

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS

Under sec. 224 of the Act, either the FCC or the state commission has jurisdiction over rates, terms and conditions of access to poles, ducts and conduits to the exclusion of the other. The FCC has jurisdiction unless a state certifies and asserts jurisdiction. This guidebook is being provided for informational purposes only. If the state asserts jurisdiction, this guidebook will be effective. This guidebook applies to the attachment of cable television systems and telecommunications carriers to the poles, ducts, conduits and rights-of-way of the Company.

A. Description

The Company will make available, to the extent it may lawfully do so, access to poles, ducts, conduits and rights-of-way ("Structure") owned or controlled by the Company for the placement of the Attaching Party's Attachments. The availability of Company Structure for the Attaching Party's attachments is subject to and dependent upon all rights, privileges, franchises or authorities granted by governmental entities with jurisdiction, existing and future agreements with others, all interests in property granted by persons or entities public and private, and all statutes, laws, codes, regulations, rules and common law, and all terms, conditions and limitations of any or all of the foregoing, by which the Company owns and controls Structure or interests therein.

B. DefinitionsAttaching Party

A provider of telecommunication services or a cable television system.

Attachment(s)

Any cable, equipment, facilities, apparatuses or appurtenances used or useful in communication distribution networks providing Telecommunications Services or in a cable television system.

Capacity

Refers to space available on or in structure for an Attaching Party's Attachment without the requirement of further modifications to the structure.

Ducts/Conduits

Ducts and conduits means enclosed reinforced passages capable of supporting communication cables, ducts or conduits including single ducts, innerducts and lateral ducts into buildings owned by third parties, and the manholes, handholes, and pull-boxes associated with the ducts or conduit. Duct or conduit does not include ducts or conduits within buildings owned by third parties.

Conduit Occupancy

Occupancy of a conduit system by any item of attaching party's facilities.

Field Survey

All work performed by the Company at the attaching party's expense to field check the Company's facilities to determine their availability for the attachments of the attaching party and the extent and cost, if any, of Make Ready Work required to accommodate the attaching party.

Innerduct

A single enclosed raceway for conductors or cables sometimes placed within ducts.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**B. Definitions (cont'd)**Poles

Poles mean poles owned by the Company, or poles owned by others or owned in part by the Company or which the Company has a contractual right to permit the use by attaching parties, but, in either event, which are used to support attachments.

Pole Attachment

Any item of attaching party's facilities affixed to a pole.

Proprietary Information

"Proprietary Information" means:

- all proprietary or confidential information of a Party (a "Disclosing Party") including specifications, drawings, sketches, business information, forecasts, records (including each Party's records regarding Performance Benchmarks), Customer Proprietary Network Information, Customer Usage Data, audit information, models, samples, data, system interfaces, computer programs and other software and documentation that is furnished or made available or otherwise disclosed to the other Party or any of such other Party's Affiliates (individually and collectively, a "Receiving Party") pursuant to this guidebook and, if written, is marked "Confidential" or "Proprietary" or by other similar notice or if oral or visual, is identified as "Confidential" or "Proprietary" at the time of disclosure; and
- any portion of any notes, analyses, data, compilations, studies, interpretations or other documents prepared by any Receiving Party to the extent the same contain, reflect, are derived from, or are based upon, any of the information described in the subparagraph above, unless such Information contained or reflected in such notes, analyses, etc. is so commingled with the Receiving Party's information that disclosure could not possibly disclose the underlying proprietary or confidential information (such portions of such notes, analyses, etc. referred to herein as "Derivative Information").

Rights-of-Way

Rights-of-way are legal interests of the Company in property of others, such as easements, or licenses, which are suitable for use for attachments for communications distribution networks. Rights-of-way include ducts or conduit controlled by the Company that are located within buildings owned by third parties and not leased by the Company. Rights-of-way also include property owned or leased by the Company if, but only if, AT&T Illinois poles, ducts, or conduits are presently located on such property. Poles, ducts, conduit or rights-of-way do not generally include controlled environmental vaults, remote equipment buildings, huts or enclosures, cross-connect cabinets, panels and boxes, equipment closets or enclosures in buildings, or any like or similar equipment enclosures or locations, or the ducts or conduit connecting any of the foregoing to manholes or conduit runs between manholes.

