CITY COUNCIL/ELECTRICAL ADVISORY COMMITTEE

April 10, 2013 – 6:00 p.m.
Regular Meeting

CITY COUNCIL
Leo Evans, Mayor
Brady Nelson, Mayor Pro-tem
Patricia Baribeau, Council Member
Ronald Beauchamp, Council Member
Walter Baker, Council Member

ADMINISTRATION
James V. O'Toole, City Manager
Robert S. Richards, CMC, City Clerk
Ralph B.K. Peterson, City Attorney
Mike Furmanski, Electrical Superintendent
Michael Dewar, City Controller
Thomas Butz, Power System Engineering

ELECTRICAL ADVISORY COMMITTEE
Tim Wilson, Chairperson
Ann Bissell, Vice Chairperson
Larry Arkens, Committee Member
Glendon Brown, Committee Member
John Anthony, Committee Member
Vacant Seat
Vacant Seat

Escanaba City Council Chambers: 410 Ludington Street - Escanaba, MI 49829

Meeting Agenda
Wednesday, April 10, 2013

CALL TO ORDER
ROLL CALL
APPROVAL/ADJUSTMENTS TO THE AGENDA
CONFLICT OF INTEREST DECLARATION

NEW BUSINESS

1. **Update - Electric Department –General Operations.**
Explanation: Electrical Superintendent Mike Furmanski will update the City Council, Electrical Advisory Committee and Citizens of Escanaba on the current departmental activities.

2. **Update– Operation and Maintenance of Power Plant – Pro Energy Services, Inc.**
Explanation: Pro Energy Services, Inc. will update the City Council, Electrical Advisory Committee and Citizens of Escanaba on the status of the operation and maintenance of the power plant.

3. **Update – Power Plant Remediation and Site Closure.**
Explanation: Administration and Geosyntec Consultants will provide an update on the Power Plant remediation work and progress made on achieving site closure.

4. **Approval – Groundwater Monitoring Proposal.**
Explanation: Administration seeks Council approval of a proposal from Geosyntec Consultants for a year of quarterly groundwater sampling for an amount not to exceed $28,500.

5. **Approval – Pole Rental Agreement.**
Explanation: Administration seeks Council approval on a pole rental agreement between the City of Escanaba and MERIT Networks.

6. **Update – Power Plant Purchase Agreement.**
Explanation: Administration will provide an update on the status of power plant purchase agreement between the City of Escanaba and Escanaba Green Energy, LLC.

7. **Update – Power Purchase Alternatives.**
Explanation: Administration will provide an update on a range of purchase power alternatives, discussing the types of purchases available, costs of getting the power to Escanaba, expected impacts of transmission improvements on the costs, and the timeframes of future decisions.

GENERAL PUBLIC COMMENT
COMMISSION/STAFF COMMENT AND ANNOUNCEMENTS
ADJOURNMENT

The City of Escanaba will provide all necessary, reasonable aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting to individuals with disabilities at the meeting/hearing upon five days notice to the City of Escanaba. Individuals with disabilities requiring auxiliary aids or services should contact the City of Escanaba by writing or calling City Hall at (906) 786-9402.

Respectfully Submitted,

James V. O'Toole
City Manager

OFFICIAL PROCEEDINGS
CITY COUNCIL
ELECTRICAL ADVISORY COMMITTEE
CITY OF ESCANABA, MICHIGAN
Special Joint Meeting
Wednesday, March 13, 2013

Pursuit to a meeting notice posted March 6, 2013, the meeting was called to order by the Mayor Leo J. Evans at 6:00 p.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Leo J. Evans, Council Members, Walter A. "Pete" Baker, Patricia A. Baribeau, Ronald J. Beauchamp, and Brady L. Nelson.

Absent: None

Present: Electrical Advisory Committee (EAC) Members: Chairperson Tim Wilson, Larry Arkens, Ann Bissell (arrived at 6:05 p.m.), and Glendon Brown.

Absent: Electrical Advisory Committee Members: Jon Anthony, and Two vacancies and Power Plant Liaison

Also Present: City Manager James V. O'Toole, Electric Superintendent Mike Furmanski, City Controller Mike Dewar, Pro Energy Escanaba Power Plant Manager Jack Scott, Escanaba Green Energy (EGE) representative Charles DeTiege and, members of City Administration, the public, and Media.

Nelson moved, Beauchamp seconded, **CARRIED UNANIMOUSLY**, to approve the agenda as submitted.

UNFINISHED BUSINESS - None

CONFLICT OF INTEREST - None

PUBLIC HEARING - None

NEW BUSINESS

Update - Electric Department –General Operations.

Electrical Superintendent Mike Furmanski updated the City Council Electrical Advisory Committee and Citizens of Escanaba on the current departmental activities.

- Reviewed February 19th power outage;
- Reviewed report of City outages compared to national average;
- Reviewed summer projects;
- Reported on average City load in 2012;
- Controller Mike Dewar reviewed Electric Utility Fund, Comparative Income Statement, and Analysis of Cash Balances for the first seven months of FY 12/13;

Update– Operation and Maintenance of Power Plant – Pro Energy Services, Inc.

Jack Scott of Pro Energy Services, Inc. updated the City Council, Electrical Advisory Committee and Citizens of Escanaba on the status of the operation and maintenance of the power plant.

- Reviewed MISO dispatched dates for the operation of the Power Plant and Combustion turbine;
- Reviewed Boiler pipe failure;
- No accidents or injuries were reported for the Month of February.

Update – Capacity Planning.

Electric Superintendent Mike Furmanski provided a brief update on capacity for planning year 2013/2014.

Review – Asset Purchase Agreement and Amendment Overview.

