

GENERAL JOINT USE AGREEMENT

between

ROCHESTER TELEPHONE CORPORATION

and

FAIRPORT MUNICIPAL COMMISSION

Effective Date: September 1, 1975

GENERAL JOINT USE AGREEMENT

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INDEX

<u>Article Number and Subject</u>	<u>Page Number</u>
Preamble	1
1. Scope	1
2. Definitions and Explanations of Terms	1, 2
<u>Section A: Relating to Joint Ownership</u>	3
3. Acquiring Joint Ownership in New Poles or Poles to be Replaced	3
4. Acquiring Joint Ownership in Existing Poles	3, 4
5. Rights-of-Way	4
6. Establishment of Joint Ownership - Acknowledement of Joint Ownership	4, 5
7. Maintenance and Replacement of Jointly Owner Poles	5
8. Relinquishment of Interest in Jointly Owner Poles	5, 6
9. Taxation	6
10. Division of Costs	6-8
<u>Section B: Relating to Rented Poles</u>	9
11. Duration and Status of Rented Poles as Such	9
12. Placing Limited Attachments on New Poles about to be Erected	9
13. Placing Attachments on Existing Poles	10
14. Maintenance and Replacement of Rented Poles	10, 11
15. Relinquishment of Interest in Rented Poles - Termination of Use	11, 12
16. Rental Rates and Conditions	12-14
<u>Section C: Relating to Joint Use Generally</u>	15
17. General Maintenance	15
18. Removal and Disposition of Poles	16
19. Procedure When Character of Circuits is Changed	16, 17

Section D: Operating Aspects

	18
20. Bills and Payments for Work	18
21. Existing Rights of Other Parties and Responsibility for Their Attachments	18
22. Assignment of Rights	18, 19
23. Defaults	19, 20
24. Operating Practices	20
25. Termination of Existing Agreements	20, 21
26. Term of Agreement	21
27. Waiver of Portions of Agreement	21
28. Liabilities and Damages	21-23
29. Insurance	23

THIS AGREEMENT effective as of the 1st day of September, 1975 between Fairport Municipal Commission, having its principal place of business in the Village of Fairport, New York, hereinafter called the ELECTRIC COMPANY and Rochester Telephone Corporation, a corporation of the State of New York having its principal place of business in the City of Rochester, New York, hereinafter called the TELEPHONE COMPANY.

WITNESSETH:

WHEREAS, the Electric Company and the Telephone Company desire to provide for the Joint Use of poles;

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

ARTICLE 1.: SCOPE

- 1.01. This agreement shall be in effect in the franchise area of each party insofar as it overlaps the franchise area of the other party at any time, and shall cover all poles brought hereunder in accordance with the procedures hereinafter provided.
- 1.02. Each party reserves the right to exclude from Joint Use poles which, in the Owner's judgment, are necessary for its own sole use.

ARTICLE 2.: DEFINITIONS AND EXPLANATIONS OF TERMS

The following terms used herein shall have the following meanings:

- 2.01. JOINT USE - Installation and maintenance of ATTACHMENTS by each party on a JOINTLY USED or RENTED POLE.
- 2.02. JOINT OWNERSHIP, JOINT POLE or JOINTLY OWNED - Each party owns an undivided half interest.
- 2.03. RENTED POLE - A pole owned by one party supporting ATTACHMENTS of the other party on a rental basis.
- 2.04. OWNER - The party having sole ownership.

- 2.05. LICENSEE - The party installing or maintaining ATTACHMENTS or making RESERVATION FOR FUTURE JOINT USE on a pole owned by the other party.
- 2.06. ATTACHMENTS - All apparatus, fixtures or appurtenances used on poles by either party.
- 2.07. LIMITED ATTACHMENTS - Four or less TELEPHONE CIRCUITS or five or less electric wires, and the necessary guys and supports therefor.
- 2.08. EXCESS ATTACHMENTS - Those in excess of LIMITED ATTACHMENTS.
- 2.09. TRANSFER - Moving ATTACHMENTS from one pole to another.
- 2.10. REARRANGE - Moving ATTACHMENTS on the same pole.
- 2.11. RELOCATE - Moving a standing pole by trenching or re-setting to a closely adjacent location for its continued use.
- 2.12. RESERVATION FOR FUTURE JOINT USE - Unoccupied space provided on the OWNER'S pole for the expected ATTACHMENTS of the other party.
- 2.13. TELEPHONE CIRCUIT - A pair of conductors, such as drop wires, or two (2) separate open wires.
- 2.14. COST - The cost in place of a newly set pole, or the reproduction cost of a standing pole less depreciation calculated on such reproduction cost.
- 2.15. NET LOSS (as applied to a pole replacement) - The reproduction cost less depreciation on such reproduction cost.
- 2.16. NORMAL SPACE (for each party is) - One-half of the total usable space. Certain ATTACHMENTS of one party in accordance with the SPECIFICATIONS mentioned in this Article 2 may be located in the space of the other party.
- 2.17. SPECIFICATIONS - EEI Publication M12, dated October 1945, "Joint Pole Practices for Supply and Communication Circuits", subject to such changes as may be agreed upon in writing by the respective Officers or Authorized Representatives of the parties hereto.