Structure

Structure refers to Company owned or controlled poles, ducts, conduits and rights-of-way.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions****1. Structure Availability**

The Company will not make structure available: (a) where, after taking all reasonable steps to accommodate such request, there is insufficient capacity to accommodate the requested attachment, or (b) where an attachment cannot be accommodated based upon nondiscriminatorily applied considerations of safety, reliability or engineering principles.

Insufficient capacity for purposes of this guidebook means the lack of existing available space and the inability to create the necessary space by taking all reasonable steps to do so. If the Company denies a request for access to its Structure for Insufficient capacity, safety, reliability or engineering reasons, the Company will provide the Attaching Party a detailed, written reason for such denial as soon as practicable but in any event within forty-five (45) days of the date of such request.

2. Franchises, Permits and Consents

Attaching party shall secure any necessary franchises, permits or consents from federal, state, county or municipal authorities and from the owners of private property, to construct and operate its attachments at the location of the Company structure it uses.

3. Access and Modifications

Where necessary to accommodate a request for access by attaching party, and provided the Company has not denied access for insufficient capacity or safety, reliability or engineering reasons, or because the Company may not lawfully make the structure available, the Company will, modify its structure in order to accommodate the attachments of attaching party.

Before commencing the work necessary to provide such additional capacity, the Company will notify all other parties having attachments on or in the structure of the proposed modification to the structure. The modification to accommodate other attaching parties, including the Company, that desire to modify attachments.

If an attaching party requests access to a Company right-of-way where the Company has no existing structure, the Company shall not be required to construct new poles, conduit or ducts, or to bury cable for an attaching party but will make the right-of-way available to an attaching party to construct its own poles, conduit or ducts or to bury its own cable; provided, however, if the Company desires to extend its own attachments, the Company will construct structure to accommodate the attaching party's attachment.

The Company will not construct structure where none now exists to accommodate attaching party's request, unless the Company desires to extend its attachments to such new structure.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****3. Access and Modifications (cont'd)**

The costs of modifying a structure to accommodate attaching party's request, the requests of another attaching party or the needs of the Company shall be borne by the attaching party, the other requesting party or the Company, respectively, except that if other parties obtain access to the structure as a result of the modification such parties shall share in the cost of modification proportionately with the party initiating the modification. A party, including the Company, with a pre-existing attachment to the structure to be modified to accommodate another attaching party shall be deemed to directly benefit from the modification if, after receiving notification of the modification, it adds to or modifies its attachment. In the event a party, including the Company, uses the modification to bring its structure or attachments into compliance with applicable safety or other requirements, it shall be considered as sharing in the modification and shall share the costs of the modification attributable to its upgrade. Notwithstanding the foregoing, a party or the Company with a pre-existing attachment to the structure, shall not be required to bear any of the costs of rearranging or replacing its attachment if such rearrangement or replacement is necessitated solely as a result of an additional attachment or the modification of an existing attachment sought by another attaching party. If a party, including the Company, makes an attachment to the modified structure after the completion of the modification, such party shall share proportionately in the cost of the modification if such modification rendered the added attachment possible.

All modifications to the Company's structure will be owned by the Company. Attaching parties, including the Company, who contributed to the cost of a modification, may recover their proportionate share of the depreciated value of such modifications from parties subsequently seeking access to the modified structure.

4. Installation and Maintenance Responsibility

Attaching party shall, at its own expense, install and maintain its attachments in a safe condition and in thorough repair so as not to conflict with the use of the structure by the Company or by other attaching parties. Work performed by attaching party on, in or about the Company's structures shall be performed by competent workmen skilled in the trade. The Company will specify the location on the structure where attaching party's attachment shall be placed. Attaching party shall construct each attachment in conformance with the permit issued for such attachment. Other than routine maintenance and service wire attachments, attaching party shall not modify, supplement or rearrange any attachment without first obtaining a permit therefor. Attaching party shall provide notice to the Company before entering any manhole, handhole or pull box for construction or maintenance purposes.