City Attorney Ralph Peterson provided an overview of the Asset Purchase Agreement (APA) by and between the City of Escanaba and Escanaba Green Energy, LLC including all amendments. Mr. Peterson reviewed the following from the APA:

- Definitions of terms;
- Transfer of all assets, 20 acres land, peaking unit and two turbines;
- Exclusion items;
- Power Plant Sale Price of $1,600,000, credit of $200,000 which City was holding, payment of coal at City Cost, and diesel fuel. Buyer agreed to pay City legal fees from August 31, 2012 to closing date, and pro-rata share of insurance costs from December 5, 2012;
- Terminate the agreement;
- Post closing agreement which included an obligation of the buyer to maintain and run the Power Plant for 3 years, From date of closing buyer would receive benefit of the SSR agreement, use and closing of substation and abandonment of equipment, and emergency power supply to the City of Escanaba;
- Contract assumed the closing was going to take place before the MISO arrearage decision was made. The SSR agreement stated if the buyer obtained arrearage funds from the SSR agreement, buyer would forward funds to City. MISO has now agreed to pay arrearage payments directly to City of Escanaba, and further MISO has since agreed to reimburse the City for all their expenses for running the Power Plant since last summer;
- Reviewed various other exhibits attached to the SSR Agreement;

Update – Power Plant Purchase Agreement.

Administration provided an update on the status of power plant purchase agreement between the City of Escanaba and Escanaba Green Energy, LLC (EGE).

- Jon Branson of EGE and representative from Provartis were available by phone and provided an update on EGE's financing, and the 10% needed from an initial investor;
- EGE working with 4 potential investors, including the investor that dropped out in January who was coming back to negotiate the 10% deposit;
- EGE was continuing to establish documentation required for the 10% deposit, which included 4 different countries;
- Mr. Ranson gave the date of May 28, 2013, to Council for a Power Plant closing. Could close sooner if deposit was obtained from the Austrian Bank;
- Provartis advised his financial institution was ready and willing to move forward, and gave their prospective on closing the transaction when EGE received their 10% deposit;
- Furmanski summarized City obligations prior to the Sale of the Power Plant;

Update – System Support Resources Agreement (SSR).

Manager O'Toole provided an update on the SSR Agreement between the City of Escanaba and MISO that was conditionally approved by the Federal Energy Regulatory Commission on March 4, 2013.

- Agreement was agreed to, and final details were being sought;
- Administration would also be working on the extension of the agreement if needed.

Approval – Pole Replacement Bid.

Administration sought Council approval of a pole replacement bid from Fox Power Inc. of Gladstone, MI. for outdated power poles in the City System. Electric Superintendent Mike Furmanski provided the scope of the ongoing City Project.

After discussion, Bissell moved, Arkins seconded, **CARRIED UNANIMOUSLY**, to recommend the City Council approve a pole replacement bid from Fox Power Inc. of Gladstone, MI. for outdated power poles in the City System in an amount not to exceed $250,000.

NB-7 After a recommendation from the Electrical Advisory Committee, Nelson moved, Baribeau seconded, to approve a pole replacement bid from Fox Power Inc. of Gladstone, MI. for outdated power poles in the City System in an amount not to exceed $250,000.

Upon a call of the roll, the vote was as follows:

Ayes: Nelson, Baribeau, Baker, Beauchamp, Evans
Nays: None

MOTION CARRIED.

Update – UPPCO Termination Settlement.

Administration provided an overview on the status of the separation agreement between the City of Escanaba and the Upper Peninsula Power Company for past power plant operations. Attorney Peterson reviewed the following:

- UPPCO/WPS were in dispute on the final City payment of funds to WPS for the operation of the City Power Plant;
- City and UPPCO/WPS met on March 6, 2013, to review final figures;
- Four issues were in dispute, indirect payroll costs, employee termination pay, future pension payments for employees at Power Plant employed by UPPCO, and Workers Compensation claim;
- Mr. Peterson stated no agreement was made at the meeting. The City and UPPCO/WPS would be going to Binding Arbitration. City and UPPCO would share the arbitration costs.

GENERAL PUBLIC COMMENT – None

COUNCIL/COMMITTEE, STAFF REPORTS - None

ADJOURNMENT

Hearing no further public comment, or further reports from the Electrical Advisory Committee or Council, the meeting adjourned at 7:10 p.m.

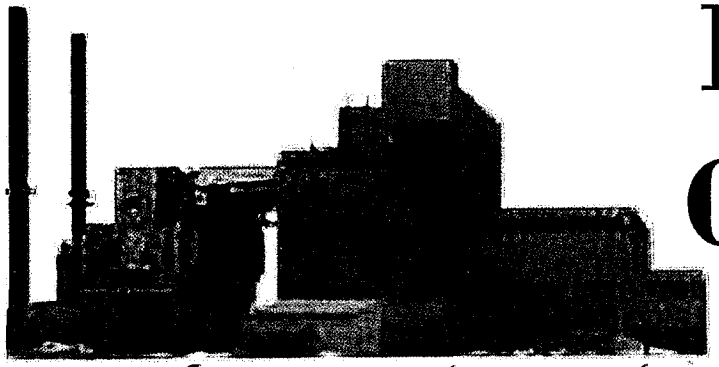
Respectfully submitted,

Robert S. Richards, CMC
City Clerk

Approved: _____
Leo J. Evans, Mayor

NB # 2
CC/EAC
4/10/13

Escanaba Operating Services
Monthly Report
March 2013



Escanaba Generating Station

Escanaba Operating Services

Executive Summary

Unit 1 was taken out of service due to a broken valve on a high pressure steam line that was out of service and retired in place. The valve was an old boiler drum level indicating device. The failure was repaired (R Stamp Weld) and the boiler was returned to service.

There is **10,914** tons of coal on the dock. The OSHA incident, rate for March 2013 is zero.

Key Performance Indicators (Note: This table is for the City's fiscal year July 2012 through June 2013)

Measure	Unit of Measure	Month	Year to Date
Steam Plant Gross Electrical Generation	MWH	0	12557
Unit 1 Net Electrical Generation	MWH	0	5311
Unit 2 Net Electrical Generation	MWH	0	4663
Unit 1 Hours of Operation	Hours	0	1003.7
Unit 2 Hours of Operation	Hours	0	838
Coal Consumption	Tons	0	6875.1
Coal on Dock	Tons	10914	10914
Steam Plant Net Heat Rate	BTU/KWH	n/a	n/a
Plant Availability	%	95%	99.5%
Combustion Turbine Gross Electrical Generation	MWH	3	290
Combustion Turbine Station Service	MWH	37.1	221.1
Combustion Turbine Hours of Operation	Hours	.8	44.3
Fuel Oil Consumption	Gallons	686	46563
Combustion Turbine Availability	%	100%	99%

Operations Summary

Unit Start-Ups and Shut Downs

Turbine-Generator Unit 1 and Unit 2 did not operate the entire month of March. The Combustion Turbine-Generator was operated once to test the new computer for the unit. The tests were successful.

