

A REGULAR MEETING

Of The

TRAVERSE CITY LIGHT AND POWER BOARD

Will Be Held On

TUESDAY, February 10, 2015

At

5:15 p.m.

In The

COMMISSION CHAMBERS
(2nd floor, Governmental Center)
400 Boardman Avenue

Traverse City Light and Power will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon notice to Traverse City Light and Power. Individuals with disabilities requiring auxiliary aids or services should contact the Light and Power Department by writing or calling the following.

Stephanie Tvardek
Administrative Assistant
1131 Hastings Street
Traverse City, MI 49686
(231) 932-4543

Traverse City Light and Power
1131 Hastings Street
Traverse City, MI 49686
(231) 922-4940

Posting Date: 02-06-15
4:00 p.m.

AGENDA

Pledge of Allegiance

1. Roll Call

2. Consent Calendar

The purpose of the consent calendar is to expedite business by grouping non-controversial items together to be dealt with by one Board motion without discussion. Any member of the Board, staff or the public may ask that any item on the consent calendar be removed therefrom and placed elsewhere on the agenda for full discussion. Such requests will be automatically respected. If an item is not removed from the consent calendar, the action noted in parentheses on the agenda is approved by a single Board action adopting the consent calendar.

- a. Consideration of approving minutes of the Regular Meeting of January 27, 2015. (Approval recommended) (p. 3)
- b. Consideration of a confirming Purchase Order for transformers to serve the Park Place Hotel. (Approval recommended) (Wilson) (p. 6)
- c. Consideration of AT&T Contract. (Approval recommended) (Menhart) (p. 12)
- d. Consideration of Telecommunications Rate Increase and setting of a Public Hearing. (Approval recommended) (Myers-Beman) (p. 24)

3. Unfinished Business

None.

4. New Business

- a. Consideration of Metal Melting & Heat Treating Primary Service Rate and setting of a Public Hearing. (Arends/Myers-Beman) (p. 28)
- b. Introduction of Strategic Plan updated Business Goals. (Arends/All Staff) (p. 34)

5. Appointments

None.

6. Reports and Communications

- a. From Legal Counsel.
- b. From Staff.
- c. From Board.

7. Public Comment

/st

**TRAVERSE CITY
LIGHT AND POWER BOARD**

Minutes of Regular Meeting
Held at 5:15 p.m., Commission Chambers, Governmental Center
Tuesday, January 27, 2015

Board Members -

Present: Barbara Budros, Jim Carruthers, Pat McGuire, Jeff Palisin, Bob Spence,
Jan Geht, John Taylor

Ex Officio Member -

Present: Jered Ottenwess, City Manager

Others: Tim Arends, W. Peter Doren, Scott Menhart, Karla Myers-Beman, Tom
Olney, Kelli Schroeder, Rod Solak, Stephanie Tvardek, Jessica Wheaton,
Blake Wilson

The meeting was called to order at 5:15 p.m. by Chairman Taylor.

Item 2 on the Agenda being Consent Calendar

Moved by McGuire, seconded by Budros, that the following actions, as recommended on the
Consent Calendar portion of the Agenda be approved:

- a. Minutes of the Regular Meeting of January 13, 2015.
- b. Revised organizational chart and job description for the Light & Power Department.

CARRIED unanimously.

Items Removed from the Consent Calendar

None.

Item 3 on the Agenda being Unfinished Business

None.

Item 4 on the Agenda being New Business

- a. Consideration of City Commission Resolution regarding West Front Street reconstruction
funding level.

The following individuals addressed the Board:

Tim Arends, Executive Director
Jered Ottenwess, City Manager
Tim Lodge, City Engineer
Karla Myers-Beman, Controller
W. Peter Doren, General Counsel

Moved by Geht, seconded by McGuire, to reject the City Commission's request.

The following individuals from the Public addressed the Board:

Tim Lodge, City Engineer

Roll Call:

Yes – Budros, McGuire, Palisin, Spence, Geht, Taylor

No - Carruthers

CARRIED.

Moved by Budros, seconded by Palisin, that Light and Power agree to fund up to \$527,000 for the high level lighting, low level decorative lighting and the primary service.

At the request of Chairman Taylor, Stephanie Tvardek restated the motion.

With the consensus of Budros, Chairman Taylor proposed the motion be amended to read:

Moved by Budros, seconded by Palisin, that Light and Power agree to fund the high level lighting, low level decorative lighting and the primary service as presented with an estimated amount of \$527,000.

Roll Call:

Yes – Budros, Carruthers, Palisin, Spence, Taylor

No – McGuire, Geht

CARRIED.

Discussion continued amongst the Board and the Executive Director regarding TCL&P's involvement in the planning process for this project.

6:34 p.m. Jered Ottenwess departed the meeting.

b. Consideration of Six Year Capital Improvements Plan – 2015.

The following individuals addressed the Board:

Tim Arends, Executive Director

Karla Myers-Beman, Controller

6:42 p.m. Jered Ottenwess rejoined the meeting.

Moved by Palisin, seconded by McGuire, that the Board authorizes the Executive Director to submit the Six Year Capital Improvements Plan – 2015 as amended to the City Manager for review and approval of the City Commission and City Planning Commission.

CARRIED unanimously.

Item 5 on the Agenda being Appointments

None.

Item 6 on the Agenda being Reports and Communications

a. From Legal Counsel.

1. W. Peter Doren reported on a recent ruling by the Michigan State Court of Appeals regarding the customer's right to choose its utility if more than one utility runs in proximity to the property.

6:48 p.m. Jeff Palisin departed the meeting.

b. From Staff.

1. Staff presented the 2014 Strategic Plan Year End Review.

The following individuals addressed the Board:

Tim Arends, Executive Director
Karla Myers-Beman, Controller
Jessica Wheaton, Manager of Energy Services & Key Accounts
Tom Olney, Operations Manager
Blake Wilson, System Engineer
Scott Menhart, Manager of Telecom & Technology
Kelli Schroeder, Manager of Human Resources & Communications

2. Karla Myers-Beman presented the September 30, 2014 (first quarter) financial position.

The following individuals addressed the Board:

Tim Arends, Executive Director

c. From Board.

1. With the consent of the Board, Vice Chairman Geht directed staff to develop questions to poll TCL&P ratepayers regarding their expectation of the utility's funding obligations to various city projects.

The following individuals addressed the Board:

Tim Arends, Executive Director
W. Peter Doren, General Counsel

Item 7 on the Agenda being Public Comment

No one from the public commented.

There being no objection, Chairman Taylor declared the meeting adjourned at 7:32 p.m.



TRAVERSE CITY
LIGHT & POWER

To: Light & Power Board
From: Jessica Wheaton, Manager of Energy Services & Key Accounts *JW*
Blake Wilson, Systems Engineer *BW*
Date: February 4, 2015
Subject: Equipment Purchase for Park Place Hotel

Traverse City Light & Power (TCL&P) was recently notified that the Park Place Hotel has selected the utility as its electric service provider. Although details regarding the timing of the transition to TCL&P have not been determined, staff is taking a proactive approach to having all necessary equipment on hand in anticipation of the transition.

The Park Place Hotel owns their transformer which is rated at a different primary voltage than used by TCL&P. Staff has evaluated the transformer and determined that it can continue to be used to serve the hotel, but an isolator will need to be installed to convert TCL&P's primary voltage to the transformer's voltage.

Staff requested pricing information from T&R Electric and ABB for the isolator and received a response from T&R Electric – see attached quote. The isolator costs \$31,400 and two will be required so that a back-up is immediately available in case the one installed fails. Due to the lead time between ordering the equipment and having it on hand, staff, per the direction of the executive director, has ordered the equipment.