5. Installation and Maintenance Standards

Attaching party's attachments shall be installed and maintained in accordance with the rules, requirements and specifications of the National Electrical Code, National Electrical Safety Code, Bellcore Construction Practices, the FCC, the Commission, the Occupational Safety & Health Act and of any other governing authority having jurisdiction over the subject matter.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****6. Access Requests**

Any request by attaching party for access to the Company's structure shall be in writing and submitted to the Company's Structure Access Coordinator. The Company may prescribe a reasonable process for orderly administration of such requests. Attaching party's attachment to the Company's structure shall be pursuant to a permit issued by the Company for each request for access.

The Structure Access Coordinator shall be responsible for processing requests for access to Company structure, administration of the process of delivery of access to Company structure, for all matters relating to access to Company structure.

7. Unused Space

Excepting maintenance ducts and ducts required to be reserved for use by municipalities, all usable but unused space on structure owned or controlled by the Company shall be available for the attachments of attaching party, the Company or other providers of telecommunications services or cable television systems. Neither the attaching party, nor the Company, may reserve space on Company structure for its future needs.

8. Maintenance Ducts

One duct and one inner-duct in each conduit section shall be kept vacant as maintenance ducts. The maintenance ducts shall be available to any party with an attachment for maintenance purposes.

9. Cost of Certain Modifications

If, at the request of a governmental entity, third party, court or Commission or property owner, the Company moves, replaces or changes the location, alignment or grade of its conduits or poles, the Company shall bear the expenses of relocating attachments to those conduits or poles.

10. Maps and Records

The Company will provide attaching party at their request and expense, with access to and copies of maps, records and additional information relating to its structure. Upon request, the Company will meet with attaching party, at attaching party's expense, to clarify matters relating to maps, records or additional information. The Company does not warrant the accuracy or completeness of information on any maps or records. Maps, records or information may not be resold.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****11. Occupancy Permit**

Attaching party's access to Company's structure shall be pursuant to a permit issued by the Company for each requested attachment. Any such permit shall automatically terminate (a) if attaching party's franchise, consent or other authorization from federal, state, county or municipal entities or private property owners necessary for the attaching party to lawfully maintain the attachment is terminated if, (b) attaching party has not placed and put into service its attachments within one year from the date the Company has notified attaching party that such structure is available for attaching party's attachments, (c) if attaching party ceases to use such attachment for any period of one year, (d) failure to comply with a term or condition of this guidebook and failure to correct such noncompliance within sixty (60) days after receipt of notice thereof from the Company or if Company ceases to have the right or authority to maintain its structure, or any part thereof to which attaching party has attachments. If attaching party surrenders its permit for any reason, but fails to remove its attachments from the structure within sixty (60) days after the event requiring the attaching party to so surrender such permit, the Company shall remove the attaching party's attachments at the attaching party's expense. The Company will provide the attaching party at least sixty (60) days written notice prior to (a) terminating a permit or service to an attaching party attachment or removal thereof for a breach of the provisions of this guidebook, (b) any increase in the rates for attachments to the Company's structure, (c) any modification to the Company's structure to which the attaching party has an attachment, other than a modification associated with routine maintenance or as a result of an emergency.

12. Inspections

The Company may make periodic inspections of any part of the attachments of attaching party located on Company structures. Inspections shall be made to (a) ensure that attaching party's attachments have been constructed in accordance with the applicable permit and do not violate any other attaching party's rights on the structure and (b) ensure that attaching party's attachments are subject to a valid permit and conform to all applicable installation and maintenance standards. If attaching party's attachments are found to be in compliance with these criteria, no charges will be incurred by the attaching party for the inspection. If attaching party's attachments are not in compliance with these criteria, the Company may charge attaching party for the inspection. The costs of periodic inspections will be paid by those attaching parties with 2% or more of their attachments in violation. The amount paid by attaching party shall be the percentage that their violations bear to the total violations of all attaching parties found during the inspection. Except for inspections following the construction of permitted attachments, or in cases involving safety, damage to attachments or potential violations of this guidebook, such inspections shall not be made more often than once every five (5) years. Where reasonably practicable to do so, the Company shall provide prior written notice to attaching party of such inspections.