Unit	Date	On-Line Time	Off-Line Time	Reason
1				
1				
2				
2				
CT	3/8/13	11:00	11:48	Testing of New Computer for CT.
CT				

Unit Trips and Unplanned Outages

Unit	Date	Breaker Open Time	Unit Release	Duration (Hours)	Cause
1	3/18/13	10:30 AM		96	Broken Valve Replacement and Video Inspection of Boiler 1 down comer and furnace wall tubes.
1	3/22/13		10:00 AM		
CTG					

Planned Outages

There were no planned outages during the month of March 2013.

Unit	Start Date	Start Time	End Date	End Time	Cause
1	None				
2	None				
CTG	None				

Forced Load Reduction Events

Forced Load Reduction Events are events that limit the generating capability of a turbine/generator unit. The reductions are measured in megawatts of unavailable power due to equipment or component failure. In these situations, the generating unit ***continues to operate*** but at a lower than design megawatt output.

Start Date	Start Time	End Date	End Time	Load Limit	Cause
None					

Maintenance Activities

Plant Maintenance Activities for March 2013

Unit 1

There were no **major** repairs made to Unit 1 during the month.

Unit 2

There were no **major** repairs made to Unit 2 during the month.

Combustion Turbine

There were no repairs required on the Combustion Turbine/Generator during the month.

Plant Outstanding Issues:

No. 1 Circulating Water pump remains out of service due to a pump failure. A new pump has been ordered and is scheduled to arrive in April 2013.

Emissions Compliance Overview-Air/Water

- There were no Air Monitoring for the month of March.

Air Monitoring Deviations

Start Date	Start Time	End Date	End Time	Opacity Parameter	Cause
None					

Water – NPDES Permit Deviations

- There were no deviations during the month of March.

Water – Groundwater

1) There were no deviations during the month of March.

Water Monitoring Deviations

Start Date	End Date	Parameter	Cause
None			

Occupational Health Overview

OSHA Summary of Work Related Injuries and Illnesses

1) There were no OSHA recordable injuries or illnesses during the month of March 2013. Safe man-hours worked year to date are 9366.5 since January 1, 2013. The Occupational Illness and Incident Rate as of April 1, 2013, is zero.

EH&S Incidents – (Near Misses and Property Damage)

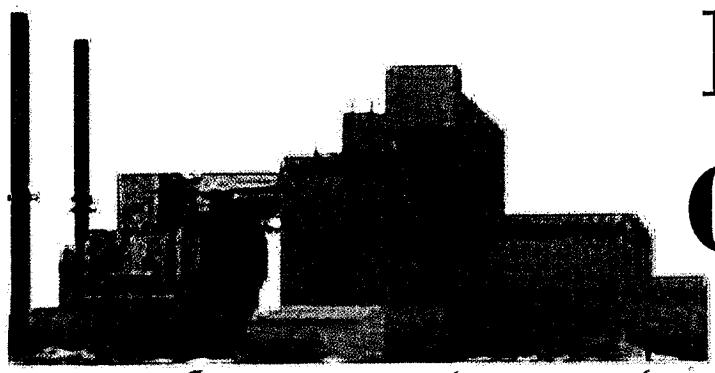
None

Labor Statistics

Labor Statistics (Note: These statistics are for the 2013 calendar year from Jan 1 through December 31.)

Item	Month	Year to Date
Total Man-Hours Worked	2955.5	9366.5
Total Number of Standard Time (ST) Hours	2605.5	8169.5
Total Number of Overtime (OT) Hours	62	415.5
Total Number of Double Time (DT) Hours	288	781.5

Escanaba Operating Services
Monthly Report
March 2013



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NB #3/4
cc/EAC 4/10/13

Geosyntec consultants

2395 Oak Valley Drive, Suite 110
Ann Arbor, Michigan 48103
PH 734.332.8004
FAX 734.332.8063
www.geosyntec.com

7 March 2013

Mr. Mike Furmanski
Electrical Superintendant
City of Escanaba
1711 Sheridan Road
Escanaba, MI 49829

Subject: **Proposal for Groundwater Monitoring**
Escanaba Generating Station
2000 Power Plant Road
Escanaba, Michigan

Dear Mr. Furmanski:

Geosyntec Consultants (Geosyntec) is pleased to provide the City of Escanaba (City) this proposal to continue groundwater monitoring at the Escanaba Generation Station Property located at 2000 Power Plant Road, Escanaba, Michigan (Site). Arsenic concentrations in groundwater venting to Little Bay de Noc exceed Michigan Department of Environmental Quality (MDEQ) Groundwater Surface Water Interface (GSI) criteria. Sediment in the settling ponds was removed in November 2012. In pursuit of site closure, Geosyntec recommends continuing groundwater monitoring in wells adjacent to the pond to assess the impact of sediment removal on arsenic concentrations in groundwater. In addition, MDEQ typically requires eight consecutive quarters of groundwater monitoring to close a site. Geosyntec will be submitting a mixing-zone determination request to MDEQ to obtain arsenic GSI criteria for the Site. Groundwater arsenic concentrations will be compared to the mixing-zone based criterion for site closure.

SCOPE OF WORK

Task 1: Groundwater Sampling

Objective Evaluate seasonal groundwater concentrations of arsenic discharging to Little Bay de Noc for comparison to MDEQ cleanup criteria

Deliverables Field notes and laboratory analytical reports

Approach Groundwater samples will be collected from MW-9, MW-9D, MW-9DD, and MW-10 in March, June, September, and December in accordance with MDEQ low-flow, minimal-drawdown procedures, utilizing a peristaltic pump with

dedicated HDPE tubing. Unfiltered samples are required for total metals analysis and comparison to MDEQ GSI criteria. Field water quality parameters will be collected and recorded during purging, including pH, oxidation-reduction potential (ORP), dissolved oxygen (DO), temperature, specific conductance, and turbidity. We will attempt to collect samples when the turbidity is less than 5 NTU. The meter used for water quality measurements will be calibrated daily. ORP calibration will be verified using a quinhydrone solution.

