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August 4, 2006

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket Nos.060172 & 060173-EU; Embarq's Comments and Proposed Rule Changes

Dear Ms. Bayó:

On behalf of Embarq Florida, Inc., and pursuant to Order No. PSC-06-610-PCO-EU and Order No. PSC-06-0646-PCO-EU, Embarq submits the original and fifteen copies of our comments and proposed rule changes for the rule hearing on these rules scheduled for August 31, 2006.

Copies are being served on the parties in this docket pursuant to the attached certificate of service. If you have any questions, or need additional information please contact me at 850-599-1560.

Sincerely,

Susan S. Masterton

cc: Larry Harris, Esq., FPSC

Susan S. Masterton
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CERTIFICATE OF SERVICE
DOCKET NO. 060172 & 060173-EU

I hereby certify that a true and correct copy of the foregoing was furnished by U.S. Mail this 4th day of August, 2006, to the following:

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Susan S. Masterton

Susan S. Masterton

FLORIDA PUBLIC SERVICE COMMISSION

Proposed rules governing placement of new electric distribution facilities underground, and conversion of existing overhead distribution facilities to underground facilities, to address effects of extreme weather events	)	Docket No. 060172-EU
Proposed amendments to rules regarding overhead electric facilities to allow more stringent construction standards than required by National Electric Safety Code	)	Docket No. 060173-EU
	)	Filed: August 4, 2006

COMMENTS OF EMBARQ FLORIDA, INC. REGARDING PROPOSED RULES 25-6.034, 25-6.0341 and 25-6.0342

INTRODUCTION

Pursuant to Order No. PSC-06-610-PCO-EU and Order No. PSC-06-0646-PCO-EU, Embarq Florida, Inc. ("Embarq") submits these comments and proposed rule changes for the rule hearing on these proposed rules scheduled for August 31, 2006.[1] At the hearing, representatives of Embarq will attend to present and answer questions about the legal, operational and cost issues Embarq raises regarding these proposed rules. In addition, Embarq incorporates and expands upon the comments previously filed by Embarq in its July 28, 2006 filings.[2]

While Embarq agrees that public safety is vital and that improvements to the electric infrastructure may be necessary to mitigate some affects of hurricane force winds

[1] While the Second Order on Procedure provides a due date for comments on Rule 25-6.034 (and other rules) of August 11, 2006, Embarq's comments on this rule are intertwined with its comments on Rule 25-6.0342. Therefore, Embarq is including its comments on Rule 25-6.034 in this filing.

[2] Letter from Embarq dated July 28, 2006 requesting a hearing and proposing lower cost regulatory alternative; Letter from Embarq dated July 28, 2006 providing post-workshop comments for the July 13, 2006 workshop, attached as Exhibit EQ-1.

and flooding, Embarq is concerned with the proposed rulemaking that provides unilateral authority to electric utilities to establish construction standards and attachment criteria. This unilateral delegation of the Commission's rulemaking authority may significantly jeopardize Embarq's ability to provide quality and expedient service to its customers in a cost effective manner and may also affect the long standing joint use terms and conditions and operating standards currently in place today. In addition, Embarq believes that the proposed rules related to location of facilities from back-lot to front-lot are too broad in encompassing the relocation of facilities in certain situations. Embarq proposes that applying the rules only to new construction is a more practical and cost-effective approach.

RULES 25-6.034 AND 25-6.0342 RELATING TO CONSTRUCTION AND ATTACHMENT STANDARDS

The proposed rules are an invalid exercise of delegated legislative authority

The propoed rules improperly delegate the Commission's rulemaking authority to electric utilities

Rulemaking is a function of administrative agencies and can only be exercised if the authority to make rules has been specifically delegated to an agency by the Legislature. See, *Southwest Florida Water Management District v. Save the Manatee Club*, 773 So. 2d 594 (Fla. 1st DCA 2000) Delegation of agency rulemaking authority to private entities is unlawful. See, *Florida Attorney General Opinion 078-53*, issued March 28, 1978. In that opinion, the Attorney General responded to an inquiry from the Public Service Commission regarding its regulation of motor carriers. One of the questions the Commission asked concerned whether the submission of rates by private rate organizations to the Commission for approval was an unlawful delegation of the

Commission's statutory responsibility for rate setting. The Attorney General determined that it was not, because the Commission made the final determination regarding the appropriate rates.

The basis for the Attorney General's opinion was a Florida Supreme Court case relating to the investment of certain highway funds based on the recommendation of a board that did not consist entirely of "public" officers. See, *State of Florida v. State Road Department*, 173 So. 2d 693 (Fla. 1965). In that case, the Supreme Court ruled that there was no unlawful delegation, as long as the non-public board operated in an advisory capacity only and the final decision was made by a public official.

In sections 366.04 and 366.05, F.S., the Legislature has delegated to the Commission the authority to adopt rules establishing safety and reliability standards for electric utilities. In 2006, the Legislature expanded that authority by providing that as far as safety the NESC standards, as adopted by the Commission, are "minimum" standards and that as far as reliability the Commission has the ability to "adopt construction standards that exceed the National Electrical Safety Code, for purposes of ensuring the reliable provision of service." See, sections 16 and 17 of chapter 2006-230, Laws of Florida attached as Exhibit EQ-2. Contrary to the express terms of the statute and Florida law, in Proposed Rules 25-6.034 and 25-6.0342 the Commission improperly delegates to electric utilities the rulemaking authority delegated to the Commission by the Legislature.

<u>The Commission does not have jurisdiction to regulate pole attachments</u>

The Commission does not have jurisdiction over pole attachments and, therefore, the Commission does not have the authority to adopt proposed Rule 25-6.0342 to the extent it regulates attachments. See, *Teleprompter Corp. v. Hawkins*, 384 So. 2d 648 (Fla.

1980). Under 47 U.S.C. § 224, the FCC has jurisdiction over pole attachments unless a state commission certifies the following to the FCC: (1) that it regulates rates, terms, and conditions for pole attachments; and (2) that in so regulating such rates, term, and conditions, the State has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the utility services. *See* 47 U.S.C. § 224 (c)(2). In *Hawkins*, the Commission notified the FCC that it had authority to regulate pole attachment agreements pursuant to 47 U.S.C. § 224. In response to a challenge of the Commission's jurisdiction, the Supreme Court ruled that the Commission did not have the authority under Florida law to regulate pole attachment agreements.

For electric utilities and incumbent local exchange companies, such as Embarq, attachment terms, conditions and rates are governed by long-standing agreements between the companies. These agreements provide the manner of attachments, for construction and attachment standards, and for cost sharing of the expenses associated with construction and attachments. The Commission's proposal to allow the electric utilities to unilaterally adopt standards, particularly standards for third-party attachments, without regard for the provisions of these agreements may constitute an impairment of private contracts in violation of the Florida Constitution. See, *United Telephone Company of Florida v. Public Service Commission*, 496 So. 2d 116 (Fla. 1986) (invalidating orders of the Commission because they interfered with the private contracts between telecommunications companies relating to jurisdictional separations). See also, *GTE and BellSouth v. Public Service Commission*, Case Numbers 99-5368RP & 99-5369-RP, Agency Final Order issued July 13, 2000 (invalidating rules of the Commission

because they interfered with private contracts between telecommunications companies and their customers).While hardening outside plant against storm damage is a worthwhile endeavor, the proposed rules indirectly impose changes to the rates, terms and conditions of long standing joint use agreements between electric utilities and telephone companies, exceeding the Florida Commission's lawful jurisdiction.

The proposed rules unreasonably affect Embarq's operations and costs as they relate to pole attachments and joint use facilities

Electric utilities should not be allowed to unilaterally set standards

The National Electrical Safety Code (NESC) sets forth the criteria for construction, attachments and joint use that historically have been negotiated and implemented by the electric and telecommunications industries. There is nothing in the rulemaking record that supports that the damage caused by the 2004 and 2005 hurricanes in Florida was the result of the inadequacy of the NESC standards. Exhibit EQ-3 includes revisions to proposed Rules 25-6.034 and 25-6.0342 that reflect Embarq's proposal that the rules incorporate only the NESC standards.

The construction standards currently used by Embarq for aerial and buried facilities were derived from industry-accepted standard processes, methods and procedures which included the personal, property, and electrical safety requirements established by ANSI, Bellcore (now Telcordia) and the NESC. The electric, telecommunications and cable industries have always worked cooperatively to set standards for joint use of poles and joint placement of facilities underground. The proposed rules unnecessarily turn this cooperative endeavor into an adversarial process by charging electric utilities with setting the standards and relegating telecommunications companies and cable companies to the role of challengers. The context of the proposed rules indicates that any challenges likely

will be resolved based solely on the effect of the standards relating to the provision of electric service, not telecommunications or cable service. This is patently unfair and not in the best interests of the state's consumers.

Allowing a single industry to set the standards for all is unreasonable, especially when inherently there is some measure of contention involved in setting these standards due to pole attachments and the cost-sharing and space allocation arrangements contained in existing joint use agreements. Construction standards significantly affect not only electric utilities but also affect local exchange companies, since both entities are both pole owners and attachers. Providing unilateral authority to electric utilities to set the standards without input from other pole owners places an unreasonable level of control with an industry that has historically been contentious toward non-electric companies, and, at times, has evidenced a disregard for the rights of the other pole owners.

For instance, a concern with allowing the electric utilities to define construction standards is the potential that a utility could establish shorter, e.g. 30'- 35' class 1 poles, as its standard, which would effectively eliminate attachment space on the pole for communication attachments. This decision would affect the telecommunications companies' ability to cost-effectively reach their customers and would violate established FCC rules. Third-party attachers might also be required to utilize electric-company-managed rights-of-way and easements to access electric company poles. Over the years, construction corridors have been significantly reduced by the various publicly and privately owned companies placing facilities. This situation would become yet another potential roadblock to the cost-effective provisioning of service to Embarq customers

should electric utilities deny or monopolize rights-of-way or seek unbalanced cost sharing for the use of their easements.

Allowing electric utilities to define construction standards also create the potential that telecommunications-company-owned poles that carry electric distribution facilities will not meet the electric utility hardening standards. In this scenario, the telecommunications company might be required to place a significantly larger class of poles or to place steel poles or concrete poles. Aside from the significant first-cost expense of the poles, additional expense would be required to maintain a unique inventory of materials and hardware used for attaching facilities, as well as specialized labor to place these types of poles. Existing agreements between the telecommunications company and the electric company would be voided and new agreements would be required, with no benefit to the telecommunications company or its customers. Again, the telecommunications company would face a potential, significant increase in cost that Embarq fears may be unrecoverable under the statutory price regulation scheme that governs Embarq's rates.

Standard for aerial and underground facilities

In the area of underground construction, accepted industry standards, based largely on the NESC standards, have been used to guide electric utilities and local exchange carriers in the construction and use of common trenches. (An example of these standards, applicable to Embarq, is attached as Exhibit EQ-4.) These industry standards for undergrounding have been very successful for many years and have not created any significant safety or customer-affecting concerns. Embarq is supportive of joint trench in

new construction and some rebuilds. However, the use of joint trench requires coordination and agreement between all parties to mitigate customer-affecting trouble.

In addition, the proposed rules would be more acceptable to Embarq if aerial construction standards were mutually designed and agreed upon among the pole owners and attachers and if the standards assume reasonable cost sharing. Any adopted rules should ensure plant design planning and construction use a combination of aerial and underground construction to meet "far-side" (both sides of the street) distribution and that planning and construction are done in a collaborative environment. Building separate outside plant networks or employing different methodologies to reach common customers will impose a greater cost on all of the current joint participants.