SECTION A - RELATING TO JOINT OWNERSHIP

ARTICLE 3.: ACQUIRING JOINT OWNERSHIP IN NEW POLES OR POLES TO BE REPLACED

- 3.01. When either party hereto is about to erect poles, said party shall submit a proposal to the other party showing the proposed location of the poles, any unusual character of circuits it will use thereon, and the amount of space said party requires, and propose Joint Ownership of such poles to the other in writing at least sixty (60) days before work is begun, or in cases of emergency, as promptly as possible. The other party shall, within fifty (50) days after the receipt of such proposal, reply in writing, stating whether such other party desires to acquire Joint Ownership of such poles, and if so, any unusual character of the circuits it desires to use and the amount of space it requires. If the proposal is not accepted within fifty (50) days it shall be construed that Joint Ownership is not desired.
- 3.02. When Joint Ownership is agreed upon as provided in Paragraph 3.01, it shall then be decided which party is to do the work. The party erecting the poles shall, within ten (10) days after erection, notify the other party that attachments may be placed.
- 3.03. Unless otherwise specifically agreed in writing, all poles erected for the purposes of Joint Ownership shall be of such class and height as to provide the strength and spaces required by the construction standards of each party, the clearances required by the terms of the Specifications herein and the proper clearances above ground.
- 3.04. Each party shall place, Transfer and Rearrange its own Attachments on new Joint Poles and place its own guys to counteract its unbalanced load.
- 3.05. Cost of work done under the provisions of this Article 3 shall be as provided in Article 10, "Division of Costs".

ARTICLE 4.: ACQUIRING JOINT OWNERSHIP IN EXISTING POLES

- 4.01. When either party desires to acquire Joint Ownership in the other party's poles, the party so desiring

shall make written, application to that effect to the Owner, specifying the location of the poles, the amount of space required for its Attachments and any unusual character of circuits to be used. Said Owner shall within thirty (30) days notify the other party as to whether such poles are available for Joint Ownership, and upon giving such notice, Joint Ownership shall be established in accordance with the terms of the application and of this agreement.

- (a) If the poles are suitable for Joint Use, the party desiring Joint Ownership shall acquire it by purchase as provided by Article 10, "Division of Costs".
- (b) If the poles are not suitable for Joint Use, by agreement they shall be replaced with poles suitable for Joint Use as provided in Articles 3, "Acquiring Joint Ownership in New Poles or Poles to be Replaced", and 10, "Division of Costs".

ARTICLE 5.: RIGHTS OF WAY

- 5.01. Each party shall be solely responsible for the necessary rights-of-way for its equipment on or used in connection with Joint Poles.
- 5.02. New Jointly Owned Pole Lines. By agreement one party shall, insofar as feasible, obtain all necessary rights-of-way in the names of both parties using right-of-way forms which are agreed upon.
- 5.03. Existing Solely Owned Pole Lines to Become Jointly Owned and Rented Poles. No guarantee is given by the Owner of permission by property owners, municipalities or others respecting the use of its poles by the new Joint Owner or Licensee; and if objection is made thereto and the new Joint Owner or Licensee is unable to obtain necessary consent, it must remove its Attachments promptly from such poles at its sole expense and should it fail to remove its Attachments, Owner may remove them at the new Joint Owner's or Licensee's expense without liability for such removal.

ARTICLE 6.: ESTABLISHMENT OF JOINT OWNERSHIP-ACKNOWLEDGMENT

OF JOINT OWNERSHIP

- 6.01. On new construction and replacement, Joint Ownership shall exist and continue from the time the poles, guys, anchors and other supports are installed, until terminated as herein provided.
- 6.02. An existing solely owned pole shall become Jointly Owned when a proposal for Joint Ownership has been accepted by both parties.
- 6.03. The acquisition of Joint Ownership in any pole shall be acknowledged by the acceptance of a proposal or memorandum, giving the pole number and location and designating all anchors, guys and other supports included in the Joint Ownership arrangement. The pole shall bear the ownership identification of both parties.

ARTICLE 7.: MAINTENANCE AND REPLACEMENT OF JOINTLY OWNED POLES

- 7.01. The necessity for maintenance and renewal of Jointly Owned poles, and the methods and forms of construction to be followed shall be agreed upon by both parties in each case.
- 7.02. The parties shall agree from time to time as to routine inspection of Jointly Owned poles.

