, take any one or more of the following actions: (i) suspend Licensee's access to climb or work on its Attachments on all of Owner's poles; (ii) terminate the specific permit or permits covering the poles to which such default or noncompliance is applicable; (iii) remove, relocate, or rearrange Attachments of Licensee to which such default or noncompliance relates, all at Licensee's expense; (iv) decline to permit additional Attachments hereunder until such default is cured; or (v) in the event of any failure to pay any of the charges, fees or amounts provided in this Agreement or any other substantial default, or of repeated defaults, terminate this Agreement. Notwithstanding the foregoing, Licensee shall have up to an additional thirty (30) days to correct such default or noncompliance if Licensee promptly commences its corrective efforts within the thirty (30) day period described above and diligently continues such corrective actions thereafter. Owner shall incur no liability because of any or all such actions. The remedies provided herein are cumulative and in addition to any other remedies available to Owner under this Agreement or otherwise. No such termination, however, shall reduce or eliminate the obligation of the Licensee to make payments of any amounts due to Owner for any services covered, shall not waive charges for any Attachment until said Attachment is removed from the pole to which it is attached and shall not affect Licensee's Indemnification of Owner or the Insurance requirements contained in this Agreement. Owner shall be entitled to recover any and all attorney fees, costs and expenses incurred in successfully pursuing any of the remedies set forth above.

24. REGULATION

Both parties acknowledge that, prior to negotiation of this Agreement, the parties carefully reviewed all relevant provisions of state and federal statutes and regulations relating to the regulation of Owner's facilities, and that the negotiations freely conducted herein were undertaken without duress and with full knowledge of any rights either party may have pursuant to such state or federal law. Each and every provision of this Agreement is considered an essential exchange of consideration hereto.

Execution and performance of this Agreement are without prejudice to, and do not constitute a waiver of any positions taken or claims asserted respecting the validity, enforceability or effect of any or all such regulations or orders in any appeal, litigation or administrative proceeding pending at the date hereof or later begun, or any rights arising out of any judgment, opinion or order therein.

25. TERM

Except as provided in the Default Or Noncompliance Section, this Agreement shall continue for a period of five (5) years from the date hereof, and shall thereafter automatically renew for successive one year periods unless one party gives the other party written notice of termination at least sixty (60) days in advance of the next renewal date. Licensee shall completely remove its Attachments from Owner's poles within one hundred twenty (120) days of the termination date or such other mutually agreed additional period, unless an extension of the existing Agreement is negotiated or the

parties have executed a new agreement covering such poles hereto. If Licensee fails to remove its facilities, Owner may and is hereby given the clear and incontestable right to remove Licensee's facilities, at Licensee's expense, from Owner's poles and without any liability to Owner.

26. PRIOR AGREEMENTS

This Agreement terminates and supersedes any prior agreement, license or joint use affecting Owner's poles and Licensee's attachments covered hereby as of the date hereof, but such termination shall not reduce or eliminate the obligation of Licensee to make payment of any amounts due to Owner under any prior agreement.

27. TRANSFERS OF OWNERSHIP

This Agreement shall be binding upon and inure to the benefit of the parties hereto, and Licensee shall not assign, transfer, sublet or sublicense any of the rights hereby granted to a non-affiliate. If Licensee wishes to sell, or otherwise transfer, all or part of its facilities covered by this Agreement to a non-affiliated third party, said third party shall submit an application to enter into a new agreement with Owner for the installation and/or maintenance of wireline attachments on Owner's poles, and reimburse Owner for any non-recurring expenses associated with Owner's review of the third party. Any outstanding liabilities of Licensee, including, without limitation, charges for inventories and inspections, charges and penalties for unauthorized attachments, or other outstanding costs or expenses shall be paid to Owner, in full, prior to the transfer of any rights and privileges of the Licensee with a new agreement to said third party. Owner reserves the right, at its option, to consent to the transfer of the existing Agreement to a new third party, or to require the execution of a new agreement in lieu of granting its consent to the assignment or transfer of any right, license or privilege under this Agreement.

28. GOVERNING LAW

Except insofar as governed by federal law, this Agreement shall be construed in accordance with applicable laws in effect of the State of Indiana.