Any standards exceeding the NESC should be adopted by the Commission by rule

If the rulemaking record supports the implementation of any standards for pole construction, pole attachments or joint use of underground trenches that exceed the NESC, the Commission should adopt these excessive standards in the rules, giving all affected parties the opportunity to craft the standards in the most cost-effective and operationally sound manner, considering the impacts on all affected entities. Embarq is not aware of any NESC standards that should be exceeded, so it cannot provide an amended rule with these new standards at this time. However, to the extent the electric utilities or the Commission propose any standards in excess of the NESC standards, Embarq believes those standards should be explicitly set forth in the rules.

RULE 25-34.0341 RELATING TO THE LOCATION OF FACILITIES

The proposed rule unreasonably affects Embarq's operations and costs

Impacts of moving aerial from back to front

New construction

Initial, or new "front-lot" construction in planned, yet-to-be developed subdivisions would, as the Commission points out, provide some benefit (once the area is established) to the restoration of facilities following a severe weather event, due in part to the utility's ability to move from home to home, unencumbered by yard fencing, storage buildings, or swimming pools that remained intact following the weather event. Embarq has suggested that the proposed rule should apply only to these new facilities. Exhibit EQ-5 includes revisions to Proposed Rule 25-6.0341 that reflect Embarq's proposal that the rule apply only to new construction.

Aerial to aerial relocation

The ultimate cost of reconstructing existing aerial plant will be site and route specific with considerable variability. It is entirely predictable, however, that the costs of moving existing aerial plant from the rear of residential lots to the front will generate an extreme and costly construction environment. Reconstructing cables in existing neighborhoods will require significant disruption to customers, due to the tearing up of yards, trees, landscaping, fences, sidewalks, driveways, and streets. The cost of working in this environment is extremely high compared to doing work ahead of time as neighborhoods are initially constructed. While there are certainly benefits to underground plant and or having stronger overhead plant, it should be kept in mind that even this new plant will experience some failure during extreme hurricanes, and therefore the cost/benefit of re-constructing aerial plant is suspect and unquantified at this point.

If the electric utility reconstructs overhead facilities, moving aerial cable from back-lot to front is not a simple matter of moving an existing cable. It requires all new

facilities at the front, and scrapping the existing facilities at the back. Putting the cost of the cable work aside, the new investment in taller heavier poles placed along the road will bring a cost increase as well through higher attachment fees. Because of joint use agreements, new poles carry the threat that the attacher will be asked to pay for them through make-ready costs. Any costs passed to the attacher in reconstructing the overhead facility should acknowledge that the electric utility already has the ability to recover these costs through rates and has stated its intent to do so. Aside from additional labor and material costs of the pole-based facilities, as well as those attached to the customer's home, e.g. NID, drop, grounding protection, additional time and resources would be required to transfer active subscriber services from the back-lot facilities to the newly constructed front-lot facilities. In addition, facilities attached to the customer's home may have to be relocated to a completely new area of the home in order to receive service drops from the front-lot pole line.

Should front-line construction for electric companies be approved, Embarq might choose to purchase in-place electric company poles, cut to a height no greater than 30', and continue to utilize the back-lot provisioning of services. Aside from the "first cost" view of utilizing existing power poles, a benefit would be that telecommunication facilities are now constructed on poles with a higher class rating. An example is a 45 foot class 3 electric pole cut to 30 feet to support communications would in essence be rated as a "stronger" structure when it only supports facilities lower than 30 feet.

In the electric overhead-to-overhead replacement situation, if Embarq also remains overhead, the construction cost to rebuild its aerial line on new electric utility poles is estimated to fall in a range of $110k to $170k per mile, depending on whether the electric

utility attempts to charge the attacher for the cost of the new pole. If every mile of Embarq's shared overhead routes were rebuilt, the resulting cost estimates would range from $360 million to $560 million, which is an extreme result which obviously calls for a more granular definition and cost benefit analysis before a rule is adopted.

Aerial to underground relocation

If the electric utility places new underground facilities, they propose that the cost recovery of the highly-disruptive trench/bore situation be guaranteed to the electric utility through a combination local entity funding of seventy-five percent (75%) and electric rate increases of the remaining twenty-five percent (25%). Nowhere do the proposed rules address how the attacher, in this case Embarq, will recover its costs. As with sharing overhead facilities discussed above, the potential for the electric utility to inappropriately allocate to attaching parties such as Embarq the shared underground trenching costs which are already 100% recovered thru their 75%/25% proposal. Any costs passed to the attacher relative to joint electric utility and incumbent local exchange company (ILEC) underground construction should acknowledge that the electric utility already has included 100% recovery in their proposal.

In the electric overhead-to-underground replacement situation, if Embarq also buries facilities, the construction cost to retire aerial facilities and rebuild with buried is estimated to fall into a range of $190k to $260k per mile if Embarq has to pay for the trench. If every mile of shared overhead routes were to be buried, this would amount to $630 million to $860 million for Embarq. Assuming that the electric utilities' proposal to recover 100% of their costs from the combination of local government and electric rate increases results in a cost-free use of the joint trench, the estimated cost range in that

context is $90K to $120K per mile. Again extending this unit cost range to the entire potential population of existing aerial plant results in unworkable total cost estimates of $300M to $400M.

Additional cost considerations

In addition, Embarq is concerned with the added cost and construction of additional poles and material to provision customers living on the opposite side or "far side" of the main distribution facilities. Depending on plant/facility design, front-line construction could effectively triple the number of poles over the number used in back-lot construction.

Moving the back-lot leads to front-lot construction creates construction complexities and concerns not generally found in back-lot construction scenarios. Typically the water, gas and sewer lines all occupy the street side rights- of- ways (ROW) and/or cross the ROW on each side of the street to reach each home. New or replacement construction significantly increases the potential of damage to these existing utilities. In addition, repair activities by the water, sewer and gas companies, increases facility protection and maintenance costs for pole owners and pole attachers in areas where ground disturbance degrades the integrity of the pole. Despite required notification to one call location centers, accidents still occur.

The current back-lot construction methodology allows Embarq and others attached to the same poles the ability to reach twice the number of homes out of the single facility as front lot construction allows. The front-lot construction requires facilities to be placed on each side of the street or requires directional drilling of the street about every fourth home and requires pulling facilities under the street to a distribution point on the "far

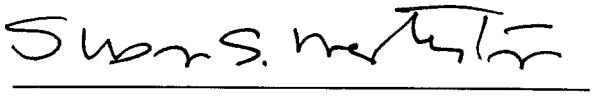
side", a process which must be replicated for the entire length of the street. Existing gas, water and sewer utilities create a somewhat perilous situation in that during the boring operation a nick in any one of those facilities would create a very costly and potentially deadly situation. Past history has shown that there have been instances across the country where just a nick in a natural gas line has destroyed property and taken lives.

CONCLUSION

Based on Embarq's comments as set forth above, Embarq requests that the Commission adopt changes to the proposed rules that:

- Adopt the NESC as the basis for electric utility construction and attachment standards in Proposed Rules 25-6.034 and 25-6.0342.
- Set forth the specific standards in excess of the NESC in Proposed Rules 25-6.034 and 25-6.0342, if standards in excess of the NESC are determined to be cost-effective and justified to increase electric utility safety and reliability,.
- Apply Proposed Rule 25-6.0341 only to new construction.

Respectfully submitted this 4th day of August 2006.



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July 28, 2006

Ms. Blanca Bayò, Director
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2540 Shumard Oak Blvd.
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RE: Docket Nos.060172 & 060173-EI
Embarq's Request for Hearing and Proposal for Lower Cost Alternatives

Dear Ms. Bayò:

On behalf of Embarq Florida, Inc. ("Embarq") this letter sets forth Embarq's request for a hearing and its proposal for lower cost regulatory alternatives, in accordance with the Notice of Rulemaking issued June 28, 2006 (Order No. PSC-06-0556-NOR-EU) and ch. 120, F.S.

Request for Hearing

In accordance with s. 120.54(3)(c)1., F.S., and Rule 28-103.004, F.A.C. Embarq requests a hearing on Proposed Rule 25-6.034, F.A.C. Embarq also understands that Proposed Rules 25-6.0341, 6.0342 and 6.0343 are already set for hearing (See, Order No. PSC-06-0610-PCO-EU and Order No. PSC-06-0632-PCO-EU), but to the extent a formal request for hearing may be necessary for these rules this letter also serves as that request.

Embarq is affected by the proposed rules because Embarq is a lawful third-party attacher to electric utility poles under federal law and agreements entered into between Embarq and individual electric utilities. Embarq currently has in place an estimated 250,000 attachments with approximately 30 electric utilities in Florida. The rules proposed by the Commission will affect both the manner and costs of Embarq's attachments. Embarq is requesting a hearing so that it will have an opportunity to present information to the Commission regarding Embarq's legal, operational and cost concerns with the rules as they are currently proposed.

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Proposal for lower cost alternatives

In accordance with s. 120.541, F.S., Embarq proposes the following lower cost alternatives to the rules proposed by the Commission. Embarq is a "substantially affected person" because it is a lawful third-party attacher as described above and the rules will affect the manner and costs of Embarq's attachments. The Commission already has recognized that Embarq's interests are affected by the proposed rules by including a requirement that the electric utilities seek input from third-party attachers related to construction and attachment standards and location decisions (although Embarq believes these provisions are insufficient to protect Embarq's interests).

First, regarding Proposed Rules 25-6.034 and 25-6.0342, F.A.C., relating to standards for electric utility construction and standards for third-party attachments to electric utility poles (and those portions of Proposed Rule 25-6.0343 that contain similar language for municipal and rural cooperative electric utilities), Embarq proposes that the 2002 National Electric Safety Code (NESC) is the appropriate standard for electric company construction and for third-party attachments. Embarq believes the adoption of this standard by the Commission substantially accomplishes the goals of the statutes that are implemented by the rules. The goals of these statutes are, broadly, to establish standards that ensure the availability of adequate and reliable energy, ensure the safety of the public and ensure the availability of adequate services and facilities to those reasonably entitled to receive such services. (See, ss. 366.04 and 366.05, F.S.) During the 2006 legislative session the Legislature adopted ch. 2006-230, Laws of Florida, amending ss. 366.04 and 366.05, F.S., to allow the Commission to adopt standards that exceed the NESC standards; however, the only requirement the law imposes upon the Commission is to adopt the NESC standards. The Legislature specifically did not alter its earlier finding that compliance with the NESC standards constitutes adequate safety standards for the protection of the public.

The pole attachment agreements generally used within the industry provide that poles and attachments will be constructed in accordance with the NESC standards. In addition, the rulemaking record does not support the insufficiency of the NESC standards (particularly as they relate to attachments) as the cause of electric outages experienced during extreme weather events, nor does the record support that exceeding the NESC standards will result in fewer or shorter electric outages. In fact, the Commission itself does not know what additional standards might be necessary to achieve the statutory objectives and, so, has delegated to the individual electric utilities the ability to adopt standards in excess of the NESC, entirely at each utility's discretion.[1] The NESC provides uniform standards that allow third parties to plan for and place attachments throughout the state on a consistent basis. The proposed rules would allow electric utilities to adopt potentially widely varying standards that could significantly increase the operational difficulties and costs imposed on third-party attachers.

[1] Embarq believes that this is an unlawful delegation of the Commission's rulemaking authority and intends to raise this issue through the appropriate proceedings at the appropriate time.