ARTICLE 8.: RELINQUISHMENT OF INTEREST IN JOINTLY OWNED POLES

- 8.01. A party desiring to relinquish its right in any Jointly Owned pole shall give thirty (30) days' notice in writing to the other party of its intention, specifying the pole and shall remove its Attachments from the said pole, giving notice of such removal to the other party in writing. Thereupon it shall be relieved and indemnified by the other party from all expense and liability thereafter with respect to the pole from which its Attachments have been removed, and its interest in such pole shall thereupon vest in the remaining Owner, provided however, that if the other party before the expiration of such thirty (30) days shall signify its intention in writing to relinquish its interest in such pole, the pole shall remain Jointly Owned and the party last removing its Attachments therefrom shall remove

the pole.

ARTICLE 9.: TAXATION

- 9.01. For the purpose of taxation each party shall report its interest in each Jointly Owned pole as an undivided half interest.

ARTICLE 10.: DIVISION OF COSTS

- 10.01. The Cost of new Jointly Owned poles, anchors and supports shall be divided equally except that where one party requires for its sole purpose a pole over 35 feet and higher than would be required to furnish approximately equal space for both parties, said party shall pay for the additional height of pole required.
- 10.02. The Cost of acquiring Joint Ownership in solely owned standing poles, anchors or supports shall be one-half the Cost except that if the pole is higher than 35 feet and the space requirements of the purchaser is less than one-half the usable space, the purchase price shall be one-half the Cost of the minimum height pole (not less than 35 feet) which would provide usable space double that required by the purchaser.
- 10.03. The Cost of Relocating a Jointly Owned pole shall be borne equally by the parties, except that if Relocation is for the sole benefit of one party, that party shall bear such cost.
- 10.04. The Net Loss entailed in the replacement of an existing pole with a new Jointly Owned pole shall be borne as follows:
- (a) If the existing pole is Jointly Owned each party shall bear its own Net Loss except that if the replacement is for the sole benefit of one party, that party shall bear such cost.
 - (b) If the existing pole is solely owned the Net Loss shall be borne by the Owner except that if the replacement is for the sole benefit of the other party the entire Net Loss or an amount not exceeding one-half the Cost of the new Jointly

Owned pole, whichever is smaller, shall be borne by such other party. Such payment for Net Loss specifically applies under the conditions stated in Paragraph 4.01(b), Paragraph 13.03 or Paragraph 14.04.

- 10.05. Cost and expense entailed in inspecting, reinforcing, straightening and repairing Jointly Owned poles as covered by Article 7, shall be divided equally between the parties.
- 10.06. Each party shall place, maintain, Rearrange, Transfer and remove its own Attachments at its own expense except as provided in Paragraph 13.02.
- 10.07. To avoid the expense of accumulating actual costs on each joint transaction, working schedules which approximate average actual costs shall be agreed upon and used for billing under the provisions of Paragraph 10.01, 10.02, 10.03, 10.04 and 10.05. The Reciprocal Pole Price Schedule attached hereto as Schedule 1 is to be used for billing, effective as of the date hereof, under the provisions of the aforesaid paragraphs of this Agreement. Where these Reciprocal Pole Price Schedules are to be used in acquiring Joint Ownership in standing poles under the provisions of Paragraph 10.02 of this Article or computing Net Loss in connection with replacement of existing poles under the provision of Paragraph 10.04(b) of this Article, the deduction for depreciation shall be based on the percentage of unexpired life reflected in said Reciprocal Pole Price Schedule. The Reciprocal Pole Price Schedule is to be increased or decreased annually using the index for Account 364, Poles, Towers and Fixtures in Table 3, North Atlantic Division of the Handy Whitman Index of Public Utility Construction Costs or in its absence another agreed upon index having standing in the industry. Such adjustments will become effective January 1 of each calendar year and will be based upon the ratio of indices of July 1 of the previous year to the base index of July 1, 1974.
- 10.08. The cost of Joint rights-of-way required by both parties shall be divided equally, unless otherwise agreed.
- 10.09. Each party at its own expense shall trim trees to clear its own facilities. The cost of removal of

trees which present a hazard to the facilities of both parties shall be divided equally between the parties.

- 10.10. If, in specific situations, the division of Costs of Joint Poles in accordance with the foregoing provisions of this Article will result in inequities or otherwise make Joint Ownership unattractive to one of the parties hereto, even though use of the poles on a joint basis may be desirable or economical from the overall standpoint, nothing herein shall preclude the establishment of Joint Ownership in such situations on such terms or on such a basis as may be agreed upon in writing.

SECTION B - RELATING TO RENTED POLES

ARTICLE 11.: DURATION AND STATUS OF RENTED POLES AS SUCH

- 11.01. Each Rented Pole shall continue in such status until (a) the pole is abandoned by the Owner, (b) the use by the Licensee is discontinued, (c) Joint Ownership is established as provided herein or (d) Joint Use is terminated as provided in Article 19.
- 11.02. Each Rented Pole carrying Excess Attachments shall, if both parties elect to continue Joint Use, become Jointly Owned within three (3) years after the execution of this agreement by (a) purchase or (b) replacement on a Joint Ownership basis. It is the intention that about one-third of such Rented Poles shall become Jointly Owned during each of the first three years following the date of this agreement.