This item is appearing on the Consent Calendar as it is deemed by staff to be a non-controversial item. If any member of the Board or the public wishes to discuss the matter, other than clarifying questions, it should be placed on the "Items Removed from the Consent Calendar" portion of the agenda for full discussion. If after Board discussion you agree with staff's recommendation the following motion would be appropriate:

MOVED BY _____, SECONDED BY _____,

THAT THE LIGHT & POWER BOARD APPROVES A CONFIRMING PURCHASE ORDER WITH T&R ELECTRIC IN THE AMOUNT OF \$62,800 FOR TWO ISOLATORS FOR THE PARK PLACE HOTEL TRANSFORMER VOLTAGE CONVERSION.

freight on a common carrier. Unless otherwise specified, freight on units quoted is prepaid and allowed in the contiguous US on our next available truck going to your area.

4. Quoted units are subject to prior sale and results of final test.
5. Pricing is valid for 30 days from date of quote.

If you have any questions or need any additional information please call me at 605-684-2107. You may also email me at gary@trelectric.com.

Sincerely,
Gary Bowen
Sales Representative



**36 MONTHS
100%
Guarantee**

GUARANTEE

ALL T&R TRANSFORMERS ARE GUARANTEED TO BE FREE FROM DEFECTS IN WORKMANSHIP AND MATERIALS FOR 36 MONTHS UNDER NORMAL USE OR SERVICE ; THAT NORMAL USE OR SERVICE DOES NOT INCLUDE ABNORMAL STRESSES OR STRESS FROM SUCH CAUSES AS INCORRECT PRIMARY VOLTAGE, FREQUENCY OR IMPROPER LOAD.

We are not responsible for consequential losses or damages outside of this equipment nor for any repairs or replacements made by others without our written authorization. Should any unit fail within 36 months, we will either repair or replace the transformer or refund your money at our option.

Excluded under this guarantee are all newly-manufactured transformers and all transformers rebuilt by other rebuilders, in which case their guarantee will prevail.

This guarantee is expressly in lieu of other guarantees.

(605) 534-3555
(800) 843-7994
FAX: (605) 534-3861
E-MAIL: t-r@t-r.com

T&R Electric Supply Co., Inc.
STANDARD TERMS AND CONDITIONS OF SALE
Effective Date: 12 July 2013

ANY TERM, CONDITION AND/OR PROVISION (HEREAFTER TERMS) OF BUYER'S ORDER WHICH IS IN ANY WAY INCONSISTENT WITH OR IN ADDITION TO THESE TERMS SHALL NOT BE APPLICABLE HERETO OR BINDING UPON SELLER. IF BUYER OBJECTS TO ANY CONDITIONS HEREIN, SUCH OBJECTION MUST BE IN WRITING AND RECEIVED BY THE SELLER AT THE ADDRESS STATED ON THE FACE HEREOF PRIOR TO THE COMMENCEMENT OF PERFORMANCE BY SELLER. RETENTION BY BUYER OF ANY ITEMS DELIVERED BY SELLER HEREUNDER SHALL BE CONCLUSIVELY DEEMED ACCEPTANCE OF THE TERMS HEREOF. SELLER'S FAILURE TO OBJECT TO TERMS CONTAINED IN ANY COMMUNICATION FROM BUYER WILL NOT BE A WAIVER OF THE TERMS HEREOF.

1. Applicable Terms and Conditions

The purchase by Customer of the material, equipment, component(s), product(s), supplies, goods and documentation (hereinafter the "Product") is expressly governed by these Terms and Conditions of Sale, and ONLY these Terms and Conditions of Sale, unless specifically agreed to otherwise in writing by T&R Electric Supply Co., Inc. ("T&R").

This sale is expressly conditioned upon Customer's acceptance of the terms and conditions stated below. If not previously given, Customer's payment or acceptance of Product, whichever occurs first, is conclusive to this acceptance.

2. Quotations

Each quotation is valid for thirty (30) days from its issue date unless otherwise stated in the quotation, or revoked prior to the issuance of Customer's purchase order.

3. Prices

Prices are subject to change without notice. Unless otherwise specified, prices will be the prices in effect at the time of written order acknowledgment by T&R subject to adjustment for subsequent changes directed by the Customer and/or mutually agreed upon escalation formula. Prices will include freight prepaid and allowed to the accessible common carrier point nearest the first destination designated by the Customer in the forty-eight contiguous United States on the next available T&R truck delivering to the Customer's area, unless immediate shipping is required by Customer which charges would not be included in original quote. Customer must give at least two weeks notice to T&R in the event witness tests are required. Charges for said tests will be no less than \$1,000 per day.

Pallets are not included in the price of quote and need to be requested separately. In the event of a price change, the effective date of the change will be the date shown on the revised quotation. Where a price change is made by letter, fax, or email, the effective date may be given as part of the announcement. Pallets and export packaging provided by T&R will not be furnished and any special requests must be made in advance, and may not be available through T&R.

4. Taxes

The price quoted by T&R for the Product does not include any Federal, state, or local property, license, privilege, sale, use, excise, gross receipts, or other like taxes which may now or hereafter be applicable. Payment by T&R of any such taxes shall be for the account of the Customer, and shall be immediately reimbursed by Customer to T&R.

Where Customer, or the end-user, destination is located outside of the United States, the Customer shall pay all customs, duties, and local customs broker fees or costs (U.S. and/or non-U.S.), as well as all other non-U.S. taxes of any type whatsoever.

5. Terms of Payment

Payment terms are thirty (30) calendar days from the date of invoice unless otherwise specified in writing.

If, in the judgment of T&R, the financial condition of the Customer at any time prior to shipment is reasonably called into question, then T&R may require payment in advance or cancel without any liability or obligation, any outstanding order, whereupon T&R shall be entitled to receive reasonable cancellation charges.

If payments are not made when due, Customer shall pay, in addition to any overdue penalties, a late charge equal to the greater of 1 3/4% per month cumulative on principal outstanding and prior assessed late charges, or the highest applicable rate allowed by law on all such overdue amounts.

6. Delivery/Shipments

Unless otherwise specified, all Products are shipped F.O.B. Colman, SD Prepaid and Allowed for net invoice values of \$1,000.00 or more. Orders less than \$1,000.00 net invoice value are shipped F.O.B. Colman, SD Prepaid and Added. F.O.B. accessible common carrier point nearest first destination designated by the Customer in the forty-eight contiguous United States on the next available contracted carrier truck delivering to the Customer's area, unless immediate shipping is required by Customer which charges would not be included in original quote, freight prepaid.

Cartage (Store Door Delivery): Transportation charges incurred from the nearest accessible common carrier point to final destination or to shipside (in case of shipment to U.S. possessions) are the responsibility of the Customer unless the common carrier furnishes store delivery at no extra charge.

Method of Shipment: Shipping dates contained in quotations are approximate and are based on receipt of complete information with the order. If drawing approval is required, drawings must be returned and released to production within fourteen days, in writing by fax/email or First Class Mail. Upon release to production, shipment date will be determined by work load level at the time of release and may not be the same as previously quoted. An acknowledgment shipment date will be provided upon request of the Customer. T&R will determine the point of origin of shipment, the method of transportation, and the routing of shipment. Customers requiring shipment by a method or routing other than that of T&R's selection will be billed any excess or premium in transportation charges.

Any charges for special services, including but not limited to, special train, lightering, coordinated arrival times of multiple trucks or other modes of conveyance, construction or repair of transportation facilities will be paid or reimbursed by the Customer.

Customer Pick-Up: No allowance will be made in lieu of transportation if the Customer accepts shipment at the factory, or the warehouse, or freight station.