The proposed rules leave the adoption of these "excessive" standards entirely within the discretion of the electric utilities (which Embarq believes is unlawful). While the proposed rules require the electric companies to "seek input" from third parties and allow disputes regarding the standards to be brought before the Commission, there is no clear mechanism for notice to third parties of the standards the electric utilities propose to adopt (in fact, the utilities have stated that much of this information is proprietary). Also, there are no clear guidelines for the Commission to decide whether a proposed excessive standard is appropriate. Because the proposed rules do not set forth specific standards in excess of the NESC or a specific process for developing or challenging these standards, Embarq is not able to accurately assess the cost impact of any additional standards, the administrative costs of providing "input" to the electric utilities in the development of the standards, or the costs Embarq would incur if it finds it necessary to file a challenge with the Commission. In addition, given that the Commission cannot know what the standards ultimately will be, the Commission cannot determine the added value of the rule or the additional costs that any new standards exceeding the NESC may engender. At least, setting forth the specific, fact-supported construction or attachment standards in the rules would be a lower cost alternative because it would provide Embarq a clear point of entry in the development of the standards and allow Embarq to assess, and perhaps ameliorate, the cost impacts associated with a particular standard.

Regarding Proposed Rule 25-6.0341, F.A.C., related to the location of electric utilities (and those portions of Proposed Rule 25-6.0343 that contain similar language for municipal and rural cooperative electric utilities), Embarq proposes that a lower cost alternative is to apply the rule only to the installation of new facilities. Embarq believes that a prospective application of the rule addresses the access issues that the Commission asserts are the basis for the proposed rule. A prospective rule would be a more cost-effective alternative, as well, in that it would avoid the considerable costs (as well as the disruption) associated with removing existing facilities currently located in the back of a customer's premises and placing new facilities in the front or in the public right-of-way.[2] Embarq believes these relocation costs and disruptions are likely to significantly outweigh any potential benefits of improved access to the facilities for restoration purposes.

In addition to this letter and to the cost estimates filed today under separate cover, Embarq intends to file comprehensive comments addressing Embarq's legal, operational and cost concerns with the proposed rules by the August 4, 2006 deadline set forth in Order No. PSC-06-0610-PCO-EU. In addition, Embarq intends to fully participate in the rulemaking hearing for Proposed Rules 25-6.0341 and 25-6.0342 scheduled for August 31, 2006, in the hearing for Proposed Rule 25-6.0343 scheduled for October 4, 2006 and in the hearing for Proposed Rule 25-6.034, F.A.C., whenever it is scheduled.

[2] Embarq has provided an estimate of the potential costs associated with Proposed Rule 25-6.0341, F.A.C., as requested at the July 13th staff workshop in a separate filing on this same day.

If you have any questions or need additional information concerning the matters set forth in this letter, please contact me at (850) 599-1560.

Sincerely,

Susan S. Masterton

Cc: Larry Harris, Esq., FPSC
Charles J. Rehwinkel
Interested Persons of Record

CERTIFICATE OF SERVICE
DOCKET NO. 060172-060173

I hereby certify that a true and correct copy of the foregoing was furnished by U.S. Mail this 28th day of July, 2006, to the following:

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Lee County Electric Cooperative, Inc.
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Susan S. Masterton

ORIGINAL

Exhibit: EQ-1

Voice | Data | Internet | Wireless | Entertainment

EMBARQ™

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1313 Blair Stone Rd.
Tallahassee, FL 32301
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July 28, 2006

Ms. Blanca Bayò, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket Nos.060172 & 060173-EU – Post July 13, 2006 Workshop Comments of Embarq

Dear Ms. Bayò:

On behalf of Embarq Florida, Inc. ("Embarq") this letter sets forth the post July 13, 2006 workshop comments of Embarq. These comments are filed in addition to the request for a hearing and proposal for lower cost regulatory alternatives filed by Embarq on this same date in accordance with the Notice of Rulemaking issued June 28, 2006.

The staff workshop held on July 13, 2006 was noticed as being for the purpose of allowing third party attachers to present data on the cost impact, if any, of proposed Rules 25-6.0341 and 25-6.0342, F.A.C., on their companies. While Embarq did not have cost data available to present at the workshop, the company has attempted to provide such data in these post workshop comments.

Rule 25-6.0341 Location of the Utility's Electric Distribution Facilities.

Requirement for electric facilities to be placed adjacent to a public road, normally in front of the customer's premises

Up to this point, the proposed rulemaking lacks a sufficiently defined scope necessary to accurately estimate the potential cost impacts to third party attachers by requiring electric distribution facilities to be placed adjacent to a public road, normally in front of the customer's premises, to the extent practical, feasible and cost-effective. The electric utilities' filings have been vague as to the scope and volume of their planned re-construction of existing aerial plant and have instead simply made vague references to a ten year plan. A request for estimated cost, against this vague backdrop is ill-fated at the outset. The ultimate cost of reconstructing existing aerial plant will be a site- and route-specific result with

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considerable variability. It is entirely predictable however that the costs of moving existing aerial plant from the rear of residential lots to the front will generate an extreme and costly construction environment. Reconstructing cables in existing neighborhoods will require significant disruption to customers, due to the tearing up of yards, trees, landscaping, fences, sidewalks, driveways, and streets. The cost of working in this environment is extremely high compared to doing work ahead of time as neighborhoods are initially constructed. (Embarq is supportive of higher standards in initial construction situations.) While there are certainly benefits to underground plant and or having stronger overhead plant, it should be kept in mind that even this new plant will experience some failure during extreme hurricanes, and therefore the cost/benefit of re-constructing aerial plant is suspect and unquantified at this point.

Requirement for electric facilities to use easements and road rights-of-way for all new and replacement electric overhead distribution facilities

If the electric utility reconstructs overhead facilities, moving aerial cable from back-lot to front is not a simple matter of moving an existing cable. It requires all new facilities at the front, and scrapping the existing facilities at the back. Putting the cost of the cable work aside, the new investment in taller heavier poles placed along the road will bring a cost increase as well through higher attachment fees. Because of joint use agreements, new poles carry the threat that the attacher will be asked to pay for them through make-ready costs. Any costs passed to the attacher in reconstructing the overhead facility should acknowledge that the electric utility already has the ability to recover these costs through rates and has stated its intent to do so.

In the electric overhead-to-overhead replacement situation, if Embarq also remains overhead, the construction cost to rebuild its aerial line on new electric utility poles is estimated to fall in a range of $110k to $170k per mile, depending on whether the electric utility attempts to charge the attacher for the cost of the new pole. Again, given the current complete lack of scope, Embarq can only report at this time that if every mile of its shared overhead routes were rebuilt, the resulting cost estimates would range from $360 million to $560 million which is an extreme result which obviously calls for a more granular definition and cost benefit analysis before being allowed to proceed.

Requirement for electric facilities to use front-lot easements provided by the applicant for all new and replacement electric underground distributions facilities.

If the electric utility places new underground facilities, they propose cost recovery of the highly-disruptive trench/bore situation be guaranteed to the electric utility through a combination local entity funding of (75%) and electric rate increases of the remaining (25%). Nowhere does the electric utility industry's proposals address how the attacher, in this case Embarq will recover its costs. As with sharing overhead facilities discussed above, the potential for the electric utility to

inappropriately allocate to attaching parties such as Embarq the shared underground trenching costs which are already 100% recovered thru their 75/25% proposal. Any costs passed to the attacher relative to joint electric utility and incumbent local exchange company (ILEC) underground construction should acknowledge that the electric utility already has included 100% recovery in their proposal.

In the electric overhead-to-underground replacement situation, if Embarq also buries facilities, the construction cost to retire aerial facilities and rebuild with buried is estimated to fall into a range of $190k to $260k per mile if Embarq has to pay for the trench. Again lacking necessary definition of scale and scope, Embarq is left to report that if every mile of shared overhead routes were to be buried, this would amount to $630 million to $860 million for Embarq. Assuming that the electric utility's proposal to recover 100% of their costs from the combination of local government and electric rate increases results in a cost-free use of the joint trench, the estimated cost range in that context is $90K to $120K per mile. Again extending this unit cost range to the entire potential population of existing aerial plant results in unworkable total cost estimates of $300M to $400M.

Requirement for electric facilities to use road rights-of-way for conversions of overhead to underground facilities requested by a local government.

Embarq's input for this scenario would be the same as for the previous aerial to underground scenario described above.

Requirement for electric facilities to seek input from and to coordinate the construction of electric distribution facilities with third-party attachers.

Opportunities for input and coordination are certainly helpful and beneficial but would be insufficient in and of themselves in fully addressing third party attachers concerns as to cost sharing issues. Unlike the federal statutes which define the rate charged to cable and CLEC attachers, ILECs such as Embarq enjoy no similar definitions or protections. Given the proposed rules requiring hardening are certain to drive cost increases, the likelihood for attachment rate disputes is a predictable risk.

Rule 25-6.0342 Third-Party Attachment Standards and Procedures.

Requirement for electric facilities to establish and maintain written safety, reliability, pole loading capacity, and engineering standards and procedures for attachments by others to the utility's electric transmission and distribution poles.

Due to a lack of necessary information the cost of following new written standards issued by the electric utility can not be quantified at this time. The

responses to the questions above attempt to provide some understanding for unit costs and potentially extremely costly outcomes were these rules to go forward.

Impact and estimated incremental cost of requiring the Attachment Standards and Procedures to meet or exceed the National Electric Safety Code and other applicable state and federal laws.

The cost of the not yet defined higher standards for new facilities cannot be quantified. However, the cost of changing standards on existing facilities is potentially prohibitive and warrants further cost/benefit analysis as explained above.

Requirement for electric facilities to seek input from and to coordinate the construction of electric distribution facilities with third-party attachers.

The proposed rule requirement that would have each electric utility seek input from third-party attachers in establishing its Attachment Standards and Procedures and have disputes resolved by the Commission does not address the concerns of Embarq. Opportunities for input and coordination are certainly helpful and beneficial but would be insufficient in and of themselves in fully addressing third party attachers concerns as to cost sharing issues. Unlike the federal statutes which define the rate charged to cable and CLEC attachers, ILECs such as Embarq enjoy no similar definitions or protections. Given the proposed rules requiring hardening are certain to drive cost increases, the likelihood for attachment rate disputes is a predictable risk.

These comments are submitted specifically to address the questions from the July 13 workshop regarding quantification of cost impacts to Embarq of the proposed rules. Embarq will file additional comments on the proposed rule on August 4, 2006 as required by the pre-hearing order.

If you have any questions or need additional information concerning the matters set forth in this letter, please contact me at (850) 599-1560.

Sincerely,

Susan S. Masterton

cc: Larry Harris, Esq., FPSC
Charles J. Rehwinkel
Interested Persons of Record

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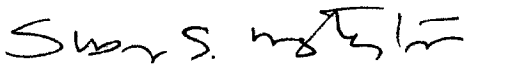

Susan S. Masterton

9. The amount taken as a credit for the taxable year under s. 220.1895.

10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.

11. The amount taken as a credit for the taxable year under s. 220.187.

12. The amount taken as a credit for the taxable year under s. 220.192.

13. The amount taken as a credit for the taxable year under s. 220.193.

Section 15. Subsection (2) of section 186.801, Florida Statutes, is amended to read:

186.801 Ten-year site plans.—

(2) Within 9 months after the receipt of the proposed plan, the commission shall make a preliminary study of such plan and classify it as "suitable" or "unsuitable." The commission may suggest alternatives to the plan. All findings of the commission shall be made available to the Department of Environmental Protection for its consideration at any subsequent electrical power plant site certification proceedings. It is recognized that 10-year site plans submitted by an electric utility are tentative information for planning purposes only and may be amended at any time at the discretion of the utility upon written notification to the commission. A complete application for certification of an electrical power plant site under chapter 403, when such site is not designated in the current 10-year site plan of the applicant, shall constitute an amendment to the 10-year site plan. In its preliminary study of each 10-year site plan, the commission shall consider such plan as a planning document and shall review:

(a) The need, including the need as determined by the commission, for electrical power in the area to be served.