ARTICLE 12.: PLACING LIMITED ATTACHMENTS ON NEW POLES ABOUT TO BE ERECTED

- 12.01. When either party, after receiving notice as provided in Paragraph 3.01, desires to place Limited Attachments on the poles, it shall make written application, specifying the location of the poles in question, the amount of space it requires and any unusual character of the circuits to be used. Within thirty (30) days after the receipt of such application, the Owner shall notify the Applicant in writing whether the request is granted or not and if not stating that said proposed poles are not of sufficient height or are excluded from Joint Use.
- 12.02. If any pole which the Owner plans to install is inadequate for the Attachments of both parties and the Applicant still desires Joint Use, a pole of sufficient height and strength shall be placed and shall become Jointly Owned as provided in Articles 3 and 10.
- 12.03. If the Applicant requires an immediate pole which the Owner does not need, the Applicant shall erect and own a pole of suitable height and strength for the Attachments of both parties, and the Owner will attach to said intermediate pole for clearance, rental free.

ARTICLE 13.: PLACING ATTACHMENTS ON EXISTING POLES

- 13.01. When a party desires to place Attachments on a pole of the other suitable for Joint Use, it shall make written application, specifying the location of the pole, the amount of space required and any unusual character of the circuits to be used. Within thirty (30) days after the receipt of such application, the Owner shall notify the Applicant in writing whether the request is granted and if not stating that said pole is not of sufficient height or is excluded from Joint Use. Upon receipt of notice that said pole is of sufficient height and not excluded, and after the Owner has completed Transferring or Rearranging its facilities, the Applicant may use said space for attaching circuits as specified in said application in accordance with the terms hereof.
- 13.02. When the space requirements of the Applicant on a pole which is adequate make it necessary for the Owner to Rearrange its equipment, the Owner shall so Rearrange its equipment so as to leave for the Applicant the space agreed upon. The cost of Rearranging the Owner's equipment shall be borne by the Applicant. The amount to be billed shall be the estimated cost agreed upon before field construction.
- 13.03. If the pole is of insufficient height and the Applicant still desires Joint Use, the Applicant shall replace it with a pole to become Jointly Owned as provided in Articles 3 and 10.
- 13.04. If the Applicant requires an intermediate pole in a rented line, the Applicant shall erect and own a pole of suitable height for the Attachments of both parties, and the Owner of the rented line shall attach to said intermediate pole for clearance, rental free.

ARTICLE 14.: MAINTENANCE AND REPLACEMENT OF RENTED POLES

- 14.01. The Owner shall at its own expense maintain its Rented Poles in a safe and serviceable condition and in accordance with the Specifications and shall replace defective poles.
- 14.02. When the Owner desires to replace a Rented Pole, it shall advise the Licensee to that effect at least

thirty (30) days before such replacement, or in cases of emergency, as promptly as possible. Where the pole is one of which the Owner is willing to permit Joint Ownership, and if the Licensee accepts, Joint Ownership shall be acquired in accordance with the provisions of Articles 3 and 10. Within ten (10) days after the replacement, the Owner shall notify the other party to transfer its Attachments.

- 14.03. At the time of replacement a Rented Pole carrying Limited Attachments may continue as such at the option of the Licensee except as provided in Paragraph 14.04.
- 14.04. When it is necessary to replace a Rented Pole carrying Limited Attachments with a higher pole, (a) for the sole benefit of the Licensee or (b) to provide additional space required by the Owner, which could be provided on the existing pole if the Attachments of the Licensee were not present, then Joint Use, if continued, shall be on a Joint Ownership bases as provided in Article 3 and Article 10.
- 14.05. When it is necessary to replace a Rented Pole carrying Excess Attachments then Joint Use, if continued, shall be on a Joint Ownership basis as provided in Article 3 and Article 10.
- 14.06. If, after thirty (30) days following notification of the replacement of a Rented Pole, the Owner shall have no Attachments on the replaced pole but the Licensee shall not have removed all its Attachments therefrom, the Licensee shall indemnify the Owner of such pole for and from all liability or other charges incurred thereafter, arising out of the presence or condition of such pole or of any Attachments of the Licensee thereon.

ARTICLE 15.: RELINQUISHMENT OF INTEREST IN RENTED POLES -
TERMINATION OF USE

- 15.01. If the Owner desires to relinquish its interest in any Rented Pole, it shall give the Licensee notice in writing. If, after sixty (60) days from date of such notice, the Owner shall have no Attachments on such pole but the Licensee shall not have removed all its Attachments therefrom, such pole shall thereupon become the property of the Licensee, and the Licensee

shall indemnify the former Owner of such pole for and from all liability or charges incurred thereafter, arising out of the presence or condition of such pole or any Attachments of the Licensee thereon; and shall pay the Owner a sum equal to the Cost of such relinquished pole.