Customer expressly consents that Will-Call Orders (e.g. orders for which the Customer elects to arrange for transportation) shall be invoiced on the later of the contractually acknowledged shipment date or of the actual product completion. T&R shall not be responsible in any way for Customer's inability to secure timely transportation or any other delay by Customer whatsoever. Any applicable storage charges of completed products shall be in accordance with Section 17 (Delayed Shipment) herein.

Shipment Damage: Except in the event of F.O.B. Destination shipment T&R will not participate in any settlement of claims for concealed or other shipment damage. When shipment has been made on an F.O.B. Destination basis, the Customer must unpack immediately and, if damage is discovered, must

- i. Not move the product from the point of examination;
- ii. Retain shipping container and packing material (if applicable);
- iii. Notify the carrier of any apparent damage in writing on a carrier's delivery receipt and request carrier to make an inspection;
- iv. Notify T&R within 72 hours of delivery; and
- v. Send T&R a copy of the carrier's inspection report.

Inspection and Acceptance: Product will be deemed accepted by the Customer upon receipt. Should the product not comply with technical specifications, Customer must notify T&R in writing, upon immediate receipt and off-loading of any alleged noncompliance, or within two (2) calendar days. Any notification of alleged noncompliance must cite each specification criteria that is alleged to be non-compliant, with evidence of the deviation. Correction of any confirmed noncompliance shall be in accordance with T&R's obligations as defined in Section 8 (Warranty) herein.

7. Force Majeure

T&R shall not be liable for failure to perform or for delay in performance due to any cause beyond its reasonable control, including but not limited to: acts of God, acts or omissions which are substantially attributable to the Customer, unusually severe or harsh weather conditions, fire, flood, hurricanes, tornadoes, strikes or other labor difficulties, any act or failure to act or delay in acting on the part of any governmental authority or entity, including the issuance of or failure to issue government decisions, changes in law, riots, epidemics, quarantine restrictions, war, insurrection or riot; acts of a civil or military authority, title and environmental issues, embargoes, fuel or energy shortage, blockages, transportation delays or

accidents, inability to obtain necessary labor, material or manufacturing facilities from usual sources, delays of subcontractors.

In the event of delay in performance due to any such cause, the date of shipment of time for completing will be extended by a period of time equal to the greater of (i) the time reasonably necessary to overcome the effect of such delay, or (ii) the time equal to the period of the delay.

8. WARRANTY

All T&R Transformers are guaranteed for the length of time, as stated in the Customer quote, to be free from defects in workmanship and materials under normal use or service, that normal use of service does not include abnormal stresses or stress from such causes as incorrect primary voltage, frequency or improper overload.

T&R is not responsible for consequential losses or damages outside of the Product or for any repairs or replacement made by others without T&R's written authorization. Should any unit fail within the applicable time period of the warranty, T&R will either repair or replace the transformer, or refund the Customer's money, at T&R's option.

Excluded from warranty are all newly manufactured transformers and all transformers rebuilt by other rebuilders, in which case their warranty will prevail.

THIS WARRANTY IS EXPRESSLY IN LIEU OF OTHER WARRANTIES. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

9. Limitation of Liability

The total, aggregate, and cumulative liability of T&R (including hereafter for purposes of this Section its affiliates, parent company, shareholders, subsidiaries, officers, directors, employees, agents, assigns and their respective predecessors and successors) to the Customer, whether by indemnity, or in contract, guaranty, tort (including negligence and/or strict liability), by statute, or under any other legal theory shall in no event exceed that purchase order price of the specific Product in question.

Under no circumstances shall T&R be liable to Customer, whether by indemnity, or in contract, guaranty, tort (including negligence and/or strict liability), by statute or under any other legal theory for any special, incidental, indirect or consequential damages or losses of any nature, even if customer has advised T&R in advance of the possibility of such damages.

Under no circumstances shall T&R be liable to Customer, whether by indemnity, or in contract, guaranty, tort (including negligence and/or strict liability) by statute, or under any other legal theory for loss of profit, loss of production, loss of contract, loss of revenue, loss of use, cost of replacement power or temporary equipment (including additional expenses incurred in using existing facilities), claims or damages of Customer's customers, cost of money, loss of investment opportunity, loss of business opportunity, increased operating costs, financing costs, or government fines, penalties or sums due, even if Customer has advised T&R in advance of the possibility of such economic or financial losses.

The remedies of the Customer set forth herein are exclusive with respect to the Product and include anything done in connection with the Product, such as the performance or breach thereof, or from the manufacture, sale, repair or replacement, delivery, result, or use of the Product; for the avoidance of doubt, the total, aggregate, and cumulative liability of T&R, whether in contract, in tort (including negligence and/or strict liability), indemnity, guaranty, by statute, or under any other legal theory for any matter relating to the Product, shall not exceed the purchase order price of the Product.

Under no circumstances shall T&R be liable to Customer for punitive damages, nor may any arbitrator(s) or court of law award punitive damages against T&R.

No action, regardless of form, arising out of the transaction under this contract may be brought by the Customer more than one (1) year after the cause of action has occurred. T&R shall be entitled to the payment of its attorney's fees and costs in the event that T&R is forced to defend a legal action by Customer which claim(s) is covered and/or precluded by this Section 9 (Limitation of Liability).

10. Intellectual Property

The sale by T&R of the product ordered hereunder does not convey or grant license, express or implied, to Customer regarding any of T&R's intellectual property, including but not limited to, patents, copyrights, trademarks, trade secrets, designs, artwork or other proprietary rights, except Customer's non-exclusive right to use such intellectual property solely for the purpose of and only to the extent necessary for, use of the Product purchased hereunder in accordance with T&R's published specifications or used documentation.

11. Delay Damages

To the extent that T&R is responsible for any delays in its performance under these Terms and Conditions of Sale with respect to meeting the final shipment date for the Product, its total liability for such performance delay to the Customer shall not exceed an amount equal to 5% of the value of the individual subject Product order. Compensation for Customer's delay damages (in no event exceeding the 5% cap) will represent the full and final satisfaction of T&R's liability for delay. Customer shall be obligated to substantiate through appropriate and reliable documents its damages incurred on account of the late performance of T&R. Customer's performance delay damages shall not be recovered for any intermediate milestone or deliverables by T&R, and covers only the final shipment of the Product. Any amounts payable to Customer by T&R hereunder shall be included as part of the total, aggregate liability cap set forth in Section 9 (Limitation of Liability) herein. Customer shall use all reasonable efforts to mitigate the effect of any delay caused by T&R.

Under no circumstances shall T&R be liable for late shipment damages to Customer where such late shipment has been caused by a force majeure event as defined in Section 7 (Force Majeure) herein, a suspension of the work, a change order or modification to the Product requested by Customer, or any other act or omission of the Customer, or end-user, which has contributed to or resulted in the delay question.

12. Transfer

In the event Customer transfers to a third party the Product or any right or interest therein, Customer agrees to indemnify, defend and hold T&R harmless from any and all liability of T&R to such transferee or any subsequent transferee in excess of what T&R's liability would have been if such transferee had been bound by these Terms and Conditions of Sale in the same manner as Customer.

13. Title - Risk of Loss

Ownership or legal title to the Product sold by T&R to Customer shall pass to the Customer at the earlier of invoicing date or shipment date. Risk of loss of the Product, or any part of the same, shall also pass to the Customer at the earlier of invoicing date or shipment date.

Until such time as the Customer has paid T&R the full value of the purchase order price, Customer agrees to perform all acts which may be necessary to protect and hold the Product free of claims, demands, liens, or encumbrances, or, alternatively, insure the Product for its full replacement value at Customer's own expense with T&R being included under any such policy as an additional insured and/or to the extent that Customer owns T&R any amount under the purchase order, holding the proceeds of any insurance claim in respect of the Product in trust for T&R.