(b) The effect on fuel diversity within the state.

(c)~~(b)~~ The anticipated environmental impact of each proposed electrical power plant site.

(d)~~(c)~~ Possible alternatives to the proposed plan.

(e)~~(d)~~ The views of appropriate local, state, and federal agencies, including the views of the appropriate water management district as to the availability of water and its recommendation as to the use by the proposed plant of salt water or fresh water for cooling purposes.

(f)~~(e)~~ The extent to which the plan is consistent with the state comprehensive plan.

(g)~~(f)~~ The plan with respect to the information of the state on energy availability and consumption.

Section 16. Subsection (6) of section 366.04, Florida Statutes, is amended to read:

366.04 Jurisdiction of commission.—

(6) The commission shall further have exclusive jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of all public electric utilities, cooperatives organized under the Rural Electric Cooperative Law, and electric utilities owned and operated by municipalities. In adopting safety standards, the commission shall, at a minimum:

(a) Adopt the 1984 edition of the National Electrical Safety Code (ANSI C2) as initial standards; and

(b) Adopt, after review, any new edition of the National Electrical Safety Code (ANSI C2).

The standards prescribed by the current 1984 edition of the National Electrical Safety Code (ANSI C2) shall constitute acceptable and adequate requirements for the protection of the safety of the public, and compliance with the minimum requirements of that code shall constitute good engineering practice by the utilities. The administrative authority referred to in the 1984 edition of the National Electrical Safety Code is the commission. However, nothing herein shall be construed as superseding, repealing, or amending the provisions of s. 403.523(1) and (10).

Section 17. Subsections (1) and (8) of section 366.05, Florida Statutes, are amended to read:

366.05 Powers.—

(1) In the exercise of such jurisdiction, the commission shall have power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, including the ability to adopt construction standards that exceed the National Electrical Safety Code, for purposes of ensuring the reliable provision of service, and service rules and regulations to be observed by each public utility; to require repairs, improvements, additions, replacements, and extensions to the plant and equipment of any public utility when reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; to employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter; and to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(8) If the commission determines that there is probable cause to believe that inadequacies exist with respect to the energy grids developed by the electric utility industry, including inadequacies in fuel diversity or fuel supply reliability, it shall have the power, after proceedings as provided by law, and after a finding that mutual benefits will accrue to the electric utilities involved, to require installation or repair of necessary facilities, including generating plants and transmission facilities, with the costs to be distributed in proportion to the benefits received, and to take all necessary steps to ensure compliance. The electric utilities involved in any action

taken or orders issued pursuant to this subsection shall have full power and authority, notwithstanding any general or special laws to the contrary, to jointly plan, finance, build, operate, or lease generating and transmission facilities and shall be further authorized to exercise the powers granted to corporations in chapter 361. This subsection shall not supersede or control any provision of the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

Section 18. Section 366.92, Florida Statutes, is created to read:

366.92 Florida renewable energy policy.—

(1) It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and at the same time, minimize the costs of power supply to electric utilities and their customers.

(2) For the purposes of this section, "Florida renewable energy resources" shall mean renewable energy, as defined in s. 377.803, that is produced in Florida.

(3) The commission may adopt appropriate goals for increasing the use of existing, expanded, and new Florida renewable energy resources. The commission may change the goals. The commission may review and reestablish the goals at least once every five years.

(4) The commission may adopt rules to administer and implement the provisions of this section.

Section 19. (1) The Florida Public Service Commission shall direct a study of the electric transmission grid in the state. The study shall look at electric system reliability to examine the efficiency and reliability of power transfer and emergency contingency conditions. In addition, the study shall examine the hardening of infrastructure to address issues arising from the 2004 and 2005 hurricane seasons. A report of the results of the study shall be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2007.

(2) The commission shall conduct a review to determine what should be done to enhance the reliability of Florida's transmission and distribution grids during extreme weather events, including the strengthening of distribution and transmission facilities. Considerations may include:

(a) Recommendations for promoting and encouraging underground electric distribution for new service or construction provided by public utilities.

(b) Recommendations for promoting and encouraging the conversion of existing overhead distribution facilities to underground facilities, including any recommended incentives to local governments for local-government-sponsored conversions.

(c) Recommendations as to whether incentives for local-government-sponsored conversions should include participation by a public utility in the conversion costs as an investment in the reliability of the grid in total, with such investment recognized as a new plant in service for regulatory purposes.

(d) Recommendations for promoting and encouraging the use of road rights-of-way for the location of underground facilities in any local-government-sponsored conversion project, provided the customers of the public utility do not incur increased liability and future relocation costs.

(3) The commission shall submit its review and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2007.

(4) This section does not limit the existing jurisdiction or powers of the commission. It may not be construed to delay or defer any activities that are currently docketed which relate to matters to be addressed by the study required by this section, nor may it be construed to delay or defer any case or proceeding that may be initiated before the commission pursuant to current statutory powers of the commission.

Section 20. Subsections (5), (8), (9), (12), (18), (24), and (27) of section 403.503, Florida Statutes, are amended, subsections (6) through (28) are renumbered as (7) through (29), respectively, and new subsections (6) and (16) are added to that section, to read:

403.503 Definitions relating to Florida Electrical Power Plant Siting Act.—As used in this act:

(5) "Application" means the documents required by the department to be filed to initiate a certification review and evaluation, including the initial document filing, amendments, and responses to requests from the department for additional data and information ~~proceeding and shall include the documents necessary for the department to render a decision on any permit required pursuant to any federally delegated or approved permit program~~.

(6) "Associated facilities" means, for the purpose of certification, those facilities which directly support the construction and operation of the electrical power plant such as fuel unloading facilities; pipelines necessary for transporting fuel for the operation of the facility or other fuel transportation facilities; water or wastewater transport pipelines; construction, maintenance, and access roads; and railway lines necessary for transport of construction equipment or fuel for the operation of the facility.

(8) "Completeness" means that the application has addressed all applicable sections of the prescribed application format, and ~~but does not mean~~ that those sections are sufficient in comprehensiveness of data or in quality of information provided to allow the department to determine whether the application provides the reviewing agencies adequate information to prepare the reports required by s. 403.507.

(9) "Corridor" means the proposed area within which an associated linear facility right-of-way is to be located. The width of the corridor proposed for

PART III

GENERAL MANAGEMENT REQUIREMENTS

25-6.034 Standard of Construction.

(1) Application and Scope. This rule is intended to define construction standards for all overhead and underground electrical transmission and distribution facilities to ensure the provision of adequate and reliable electric service for operational as well as emergency purposes. This rule applies to all investor-owned electric utilities. ~~The facilities of the utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.~~

(2) Each utility shall establish, no later than 180 days after the effective date of this rule, construction standards for overhead and underground electrical transmission and distribution facilities that conform to the provisions of this rule. Each utility shall maintain a copy of its construction standards at its main corporate headquarters and at each district office. Subsequent updates, changes, and modifications to the utility's construction standards shall be labeled to indicate the effective date of the new version and all revisions from the prior version shall be identified. Upon request, the utility shall provide access, within 2 working days, to a copy of its construction standards for review by Commission staff at the utility's offices in Tallahassee.~~The Commission has reviewed the American National Standard Code for Electricity Metering, 6th edition, ANSI C-12, 1975, and the American National Standard Requirements, Terminology and Test Code for Instrument Transformers, ANSI 57.13, and has found them to contain reasonable standards of good practice. A utility that is in compliance with the applicable provisions~~

~~of these publications, and any variations approved by the Commission, shall be deemed by the Commission to have facilities constructed and installed in accordance with generally accepted engineering practices.~~

(3) The facilities of each utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.

(4) Each utility shall~~, at a minimum,~~ comply with the applicable edition of the National Electrical Safety Code (ANSI C-2) [NESC].

(a) The Commission adopts and incorporates by reference the 2002 edition of the NESC, published August 1, 2001. A copy of the 2002 NESC, ISBN number 0-7381-2778-7, may be obtained from the Institute of Electric and Electronic Engineers, Inc. (IEEE).

(b) Electrical facilities constructed prior to the effective date of the 2002 edition of the NESC shall be governed by the applicable edition of the NESC in effect at the time of the initial construction.

~~(5) For the construction of distribution facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, be guided by the extreme wind loading standards specified by Figure 250-2(d) of the 2002 edition of the NESC. As part of its construction standards, each utility shall establish guidelines and procedures governing the applicability and use of the extreme wind loading standards to enhance reliability and reduce restoration costs and outage times for each of the following types of construction:~~

~~(a) new construction;~~

~~(b) major planned work, including expansion, rebuild, or relocation of existing~~

~~facilities, assigned on or after the effective date of this rule; and~~

~~(c) targeted critical infrastructure facilities and major thoroughfares taking into account political and geographical boundaries and other applicable operational considerations.~~

~~(6) For the construction of underground distribution facilities and their supporting overhead facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, establish guidelines and procedures to deter damage resulting from flooding and storm surges.~~

~~(7) In establishing the construction standards, the utility shall seek input from other entities with existing agreements to share the use of its electric facilities. Any dispute or challenge to a utility's construction standards by a customer, applicant for service, or attaching entity shall be resolved by the Commission.~~

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c)(f), (5)(6), 366.05(1)(7)(8) FS.

History–Amended 7-29-69, 12-20-82, Formerly 25-6.34, Amended _____.

25-6.0342 Third-Party Attachment Standards and Procedures.

(1) As part of its construction standards adopted pursuant to Rule 25-6.034, F.A.C., each utility shall establish and maintain written safety, reliability, pole loading capacity, and engineering standards and procedures for attachments by others to the utility's electric transmission and distribution poles (Attachment Standards and Procedures). The Attachment Standards and Procedures shall meet ~~or exceed~~ the applicable edition of the National Electrical Safety Code (ANSI C-2) pursuant to subsection 25-6.034(4) and other applicable standards imposed by state and federal law.

~~so as to assure, as far as is reasonably possible, that third party facilities attached to electric transmission and distribution poles do not impair electric safety, adequacy, or reliability; do not exceed pole loading capacity; and are constructed, installed, maintained, and operated in accordance with generally accepted engineering practices for the utility's service territory.~~

(2) No attachment to a utility's electric transmission or distribution poles shall be made except in compliance with such utility's Attachment Standards and Procedures.

~~(3) In establishing the Attachment Standards and Procedures, the utility shall seek input from other entities with existing agreements to share the use of its electric facilities. Any dispute arising from the implementation of this rule shall be resolved by the Commission.~~

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c), (5), (6), 366.05(1)(8) FS.

History New _____.

Exhibit: EQ-4

Sprint

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Plant and Engineering Series

Section 629-100-201
Issue 4: February, 2004

JOINT BURIED UTILITIES INSTALLATION PROCEDURES AND PRECAUTIONS

Contents *Page*

1. GENERAL

1.01 The purpose of this practice is to provide direction when working with joint trench applications.

1.02 Division of costs must be agreed upon in writing by all parties prior to the beginning of any work. A sample is included as Exhibit A. Local field teams will prepare their own agreement following example. This document must be approved by the Legal Department before agreement is finalized and returned to all parties.