13. Damage to Attachments

Both attaching party and the company will exercise precautions to avoid damaging the attachments of the other or to any company structure to which attaching party obtains access hereunder. The party damaging the attachments of the other shall be responsible to the other therefor.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****14. Deposits**

A deposit shall be required for each request from attaching party for map preparation, make-ready surveys and make-ready work.

15. Interconnection

Upon attaching party request, the Company will permit the interconnection of ducts or conduits owned by attaching party in Company manholes. Interconnection will not be permitted where modification of Company structure to accommodate attaching party request for access is possible. Attaching party will be responsible for any costs required to accommodate the interconnection.

Requests by attaching party for interconnection of attaching party's attachments in or on Company structure with the attachments of other attaching parties in or on Company structure will be considered on a case-by-case basis and permitted or denied based on the applicable standards set forth in this guidebook for and reasons of capacity, safety, reliability, and engineering. Attaching party will be responsible for the costs of any make ready work required to accommodate the interconnection.

16. General Indemnity Rights

Except as provided below, each of the Company and the Attaching Party (the "Indemnifying Party") shall defend and indemnify the other, its officers, directors, employees and permitted assignees (collectively, the "Indemnified Party") and hold such Indemnified Party harmless against:

- a. any Loss to a third person arising out of the negligence or willful misconduct by such Indemnifying Party, its agents, its customers, contractors, or other retained by such parties, in connection with the provision or use of services under this guidebook;
- b. any Loss arising from such Indemnifying Party's use of services offered under this guidebook, involving:
- c. any Loss arising out of the failure of the Indemnifying Party to comply with any provisions of this guidebook or any Applicable Law.

In the case of any Loss alleged or made by a customer of either party, the party whose Customer alleged or made such Loss shall be the Indemnifying Party and the other party shall be the Indemnified Party.

For purposes of guidebook, a "Loss" or "Losses" means any and all losses, costs (including court costs), claims, damages (including fines, penalties, and criminal or civil judgments and settlements), injuries, liabilities and expenses (including attorneys' fees).

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****17. Limitation of Liability**

The following applies in addition to all other limitations in this guidebook. The Company and the Attaching Party shall be responsible only for services and facilities which are provided by it, its authorized agents, subcontractors, or others retained by it, and neither shall bear any responsibility for the services and facilities provided by the other, its agents, subcontractors, or other persons retained by such parties.

In the case of any Loss arising from the negligence or willful misconduct of both parties, each party shall bear, and its obligation shall be limited to, that portion of the resulting expense caused by its negligence or misconduct or the negligence or misconduct of such party's agents, subcontractors, or other persons acting in concert with it.

Except for indemnity obligations each party's liability to the other party for any loss relating to or arising out of any negligent act or omission in its performance shall be limited to the total amount that is or would have been charged to the other party by such negligent or breaching party for the services or functions not performed or improperly performed.

Each party shall, to the maximum extent permitted by applicable law, provide in its guidebooks and contracts with its Customers that relate to any Service or facility provided or contemplated that in no case shall such Party or any of its agents, contractors or other persons retained by such parties be liable to any customer for any Consequential Damages as defined below. If a party breaches its obligations under this subparagraph 17, the breaching party shall be liable to the non-breaching party for any and all losses resulting from such breach, including the indemnification of and/or reimbursement for losses arising from claims by and from such breaching party's customers.

In no event shall either party have any liability whatsoever to the other party for any indirect, special, consequential, incidental, or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other party has been advised of the possibility of such damages; provided that the foregoing shall not limit a party's obligation to indemnify, defend and hold the other party harmless against any amounts payable to a third person, including any losses, costs, fines, penalties, criminal or civil judgments or settlements, expenses (including attorneys' fees and Consequential Damages of such third party.