15.02. The Licensee may at any time discontinue the use of a Rented Pole by removing all Attachments it may have thereon and by giving notice thereof in writing to the Owner.

15.03. If the Owner needs additional space on a Rented Pole and notifies the Licensee that the present pole would be large enough if the Licensee's Attachments were not present, the Licensee shall within thirty (30) days of such notification either remove all its Attachments or notify the Owner that it desires Joint Ownership in accordance with Paragraph 14.04.

ARTICLE 16.: RENTAL RATES AND CONDITIONS

16.01. The Licensee shall pay the owner as rental for the use of each and every pole, any portion of which is occupied by or specifically reserved for Attachments of Licensee, the annual rental specified in Schedule 2, except that no rental shall be paid for any pole where its use consists only in attaching guys thereto or in attaching thereto wires or cables to provide clearance.

16.02. The annual rent shall be increased or decreased annually using the index for Account 364, Poles, Towers and Fixtures in Table 3, North Atlantic Division of the Handy Whitman Index of Public Utility Construction Costs or in its absence another agreed upon index having standing in the industry. Such rental adjustment will become effective January 1 of each calendar year and will be based upon the ratio of the indices of July 1 of the previous year to the base index, July 1, 1974.

16.03. An initial inventory of Rented Poles shall be made by both parties within one year after the signing of this agreement and thereafter each three (3) years from the date of such initial inventory.

The pole rental year shall be from January 1 to

December 31 except that it may be changed by mutual consent in which case an adjustment shall be made for rental paid for the interim period.

Pole rental for each year shall be based on the number of poles in use at the beginning of each year. The pole rental payments shall be further adjusted at the end of such year to take account of the net increase or decrease in number of Rented Poles in use at the end of such year by multiplying one half of the applicable rental rate by the net increase or decrease in the number of Rented Poles during the year.

Bills for rental shall be rendered within (30) days after the beginning of the year. Such bills shall be paid within (30) days after receipt thereof.

- 16.04. After each triennial inventory the Owner of the Rented Poles shall make a billing adjustment to reflect any net increase or decrease of Rented Poles shown by the inventory as compared with the number of poles previously reported to the Owner prior to such inventory in accordance with Paragraphs 11.01, 12.01 or 13.01.

The number of poles to be used for such billing adjustment shall be based upon the difference between the number shown by such triennial inventory and the number of poles reported to be rented in accordance with Paragraphs 11.01, 12.01 or 13.01. Such difference in number of poles shall be construed to have been installed in equal numbers over each of the elapsed years since the previous triennial inventory. The number of poles thus construed to have been installed in the first year shall be divided by 2 and the applicable rate applied to determine the billing adjustment for the first year. The poles construed to have been installed in the second year shall be divided by 2 and to this number shall be added the full number of poles construed to have been installed the first year. This sum shall be multiplied by the applicable rate for the second year to determine the billing adjustment for the second year. The poles thus construed to have been installed in the third year shall be divided by 2 and to this number shall be added the full number of poles construed to have been installed in the two preceding years. This sum shall be multiplied by the applicable rate for the

third year to determine the billing adjustment for the third year.

In the event that the period between inventories shall be four or more years, a similar method of determination shall be used for the actual number of full years between inventories.

- 16.05. If at any time the Owner finds that solely owned poles carry Excess Attachments, the Owner, if Joint Use is to be continued may require the Licensee to purchase a Joint Ownership interest in such poles in accordance with Articles 4 and 10.
- 16.05. Either party at any time may take an interim inventory upon giving the other party notice in writing that such an interim inventory is desired, whereupon the other party shall cooperate in taking such an inventory. If the other party does not agree in writing within ten (10) days after receipt of such notice that they will join in taking such an interim inventory, the requesting party may nevertheless take such an interim inventory in which event such interim inventory shall be as effective and binding as if jointly taken by both parties. When such an interim inventory is taken and the difference between the inventory count and the number of Rented Poles reported in accordance with Paragraphs 11.01, 12.01 or 13.01 is equal to or less than 7-1/2% of the number of rented poles reported since the most recent preceding triennial or interim inventory then the party requesting the interim inventory shall pay for the actual cost of the interim inventory and billing shall be made on the same basis as provided in Paragraph 16.04 for triennial inventories. If the aforesaid difference is greater than 7-1/2% the Licensee shall pay the actual cost of taking the inventory and shall pay the Owner rental at the applicable rental rate or rates for the period since the most recent previous triennial or interim inventory on the full number of Rented Poles disclosed by the interim inventory is excess of the number of poles reported in accordance with paragraphs 11.01, 12.01, or 13.01. No reports of attachments set on additional poles shall be considered if received after a request in writing for an interim inventory has been made unless the attachments so reported have been set within thirty days prior to such request.