Without prejudice to any other remedy or right that T&R may legally have, if Customer fails to timely pay all amounts owed under the purchase order for the Product, T&R may at any time take possession of the Product delivered to Customer and sell it. If T&R takes possession of the Product and sells it, Customer continues to be liable to T&R for an amount equal to the aggregate of the unpaid amounts and costs and expenses incurred by T&R in taking possession of, transporting, storing, and selling the Product less an amount equal to the proceeds of the sale.

If any amount owed under the purchase order is not paid timely by the Customer, the Customer hereby irrevocably authorizes T&R or its agents to enter any premises owned, leased, or otherwise occupied by Customer for the purpose of taking possession of the Product. The Customer must provide T&R with access to all information necessary to ensure compliance with this Section 13 (Title - risk of Loss).

14. Contract Variations

Drawing Approval and Changes: If Customer approval of drawings is required, such review, comment, or approval must be received by T&R no later than fourteen (14) calendar days after submittal of drawings by T&R to Customer, timing to begin when the drawings have been received and approved by T&R. If either the Customer fails to comply with this fourteen-day (14-day) timeliness of review requirements or the product has not been released to production within thirty (30) calendar days of written order acknowledgment by T&R, whichever occurs later, the order shall be subject to renegotiation of price and shipment terms. Where Customer's specifications are not sufficiently detailed, T&R reserves the right to design the Product in accordance with T&R's best professional judgment and good commercial practices. If at any time the Customer makes changes to the contract design as covered in Customer's specifications, the contract shall be subject to renegotiation of the price terms and date of shipment to reasonably cover any additional costs and commitments occasioned by the change.

Orders placed On Hold by Customer: An order placed on hold by the Customer for any reason, or by T&R while awaiting payment of overdue invoices, will be taken out of the production schedule. If/when the hold is removed, the order will be rescheduled from that subsequent release date at the then prevailing lead-time. Written notice will be sent to the Customer confirming the hold status upon request of the Customer.

Change Orders by Customer: Change orders submitted by the Customer for previously acknowledged purchase orders are subject to additional charges. Changes to purchase orders that have not been released for production are subject to price adjustments for the cost of technical and administrative services, as well as applicable material and/or reworking costs. Changes made to purchase orders that have already been released to production, are subject to these same price adjustments plus \$500 per change for production disruption and inefficiency costs. Lead-time extensions may result depending upon the nature of the change(s).

Customer Supplied Material: From time to time, T&R may agree to install customer supplied material. Such agreements are subject to the following stipulations:

- (i) T&R will not be held responsible for delays in shipment caused by delays in the receipt of Customer supplied material. Such delays will be subject to possible price adjustments due to Customer induced delays and disruptions.
- (ii) Customer is responsible for supplying T&R with all applicable technical data and drawings (in sufficient detail as determined by T&R) at time of order entry, so as to ensure that the Product design can be made to accommodate form, fit, function, and interface with Customer supplied material.
- (iii) Errors by the Customer to supply the correct material per the detailed technical data supplied at time of order, may result in delays in shipment and price adjustments.
- (iv) T&R will not be held responsible for Customer supplied material that is received damaged in shipment. In such an event, delays in shipment may result and will be subject to price adjustments.

Service Conditions: The liquid-filled transformer products supplied by T&R will be suitable for operation within the "usual service conditions" as defined in IEEE Standard C57.12.00, Section 4.1. Specifically, these usual service conditions include the following:

- (i) The transformer is designed for step down duty.
- (ii) The transformer is designed for operation at the rated kVA, at 3300 feet altitude, without exceeding temperature limits, provided the average temperature of the ambient air does not exceed the limits as listed below. The dielectric strength of the bushings and arrestors will be suitable to allow satisfactory operation at 3300 feet.
- (iii) The maximum temperature of the ambient air should not exceed 40 degree C and the average temperature of the ambient air, for any 24 hour period, should not exceed 30 degree C.
- (iv) The input voltage when applied to any rated tap, at rated frequency, should not result in an output voltage greater than 110% at no load, and 105% at rated output load. The output load power factor must be 89% or better.
- (v) When unusual or special service conditions, such as damaging or explosive vapors, abnormal vibrations, shocks, transportation, storage conditions, poor wave form, unbalanced voltage, or planned regular short circuits exist, or service conditions other than those described in (i), (ii), (iii), and (iv) just above, it is the responsibility of the purchaser to bring these conditions to the attention of T&R at the time a quotation is requested by the Customer from T&R.

Failure by Customer to expressly provide advance notice to T&R of any unusual or special service conditions which do not meet the above may render the products warranty null and void.

15. Termination by Customer

Any order or contract may be cancelled by the purchaser (or) by written notice and upon payment of reasonable charges based upon the following:

A. Where order is in process, but product is not released for manufacture, cancellation charges shall be the cost of materials that are not usable on other orders, plus 20% of Product price.

B. Where order is in process with production space reserved and materials being readied for assembly:

Engineering Complete	25% of product price
Purchasing Complete	50% of product price
Material Received in House	75% of product price
Within six (6) weeks of acknowledged date of shipment	100% of product price

Any Customer terminating or canceling an order in accordance with the above termination schedule shall be fully bound and obligated to T&R in accordance with these Terms and Conditions of Sale to pay the above agreed termination price within thirty (30) calendar days of such termination or cancellation notice.

16. Suspension by Customer

Any order held or delayed or rescheduled at the request of the Customer will be subject to the prices and conditions of sale in effect at the time of the release of the hold or the reschedule. Any such order held or delayed beyond thirty (30) calendar days will be treated as a Customer termination.

17. Delayed Shipment/Storage

When the Product is ready for shipment and shipment cannot be made because of reasons beyond T&R's control, T&R shall submit an invoice for the Product due and payable in accordance with the agreed payment terms and shall, upon written notice to the Customer, store such products. In such event, the following conditions shall apply.

Notwithstanding Section 13 (Title - risk of Loss) herein, risk of loss of the Product shall pass to the Customer upon moving such Product to storage.

All expenses incurred by T&R in connection with the storage of Products, including demurrage, the cost of preparation for storage, storage charges, insurance, and handling charges shall be payable by the Customer upon submission of invoices by T&R.

T&R may, at its' sole discretion, agree to store completed units for a maximum of two (2) weeks at no additional charge on a space available basis, with the understanding and the hereby expressed consent of the Customer that the date of invoice will be the date that the product was originally scheduled to ship and that payment terms will not be charged. After such two (2) week timeframe, a storage charge of \$250 per Product per week, or part thereof, will be assessed and billed monthly to the Customer.

18. Cancellation by T&R

T&R shall have the right to cancel at any time by written notice for any material breach of these Terms and Conditions of Sale by Customer.

19. Return of Product

Product may not be returned except with the prior written agreement of T&R and subject to the terms specified therein by T&R.

20. Product Notices

Customer shall provide the end-user (including its employees) of the Product with all T&R supplied Product and patent notices, warnings, instructions, recommendations and similar materials. Under no circumstances shall Customer or the end-user of the Product remove any such information which may be affixed to the Product or to the related materials shipped with the Product.

21. United States Export Controls

Customer acknowledges that the Product and all documentation and other technical information delivered pursuant to these Terms and Conditions of Sale are subject to export controls under U.S. laws, including but not limited to the Export

Administration Act and the regulations promulgated thereto. Customer agrees to strictly comply with all legal requirements established under these controls and to cooperate fully with T&R in any official or unofficial audit or inspection that relates to these controls. Customer shall not export, re-export, divert, or transfer directly or indirectly, the Product and all documentation or other technical information delivered pursuant to these Terms and Conditions of Sale to any country, or to the nationals of any such country, which the U.S. government determines is a country to which such export, re-export, diversion, transfer or disclosure is restricted. Any breach of this provision will be considered a material breach of these Terms and Conditions of Sale and Customer will be obligated to defend, indemnify (including all attorneys fees and costs) and hold harmless T&R (including all affiliates, shareholder(s), directors, officers, employees, and agents) from any breach of this paragraph by Customer. The performance of T&R in delivering the Product to Customer is conditioned upon the attainment of all required licenses.

