

## **Town of Huntersville**

## **Town of Cornelius**

### **Recommendation to provide notice of termination of General Agreement for Joint Use of Poles currently in place with AT&T.**

This agreement is proving to be a burden on the progress of town projects and development, control and maintenance of the electric system poles, and additional unnecessary financial cost. The agreement originated as a 1930's era document under the control of Southern Bell T&T, and as such is written and executed with respect to the telephone company, affording more rights, privileges, and control to the telephone company. This agreement does not adequately apply to operation of the electric distribution system of 2017. Both the Town of Huntersville and the Town of Cornelius signed the agreement on December 16, 2013.

As underground electric service installation becomes more and more prevalent in addressing reliability, longevity, and aesthetic issues, and conversions of overhead (OH) to underground (UG) installations are occurring more frequently, the lack of control in pole ownership, and the rights granted to the pole joint use attacher, are becoming problematic and costly.

It is also in the towns best interest to own their own poles for consideration of such issues as system capital investment, technical specifications for purchase of poles, ongoing maintenance, control, and replacement of poles.

Numerous instances in the past have occurred and still exist on the systems where electric service has been removed from a pole and AT&T services still exist and have not been relocated or removed. This provides unsightly configurations with multiple poles and multiple attachments throughout the towns.

When both parties are attached to an existing pole, AT&T requires reimbursement to relocate their services off an abandon or (to be) removed pole. For community infrastructure projects such as road reconfiguration, public works facilities, or land development that drive the need to remove or relocate poles and place electric power underground for the overall good of the community, it becomes even more costly to have to reimburse AT&T for their expenses to remove and relocate their services off a power pole owned by the town.

Article XXVII indicates that termination may be made in writing by providing at least one year's notice prior to the end of the 5-year period. The 5-year period ends December 15, 2018, thus notice must be made prior to December 15, 2017. If notice is not made prior to December 15, 2017 then the agreement automatically renews for 2-year periods effective the entire period without right to terminate early. Termination of the contract will end December 15, 2018 if notice is given before the last year, or the next opportunity to end the agreement would come December 15, 2020 after a minimum one year notice.

There is minimal risk in termination of this agreement because termination of the agreement does not impact prior joint-use poles as Article XXVII also states "All such attachments shall continue thereafter to be maintained pursuant to this Agreement." Therefore, until the point in time in which all town-owned poles are used to serve overhead electric power, we will still be obligated to reimburse AT&T for their

relocations from our poles, and we will have no recourse in the pace at which their services are removed, relocated, replaced, or even fixed on pre-existing poles.

It is in the best interest of the town to terminate this agreement which relinquishes much control over even town owned poles and creates additional cost burden to pay AT&T to remove or relocate services. It is in the best interest of the town electric system to own and control poles for electric power distribution, and offer joint usage under an updated Pole Attachment Agreement.

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