SECTION C - RELATING TO JOINT USE GENERALLY

ARTICLE 17.: GENERAL MAINTENANCE

- 17.01. Attachments placed on Jointly Used poles shall be placed and maintained in accordance with the Specifications and shall be kept in safe condition and in thorough and complete repair. Each party shall place, maintain, rearrange, transfer and remove its own Attachments. All such work shall be done promptly and so as not to interfere with the service of the other party.
- 17.02. Supply and communication circuits on Jointly Used poles shall be constructed, operated and maintained with due regard to avoiding or minimizing interference, to the service over the communication circuits. Where such interference is experienced, measures shall be applied which will most conveniently and economically avoid or minimize the interference.
- 17.03. Any Joint Use construction of the parties which does not conform to the Specifications shall be brought into conformity therewith as follows:
- (a) Any Joint Use construction which, when placed, was in conformity with specifications then in effect, shall not be considered a violation of the Specifications.
 - (b) Each party will correct promptly specific instances of non-standard conditions, except those under Paragraph 17.03(a), at the request of the other, and make further corrections without request during reconstruction or maintenance work.
 - (c) The cost of bringing such Joint Use construction into conformity with the Specifications shall be borne by the parties hereto in the manner provided in Article 10.
- 17.04. When replacing a Joint Used Pole carrying terminals of aerial cable, underground connections or transformer equipment, the new pole shall be placed in the same hole which the replaced pole occupied, unless for special reasons it is mutually agreed to set it in a different location. Neither party shall at any

time except in an emergency change the location of or remove any Jointly Owned pole without the written consent of the other party.

ARTICLE 18.: REMOVAL AND DISPOSITION OF POLES

18.01. The last party on a Jointly Used Pole, unless otherwise arranged, shall remove the pole. In the case of a Jointly Owned Pole, the old pole shall be disposed of by the removing party; in the case of a Rented pole, the Owner may request that the pole be deposited at or near the point of removal or may request the removing party to dispose of the pole. The foregoing does not apply to removal of Jointly Used concrete poles which is covered in the Operating Practices.

ARTICLE 19.: PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

19.01. When either party desires to change the character of its circuits on Jointly Used poles, such party shall give thirty (30) days' written notice to the other party. If both parties agree to Joint Use with such changed circuits, then Joint Use shall be continued with such changes in construction as may be required by the Specifications. If, however, the parties fail within thirty (30) days from receipt of such notice to agree in writing to such change, the following will apply:

- (a) The parties shall determine the best method of providing for separate lines and the equitable apportioning of the new cost thereof, and the party whose circuits are to be removed shall promptly remove them.
- (b) If the parties do not agree upon a method and apportionment under Paragraph 19.01(a), then the procedure shall be as follows:
 - (1) In the case of Rented Poles, the Licensee shall remove its Attachments at its own expense.
 - (2) In the case of Jointly Owned poles, the party initiating the change shall relocate the circuits and if it shall elect to

remove all its Attachments from said poles, then the other party shall pay to the relocating party the Cost of the latter's interest in said poles.

19.02. Ownership of any new line constructed under the foregoing provision shall vest in the party for whose use it is constructed. The Cost of such lines, to be apportioned between the parties, shall be exclusive of any increased cost from substituting for the existing facilities, other facilities of a substantially new or improved type or increased capacity; but shall include among other items, the Cost of the new pole line including rights-of-way and the cost of removing Attachments and placing the Attachments on the new line.

19.03. The interest in the old Jointly Owned poles of the party for which the new line is constructed shall vest in the other party at the time all the Attachments of the removing party are removed. The other party shall thereafter indemnify the removing party from all liability or other charges incurred thereafter, because of or arising out of the presence or condition of such poles or of any Attachments of the remaining party thereon.

SECTION D - OPERATING ASPECTS

ARTICLE 20.: BILLS AND PAYMENT FOR WORK

Upon completion of work performed by one of the parties, the expense of which is to be borne wholly or in part by the other, the party performing the work shall within ninety (90) days after its completion render to the other party itemized bills showing the cost of the same, and the other party will pay to the former within thirty (30) days thereafter, the proportion of the cost of said work to be borne by itself.

ARTICLE 21.: EXISTING RIGHTS OF OTHER PARTIES AND RESPONSIBILITIES FOR THEIR ATTACHMENTS

21.01. If either party hereto has conferred upon others, rights or privileges to use any poles covered by this agreement, before the other party's acquiring hereunder ownership in such poles, nothing herein contained shall be construed as affecting said rights or privileges; it being expressly understood, however, that except in the case of fire alarm, police or other publicly owned conductors, the attachments of any such outside party shall be treated as Attachments of the grantor, and the rights, obligations and liabilities hereunder of the grantor in respect to such attachments shall be the same as if it were the actual Owner thereof.