1.03 The separations of telephone and power supply circuits shown are based on the National Electrical Safety Code. Where more stringent requirements are prescribed by state or local regulatory bodies, these requirements must be observed.

1.04 Other utilities will be placed jointly in the same trench with telephone cables when a mutual agreement is agreed to by all parties involved. Required trenching is normally provided by the developer or the power supply company or their contractor. The cost is usually shared between trench occupants.

1.05 This practice is oriented primarily toward rear-lot construction; however, other locations not illustrated in this practice may be used.

1.06 For the purpose of identifying the types of joint plant construction involved, the following definitions are provided:

(a) Main trench is that trench in the easement or public right-of-way that accommodates CATV, power primary and secondary circuits, and telephone distribution cable and service wires. The placement of gas lines in trench and its location must be agreed upon by all parties.

(b) Service trench is that trench which extends from the terminal facilities to the customer's residence or building.

(c) Pedestals are placed side by side. An ***American Wire Gauge (AWG) #6 bare solid copper wire*** should bond the ground between each terminal. Pedestals should be placed 12" from the side and rear property lines.

(d) Road crossings are to maintain 36" minimum depth.

2. EFFECTIVE DATE

2.01 This practice is effective upon receipt.

3. SUPERSESSION

3.01 ***This practice cancels and supersedes Plant and Engineering Practice, Section 629-100-201, Issue 3, August, 1998. This practice has been revised to change subparagraph 1.06(c) and paragraph 9.04. Changes and additions are typed in bold italics.***

4. CLASSIFICATION

4.01 This practice is mandatory as written unless superseded by local regulatory conditions or requirements.

5. RESPONSIBILITIES

5.01 The telephone and other utility companies shall coordinate the planning of joint-use installations and determine which company will be responsible for trenching and whether a contractor will be used for the trenching operation.

5.02 The company responsible for trenching will secure from the developer a signed agreement specifying final grades.

NOTE: In new developments all companies concerned will obtain the necessary easements.

5.03 All concerned utility companies should specify on work drawings or work activities the location and depth of the trench for final grades and show proposed grade changes by developer, if any, and location of all splices, terminals, transformers, etc.; also whether the installation is to be on a separate trench, vertical or random separate losses.

6. PRELIMINARY WORK PLANS

6.01 The company responsible for trenching shall formulate plans for doing the work after sufficient field inspection by all concerned companies to establish what work is required and how it can best be accomplished. In making such plans the requirements of all companies must be considered, as well as the date on which service is required. Requirements must be specified on the work activity.

6.02 Plan all work so that backfilling can be completed on the same day if practicable. Pipe pushing should be completed prior to the installation of cables and/or pipes. Where conduits are required for any condition in joint buried distribution systems, separate conduits for CATV, power and telephone wires and/or cables must be provided.

NOTE: Arrangements should be made with the developer to clear and grade the terrain to within 6 inches of final grade so that cables will be at the specified depth after final grading is completed.

6.03 All conduits or pipe pushes must be placed prior to placement of cables. Where conduits are required for any specific condition in a joint trench, separate conduits for power supply and communications cables must be provided.

6.04 Each company is responsible for timely delivery of reels of cable, wire, pipe and other materials and should observe necessary precautions in safeguarding such materials after delivery.

6.05 OSP engineer shall specify on the work activity and coordinate with the power company engineer all connections between the power supply mutli-grounded neutral and the communications cable shield(s).

7. TRENCHING - MAIN TRENCH

7.01 The main trench should provide at least 24" of cover over telephone facilities and 4" of width. The bottom of the trench should be smooth and free of rocks and/or other objects that could damage the cable.

NOTE: When gas lines are present additional trench width may be required.

7.02 When random separation has been determined to be used and agreed upon by all parties, all CATV, power and telephone cables and wires shall be placed in the bottom of the trench. Be sure that the cables and wires are in the trench and not lodged against the sides (see Figure 1). Figure 2 shows typical horizontal separation and Figure 3 shows vertical separation. In those areas where it cannot be mutually agreed to perform random separation, due to potential employee, customer and foreign worker safety issues, it is recommended that the power cable be placed on the bottom of the trench and separated by 6-12 inches of compacted earth.

7.03 Figures 4 through 7 illustrate typical locations of a main trench in relation to a Power Transformer Pads. Depending on the width of the right-of-way or easement in relation to the trench, the transformer may vary.

8. TRENCHING - SERVICE TRENCH

8.01 The service trench should provide at least 12" of cover. The bottom of the trench should be smooth and free of rocks and/or other objects that could damage the cable.

NOTE: When gas lines are present additional trench width may be required.

8.02 The service trench may be dug before or after the main trench. If it is dug after the cables are installed in the main trench, then the last 18" at the service trench end should be dug by hand with extreme caution due to possible damage to the main cables.

9. CABLE AND PEDESTAL INSTALLATION

9.01 Methods used in placing cables in joint use trenches will depend on the location of the route, obstructions, terrain, and soil conditions. Three suggested methods of cable placing are as follows:

(a) When soil conditions are such that the trench will not cave in, cables may be placed by pulling them out along the ground from reels located at the end of the section or at some intermediate point. The cables may be laid in the trench individually or together. Reel ends must be brought back to lot line or the previous pedestal location.

(b) When sand or fluid soil is encountered and the trench sides are unstable, the cable must be placed as soon as possible after trenching. This can be done by laying the cables out along the route in advance of the trenching operation and placing them in the trench as soon as the trencher passes. All of the cables to be installed should be in position before the trenching is started.

(c) When conditions and equipment warrant direct burial, telephone and power cables should be plowed in place with the power cable feeding out of the bottom tube of the plow, provided adequate separation is possible.

9.02 To facilitate separating cables and wires for maintenance reasons, avoid entwining power and telephone cables.

9.03 Pedestals should be placed at locations shown on the work print. The pedestals should be placed prior to the backfilling of the trench to avoid damage to the cables.

9.04 When pedestals are installed within 6 feet of each other or power, they must be tied together with ***a (AWG) #6 bare solid copper wire*** for bonding purposes. These pedestals should be in line with the trench.

9.05 Backfilling should be done as soon as possible after the cables are in the trench. Rock or other debris should not be replaced in the trench as it may damage the cables and cause problems when reentry is required.

10. BONDING

10.01 Attachment of the bonding wire to the power neutral ground wire should be made in accordance with local procedures. The telephone shield and the power neutral shall be bonded together at all telephone terminals and at all transformer locations or where the work prints specify otherwise.

10.02 To minimize the hazard in joint buried cable plant, the telephone cable shield should be bonded to the electric companies multi-neutral ground at every transformer location or every 1000' whichever results in the greater number of bonds.

10.03 At customer service entrances a common ground should be provided to an approved ground electrode.

10.04 When cable is buried in the same easement with or along side an aerial power line, bond the cable shield or closure to the power-neutral-ground wire at or near both ends of the exposure and at least once every mile. If the cable is buried on the opposite side of a highway, street, alley, etc. from an aerial power line, bond the cable shield or closure to the power-neutral-ground wire at all convenient locations where either the power line or telephone plant crosses the highway, street, or alley except that it will not be necessary to place such bonds at more frequent intervals than 1/2 mile separation. It is desirable to have at least one bond per mile in such situations. When a cable closure is placed on a pole having a vertical neutral ground wire, bond the closure to the ground.

11. SAFETY

11.01 Before engaging in any work which will endanger the public, warning devices must be placed, conspicuously, to alert traffic or pedestrians. Where further protection is required, use suitable barriers for guards.

11.02 Prevent all unauthorized persons from approaching or working in a potentially hazardous area, as far as is practical.

11.03 Communications employees must use a voltage tester, high voltage rubber gloves, rubber blanket, goggles and insulated hand tools when working around energized power supply lines or equipment. Before commencing any work, these safety devices must be carefully inspected to ensure safe and effective operating condition.

11.04 Communications employees must remove all metal articles or jewelry when working around energized power supply lines or equipment; i.e., rings, necklaces, watches, etc. Clothes with rivets can also pose a hazard as they will conduct electricity.

NOTE: REMEMBER: "NO JOB IS SO IMPORTANT AND SO SERVICE IS SO URGENT THAT WE CANNOT TAKE TIME TO PERFORM OUR WORK SAFELY."

11.05 Working in Excavations - Special precautions shall be taken when employees are working in excavations/trenches. General precautions to take include:

(a) A "competent" person needs to inspect and evaluate the hazards of an excavation/trench daily and when conditions of the excavation/trench change.

NOTE: A "competent" person is one who is capable of identifying existing and predictable hazards in the surrounding work area and has the authority to take prompt corrective measures to eliminate them.

(b) Protective systems; i.e., shoring, sloping benching, and trench boxes, shall be in place for the excavation/trench if it is deeper than 5 feet or shallower when conditions warrant; i.e., soil cohesiveness, water, traffic, disturbed soil.

11.06 More information on excavation and trench safety can be obtained from your local business unit safety professional or by ordering safety training booklet A-MS20-0072, from Forms Management.

11.07 Direct buried power supply cables with insulated concentric neutral wires are very easily mistaken for communications cables. Some power supply cables have three red strips separated at 120 degrees for the entire length of the cable, some have one red stripe. These may be indistinguishable at times. Extreme care must be taken whenever working around power supply cables.

12. TESTING AND MAINTENANCE

12.01 Sheath fault testing must be performed upon completion of backfill. Appropriate action must be taken immediately to correct any faults.

12.02 Locate sheath damage and depth of the communications cable(s). This may be accomplished by utilizing standard locating equipment, i.e., the Dynatel 573 or 573A. Refer to Figure 4 for detailed drawing.

12.03 To determine the proper cable to enter for repairs, and to avoid damaging another or cutting into an energized power supply cable, isolate a pair in the desired cable, short the pair and strap it to the cable shield. (DO NOT strap to the ground lug as this will cause tone to spread to other existing facilities.) At the other end or pedestal, place the 573 or 573A transmitter red clip onto the isolated pair tip and ring, connect the black clip to the cable shield. (Not the ground lug.) Place the transmitter switch on "cable locate" mode (R.F. for sections up to one mile in length) place the dyna-coupler into the receivers external jack, place the receiver switch to the peak mode. Place the dyna-coupler around each cable in question (one at a time). The cable with the peak strength signal (tone) is the desired cable.

NOTE: The cable shield under test must be isolated from ground at both ends of the section under test. See Figure 4 for drawing detail.

12.04 DO NOT use mechanized equipment to excavate in close proximity to cables or other buried facilities, until the actual depth is determined and all joint facilities have been exposed.

Mechanized equipment may then be used only to a depth of two (2) feet above the facility closest to the ground surface. This will minimize the possibility of accidental contact with any buried cable.

13. REPAIRS IN JOINT TRENCH

13.01 Locate damaged sheath conductors utilizing standard trouble locating equipment.

13.02 Request location of other facilities through a call to the area one call center. Always notify the appropriate one call center before digging. During emergency situations or rehab procedures, maintenance crews must call the one call center.

13.03 Notify the operating power supply company of the need to expose the cable for repairs.

13.04 Locate and expose the communications cable. Dig down along side the cable until parallel, then dig into the trench to expose the cable. If necessary expose the power supply cable, only for assurance of location and that proper cable has been isolated for repair. Use of insulated or wood handled hand tools is imperative, for employee's safety. High voltage rubber gloves must be used wherever a voltage hazard exists.

13.05 When the cable shield under repair is opened, it must be bonded across the opening to prevent currents from entering the repair opening, (use "B" bond connection). This will also prevent differing potentials from building up on each side of the opening.