Using MDEQ required methods and detection limits, groundwater samples will be analyzed for arsenic by method 6020.

For quality assurance and quality control (QA/QC) purposes, groundwater field duplicates and matrix spike/matrix spike duplicate (MS/MSD) will be collected. Duplicates will be collected at a rate of one duplicate per every ten samples for arsenic analysis. MS/MSDs will be collected at a rate of one MS/MSD per every twenty groundwater samples for the Site COCs.

Prior to sampling, a round of synoptic water levels will be collected from the monitoring wells. The water level of Little Bay de Noc will also be measured at the same time.

Assumptions

- Groundwater sampling will not exceed 8 hours per event
- Up to 4 groundwater samples and 3 QA/QC samples will be submitted for laboratory analysis
- Standard 2 week turnaround time for laboratory analysis
- The purge water will containerized in six 55-gallon drums and staged onsite for subsequent off-site disposal

Task 2: Reporting

Objective Provide groundwater monitoring results to MDEQ

Deliverable Letter reports

Approach Geosyntec will prepare groundwater potentiometric surface maps and tables and figures depicting arsenic analytical results. Geosyntec will prepare a letter report summarizing the methods, field measurements and analytical results

following each quarterly groundwater monitoring event for your review. We will incorporate your edits/comments in a final submittal to MDEQ.

Assumptions
- One hard copy report will be submitted to MDEQ. Electronic copies will be provided to the City.

Task 3: MDEQ/City of Escanaba Meetings

Objective Present the findings of the ongoing site investigation and pursuit of site closure

Deliverables MDEQ meeting minutes

Approach Geosyntec will attend one mid-year meeting with MDEQ to review the groundwater monitoring data and site closure strategy. Geosyntec will also provide an update to the City of Escanaba following this meeting.

Assumptions
- Erik Petrovskis and Gary Daniels will attend one MDEQ meeting at the Gwinn District Office and present findings to the City.

PERSONNEL

Erik Petrovskis, Ph.D., P.E., will serve as your Project Manager. Erik has extensive Part 201 experience, including addressing GSI issues. He will be responsible for Geosyntec meeting the project scope, schedule and budget. He will provide a monthly status report to keep you informed of scope and budget status.

Gary Daniels, P.E., is familiar with the City's needs and will provide local support to include management and coordination of field sampling activities.

COST ESTIMATE

Geosyntec will conduct the scope of work described herein for the total estimated lump sum budget of **$28,500**, as summarized below. We will not exceed this estimate without your written authorization. Geosyntec will invoice monthly based on the percent completion of each task. The work will be conducted in accordance with our Professional Services Agreement, dated 2 December 2011.

TASK		COST
Task 1	Groundwater Sampling (four events)	$16,000
Task 2	Reporting	$9,000
Task 5	MDEQ and City Meetings	$3,500
	Total Budget Authorization Request	**$28,500**

CLOSING

Geosyntec appreciates the opportunity to work on this assignment with the City. We look forward to initiating work upon receipt of your written authorization of our Service Order.

Very truly yours,

GEOSYNTEC CONSULTANTS

Erik Petrovskis

Erik A. Petrovskis, Ph.D., P.E.
Project Manager

Geosyntec consultants

Service Order
Effective Date: 7 March 2013

This Service Order shall, upon execution of the parties, be incorporated into the Professional Services Agreement between City of Escanaba ("Client") and Geosyntec Consultants, Inc. dated 2 December, 2011.

Project #: CHA8270

Authorized Representatives:

Client:
Name: Mike Furmanski
Address: 1711 Sheridan Road, Escanaba, MI 49829
Telephone #: 906-786-0061
Email Address: mfurmanski@escanaba.org

Geosyntec:
Name: Erik Petrovskis
Address: 2395 Oak Valley Drive, Suite 110, Ann Arbor, MI 48103
Telephone #: 734-332-8004
Email Address: epetrovskis@geosyntec.com

Scope of Services and Schedule:

Geosyntec will perform the services in accordance with the scope and schedule set forth in Geosyntec's proposal dated 7 March 2013 ("Proposal") or on separate pages attached to this Service Order and incorporated herein.

Rates and Price:

The total price for this Service Order is:

$NA on a time and materials basis which will not be exceeded without Client written consent.

$28,500 on a lump sum/fixed price basis.

For time and materials services, Geosyntec will invoice Client at the rates set forth in the Agreement. If rates are not included in the Agreement, Geosyntec will invoice Client in accordance with its Proposal and/or current standard rates.

The terms and conditions of the Professional Services Agreement referenced above shall apply to this Service Order. Any modification to this Service Order must be approved in writing by authorized representatives of the parties.

Acceptance of the terms of this Service Order is acknowledged by the following signatures of the Authorized Representatives.

For Client:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

For Geosyntec Consultants, Inc.:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

N B#5
CC/EAC
4/10/13

JOINT USE
LICENSE AGREEMENT

THIS AGREEMENT made and entered into the ____ day of ____, 20__, by and between _____ a _____ corporation, with its principal place of business at _____ (hereinafter called "Licensor"), and MERIT NETWORK, INC., a Michigan corporation, with its principal place of business in Ann Arbor, MI (hereinafter called "Licensee").

WITNESSETH:

WHEREAS, Licensor owns, operators and maintains lines of poles extending in _____ County(s)

WHEREAS, Licensee desires to place certain lines, attachments and apparatus on certain poles of Licensor, for the limited purpose of the transmission of signals in compliance with any and all local, state or federal regulations; provided, that such transmission of signals does not interfere or compete with the corporate purposes of Licensor or interfere with the furnishing of electrical service to consumers of Licensor, and where in its judgment, safety will not be adversely affected.

WHEREAS, Licensor is willing to permit Licensee, to the extent it may lawfully do so, to place said lines, attachments, and apparatus on said poles.

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

1. DEFINITIONS

(a) For the purpose of this agreement, the phrase "joint use pole" shall mean a pole conforming to the latest specifications of the American Standards Association.