22. Testing and Acceptance of Goods

Testing of the Product before shipment is carried out in accordance with T&R's routine factory test procedures. Upon the Customer's request, T&R shall provide test reports for the Product. In the event Customer requests testing other than T&R's standard factory tests and/or requests witness testing and/or inspections, Customer shall pay for all such additional testing, witness costs, and any and all associated charges.

23. Severability

Should any provision of these Terms and Conditions of Sale be found to be in violation of law, the remainder of these Terms and Conditions of Sale shall be in full force and effect.

24. No Assignment

Neither these Terms and Conditions of Sale nor any rights, interest or benefits of Customer hereunder may be assigned by Customer to any other party without the prior written consent of T&R.

25. Choice of Law/Venue/Jurisdiction/Agreement to Arbitration

The validity, performance, construction, and effect of any purchase order which is governed by these Terms and Conditions of Sale shall be governed by the laws of the State of South Dakota, without regard to its choice of law rules or those of any other jurisdiction.

In the event of any dispute arising out of or in connection with the present product order, the parties shall attempt in good faith to resolve all disputes promptly by negotiation as follows. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Executives of both parties at levels one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10) business days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) calendar days from the referral of the dispute to senior executives or if no meeting of senior executives has taken place within fifteen (15) calendar days after such referral, either party may initiate mediation as provided hereafter. If a negotiator intends to be accompanied at a meeting by an attorney, the other negotiator shall be given at least three (3) business days notice of such intention and may also be accompanied by an attorney. All negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

In the event that any dispute arising out of or relating to these Terms and Conditions of Sale is not resolved in accordance with the procedures established just above, such dispute shall be submitted to private, non-binding mediation as provided for below, before resorting to litigation or some other dispute resolution procedure.

Any party to a Claim may initiate mediation by filing a written request for mediation pursuant to these rules. A request for mediation shall contain a brief statement of the nature of the Claim and the names, addresses, and telephone numbers of those who will represent the party; if any, in the mediation. Upon receipt of a request for mediation, the parties shall agree on a qualified mediator to serve. Normally, a single mediator will be appointed unless the parties agree otherwise. If the nature of the Claim is highly technical, the parties shall attempt to choose a mediator(s) who has expertise in the area of dispute.

No person shall serve as a mediator in any claim in which that person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting an appointment, the prospective mediator shall disclose any circumstance likely to create a presumption of bias or prevent a prompt meeting with the parties. Upon receipt of such information, the parties shall replace the mediator or waive any objection to the mediator. If any mediator shall become unwilling or unable to serve, the parties shall appoint another mediator. Any party may be represented by persons of the party's choice. The names and addresses of such persons shall be communicated in writing to the other party.

The mediator shall fix the date and the time of each mediation session. The mediation shall be held at a convenient location agreeable to the mediator and the parties, as the mediator shall determine. At least fifteen (15) days prior to the first scheduled mediation session, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved with appropriate references to these portions of the Agreement or Addendum which may be in issue. The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of the Claim. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Claim, provided that the parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice shall be made by the mediator or the parties, as the mediator shall determine. Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the mediator.

Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by a mediator while serving in that capacity shall be confidential. The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.

The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding:

- (a) views expressed or suggestions made by another party with respect to a possible settlement of the Claim;
- (b) admissions made by another party in the course of the mediation proceedings;
- (c) proposals made or views expressed by the mediator; or
- (d) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

There shall be no stenographic record of the mediation process. The mediation shall be terminated:

- (a) by the execution of a settlement agreement by the parties;
- (b) by a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or
- (c) by a written declaration of a party or parties to the effect that the mediation proceedings are terminated.

No mediator shall be a necessary party in judicial proceedings relating to the mediation, nor shall any mediator be liable to any party for any act or omission in connection with any mediation conducted under these rules.

The mediator shall interpret and apply these rules insofar as they relate to the mediator's duties and responsibilities.

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator and the expenses of any witness and the cost of any reports or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise.



**TRAVERSE CITY
LIGHT & POWER**

To: Light and Power Board
From: Scott Menhart, Manager of Telecom & Technology
Date: February 2, 2015
Subject: Replacement of AT&T PRI, DS1, and Long Distance Contracts

In June of 2014, TCL&P renewed the following three expired contracts with AT&T:

- PRI – Primary phone circuit for Hastings Office: \$600/month
- Long Distance – Long Distance Plan for Hastings Office: \$600/year
- DS1 – Point to point connection for the Kalkaska Combustion Turbine \$530/month

During this renewal period, AT&T informed TCL&P that we would need to eventually upgrade these contracts to move off of their antiquated technology. Recently, I have been working with them to move forward with a Hometown recommendation a strategic planning item, and a capital improvement item to revamp our phone system. To gain the advanced functionality that TCL&P will need to fulfill call routing, AT&T informed me that TCL&P should move forward with the contract upgrades now, instead of waiting until they expire. However, I understood this to be a reality during the initial contract signing in June and built a clause into the existing contracts to allow for midterm replacement, waiving the typical contract adjustment fees.

I have worked through the details of the change and AT&T has provided a new single contract that will supersede the three previous contracts. This contract will also align with the Governmental Pricing Plan for the State of Michigan. TCL&P's previously monthly cost for all three contracts was an average of \$1,180.00. The new rate will be a flat rate of \$1,553.00 and will give the advanced features needed to redirect calls during times of high call volumes in an effort to mitigate busy signals. The new contract term will be for thirty-six months from the date of execution of the contract for a total cost of \$55,908.00. The three old contracts will be terminated.

Staff recommends the Board approve execution of the contract. This item is on the Consent Calendar as it is deemed non-controversial. Approval of this item on the Consent Calendar means you agree with staff's recommendation.

If any member of the Board or the public wishes to discuss this matter, other than clarifying questions, it should be placed on the "Items Removed from the Consent Calendar" portion of the

FOR THE LIGHT & POWER BOARD MEETING OF FEBRUARY 10, 2015

agenda for full discussion. If after Board discussion you agree with staff's recommendation the following motion would be appropriate:

MOVED BY _____, SECONDED BY _____,

THAT THE BOARD AUTHORIZES THE EXECUTIVE DIRECTOR TO EXECUTE A THREE YEAR CONTRACT WITH AT&T IN THE AMOUNT OF \$55,908, SUBJECT TO APPROVAL AS TO FORM BY THE GENERAL COUNSEL.

**AT&T ABN EXPRESS
VPN VALUE BUNDLE BUDGETARY QUOTE**



0

SERVICE CHARGES

Company: Traverse City Light and Power
Contact: Scott
Phone: 0
Address: 1131 Hastings Street
City/State/Zip: Traverse city MI 49686

Quote Number: 0
Quote Date: 01/05/15
Expiration Date: 03/06/15
Account Executive: Jay Van Duzen
Term: 36 Months

This quote is for Budgetary Purposes Only
Pricing is subject to change pending final design

Qty	Description		Extended Price
	Number of Sites: 2		
SITE 1			
1	VPN Value Bundle Bandwidth with Managed Router: 3 Mbps	\$	649.00
1	VPN Value Bundle Calling Plan: Option 3 - 23 CC	\$	175.00
1	VPN Value Bundle Network Security with Internet Access	\$	40.00
	AT&T ABN Express VPN Value Bundle MRC Sub-total: Site 1	\$	864.00
	*Taxes, regulatory fees, and surcharges are NOT included but will apply.		
SITE 2			
1	VPN Value Bundle Bandwidth with Managed Router: 3 Mbps	\$	649.00
1	VPN Value Bundle Calling Plan: Not Applicable	\$	0.00
1	VPN Value Bundle Network Security with Internet Access	\$	40.00
	AT&T ABN Express VPN Value Bundle MRC Sub-total: Site 2	\$	689.00
	*Taxes, regulatory fees, and surcharges are NOT included but will apply.		
	AT&T ABN Express VPN Value Bundle Total Monthly Recurring Charges*	\$	1,553.00
	*Taxes, regulatory fees, and surcharges are NOT included but will apply.		