13.06 When safety concerns are raised as to the safety of employees working in a joint trench making repairs, the power company must be contacted for assistance to insulate or isolate, if possible, the section under repair. The expenses incurred by this operation could be billed to the communications company.

13.07 The use of rubber blankets will be necessary to insulate employees from suspected ground faults. Place the blankets in the trench in the work area. Wood board and plywood sheeting will be used to provide added mechanical protection.

NOTE: In very wet conditions or when rubber blankets become overlaid with mud, the blankets will not provide adequate electrical protection. Check with the power supply company, if ground faults are suspected.

13.08 The economics of these type repairs must be considered along with section replacement via directional boring, prior to start of any excavations.

14. LOCAL EXCEPTIONS

14.01 Mid-Atlantic Operations

(a) None

14.02 North Central Operations

(a) None

14.03 Southern Operations

(a) None

14.04 Western Operations

(a) None

Figure 1

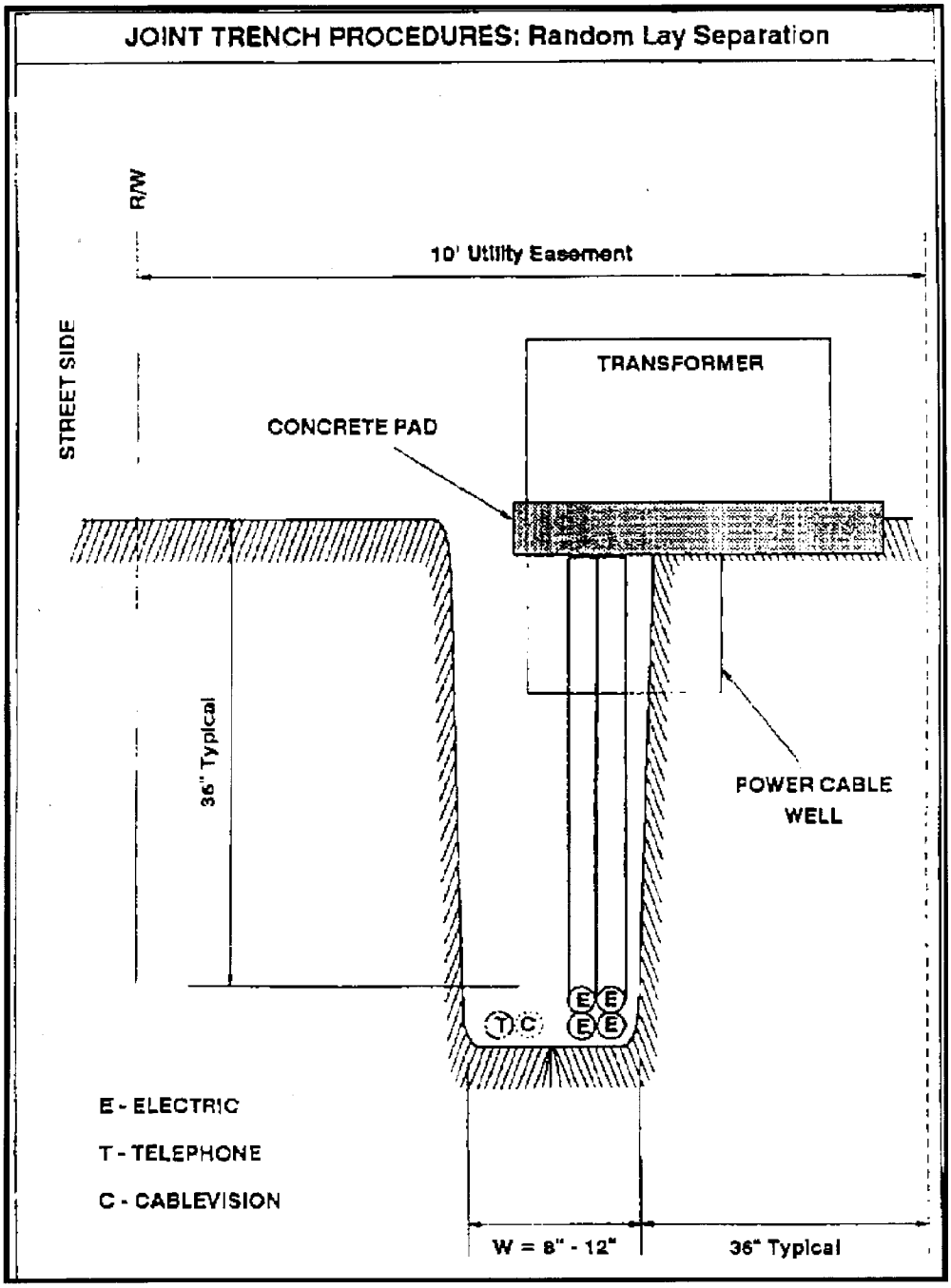

Figure 2

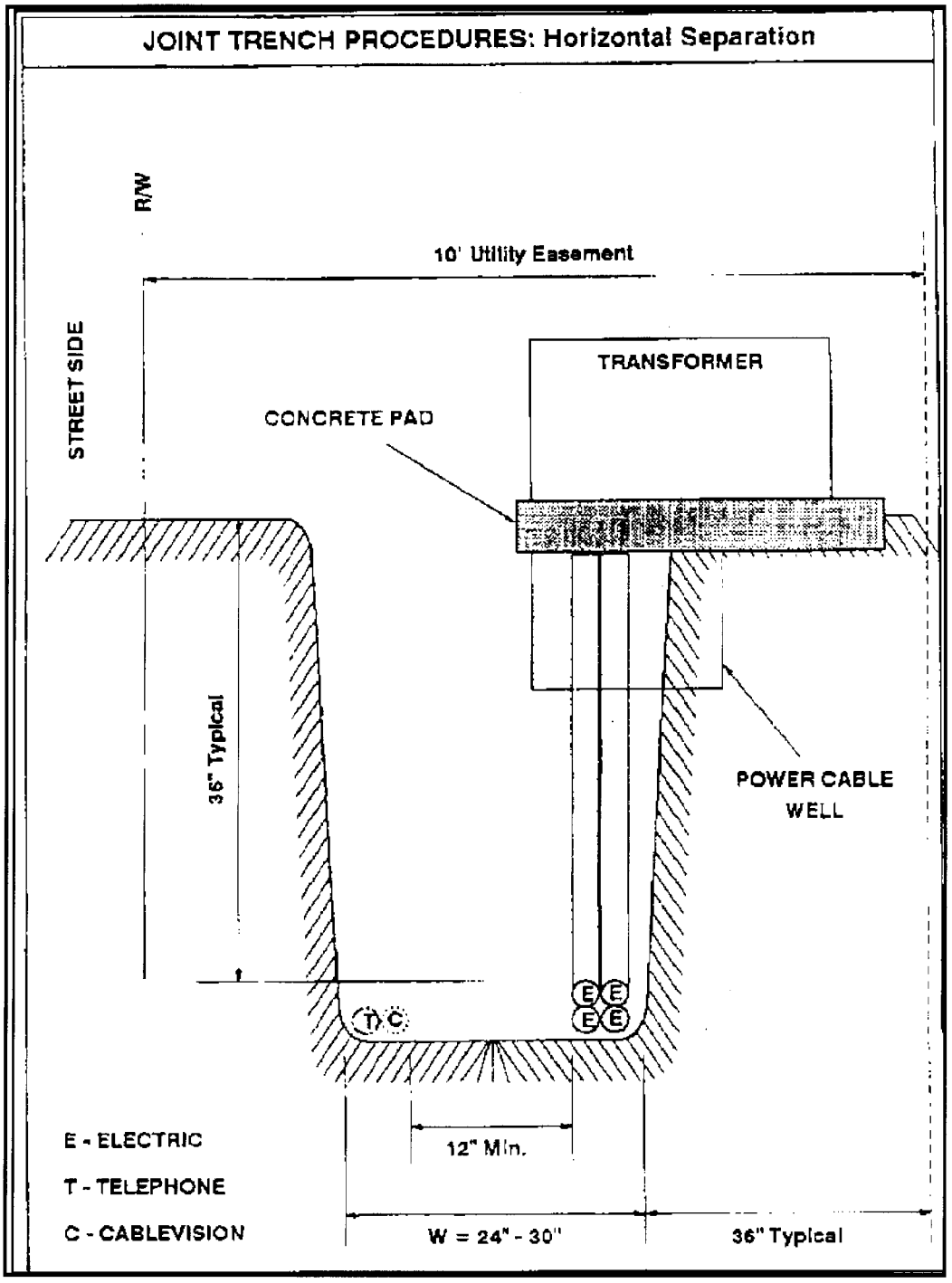

Figure 3

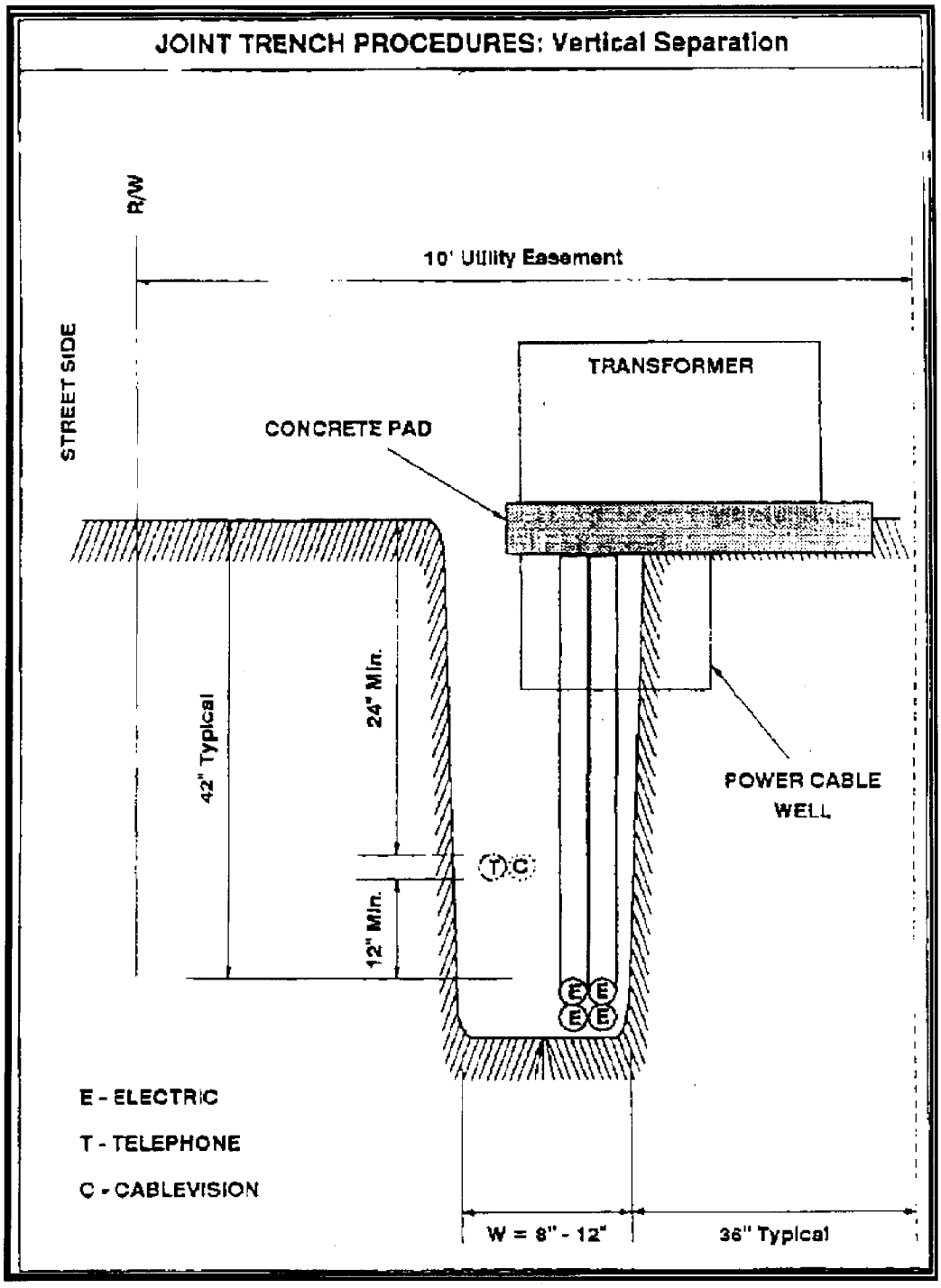

Figure 4

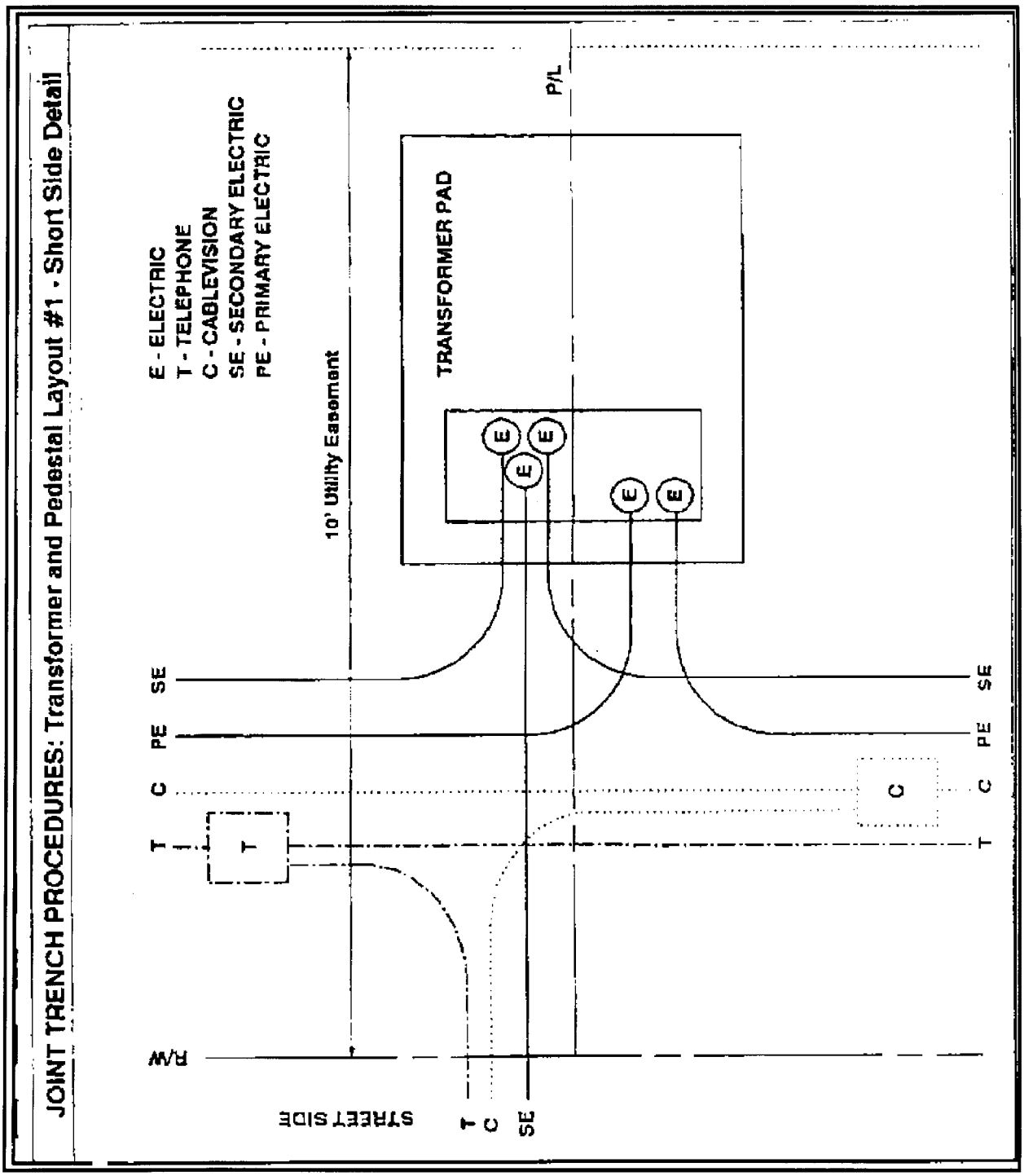

Figure 5

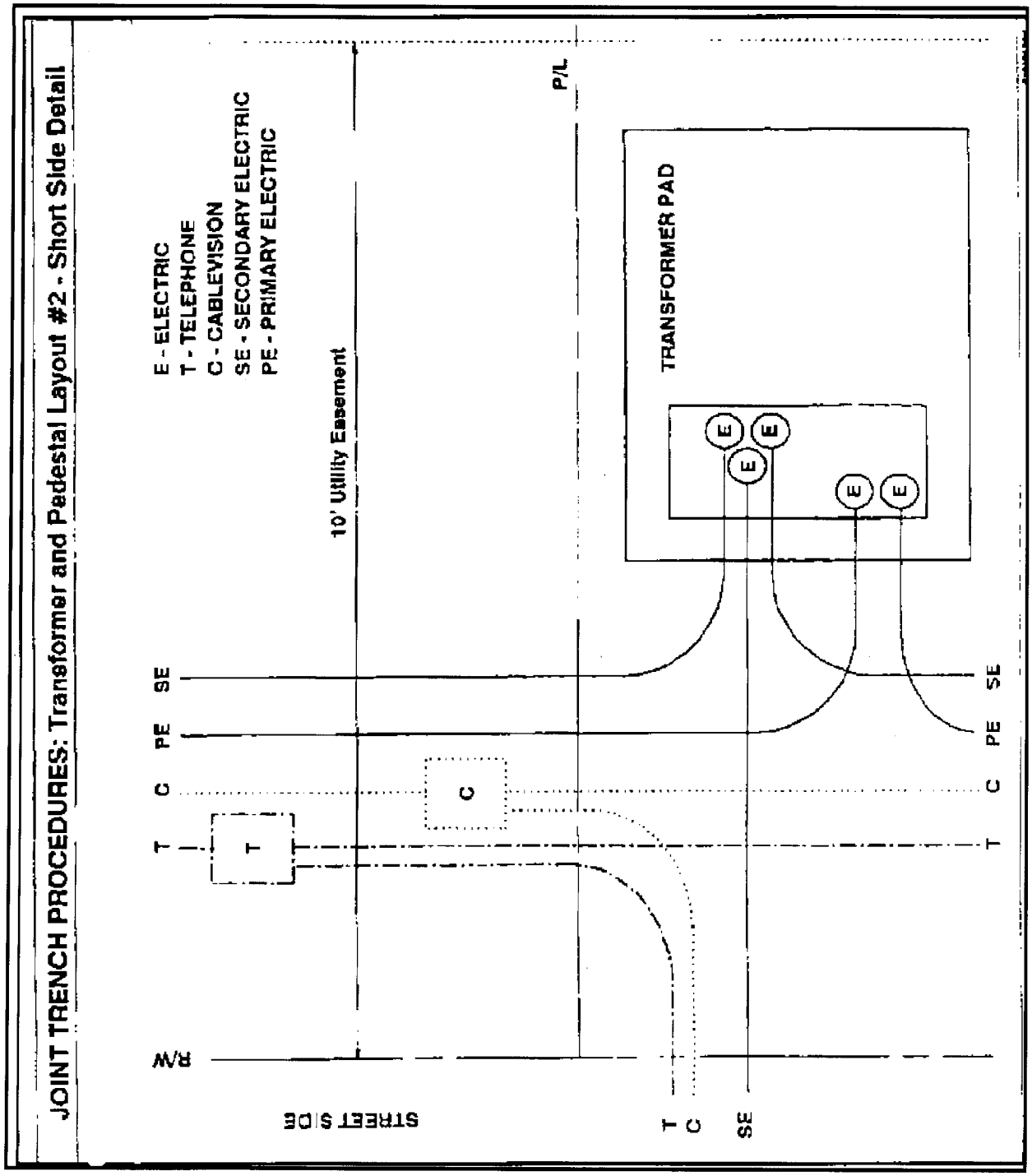

Figure 6

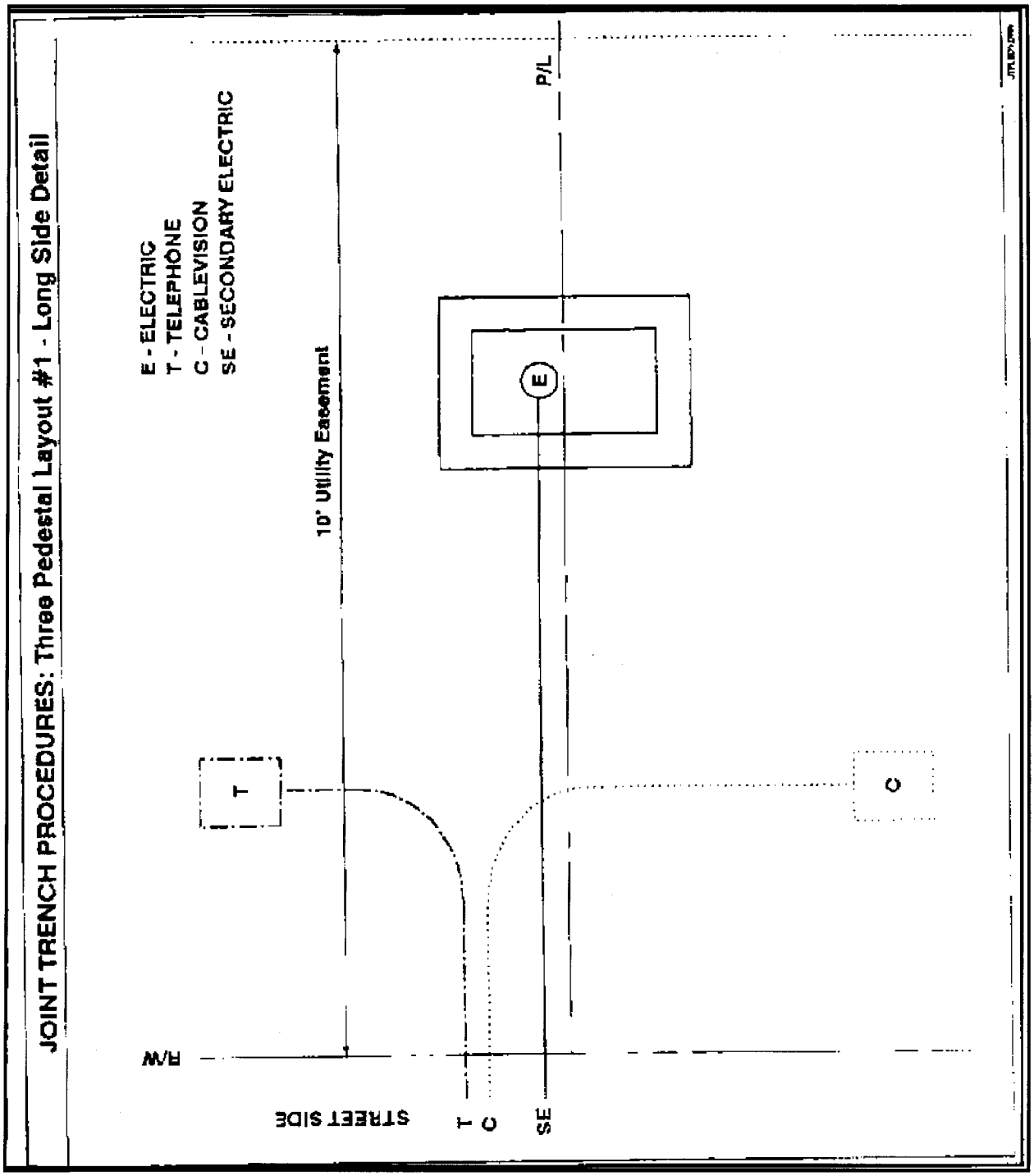

Figure 7

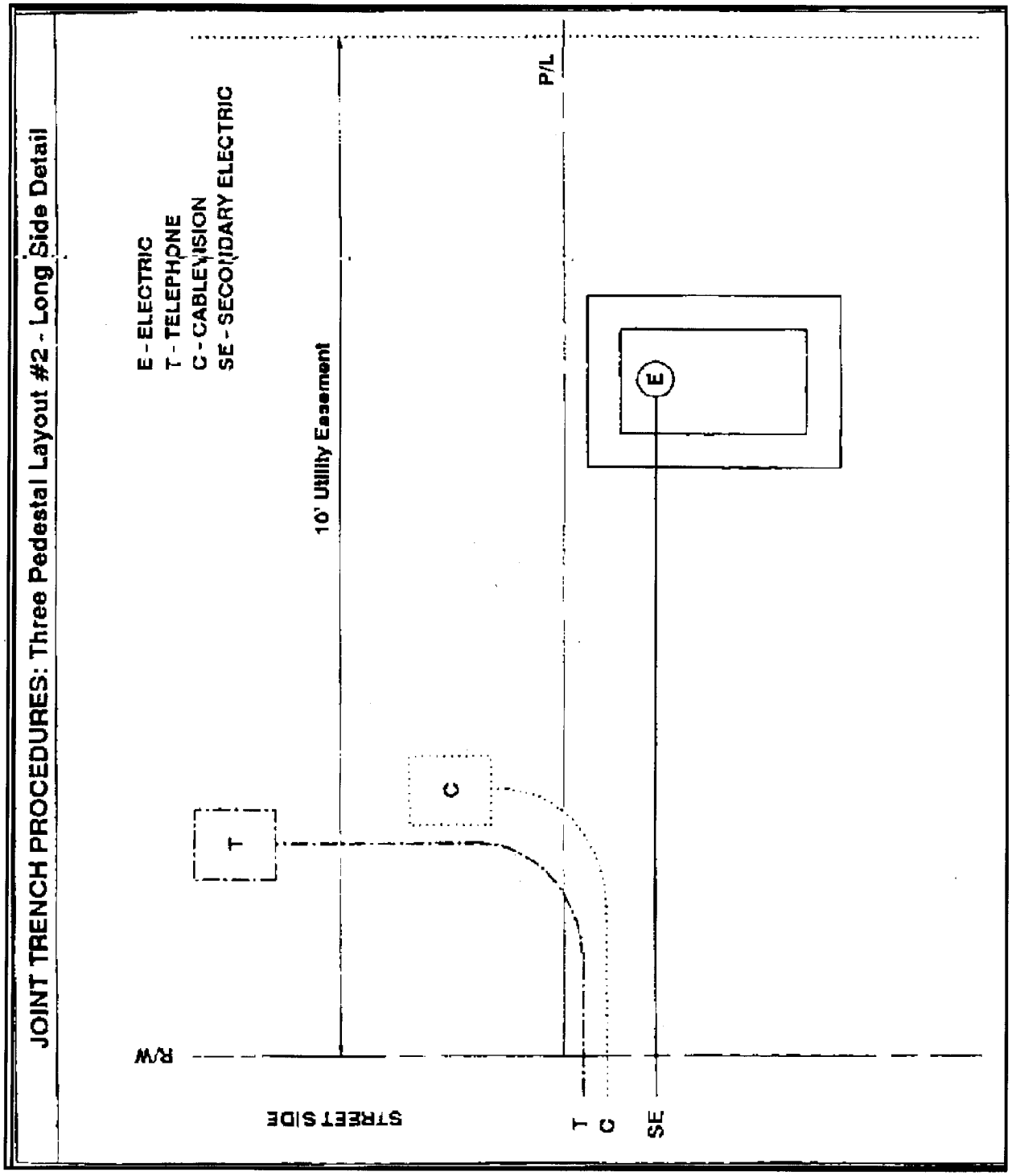

EXHIBIT A
JOINT TRENCH INSTALLATION PROJECT AGREEMENT

Project Name: _____

XYZ's Work Order Number: _____

Sprint's Work Order Number: _____

Project Description: _____

_____

IN ACCORDANCE WITH the Joint Trench Installation Master Agreement which was executed by XYZ Power and Light Company and Sprint on the _____ day of _____, 1997, and in accordance with Joint Trench Prices mutually agreed upon by the respective local managements, Sprint shall pay the total sum of $_____ to XYZ Power and Light Company for joint trench work performed by XYZ Power and Light Company on the above named project.

The terms and conditions of the Joint Trench Installation Master Agreement shall apply in full to this Joint Trench Installation Project Agreement and are incorporated herein.

Accepted:		Accepted:	
for XYZ	(Date)	for Sprint	(Date)
Print Name		Print Name	
Print Title		Print Title	

EXHIBIT B
JOINT TRENCH INSTALLATION MASTER AGREEMENT

This Agreement is made this _____ day of _____, 19___ by and between Sprint (hereinafter known as Sprint) and XYZ (hereinafter known as XYZ), a corporation organized and existing under the laws of the State of Florida.

WITNESSETH

WHEREAS the parties hereto desire to lower the cost of the installation of facilities for both parties in a primary or a secondary trench through the joint trench installation of facilities, and

WHEREAS the conditions determining the necessity or desirability of joint trench installation depend upon the requirements to be met by both parties, including considerations of safety and economy, and each of them should be the judge of what the character of its circuits should be to meet its requirements and as to whether these requirements can be met by the joint trench installation of facilities.