Except as expressly provided in this guidebook, no remedy set forth in this guidebook is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under applicable law or otherwise.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****18. Force Majeure**

In addition to other limitations in this guidebook:

No party shall be responsible for delays or failures in performance of any part of this guidebook (other than an obligation to make money payments) resulting from acts or occurrences beyond the reasonable control of such party, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any government or legal body, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (individually or collectively a "Force Majeure Event"); or delays caused by the other party or any other circumstances beyond the party's reasonable control. If a Force Majeure Event shall occur, the party affected shall give prompt notice to the other party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such party is affected by such Force Majeure Event during the continuance thereof be excused from such performance (and the other party shall likewise be excused from performance of its obligations to the extent such party's obligations relate to the performance so interfered with). The affected party shall use its reasonable efforts to avoid or remove the cause of non-performance and the parties shall give like notice and proceed to perform with dispatch once the causes are removed or cease. Notwithstanding the preceding, no delay or other failure to perform shall be excused pursuant to this section: (i) by the acts or omission of a party's subcontractors, material men, suppliers or other third persons providing products or services to such party unless such acts or omissions are themselves the product of a Force Majeure Event, and unless such delay or failure and the consequences thereof are beyond the control and without the fault or negligence of the party claiming excusable delay or other failure to perform, or (ii) if such party fails to implement any steps taken to mitigate the effects of a Force Majeure Event (e.g., disaster recovery plans) in a non-discriminatory manner during the period performance is impaired.

19. Abandonments, Sales or Dispositions

The Company shall notify the attaching party of the proposed abandonment, sale, or other intended disposition of any structure.

20. Unauthorized Attachments

The Attaching Party shall promptly submit a request for access for any Attachment of the Attaching Party made without a permit. The Attaching Party shall pay the Company the Unauthorized Attachment Fee for each such unauthorized attachment.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****21. Taxes**

The attaching party shall be solely responsible for any or all taxes levied on its attachments on the Company's structure.

22. Work Safety

Each party will be solely responsible for safety and supervision of its own employees in working in and around the Company's poles, ducts, conduits, and rights-of-way and shall comply with all applicable laws including the Occupational Health and Safety Act.

23. Proprietary Information

The Disclosing Party will use its reasonable efforts to follow its customary practices regarding the marking of tangible Proprietary Information as "confidential", "proprietary", or other similar designation. The Parties agree that the designation in writing by the Disclosing Party that information is confidential or proprietary shall create a presumption that such information is confidential or proprietary to the extent such designation is reasonable.

Notwithstanding the requirements of this Section, all information relating to the Customers of a Party, including information that would constitute Customer Proprietary Network Information of a Party pursuant to the Act and FCC rules and regulations, and Customer Usage Data, whether disclosed by one Party to the other Party or otherwise acquired by a Party in the course of the performance of this General Statement, shall be deemed "Proprietary Information".

Each Receiving Party agrees that from and after the Effective Date:

- a. all Proprietary Information communicated, whether before, on or after the Effective Date, to it or any of its contractors, consultants or agents ("Representatives") in connection with this guidebook shall be held in confidence to the same extent as such Receiving Party holds its own confidential information; provided that such Receiving Party or Representative shall not use less than a reasonable standard of care in maintaining the confidentiality of such information;
- b. it will not, and it will not permit any of its employees, Affiliates or Representatives to disclose such Proprietary Information to any third person;
- c. it will disclose Proprietary Information only to those of its employees, Affiliates and Representatives who have a need for it in connection with the use or provision of services required to fulfill this guidebook; and
- d. it will, and will cause each of its employees, Affiliates and Representatives to use such Proprietary Information only to perform its obligations under this General Statement or to use services provided by the Disclosing Party hereunder and for no other purpose, including its own marketing purposes.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****23. Proprietary Information (cont'd)**