AT&T Business Network (ABN) Express VPN Value Bundle

The rates, discounts and other provisions in this Agreement are contingent upon signature by both parties on or before March 31, 2015

For AT&T Administrative Use Only

attuid: jv8204

171 Account # _____ Master Customer # _____ Doc Viewer ID: _____
MA Number: _____ BCID # _____ CON#: CON150107154550,CSM150107154451

Company Name ("Customer")	AT&T – Contact For Notices	AT&T Sales Contact - Primary Contact
Legal Name: TRAVERSE CITY LIGHT & POWER	AT&T Corp	Name: JAY VAN DUZEN
Street Address: 400 BOARDMAN AVE	One AT&T Way	Street Address: 23500 NORTHWESTERN HWY BLDG W
City: TRAVERSE CITY, State: MI Zip: 496842542	Bedminster, NJ 07921-0752	City: SOUTHFIELD, State: MI Zip: 48075
Tel # 2319224440	ATTN: Master Agreement Support Team: mast@att.com	Tel # 2482045881

AGREEMENT TERMS

1. SERVICES

Services in ABN Express VPN Value Bundle	Service Publication	Location
<ul style="list-style-type: none"> VPN Value Bundle Bandwidth with Managed Router VPN Value Bundle Calling Plan AT&T Business in a Box® Service VPN Value Bundle Network Security with Internet Access ('Network Security') AT&T IP Toll-Free AT&T Toll-Free Advanced Features 	<p>AT&T Business Network Service (see ABN Express VPN Value Bundle)</p> <p>AT&T Business Network Service (see Toll-Free Advanced Features)</p>	<p>http://serviceguidenew.att.com/sg_flashPlayerPage/ABN</p>

2. AGREEMENT TERM AND EFFECTIVE DATES OF RATES

Term	3 years
Term Start Date	First day of first full billing cycle following implementation of this Agreement in AT&T's billing system
Effective Date of Rates and Discounts	Following implementation of this Agreement in AT&T's billing system
Auto-Renewal Period(s)	Month-to-month, unless either party terminates via written notice to the other party giving at least ninety (90) days prior to the expiration date of Initial Term or then-current Auto-Renewal Period. Each party waives any right to receive notice prior to any such automatic extension.

3. MARC AND MARC-ELIGIBLE CHARGES

Not Applicable

4. WAIVERS, MINIMUM PAYMENT PERIOD AND CREDITS

4.1 Waivers

Charges Waived	Minimum Retention Period
Specified in the Service Guide for ABN Express VPN Value Bundle	12 Months



AT&T Business Network (ABN) Express VPN Value Bundle

Monthly Recurring Charge per Dialed Toll-Free number for AT&T Toll-Free Advanced Features (Classic)-Feature Package II-Routing Plan Option	N/A
Monthly Charges incurred during the 7th month of the Initial Term for the following:	N/A
<ul style="list-style-type: none"> ABN Express VPN Value Bundle Bandwidth with Managed Router ABN Express VPN Value Bundle Network Security with Internet Access 	

4.2 Minimum Payment Period for Wireline Services

Service Components	Percent of Monthly Service Fees Due Upon Termination Prior to Completion of Minimum Payment Period	Minimum Payment Period per Service Component
All Service Components	50%	12 months

5. RATES (PRICES) FOR WIRELINE SERVICES

5.1 AT&T ABN Express VPN Value Bundle Bandwidth

VPN Value Bundle Bandwidth with Managed Router			VPN Value Bundle With or Without Calling Plan	VPN Value Bundle Network Security with Internet Access*
Option	Access Method#	Bandwidth	Monthly Charge Per Port Per Site	Monthly Charge Per Site
A	T-1#	1.5 Mbps	\$399.00	\$25.00
B	2xT-1#	3 Mbps	\$649.00	\$40.00
C	4xT-1#	6 Mbps	\$1,299.00	\$65.00
D	Ethernet – Switched#+	10 Mbps	\$1,299.00	\$95.00
E1**	Ethernet – Switched#	20 Mbps	\$500.00	\$140.00
E2	Ethernet – Switched#+	20 Mbps	\$1,599.00	\$140.00
F	Ethernet – Switched#+	50 Mbps	\$2,199.00	\$340.00
G	Ethernet – Switched#+	100 Mbps	\$2,999.00	\$675.00

#For Locations in AT&T ILEC Areas, rate excludes T1 Access Channels over 50 miles from Customer Site to the AT&T POP; and for Locations outside the AT&T ILEC Areas, rate excludes T1 or Ethernet Access Channels over 25 miles from Customer Site to the AT&T POP

+ for Ethernet locations provided by the underlying access providers as described in the Service Guide for Price Bands C and D there is no limitation on miles

*Optional, if ordered, Service must be used at each Customer Site with VPN Value Bundle Bandwidth

**Rate applies only to one ABN Express VPN Value Bundle Bandwidth Ethernet-Switched 20 Mbps in an AT&T ILEC Area selected by Customer that is ordered between the Term Start Date and 05/31/15

5.2 AT&T ABN Express VPN Value Bundle Calling Plan

VPN Value Bundle Calling Plan	Option 1	Option 2	Option 3	Option 4*	Option 5*
Monthly Charge	\$50.00	\$100.00	\$175.00	\$350.00	\$700.00
IP Local and IP Long Distance Bundle – 600 US Off-Net LD minutes per month per Concurrent Call	6 Concurrent Calls per Customer Site	12 Concurrent Calls per Customer Site	23 Concurrent Calls per Customer Site	46 Concurrent Calls per Customer Site	92 Concurrent Calls per Customer Site
US Off-Net Calling Charge	Per Minute in excess of 600 minutes per Concurrent Call - \$0.0200				



AT&T Business Network (ABN) Express VPN Value Bundle

International Off-Net Calling Charge	As specified in the ABN Express VPN Value Bundle Service Guide, Rate Table for International Off-Net Outbound Calls
* - Cannot be used in conjunction with AT&T Business in a Box [®] Service	

5.3 AT&T Business in a Box[®] Service

Service Component/Device	Service Component Replacement – Next Business Day Shipped (5x8) Monthly Charges	On-Site Maintenance (24X7X4) Monthly Charges	Life-Cycle Management Charges - Service Charges	
	Monthly Service Charge	Monthly Service Charge	Per Site / Per Occurrence during Standard Business Hours (M - F, 8:00 am- 5:00 pm, local time)	Service Charge List Price
Base Unit 12 Port*	\$0.00	\$0.00	Additional Service	\$260.00
Base Unit 24 Port	\$56.00	\$76.00	Delete Service	\$500.00
8 Port POE Add-On	\$24.00	\$28.00	IP Version Change	\$500.00
24 Port POE Add-On	\$60.00	\$68.00		
8 Port Analog Module Add-On*	\$28.00	\$32.00		

* Note: Limit of one Base Unit 12 Port or 24 port per circuit; Limit of three of each type of Add-On's per circuit.