NOW THEREFORE, in consideration of the foregoing premises and mutual benefits to be obtained from the covenants herein set forth, the parties agree that XYZ, through its employees or contractors shall, if requested by Sprint, install Sprint's direct buried cable or conduit in primary or secondary trench and shall, if requested by Sprint, install other facilities owned and provided by Sprint as mutually agreed upon from time to time, and the parties also agree that instead of having XYZ install Sprint's facilities, Sprint may elect to provide its own joint crews to install its facilities in an XYZ dug trench under the following terms and conditions:

1. Scope of Agreement. This agreement shall be in effect in Cactus, Sunshine and Sky Counties, now or hereafter served by both XYZ and Sprint and is limited to the installation by XYZ of cable, conduit, ground rods, pedestals, and bond wire as provided and owned by Sprint. XYZ may also install other facilities provided and owned by Sprint that may be mutually agreed upon from time to time. In addition, Sprint may elect to provide its own joint crews. to install Sprint's facilities in a trench provided by XYZ.

2. Term. This Agreement is effective from the date of this Agreement until midnight on December 31, 2000, and may be automatically renewed through the exchange of letters of agreement for successive one year terms for a period of three (3) years unless terminated by either party as set forth in paragraph 7(b) below.

EXHIBIT B (CONT.)
JOINT TRENCH INSTALLATION MASTER AGREEMENT

3. Sprint shall:

a) provide detailed construction drawings and specifications to XYZ for the installation of Sprint's underground facilities if Sprint's facilities are to be installed by XYZ and provide only construction drawings to XYZ, as required, if Sprint's facilities are to be installed by Sprint in an XYZ dug trench,

b) provide required material to XYZ for the installation of underground facilities within the specified cable route if Sprint's facilities are to be installed by XYZ,

c) provide staking of cable- termination points for XYZ along the specified cable route if Sprint's facilities are to be installed by XYZ,

d) upon notification of completion of work, inspect its facilities within ten (10) working days, and if the work does not meet Sprint's specifications, advise XYZ immediately of the locations of any discrepancies, and allow XYZ an opportunity to correct them,

e) upon acceptance of the work, pay XYZ a lump sum price within thirty (30) days of receipt of an invoice in the amount set forth in Exhibit A (Joint Trench Installation Project Agreement) of this Agreement,

f) if Sprint requests XYZ to install Sprint's facilities, assume sole responsibility for the suitability of all material and specifications provided to XYZ by Sprint and hereby agrees that XYZ has no responsibility or liability therefor, but that XYZ's sole responsibility under this Agreement is for the installation of such material according to specifications provided by Sprint,

4. XYZ shall:

a) install Sprint's underground facilities, if requested by Sprint, as agreed to and provided by Sprint in accordance with construction drawings and specifications provided by Sprint,

b) provide notification to Sprint of the underground facilities installation start and completion dates,

EXHIBIT B (CONT.)