(b) A "pole contact" is defined as any attachment by Licensee, to the poles of Licensor.

2. SPECIFICATIONS

(a) The joint use poles covered by this agreement shall be placed and maintained in accordance with the most stringent requirements, specifications, rules, and regulation of the latest edition of the National Electrical Safety Code (NESC), the Occupational Safety and Health Act (OSHA), the Rural Utility Service (RUS), any governing authority having jurisdiction, and the rules and practices of Licensor as set forth in Exhibit "A".

(b) It is understood and agreed between the parties that the rules and practices set out in Exhibit "A" may be changed by Licensor, or new rules and practices may be adopted by Licensor, without resort to the provisions of Section 15, relating to supplementing or amending this agreement, and Licensee agrees to be bound by any such change or adoption.

(c) In the event that Licensor should change or adopt a rule or practice, or rules and practices, for the joint use of poles by Licensee, Licensor shall give Licensee written notice of such change or adoption in the manner contemplated by Section 18 and Licensee agrees to make such changes or alterations in its installations or maintenance of its facilities as may be required in order to fully comply with the provisions of such notice. In the absence of a contrary provision in said notice, Licensee agrees to make all required changes or alterations within thirty (30) days after receipt.

(d) No tag, brand, or other device showing Licensee's name or insignia shall be placed on, or attached to, any pole of Licensor, except such tag or insignia which shows Licensee to be the Licensee or lessee of such pole and not the owner thereof, and then only after obtaining the written consent of Licensor.

(e) The strength of poles covered by this Agreement shall be sufficient to withstand the traverse and vertical loads imposed upon them under the storm loadings of the National Electrical Safety Code assumed for the area in which they are located.

(f) Any unbalanced loading of Licensor's poles caused by the placement of Licensee's circuits shall be properly guyed and anchored by Licensee, at no expense to Licensor.

3. ESTABLISHING JOINT USE OF POLES (New Licensee)

(a) Before the Licensee shall make use of any of the Licensor's poles under this Agreement, it shall request permission in writing on the application form attached and identified as Exhibit "B", and shall comply with the procedures set forth in this section.

(b) If, in the judgment of the Licensor, joint use under the circumstances is undesirable, the Licensor shall have the right to reject the application. In any event, within thirty (30) days after the receipt of such application the Licensor shall notify the Licensee in writing whether the application is approved or rejected.

(c) After receipt of notice from the Licensor regarding the approved application, the Licensee shall furnish the Licensor detailed construction plans and drawings for each pole line, together with necessary maps, indicating specifically the poles of the Licensor to be used jointly, the number and character of the attachments to be placed on such poles, any rearrangement of the Licensor's fixtures and equipment necessary for joint use, any relocations or replacements of existing poles, and any additional poles which may be required.

The Licensor shall, on the basis of such detailed construction plans and drawings, submit to the Licensee within sixty days a cost estimate (based on Licensor's method of computing costs) for all changes, which may be required in each such pole line, including an estimated completion date for such changes. Licensor may hire a licensed consulting engineer to review the plans and determine what changes if any will be required by the licensee. The fees for the consulting engineer will be added to the cost of construction.

Upon written notice by the Licensee to the Licensor of the cost estimate being approved and the licensee paying the cost estimate, the Licensor shall proceed with the necessary changes in the pole line covered by the referenced cost estimate. The Licensor shall make every effort to complete this work at a mutually agreed upon completion date. Nothing shall preclude the parties from making any mutually agreeable arrangement for contracting for or otherwise accomplishing the necessary changes. Upon completion of all changes, the Licensee shall have the right to use the poles jointly and to make attachments in accordance with the terms of the application and of this Agreement. The Licensee shall, at its own expense, make attachments in such manner as not to interfere with the service of the Licensor, and shall place guys and anchors to sustain any unbalanced loads caused by its attachments

(d) Upon completion of all changes in each pole line to be used jointly, the Licensee shall pay to the Licensor any difference from the cost estimate to the

actual cost. The obligations of the Licensee shall not be limited to amounts shown on estimates made by the Licensor. Costs include materials less salvage, labor, engineering, supervision, overheads, and tree trimming. (Engineering (either in house or by a consultant) includes design, proper conductor spacing and bonding, and calculations to determine proper ground clearances and pole and down guy strength requirements for horizontal and transverse loading.) An itemized statement of the actual costs of all such changes shall be submitted by the Licensor to the Licensee, in a form mutually agreed upon.

(e) Any reclearing of existing right-of-way, and any tree trimming necessary for the establishment of joint use, shall be performed by the parties as may be mutually agreed. Each party shall bear 50% of the cost of any such right-of-way reclearing and trimming.

(f) All poles jointly used under this Agreement shall remain the property of the Licensor, and any payments made by the Licensee for changes in pole lines under this Agreement shall not entitle the Licensee to ownership of any of said poles.

(g) The Licensor reserves the right to exclude any of its facilities from joint use.

4. EASEMENTS & RIGHT-OF-WAY FOR LICENSEE'S ATTACHMENTS

The Licensor does not warrant or assure to the Licensee any right-of-way privilege or easements; and if the Licensee shall at any time be prevented from placing or maintaining its attachments on the Licensor's poles, no liability shall attach to the Licensor. Each party shall be responsible for obtaining its own easements and right-of-way.

5. MAINTENANCE OF POLES, ATTACHMENTS AND RIGHT-OF-WAY

(a) The Licensor shall, at its own expense, inspect and maintain the poles in accordance with industry practices and the specifications mentioned in Section 2, and shall replace, reinforce or repair such poles as are determined to be defective.

(b) Whenever right-of-way considerations or public regulations make relocation of a pole necessary, such relocation shall be made by the Licensor at its own expense, except each party shall bear the cost of transferring its own attachments.