21.02. Where either party allows its poles covered by this agreement to be used for fire alarm, police or other publically owned conductors, it shall demand that all such attachments conform to the Specifications.

ARTICLE 22.: ASSIGNMENT OF RIGHTS

22.01. It is the essence of this agreement that the parties hereto shall own an undivided one-half interest in the Jointly Owned poles covered hereunder. When it is agreed to change either party's share of ownership to other than an undivided one-half interest, the poles so affected are to be withdrawn from this agreement.

22.02. Except as otherwise herein provided, neither party

shall, without the written consent of the other, assign this agreement or any of its rights or interest hereunder or in any of the Jointly Owned poles or the Attachments or rights-of-way covered by this agreement, to any firm, corporation or individual.

- 22.03. Nothing herein contained shall prevent or limit the right of either party to mortgage any or all of its property, rights, privileges and franchises, and upon foreclosure, its rights and obligations hereunder shall pass to and be assumed by the purchaser.
- 22.04. Nothing herein contained shall prevent or limit the right of either party to merge or consolidate with another corporation, firm or individual conducting a business of the same character.
- 22.05. Either party may permit any third party conducting a business of the same character with which it may be associated, affiliated or physically connected, to use any part of its space on any Jointly Owned pole on a lease or license basis, in which event, such third party's Attachments shall be considered as the property of the party granting such permission, and the rights, obligations and liabilities of such party under this agreement, in respect to such Attachments shall be the same as if it were the actual owner thereof.
- 22.06. Both parties agree that attachments of public authority such as police, traffic, fire, public air raid or other warning signals or conductors shall be permitted under the requirements of the Specifications.
- 22.07. Neither party shall individually grant any license or privilege to any third party for the attachment to Jointly Owned poles of street signs, highway signs, advertising signs, posters, decorations or such other encumbrances.

ARTICLE 23.: DEFAULTS

- 23.01. If either party shall make default in any obligation under this agreement, and such default continues thirty (30) days after notice thereof in writing from the other party, all rights of the party in default hereunder, shall be suspended, and at the option of the party not in default may be terminated on thirty

(30) days notice to the party in default hereunder.

23.02. If either party shall fail to perform any work which it is obligated to do under this agreement at its sole expense, within thirty (30) days after receiving notice in writing from the other that it has failed to perform such work, such party shall be in default and the other party may elect to do the work; and the party in default shall reimburse the other for the cost thereof. Failure on the part of the defaulting party to make such payment within thirty (30) days after presentation of bills therefor, shall, at the election of the other, constitute a default under paragraph 23.01.

23.03. All rental payments under this agreement shall be made within thirty (30) days after receipt of invoice or other request for payment. If payment is not made within this period, the Owner may require the Licensee to remove its Attachments at the expiration of sixty (60) days from the giving of written notice to that effect to Licensee. If, at the expiration of sixty (60) days following notification, the Licensee shall not have removed its attachments, then the Owner may remove the Licensee's Attachments and bill the Licensee for the expense of such removal. Failure on the part of the Licensee to pay for such expense within thirty (30) days after presentation of bills therefor, shall, at the election of the Owner, constitute a default under paragraph 23.01. The Licensee shall indemnify the Owner for and from all liability or other charges incurred by reason of, or arising out of, the removal of Licensee's Attachments.

ARTICLE 24.: OPERATING PRACTICES

24.01. The officers or any other authorized representative of the parties shall agree upon certain "Operating Practices" amplifying and interpreting the provisions of this Agreement, and they shall also modify and supplement such "Operating Practices," from time to time, as they shall deem desirable.

ARTICLE 25.: TERMINATION OF EXISTING AGREEMENTS

25.01. All existing two party agreements between the parties

hereto for the Joint Use of poles are hereby superseded and terminated as of this date, except that whatever liability may have accrued to either party as against the other under any such agreement before the date of termination thereof, shall continue in force and effect.

ARTICLE 26.: TERM OF AGREEMENT

26.01. This Agreement may be terminated five years after the effective date or at any time thereafter, upon one (1) year's notice in writing by either party to the other; provided, that notwithstanding such termination, this agreement shall remain in full force and effect with respect to all poles Jointly Owned by the parties at the time of such termination.

ARTICLE 27.: WAIVER OF PORTIONS OF AGREEMENT

27.01. The failure of either party to enforce or insist upon any of the terms or provisions of this agreement or its waiver of the same in any instance or instances, shall not be construed as a general waiver or relinquishment of any such terms or provisions, but the same shall be and remain at all times in full force and effect.