A Receiving Party may disclose Proprietary Information of a Disclosing Party to its Representatives who need to know such information to perform their obligations under this General Statement; provided that before disclosing any Proprietary Information to any Representative, such Party shall notify such Representative of such person's obligation to comply with this guidebook. Any Statement by any of its Representatives and such Receiving Party agrees, at its sole expense, to use its reasonable efforts (including court proceedings) to restrain its Representatives from any prohibited or unauthorized disclosure or use of the Proprietary Information. Each Receiving Party making such disclosure shall notify the Disclosing Party as soon as possible if it has knowledge of a breach of this General Statement in any material respect. A Disclosing Party shall not disclose Proprietary Information directly to a Representative of the Receiving Party without the prior written authorization of the Receiving Party.

Proprietary Information shall not be reproduced by any Receiving Party in any form except to the extent (i) necessary to comply with the provisions of this Section and (ii) reasonably necessary to perform its obligations under this guidebook. All such reproductions shall bear the same copyright and proprietary rights notices as are contained in or on the original.

This Section shall not apply to any Proprietary Information which the Receiving Party can establish to have:

- a. been disclosed by the Receiving Party with the Disclosing Party's prior written consent;
- b. become generally available to the public other than as a result of disclosure by a Receiving Party;
- c. been independently developed by a Receiving Party by an individual who has not had knowledge of or direct or indirect access to such Proprietary Information;
- d. been rightfully obtained by the Receiving Party from a third person without knowledge that such third person is obligated to protect its confidentiality; provided that such Receiving Party has no reasonable basis on which to inquire as to whether or not such information was subject to a confidentiality agreement at the time such information was acquired; or
- e. been obligated to be produced or disclosed by Applicable Law; provided that such production or disclosure shall have been made in accordance with this Section.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****23. Proprietary Information (cont'd)**

If a Receiving Party desires to disclose or provide to the Commission, the FCC or any other governmental authority any Proprietary Information of the Disclosing Party, such Receiving Party shall, prior to and as a condition of such disclosure, (i) provide the Disclosing Party with written notice and the form of such proposed disclosure as soon as possible but in any event early enough to allow the Disclosing Party to protect its interests in the Proprietary Information to be disclosed and (ii) attempt to obtain in accordance with the applicable procedures of the intended recipient of such Proprietary Information an order, appropriate protective relief or other reliable assurance that confidential treatment shall be accorded to such Proprietary Information.

If a Receiving Party is required by any governmental authority or by Applicable Law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. Upon receipt of written notice of the requirement to disclose Proprietary Information, the Disclosing Party, at its expense, may then either seek appropriate protective relief in advance of such requirement to prevent all or part of such disclosure or waive the Receiving Party's compliance with this Section with respect to all or part of such requirement.

The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to seek pursuant to this Section. In the absence of such relief, if the Receiving Party is legally compelled to disclose any Proprietary Information, then the Receiving Party shall exercise all commercially reasonable efforts to preserve the confidentiality of the Proprietary Information, including cooperating with the Disclosing Party to obtain an appropriate order or other reliable assurance that confidential treatment will be accorded the Proprietary Information.

All Proprietary Information, other than Derivative Information, shall remain the property of the Disclosing Party, and all documents or other tangible media delivered to the Receiving Party that embody such Proprietary Information shall be, at the option of the Disclosing Party, either promptly returned to Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Proprietary Information will continue to be subject to this General Statement), upon the earlier of (i) the date on which the Receiving Party's need for it has expired and (ii) the expiration or termination of services under this guidebook.

At the request of the Disclosing Party, any Derivative Information shall be, at the option of the Receiving Party, either promptly returned to the Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Proprietary Information will continue to be subject to this guidebook, upon the earlier of (i) the date on which the Receiving Party's need for it has expired and (ii) the expiration or termination of services under this guidebook.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)****23. Proprietary Information (cont'd)**

The Receiving Party may at any time either return to the Disclosing Party or destroy Proprietary Information.