(c) Whenever it is necessary to replace or relocate a jointly used pole, the Licensor shall, before making such replacement or relocation, give twenty (20) days notice in writing (except in case of emergency, when verbal notice will be given and subsequently confirmed in writing) to the Licensee, specifying in such notice the time of such proposed replacement or relocation. Licensee shall, at the time so specified, transfer its attachments to the new or relocated joint pole. Should the Licensee fail to transfer its attachments to the new or relocated joint pole at the time specified for such transfer of attachments, the Licensor may elect to do such work, and the Licensee shall pay the Licensor the cost. In the event the Licensee fails to transfer its attachments and the Licensor does such work, the Licensor shall not be liable for any loss or damage to the Licensee's facilities, which may result.

(d) Except as otherwise provided in (c) of this Section, each party shall at all times maintain all of its attachments in accordance with the specifications mentioned in Section 2 and shall keep them in thorough repair. All necessary right-of-way maintenance, including tree trimming or cutting, shall be performed by the parties as may be mutually agreed upon, and the cost shall be borne by the parties as provide in Section 3(e).

(e) Any existing joint use construction of the parties which does not conform to the specifications mentioned in Section 2 shall be brought into conformity as soon as practicable. When such existing construction shall have been brought into conformity with said specifications, it shall at all times thereafter be maintained as provided in (a) and (d) of this Section. Should the Licensee fail to comply, the Licensor may elect to do such work and the Licensee shall pay the Licensor the cost.

(f) Licensee expressly assumes responsibility for determining the condition of all poles to be climbed by its employees, contractors, or employees of contractors. Licensor disclaims any warranty or representation regarding the condition and safety of the poles of the Licensor. Licensor agrees that, upon written notification, it will replace any pole that has been unserviceable.

6. RECOVERY, REARRANGING OR RELOCATION OF FACILITIES

(a) In the event it is necessary for Licensor, or for another regulated utility with whom Licensor has an agreement for the joint use of wood poles, or for another Licensee with whom Licensor has a prior agreement for the joint use of wood poles, to use the space on poles occupied, or contracted for, by the Licensee, the Licensee shall, upon receipt of a thirty (30) day written notice, either vacate the space by the removal of its attachments or shall authorize Licensor to replace the poles at the expense of Licensee and Licensee shall pay

for said replacements as provided for in 6(b), provided, however, the Licensee has not paid for the replacement of such poles.

(b) In any case where facilities of Licensor are required to be rearranged on the poles of the Licensor or of others to accommodate the attachments of Licensee, Licensee shall pay to Licensor the total costs incurred by Licensor in rearranging such facilities. The Licensee shall also reimburse other users of the poles of Licensor for their costs of rearrangements to provide space or clearance for the facilities of Licensee.

(c) Whenever it is necessary to replace or change the location of a joint use pole, for reasons other than those set out in 6(a) and (b), and over which Licensee has no control, Licensor shall, before making such change, give due notice to the Licensee, specifying in such notice the time of such proposed change, and the Licensee shall promptly begin to transfer or remove its attachments. In case of any such pole replacement or relocation where Licensor has transferred or removed its attachments and Licensee has not transferred or removed its attachments within sixty 96) days after receipt of such written notice, Licensee shall become liable for such old pole as provided in Section 8(a).

(d) In the event of any changes contemplated under 6(a), (b) or (c), Licensee shall pay the entire cost of any removal, transfer or installation of its own attachments.

7. INDEMNIFICATION

Licensee shall indemnify, protect, save harmless and insure Licensor from an against any and all claims and demands for damages to property, and for injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employees' disability and death benefits, and including all expenses incurred in defending against any such claims or demands, which may arise out of or be caused by the erection, maintenance, presence, use, rearrangement or removal of the attachments of Licensee's equipment to Licensor's poles or by the proximity of the Licensee's cables, wires, apparatus and appliances to those of Licensor or by any act of Licensee, its agents and employees on or in the vicinity of Licensor's poles. Licensee shall carry insurance in such form and in such companies as are satisfactory to Licensor to protect the parties from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every name and nature which may arise or result directly or indirectly from or by reason of such loss, injury or damage.

8. ABANDONMENT OF JOINT USE POLES

(a) If Licensor desires at any time to abandon any joint use pole, it shall give Licensee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to abandon such pole. If, at the expiration of said period Licensor shall have not attachments on such pole but Licensee shall not have removed all of its attachments, such pole shall become the property of Licensee, and Licensee shall hold harmless the Licensor from every obligation, liability, or cost, and from all damages, expenses or charges incurred thereafter, arising out of, or because of, the presence of or the condition of such pole or any attachments; and shall pay to Licensor a sum equal to the present value in place of such abandoned pole or poles, or such other equitable sum as may then be agreed upon between the parties, and Licensor shall provide Licensee with a property authorized bill of sale for such pole.

(b) Licensee may at any time abandon the use of a joint use pole by giving Licensor due notice in writing of such abandonment, as provided in Section 18, and removing from such pole all attachments that Licensee may have, and in case of such abandonment of the use of any such pole, Licensee shall pay to Licensor the full rental for the current year for the space and said pole set aside for the use of Licensee.

9. RENTALS, CHARGES AND RATES

(a) On or about March 1 of each year, the parties, acting in cooperation, shall tabulate the total number of joint poles in use as of the preceding day. This tabulation shall indicate the number of poles on which rentals are to be paid. The rentals shall be computed on an annual basis at a rate of $_____ per pole.

(b) The yearly rental period covered by this Agreement shall be the twelve-month period between January 1 and December 31. Rental payable for each such rental period during the continuance of this Agreement shall be due and payable on April 1 during the rental period. The annual rental per pole shall apply to any attachments made or removed during the year and rents shall not be prorated; provided, however for new licensee, that if this Agreement is executed between June 30 and December 31, Licensee shall pay to Licensor only one-half (1/2) of the annual rental due for attachments made during that period.

(c) In the event that Licensee requires a source of electrical energy for power supply to a cable system which constitutes a part of the licensed attachments and apparatus, such energy will be supplied by Licensor in accordance with the provisions of its standard service extension policies and approved rates and tariffs.

(d) All other amounts payable under this Agreement, such as for erection, rearrangement, relocation or abandonment, shall be due and payable within thirty (30) days of billing by Licensor.