ARTICLE 28.: LIABILITY AND DAMAGES

28.01. Whenever any liability is incurred by either or both of the parties hereto for damages for injuries to the employees or for injury to the property of either party, or for injuries to other persons or their property, arising out of the joint use of poles under this Agreement, which joint use is understood to include the wires and fixtures of the parties hereto, installed between and attached to the jointly used poles covered by this Agreement, or due to the proximity of the wires and fixtures of the parties hereto attached to the jointly used poles covered by this Agreement, the liability for such damages, as between the parties hereto shall be as follows:

28.02. Each party shall be liable for all damages for such injuries to persons or property caused by its negligence or by its failure to comply at any time with

the specifications referred to in Article 2 without any negligence or failure on the part of the other party.

- 28.03. Each party shall be liable for all damages for such injuries to its own employees, or its own property, as are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced by such party which is free from negligence to the negligence of the other party.
- 28.04. Each party shall be liable for one-half (1/2) of all damages for such injuries to persons other than employees of either party, and for one-half (1/2) of all damages for such injuries to property not belonging to either party, that are caused by the concurrent negligence of both parties hereto or that are due to causes which cannot be traced by such party which is free from negligence to the negligence of the other party.
- 28.05. Where, on account of injuries of the character described in the preceding paragraphs of this Article, either party hereto shall make any payments to injured employees or to their relatives or representatives in conformity with (1) the provision of any workmen's compensation act, or any act creating a liability in the employer to pay compensation for personal injury to an employee by accident arising out of and in the course of the employment, whether based on negligence on the part of the employer or not, or (2) any plan for employees' disability benefits or death benefits now established or hereafter adopted by the parties hereto or either of them, such payments shall be construed to be damages within the terms of the preceding paragraphs numbered 28.02 and 28.03 and shall be paid by the parties hereto accordingly.
- 28.06. All claims for damages for injuries to persons other than employees of either party or for injuries to property not belonging to either party that are asserted against or affect both parties hereto, shall be dealt with by the parties hereto jointly; provided, however, that in any case where the damage has been caused by the concurrent negligence of both parties or the causes of which cannot be traced to the negligence of either party without negligence on the part of the other party, and the claimant

desires to settle any such claim upon terms acceptable to one of the parties hereto, but not to the other, then the party to which said terms are acceptable may, at its election, pay to the other party one-half of the expense which such settlement would involve, and thereupon said other party shall be bound to protect the party making such payment from all further liability and expense on account of such claim.

- 28.07. In the adjustment between the parties hereto of any claim for damages arising hereunder, the liability assumed hereunder, by the parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the parties in connection therewith, which shall comprise costs, disbursements, and other proper charges and expenditures, but shall not include attorney's fees.

ARTICLE 29.: INSURANCE

29.01. Each Company further agrees to provide certificates of insurance evidencing the existence of insurance policies issued to them, satisfactory to the other Company and not subject to cancellation or material change without ten days prior written notice to the other Company at its principal place of business in the City of Rochester, New York, which policies or equally satisfactory renewals or extensions thereof shall be maintained in force during the term of this agreement, as follows:

- (a) A standard Workmen's Compensation and employers liability policy as approved by the Compensation Insurance Rating Board of the State of New York.
- (b) A Public Liability policy insuring each Company for its legal liabilities in limits of at least \$500,000 for bodily injuries and limits of at least \$500,000 for property damage.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their duly authorized officers and to be sealed with their respective corporate seals and attested to by their respective secretaries the day and year first above written.

RECIPROCAL POLE PRICE SCHEDULES
Section 10.07 and
ANNUAL RENTAL RATE
Section 16.01

Effective JAN 1, 1975

	% Unexpired Life	25 Feet	30 Feet	35 Feet	40 Feet	45 Feet	50 Feet	55 Feet	60 Feet
New or 1975 1974 1973 1972	100%	\$87	\$109	\$128	\$155	\$219	\$255	\$301	\$337
1971 1970 1969 1968 1967	91%	80	100	117	140	199	231	273	306
1966 1965 1964 1963 1962	76%	67	84	97	118	166	193	228	257
1961 1960 1959 1958 1957	61%	55	67	78	95	133	155	184	206
1956 1955 1954 1953 1952	46%	40	51	58	71	100	117	139	155
1951 1950 1949 1948 1947	31%	26	35	40	47	67	78	93	104
1946 and Prior -	20%	16	22	26	31	44	51	60	67

OTHER WORK

Install Anchor	\$84	Relocate Pole (Use Same Pole)	\$89
Sub Reinforcement	84	Straighten Pole	42
Set off and Reset	53	Remove Wood Pole	26
Split Pole	27	Remove Concrete Pole	80

ANNUAL RENTAL RATE - \$8.92

ROCHESTER TELEPHONE CORPORATION

By: J. A. Lane

ATTEST:

R. V. Linnell

FAIRPORT MUNICIPAL COMMISSION

By: Vincent J. Lawler

ATTEST:

Robert N. Vass