If destroyed, all copies shall be destroyed and upon the written request of the Disclosing Party, the Receiving Party shall provide to the Disclosing Party written certification of such destruction. The destruction or return of Proprietary Information shall not relieve any Receiving Party of its obligation to treat such Proprietary Information in the manner required by this guidebook.

24. Compliance with Applicable Law

Each Party shall comply at its own expense with all applicable federal, state, and local statutes, laws, rules, regulations, codes, decisional law, final and nonappealable orders, decisions, injunctions, judgments, awards and decrees ("Applicable Laws") that relate to its obligations under this guidebook.

Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, governmental authorities, building and property owners, other carriers, and any other persons that may be required in connection with the performance of its obligations under this guidebook. Each Party shall reasonably cooperate with the other Party in obtaining and maintaining any required approvals and rights for which such Party is responsible.

Each Party will be solely responsible at its own expense for the proper handling, storage, transport, treatment, disposal and use of all Hazardous Substances by such Party and its contractors and agents. "Hazardous Substances" includes those substances (i) included within the definition of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste or pollutant or contaminant under any Applicable Law and (ii) listed by any governmental agency as a hazardous substance.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**C. Terms and Conditions (cont'd)**

25. Insurance

At all times, each Party shall keep and maintain in force at such Party's expense all insurance required by Applicable Law, general liability insurance in the amount of at least \$10,000,000 and worker's compensation insurance. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance. If the attaching party has a net worth in excess of \$100,000,000, this insurance may be provided through a program of self-insurance.

26. Warranty Disclaimer

Except as expressly provided under this guidebook, no party makes or receives any warranty, express, implied or statutory, with respect to the services, functions, products or facilities it provides or is contemplated to provide under this guidebook and each party disclaims the implied warranties of merchantability and/or of fitness for a particular purpose.

D. Features

1. Standard Features

Administrative Fees

Administrative Fees cover the cost of establishing records, databases and systems, and similar administrative procedures to accommodate an attaching party's requests for attachment. Administrative Fees are payable with attaching party's initial request for attachment. Administrative Fees are not refundable.

Maps, Records and Information Charges (Information Access)

Information access charges cover the cost of administration and participation required to provide viewing of maps, records, drawing and information and researching, preparing and possibly copying maps and/or records, drawing and information.

Prior to initiating access to information requester shall deposit with the Company against the charges thereof the Company's estimated amount of charges associated with the Information Access request. The requester shall pay the amount by which the costs of the request exceed the estimate. Company will reimburse to requester the amounts by which the deposit exceeds the actual cost of the request.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**D. Features (cont'd)**

1. Standard Features (cont'd)

Make Ready Work Charges

Charges include all of Company's costs to prepare Structure for the attachments of attaching party, including engineering, field surveys, permits, construction, rearrangement, replacements, inspections, administration and supervision.

- a. The charges for Make Ready Work are the full cost to the Company to perform the required work.
- b. Prior to commencing any Make Ready Work by Company, attaching party shall deposit with Company against the Make Ready Work charges Company's estimated amount of the Make Ready Work charges. Attaching party shall pay the amount by which the Make Ready Work Charges exceed the deposit. Company will refund to attaching party the amount by which the deposit exceeds the Make Ready Work Charges.
- c. For requests for access to Company's conduit or rights-of-way, attaching party shall make separate deposits for field survey Make Ready Work to determine the actual availability of space apparently available based on Company's records and for the Make Ready Work to prepare the rights-of-way or conduit for attaching party's attachment.
- d. In the event other attaching parties share in the responsibility for the modification to the Company's structure, the deposits required by this section shall be attaching party's proportionate share of the Make Ready Work Charges.

Attachment Fees

Fees are the recurring charges to attaching party to place its attachments in or on Company structure.