10. DEFAULTS

(a) If Licensee shall fail to comply with any of the provisions of this Agreement or should default in any of its obligations under this Agreement, and shall fail within thirty (30) days after written notice from Licensor to correct such noncompliance or default, Licensor may, at its option, and without further notice, declare this Agreement to be terminated in its entirety, or may terminate the permit covering the pole or poles in respect to which such default or noncompliance shall have occurred. In case of such termination, no refund of accrued rental shall be made.

(b) If Licensee shall make default in the performance of any work which it is obligated to do under this Agreement, the Licensor may elect to do such work, and the Licensee shall reimburse the Licensor for the cost.

(c) If the Licensee shall make default in any of its obligations under this Agreement and it becomes necessary for the Licensor to obtain the services of an attorney, who is not a salaried employee of the Licensor, to enforce such obligations, the Licensee agrees to pay any and all attorney fees, court costs and other costs of litigation associated with the enforcement of such obligations.

11. UNAUTHORIZED ATTACHMENT

(a) If any of Licensee's facilities for which no license has been issued shall be found attached to Licensor's poles, Licensor may, without prejudice to its other rights or remedies under this Agreement, including termination, require Licensee to submit, within fifteen (15) days after the date of written or oral notification from Licensor of the unauthorized attachment, a pole attachment license application. If such application is not received by Licensor within the specified time period, Licensee shall immediately remove its unauthorized attachment, or Licensor may remove such Licensee facilities without liability, and the expense of such removal shall be borne by licensee.

(b) No act or failure to act by Licensor with regard to said unauthorized attachment shall be deemed as ratification or the licensing of the unauthorized attachment. If any license should be subsequently issued, said license shall not operate retroactively or constitute a waiver by Licensor of any of its rights or privileges under this Agreement; provided, however, that licensee shall be

subject to all liabilities, obligations and responsibilities of this Agreement from its inception in regard to said unauthorized attachment.

12. RIGHTS OF OTHER PARTIES

Nothing herein shall be construed to limit the right of Licensor, by contract or otherwise, to confer upon others, not parities to this Agreement, rights or privileges to use the joint use poles covered by this Agreement.

13. TERM OF AGREEMENT

This Agreement shall continue in force and effect for a period of one (1) year from and after the date of this Agreement, and thereafter from year to year unless terminated by either party by giving written notice of its intention so to do not less than thirty (30) days prior to the end of any period, provided however, if the Licensee shall fail to commence construction on the poles of Licensor within the period of one hundred eighty (180) days after the date of execution of this License Agreement, then this License Agreement shall be null and void, and of no further force and effect. Upon termination of this Agreement, Licensee shall remove its attachments from the poles of Licensor within one hundred eighty (180) days after the effective date of such termination. Should the Licensee fail to comply, the Licensor may elect to do such work and the Licensee shall pay the Licensor the cost.

14. WAIVER OF TERMS OR CONDITIONS

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but such conditions and terms shall be and remain at all times in full force and effect.

15. SUPPLMENTAL AGREEMENTS

(a) This Agreement may be amended or supplemented at any time upon written agreement by the parties hereto. Should either an amendment or supplement become necessary, the party desiring such amendment or supplement shall give thirty (30) days written notice to the other party setting out in detail the changes or additions desired.

(b) In the event that Licensee desires to add or reduce the number of pole contacts, Section 15(a) shall not apply, but in each case a sketch, map, or other mutually acceptable notice shall be submitted to Licensor, setting out in detail the pole numbers and exact locations of the poles, and the quantity of poles involved in the addition or subtraction.

16. PAYMENT OF TAXES

Each party shall pay all taxes and assessments lawfully levied on its own property upon said jointly used poles, and the taxes and the assessments which are levied on said joint use poles shall be paid by the Licensor thereof, but any tax, fee or charge levied on Licensor's poles solely because of their use by the Licensee shall be paid by Licensee.

17. INTEREST AND PAYMENTS

All amounts to be paid by Licensee to Licensor under this Agreement shall be due and payable within thirty (3) days after an itemized statement is presented to the Licensee. Any payment not made within thirty (30) days from the due date shall bear interest at the rate of 18 percent (18%) per annum until paid.

18. NOTICES

Any notice, request, consent, demand or statement which is contemplated to be made upon either party by the other party under any of the provisions of this Agreement, shall be in writing and shall be treated as duly delivered when it is either (a) personally delivered to the office of Licensor in the case of a notice to given to Licensor, or (b) deposited in the United State mail and properly addressed to the party to be served as follows:

(i) If notice is to Licensor,
Company:
Attn:
Street:
Street:
City, State Zip:

(ii) If notice is to Licensee,
Merit Network, Inc.
Attn: Bob Stovall
1000 Oakbrook Dr., Suite 200
Ann Arbor, MI 48104

19. SUPPLYING INFORMATION (New Licensee)

(a) It is understood and agreed to between the parties that Licensee shall furnish to Licensor within 30 days after the execution of this Agreement a detailed sketch or map upon which will be shown the precise locations by streets

or roads of the joint use poles covered by this Agreement, showing the facilities installed or to be installed upon the joint use poles and the pole numbers upon which these facilities are to be attached. Such sketch or map shall be reviewed by, and approved, commented upon, or rejected by the engineers of Licensor, and Licensee agrees to make any and all such changes in said sketch or map as are suggested by said engineers. Licensee shall not begin the installation of any facilities covered by this Agreement until engineering approval by Licensor is granted.

(b) Within 60 days after the completion of the initial installation of the facilities, as set forth on the above mentioned sketch or map, Licensee shall furnish to Licensor a revised copy of said sketch or map showing the precise location of each power supply, pole contact, and other attachment of Licensee which is actually installed on poles of the Licensor. Such revised sketch or map shall be verified by the Licensor and shall be the basis for determining the number of pole contacts made initially.

(c) Licensee shall promptly report to Licensor any changes made in the number of poles of the Licensor contacted by Licensee.

(d) Upon request of Licensor or Licensee, but not sooner than six (6) years after the execution of this Agreement, and every six (6) years thereafter, or as may be mutually agreed upon, the parties shall make a joint field check to verify the accuracy of contract records. IF, as a result of any such joint field check, it is found that the Licensee is occupying any poles of the Licensor without having advised the Licensor as provided in Section 16, the Licensee shall pay to the Licensor the rental for such poles from the date that Licensee's attachments were installed on such poles, or if dates of installation cannot be determined to the satisfaction of both parties, the installations shall be presumed to have occurred at the same rate as those reported throughout the entire period since the last field check was made.