5.4 AT&T IP Toll-Free

AT&T IP Toll-Free	
Interstate IP Toll-Free Usage	Per Minute - \$0.020
Canada to US IP Toll-Free Usage	Per Minute - \$0.049
Intrastate (Inter- and IntraLATA) IP Toll-Free Usage and IP Transfer Connect Usage	Rates are specified in the applicable Service Publication

5.5 Availability: ABN Express VPN Value Bundle is only available to Customers: (1) not currently purchasing, or who have not purchased in the past 12 months, AT&T IP Flexible Reach, AT&T MIS with the MPLS PNT feature or AT&T Network Based Firewall Service and (2) order and install ABN Express VPN Value Bundle Service at a minimum of at least two Sites.

5.6 Early Termination Charges: In the event Customer terminates any Service or Service Component(s) prior to the expiration of the Term in addition to liability for all charges incurred through the disconnection of the Service or Service Component(s), Customer is liable for the following: (i) Customer must reimburse AT&T for any unrecoverable time and materials costs, including any third party charges, incurred prior to the effective date of the termination; plus, (ii) any unpaid nonrecurring charges; plus, (iii) an termination fee equal to 50% of the total monthly recurring charges for the terminated Service or Service Component(s) for each month remaining in the Term ("Early Termination Fee" or "ETF") or (iv) 50% of the monthly recurring charges for the terminated Service or Service Component multiplied by the months remaining in an applicable Minimum Payment Period. For Customers with a MARC, Customer is liable for Section 5.6(i) and (ii) as specified above, and an Early Termination Fee which shall be equal to 50% of any unsatisfied MARC.

6. ABN Express VPN Value Bundle General Terms and Conditions

6.1 AT&T Corp. or its Affiliates ("collectively AT&T") will provide Customer the services and equipment described in this Agreement ("Services"), and each individual component of a Service ("Service Component"), under the terms of this Agreement, which incorporates-by-reference the terms and conditions set forth under the Service Publication for each individual service provided under this Agreement as if originally set forth herein. AT&T may revise Service Publications at any time. The order of priority of the documents that form this Agreement is: first, this Agreement; then the AUP and then the applicable Service Guides, and, for Mobility Services, (i) the "Optional Products, Services, Equipment and Programs" section of the Service Guide and associated Sales Information for an Optional Program selected by Customer or a CRU will be first in priority but only with respect to such Optional Program, and (ii) the Sales Information for any Mobility Service not provided under a Business Plan selected by Customer or a CRU will be first in priority but only with respect to such Mobility Service, except the AT&T Business Voice over IP (BVoIP) Services Service Guide Section SD-3.2 "Telephone Numbers", which shall have the same priority as these Agreement Terms and the AUP. Customer agrees that it is impractical for AT&T to provide here all the terms and conditions, including rates and charges, which are set forth in the Service Publications, and that AT&T has acted reasonably in providing access to all Service Publications. An "Affiliate" of a party is an entity that controls, is controlled by, or is under common control with such party.



6.2 Services: AT&T will provide or arrange to have the Service or Service Component provided to Customer subject to availability and operational limitations of systems, facilities and equipment. Customer may not resell a Service or Service Component without AT&T's prior written consent. Customer will cause anyone who uses or accesses any Service provided to Customer ("Users") to comply with this Agreement, and Customer is responsible for their use of the Service or any Service Component, unless expressly provided to the contrary in a Service Publication. Customer agrees on its behalf and on behalf of its Affiliates and Users that at all times their use will comply with the AUP.

6.3 Customer will in a timely manner allow AT&T to access, or, at Customer's expense, obtain timely access for AT&T to, property (other than public property) and equipment reasonably required to provide the Service. Access includes information and the right to construct, install, repair, maintain, replace and remove access lines and network facilities, and use ancillary equipment space within the building, necessary for Customer's connection to AT&T's network. Customer will furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities, and other items required to perform installation of the Services, and obtain any necessary licenses, permits and consents (including easements and rights-of-way).

6.4 Customer will ensure that the location at which AT&T installs, maintains or provides the Service is a suitable and safe working environment, free of any substance or material that poses an unreasonable risk to health, safety, or property or whose use, transport, storage, handling, disposal, or release is regulated by any law related to pollution, protection of air, water, or soil, or health and safety. If AT&T encounters any such hazardous materials at a Customer location, AT&T may terminate the affected Service Component, or suspend performance until Customer removes the hazardous materials.

6.5 AT&T Equipment: The Service may include use of certain equipment owned by AT&T and located at Customer's premises ("AT&T Equipment"), but title to the AT&T Equipment will remain with AT&T. Customer must provide electric power for the AT&T Equipment, must keep the AT&T Equipment physically secure and free from liens and encumbrances and will bear the risk of loss or damage (other than ordinary wear and tear) to AT&T Equipment.

6.6 Software: Any software provided to Customer by AT&T will be governed by the written terms and conditions applicable to such software. Subject to such terms and conditions, title to this software remains with AT&T or its supplier. Customer must comply with all such terms and conditions, which take precedence over this Agreement.

6.7 Prices: Unless this Agreement states otherwise, the prices listed in Section 5 of this Agreement are stabilized for the Term. Prices during the Term for each Service and Service Component are provided either in the incorporated Service Publication or are shown above depending on the Service or Service Component. When there is a conflict between this Agreement and the prices, discounts or waivers in the Service Publication for a Service or Service Component, this Agreement controls. During any Auto-Renewal Period, AT&T will continue to provide the Service under the Agreement Terms that are in effect on the last day of the prior Initial or Auto-Renewal Term, unless stated otherwise in this Agreement.

6.8 Taxes; Surcharges; Fees. Prices in this Agreement are exclusive of, and Customer will pay, all current or future taxes, surcharges, recovery fees, shipping charges, and other similar charges.

6.9 Billing, Payments and Deposits: Payment is due 30 calendar days after the invoice date and must refer to the invoice number. Restrictive endorsements or other statements on checks are void. If Customer does not dispute a charge in writing within 6 months after the invoice date, Customer waives the right to dispute the charge (except to the extent applicable law or regulation requires otherwise). AT&T may charge a late fee for overdue payments at the lower of 1.5% per month (18% per annum) or the maximum rate allowed by law; plus all costs (including attorney fees) of collecting delinquent or dishonored payments. AT&T may require Customer to establish a deposit as a condition of providing Services. Customer authorizes AT&T to investigate Customer's credit and share information about Customer with credit reporting agencies.

6.10 Termination and Suspension: Either party may terminate this Agreement immediately upon notice if the other party becomes insolvent, ceases operations, is the subject of a bankruptcy petition, or makes an assignment for the benefit of its creditors. AT&T may terminate or suspend a Service or Service Component, and if the activity implicates the entire Agreement, terminate the entire Agreement, immediately upon notice if Customer: (i) commits a fraud upon AT&T; (ii) utilizes the Service to commit a fraud upon another party; (iii) unlawfully uses the Service; (iv) abuses or misuses AT&T's network or Service; or (v) interferes with another customer's use of AT&T's network or services. Customer may terminate an affected Service for material breach by AT&T without penalty, and AT&T may terminate or suspend (and later terminate) an affected Service for material breach by Customer, if such breach is not cured within 30 calendar days of notice. If Customer fails to rectify a violation of the AUP within 5 calendar days after receiving notice from AT&T, then AT&T may suspend or terminate the affected Service. AT&T has the right, however, to suspend or terminate the applicable portion of the Service immediately when: (i) AT&T's suspension or termination is in response to multiple or repeated AUP violations or complaints; (ii) AT&T is acting in response to a court order or governmental notice that certain conduct must be stopped; or (iii) AT&T reasonably determines: (a) that it may be exposed to sanctions, liability, prosecution, or other adverse consequences under applicable law if AT&T were to allow the violation to continue; (b) that such violation may cause harm to or interfere with the integrity or normal operations or security of AT&T's network or networks with which AT&T is interconnected or interfere with another customer's use of AT&T Services or the Internet; or (c) that such violation otherwise presents imminent risk of harm to AT&T or AT&T's customers or their respective employees. If AT&T terminates a Service Component under this Section, Customer is liable for the applicable early termination or cancellation charge for that Service Component.