- a. Attachment Fees are due and payable twice each year in advance. On January 1 of each year, attaching party will be billed for its attachments to Company structure in place and for which Make Ready Work has been completed as of December 1 of the previous year, on July 1 of each year, attaching party will be billed for its attachments to Company's structure in place and for which Make Ready Work has been completed as of June 1. Any attachments made within each billing period will be billed at the time of the attachment for the entire billing period.
- b. The Attachment Fee for poles applies to each pole on which attaching party has placed its attachments or for which Make Ready Work pursuant to a request for access has been complete. The Attachment Fee applies per pole, per year for each one foot of usable space occupied by attaching party's attachments. (C)
(C)

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**D. Features (cont'd)**

1. Standard Features (cont'd)

Attachment Fees (cont'd)

- c. The Attachment Fee for duct or conduit applies to the total number of feet of Company conduit system or ducts in which attaching party has placed attachments or for which Make Ready Work pursuant to a request for access has been completed.

The length of the duct or conduit occupied is measured from wall to wall of the manholes, or from the wall of the manhole to the end of the Company's conduit system or duct occupied by the attaching party's attachment, plus the cable racking and maintenance loop space measured by the length of the attaching party's cable within each manhole.

If attaching party's partial occupancy of a continuous conduit system or duct renders the remainder or any portion thereof unusable, the Attachment Fee applies to both the portion occupied and the portion rendered unusable.

If attaching party occupies an entire duct, the Attachment Fee shall be the full duct rate per duct foot for the attachment. If attaching party occupies an inner-duct, the Attachment Fee shall be the innerduct rate per innerduct foot for the attachment. (C)
(C)
(C)

- d. The Attachment Fee for linear rights-of way applies to the total linear footage of strips of land three feet wide suitable for direct buried or trench placement of cable facilities of Company right-of-way in which attaching party has placed attachments or for which Make Ready Work pursuant to a request for access has been completed.

- e. If attaching party's partial occupancy of a continuous linear right- of-way renders the remainder or any portion thereof unusable, the Attachment Fee applies to both the portion occupied and the portion rendered unusable.

The Attachment Fee for attaching party's equipment cabinets or enclosures placed on Company rights-of-way will be priced on a case-by-case basis, depending upon the proposed attachment and the characteristics of the rights-of-way in question including the consumption of usable space of the right-of-way by the attachment and its usability for the attachment of others after the attachment.

The Attachment Fees for attaching party's attachments to Company rights-of-way within buildings or on campuses owned by third parties will be priced on a case-by-case basis, depending upon the proposed attachment and the characteristics of the right-of-way in question including the consumption of usable space of the right-of-way by the attachment and its usability for the attachment of others after the attachment, and the cost to the Company of the right-of-way in question.

Periodic Inspection Fees cover attaching party's portion of the costs to Company to make periodic inspections of its structure with respect to the attachments of all attaching parties.

POLE ATTACHMENT AND CONDUIT OCCUPANCY ACCOMMODATIONS (cont'd)**D. Features (cont'd)**

1. Standard Features (cont'd)

Attachment Fees (cont'd)

- f. The Company reserves the right to price on a case-by-case basis any extraordinary attachment to any of its poles, ducts, conduits or rights-of-way. An extraordinary attachment is any attachment to a pole, duct, or conduit or right-of-way which is not typical of attachments commonly made to poles, ducts, conduits or rights-of-way, as the case may be, and which impacts the usability of the pole, duct, conduit or right-of-way in excess of a typical attachment or which presents greater than typical engineering, reliability, or safety concerns to other users of the duct, pole, conduit or right-of-way.
- g. The fee for unauthorized attachments to the Company's poles, ducts, conduits or rights-of-way is an amount equal to five (5) times the annual attachment fee for each such unauthorized attachment.

E. Prices

1. Service Elements

<u>Description /Billing Code/</u>	<u>Nonrecurring Charge</u>	<u>Per Year</u>
Application Fee		
- per request or assignment	\$200.00	
Pole Attachment Fee		
- per Solely Owned pole, per year for each one foot of usable space occupied		\$5.34(R)
- per Jointly Owned pole, per year for each one foot of usable space occupied		\$2.67(R)
Conduit Attachment Fee		
- per foot of full duct occupied per year		\$.72(R)
- per foot of innerduct occupied per year		\$.49(R)