20. CONSTRUCTON OF AGREEMENT

This Agreement is deemed executed in the state of Michigan and shall be construed under the laws of the State of Michigan.

21. PRIOR AGREEMETNS SUPERSEDED

This Agreement supersedes and replaces any and all previous agreements entered into by and between Licensor and Licensee with respect to the subject matter of this Agreement.

22. ASSIGNMENT OF AGREEMENT

Neither party shall assign or otherwise transfer this Agreement or any of its rights and interests to any firm, corporation or individual, without the prior written consent of the other party.

In witness whereof, the parties have caused this Agreement to be duly executed.

Licensor	Licensee
_____	_____
date	date
_____	_____
signature	signature
_____	Robert Stovall
by	by
_____	VP, Network Operations and Engineering
Title	Title

EXHIBIT "A"

RULES & PRACTICES FOR JOINT USER ATTACHMENTS

1. All Licensee's facilities attached to Licensor's poles shall be installed in a manner to ensure compliance with the requirements of the "National Electrical Safety Code" in effect at the time of installation.

2. The location of all cables or power supplies on Licensor's poles shall be approved in writing by the Licensor. No attachments shall be made without prior approval of Licensor.

3. All joint user cables and power supplies shall be located on the same side of each pole as any existing telephone cable, or as designed by the Licensor.

4. On jointly used poles where Licensor has secondary conductors, all cables and power supplies shall be located on the side of the pole opposite the secondary conductors, or as designed by the Licensor.

5. Licensee's service connections or drops to its customers shall be installed and maintained so as to provide at least a forty (40) inch square climbing space directly over and corresponding to the climbing space provided for and through any telephone service connections or drops.

6. Licensee shall cause all cabinets and enclosures to be founded by bonding to the existing pole ground with #6 solid, bare, soft drawn copper wire.

7. No power supply shall be installed on any of Licensor's poles on which are already installed transformers, underground electric services, capacitor banks, or sectionalizing equipment.

8. No bolt used by Licensee to attach its facilities shall extend or project more than one (1) inch beyond its nut.

9. All attachments or facilities of Licensee shall have at least two (2) inches clearance from unbonded hardware.

10. All joint user cables shall have at least forty (40) inches clearance under the effectively grounded parts of transformers, transformer platforms, capacitor banks and sectionalizing equipment and at least forty (40) inches clearance under the current carrying parts of such equipment (energized at 8700

volts or less). Clearances not specified in this rule shall be determined by reference to the "National Electrical Safety Code".

11. No service connection shall be made or installed by Licensor until after Licensee shall have completed installation of an approved fused service disconnect switch or circuit breaker.

12. The Licensee may, with the prior written approval of the Licensor, install crossarms, alley arms, or cable extension arms for the support of any of its facilities. However, Licensee shall not use any crossarm or alley arm brace above the arm which it supports.

13. Licensee shall install and maintain any and all of its facilities in a neat and workmanlike manner consistent with the maintenance of the overall appearance of the jointly used pole, and all subject to the approval of Licensor, provided that Licensee shall be solely responsible for compliance with the specifications referred to in Section 5 of this License Agreement.

14. All down guys, head guys or messenger dead ends installed by Licensee shall be attached to jointly used poles by the use of "thru" bolts. Such bolts placed in a "bucking" position shall have at least three (3) inches vertical clearance. Under no circumstances shall Licensee install down guys, head guys or messenger dead ends by means of encircling jointly used poles with such attachments. All guys and anchors shall be installed prior to installation of any messenger wire or cables.

15. In the event that any of Licensee's proposed facilities are to be installed upon poles already jointly used by Licensor and other parties, without in any way modifying the clearance requirements set forth in these Rules and Practices, Licensee shall negotiate with such other parties, as to clearances between its facilities and the spans of Licensee and such other parties.

16. In the event Licensee desires to request a change in the number of pole contacts, it shall do so by submitting to Licensor the standard form suitable for that purpose.

17. When asking for new contacts, the Licensee shall provide a written statement that its facilities, including protection devices, as installed are fully in compliance with the applicable rules of the NESC, other codes and requirements, and good engineering design. This inspection shall be made within thirty (30) days after installation has been completed. Failure to comply will result in termination of this Agreement as outlined in Section 10 (a), (b), and (c).

EXHIBIT "B"

APPLICATION AND PERMIT FOR USE OF POLES

Application No. _____

Date: _____

In accordance with the terms of Agreement dated _____, 20__, application is hereby made for Licensee to make attachments to ____ poles located in or near _____ in the County of _____ and the State of Michigan.

The poles, including proposed construction by Licensor if necessary for which permission is requested are listed by pole number on the attached. Exhibit "B1" and further identified on the attached map. Detailed construction plans and location drawings, will be furnished.

Licensee _____

By _____

Title _____

Permission for construction granted _____, 20__, subject to (1) your approval of the following changes and rearrangements at an estimated cost to you of $_____; (2) the necessary third-party rearrangements are done satisfactorily; and (3) that Licensee construct according to standards.

By _____
Title _____
Licensor

The above estimates for make-ready changes and rearrangements approved _____, 20__. Licensee intends to construct plant within 120 days after make-ready work is complete.

By _____

Title _____
Licensee

EXHIBIT "B1"

ATTACHMENTS TO BE INSTALLED

Licensee: **Licensor:**

Cooperative Pole Number	Comments-Make Ready	Permission Granted	Estimated Cost Of Make Ready

EXHIBIT "C"

NOTIFICATION OF REMOVAL

In accordance with the terms of Agreement dated _____, 20__, notice is hereby given to Licensor of the removal of attachments from _____ poles located in or near _____ in the County of _____ and the State of Michigan.

The poles from which attachments have been removed are listed below:

Exhibit C1 and further identified on the attached map.

Cooperative Pole Number	Licensor Use	Cooperative Pole Number	Licensor Use

Licensee _____

By _____

Title _____

Notice Acknowledge

_____, 20__

Licensor _____

By _____

Title _____