JOINT TRENCH INSTALLATION MASTER AGREEMENT

c) provide an "as built" copy of Sprint's construction drawings upon completion of the project if Sprint's facilities are installed by XYZ,

5. The lump sum price for trench work performed by XYZ shall be calculated in accordance with joint trench prices that are mutually agreed upon by XYZ's and Sprint's local management from time to time.

6. This Agreement is subject to XYZ's Tariff, Sprint's Tariff, and the Rules of the Florida Public Service Commission.

7. General Terms and Conditions:

a) Limitations of Liability. Neither party shall be liable to the other party for any indirect or consequential damages resulting from performance, nonperformance, or delay in performance under this Agreement, and/or termination of this Agreement, excluding payment for work performed

b) Default and Termination. Each party may terminate this Agreement upon default of the other to comply with any of the provisions of Agreement or default in any of its obligations under this Agreement. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other. All obligations for payment, including indemnity, survive termination.

c) Non-assignment. This Agreement shall not be assigned by either party.

IN WITNESS WHEREOF the parties represent and warrant that they have authority to execute this Agreement and hereto have caused this Agreement to be duly executed to be effective as this day and year written above.

25-6.0341 Location of the Utility's Electric Distribution Facilities.[1] In order to facilitate safe and efficient access for installation and maintenance, to the extent practical, feasible, and cost-effective, electric distribution facilities shall be placed adjacent to a public road, normally in front of the customer's premises.

(1) For initial installation~~, expansion, rebuild, or relocation~~ of overhead facilities, utilities shall use easements, public streets, roads and highways along which the utility has the legal right to occupy, and public lands and private property across which rights-of-way and easements have been provided by the applicant for service.

(2) For initial installation~~, expansion, rebuild, or relocation~~ of underground facilities, the utility shall require the applicant for service to provide easements along the front edge of the property, unless the utility determines there is an operational, economic, or reliability benefit to use another location.

(3) For conversions of existing overhead facilities to underground facilities, the utility shall, if the applicant for service is a local government that provides all necessary permits and meets the utility's legal, financial, and operational requirements, place facilities in road rights-of-way in lieu of requiring easements.

~~(4) Where the expansion, rebuild, or relocation of electric distribution facilities affects existing third-party attachments, the electric utility shall seek input from and, to the extent practical, coordinate the construction of its facilities with the third-party attacher.~~

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c), (5), (6), 366.05(1)(8) FS.

History– New.

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[1] See pages 8-13 of Embarq's Comments for an explanation the shaded changes.