29. ENFORCEMENT

Failure by either party to enforce or insist upon compliance with any of the terms and conditions of this Agreement shall not constitute a general waiver or relinquishment of any terms or conditions.

30. NOTICES

Any notices required or permitted pursuant to this Agreement shall be given by registered or certified mail with return receipt requested, addressed to Greenfield Electric Department at:

**Greenfield Electric Department
333 S. Franklin St.
Greenfield, IN 46140-2284
Attn: Electric Superintendent**

and to Licensee at:

**MCImetro Access Transmission Services Corp
Attn: Network Contract Services
400 International Parkway
Richardson, TX 85081
VZB-NetworkContracts@verizon.com**

with a copy to:

**MCImetro Access Transmission Services Corp.
Attn: Vice President & Deputy General Counsel
1320 North Courthouse Road, 9th Floor
Arlington, VA 22201**

Either party may, by written notice, designate a different address to which notices shall subsequently be transmitted to it.

31. THIRD PARTY

This Agreement shall not create for, nor give to, any third party any claim or right of action against either party to this Agreement that would not arise in the absence of this Agreement.

32. EXECUTION

This Agreement may be executed in two counterparts each of which so executed shall be deemed to be an original.

33. AGREEMENT MODIFICATIONS

This Agreement and its Exhibits constitute the entire agreement between the parties respecting pole attachments, and shall only be modified in a writing signed by both parties hereto.

34. PRESERVATION OF REMEDIES

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to Owner shall impair or affect Owner's right thereafter to exercise the same.

35. HEADINGS

Headings used in this Agreement are inserted only for the convenience of the parties and shall not affect the interpretation or construction of this Agreement.

36. SURVIVAL OF OBLIGATIONS

All payment, performance and indemnity obligations of Licensee under this Agreement shall survive the termination of this Agreement, until said obligations are satisfied.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

**MCIMETRO ACCESS TRANSMISSION
SERVICES CORP.**

CITY OF GREENFIELD, INDIANA

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT A

REQUEST (PROPOSAL) AND PERMIT

TO: _____
(Pole Owner)

FROM: _____
(Licensee)

DATE: _____

In accordance with the terms of the Pole Attachment License Agreement, Licensee hereby applies for a permit to make attachments to the poles identified on the attached sheet. Licensee has obtained all necessary consents or permits from private property owners and governmental authorities in accordance with the Pole Attachment License Agreement.

LOCATION(S) by Street Name/Address

Total No. of Poles Requested for Review _____

LICENSEE'S AGENT:

By: _____

Title: _____

Date: _____

Permit granted (date) _____, to Licensee for installation of the described attachment(s) on the identified pole(s), subject to Licensee's acceptance of any changes or rearrangements detailed on the Owner's attached sheet, at an estimated cost of \$ _____ for Owner's rearrangements. Acceptance should be indicated on this form and returned to Owner within thirty (30) days from the date hereof, failing which the permission hereby granted shall automatically be revoked.

OWNER

By: _____

Title: _____

Date: _____

EXHIBIT B

TRANSFER NOTICE

TO: _____
(Licensee)

FROM: _____
(Pole Owner)

DATE: _____

In accordance with the terms of Pole Attachment License Agreement (Agreement), Owner hereby notifies you that it intends to (replace/change the locat on) of the below identified pole(s) on the following date: _____, 20__.

Please arrange to transfer your Attachments on or before: _____, 20__.

If you are unable to transfer your Attachments at that time, you may be responsible for removing and disposing of the old pole and/or Owner's costs of performing such work, pursuant to the terms of the Agreement.

POLE NUMBER(s)
LOCATION(s): _____

By: _____

Title: _____

Date: _____

EXHIBIT C

NOTIFICATION OF REMOVAL BY LICENSEE

Date: _____

TO: _____
(Pole Owner)

FROM: _____
(Licensee)

In accordance with the terms of the Pole Attachment License Agreement, please cancel the Permit for the following pole(s), listed on the attached sheet, from which Licensee's Attachment(s) were removed on _____
(date removed)

LOCATION(S) _____

(Street Name)

Total Poles Discontinued _____

By: _____

Title: _____

Date: _____