6.11 Discontinuance. Notwithstanding that this Agreement may commit AT&T to provide a Service to Customer for a Term, unless applicable local law or regulation mandates otherwise, AT&T may discontinue providing the Service or an individual component of the Service ("Service Component") upon 30 calendar days' notice.

6.12 Disclaimer of Warranties and Liability: AT&T MAKES NO EXPRESS OR IMPLIED WARRANTY AND DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR THOSE ARISING FROM USAGE OF TRADE OR COURSE OF DEALING. FURTHER, AT&T MAKES NO WARRANTY THAT TELEPHONE CALLS OR OTHER TRANSMISSIONS WILL BE ROUTED OR COMPLETED WITHOUT ERROR OR INTERRUPTION (INCLUDING 911 CALLS), NOR ANY WARRANTY REGARDING NETWORK SECURITY, THE ENCRYPTION EMPLOYED BY ANY SERVICE, THE INTEGRITY OF ANY DATA THAT IS SENT, BACKED UP, STORED OR LOAD BALANCED, THAT AT&T'S SECURITY PROCEDURES WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO CUSTOMER'S DATA OR TRANSMISSIONS OR THAT SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. AT&T WILL NOT BE LIABLE FOR ANY DAMAGES RELATING TO: INTEROPERABILITY, ACCESS TO OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, SERVICES, CONTENT OR NETWORKS PROVIDED BY CUSTOMER OR OTHERS; SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR INTERRUPTIONS (EXCEPT FOR LIABILITY FOR SUCH EXPLICITLY SET FORTH HEREIN); ANY INTERRUPTION OR ERROR IN ROUTING OR COMPLETING CALLS OR OTHER TRANSMISSIONS (INCLUDING 911 CALLS); LOST OR ALTERED TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS, OR DESTRUCTION OF CUSTOMER'S OR OTHERS' APPLICATIONS, CONTENT, DATA, NETWORK OR SYSTEMS.

6.13 Limitation of Liability

6.13.1 AT&T'S ENTIRE LIABILITY, AND CUSTOMER'S EXCLUSIVE REMEDY, FOR DAMAGES ARISING OUT OF MISTAKES, OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS OR DEFECTS IN THE SERVICES, AND NOT CAUSED BY CUSTOMER'S NEGLIGENCE, WILL NOT EXCEED THE APPLICABLE CREDITS SPECIFIED IN THE SERVICE PUBLICATION, OR IF NO CREDITS ARE SPECIFIED, AN AMOUNT EQUIVALENT TO THE PROPORTIONATE CHARGE TO CUSTOMER FOR THE PERIOD OF SERVICE DURING WHICH SUCH MISTAKE, OMISSION, INTERRUPTION, DELAY, ERROR OR DEFECT IN THE SERVICE OCCURS AND CONTINUES. THIS LIMITATION WILL NOT APPLY TO: (I) BODILY INJURY, DEATH, OR DAMAGE TO REAL OR TANGIBLE PROPERTY DIRECTLY CAUSED BY AT&T'S NEGLIGENCE; OR (II) SETTLEMENT, DEFENSE OR PAYMENT OBLIGATIONS UNDER THE "THIRD PARTY CLAIMS" PARAGRAPH.

6.13.2 NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY UNDER ANY CIRCUMSTANCES FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES.

6.13.3 These disclaimers and limitations of liability will apply regardless of the form of action, whether in contract, tort, strict liability or otherwise and whether damages were foreseeable. These disclaimers and limitations of liability will survive failure of any exclusive remedies provided in this Agreement.

6.14 Third-Party Claims

6.14.1 AT&T agrees at its expense to defend or settle any claim against Customer, its Affiliates, and its and their employees and directors, and to pay all compensatory damages finally awarded against such parties where the claim alleges that a Service Component infringes any patent, trademark, copyright, or trade secret, except where the claim arises out of: (i) Customer's or a User's content; (ii) modifications to the Service by Customer or third parties, or combinations of the Service with any services or products not provided by AT&T; (iii) AT&T's adherence to Customer's written requirements; or (iv) use of the Service in violation of this Agreement. AT&T may at its option either procure the right for Customer to continue using, or may replace or modify, the alleged infringing Service so that the Service becomes non-infringing, or failing that to terminate the Service without further liability to Customer.

6.14.2 Customer agrees at its expense to defend or settle any claim against AT&T, its Affiliates, and its and their employees, directors, subcontractors, and suppliers, and to pay all compensatory damages finally awarded against such parties where: (i) the claim alleges that a Service infringes any patent, trademark, copyright or trade secret, and falls within the exceptions under (i)-(iv) above; or (ii) the claim alleges a breach by Customer, its Affiliates, or Users of a software license agreement governing software provided with the Services.

6.15 ARBITRATION: ALL CLAIMS OR DISPUTES ARISING FROM THIS AGREEMENT SHALL BE SETTLED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES (SUBJECT TO THE REQUIREMENTS OF THE FEDERAL ARBITRATION ACT) AND ANY JUDGMENT ON ANY AWARD RENDERED MAY BE ENTERED AND ENFORCED IN ANY COURT HAVING JURISDICTION. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY OR TO PARTICIPATE IN OR INITIATE CLASS ACTIONS; IF THE PARTIES CANNOT WAIVE THESE RIGHTS, THIS ENTIRE SECTION IS NULL AND VOID.

6.16 General Provisions: This Agreement and any pricing or other proposals are confidential to Customer and AT&T. Neither party may publicly disclose any confidential information without the prior written consent of the other, unless authorized by applicable law, regulation or court order. Until directed otherwise by Customer in writing, if AT&T designates a dedicated account representative as Customer's primary contact with AT&T, Customer authorizes that representative to discuss and disclose Customer's customer proprietary network information to any employee or agent of Customer without a need for



further authentication or authorization. This Agreement may not be assigned by Customer without the prior written consent of AT&T, which consent will not be unreasonably withheld or delayed. AT&T may: (i) assign in whole or relevant part its rights and obligations under this Agreement to an Affiliate, or (ii) subcontract work to be performed under this Agreement, but AT&T will in each such case remain financially responsible for the performance of such obligations. Any claim or dispute arising out of this Agreement must be filed within two years after the cause of action arises. This Agreement does not provide any third party (including Users) any remedy, claim, liability, cause of action or other right or privilege. Regulated Service Components will be governed by the law and regulations applied by the regulatory commission having jurisdiction over that Service Component. Otherwise, this Agreement will be governed by the law and regulations of the State set forth above for Customer's address, without regard to its conflict of law principles. This Agreement is limited to Service provided in the United States. The United Nations Convention on Contracts for International Sale of Goods will not apply. Except for payment of amounts due, neither party will be liable for any delay, failure in performance, loss or damage due to causes beyond such party's reasonable control, such as fire; flood; lightning; earthquakes; power failures or blackouts; severe weather; explosions; wars or armed conflicts; national, state or local emergencies; civil disobedience; shortage of labor or materials; labor disputes, strikes, or other concerted acts of workers (whether of AT&T or others); embargoes; acts of God; acts of terrorism, or acts of vandalism or acts otherwise known as "Force Majeure". Any notice required or permitted under this Agreement must be in writing and addressed to the parties at the address below. This Agreement constitutes the entire agreement between the parties concerning the Service and supersedes all other written or oral agreements. This Agreement will not be modified or supplemented by any written or oral statements, proposals, service descriptions, or purchase order forms.

THE UNDERSIGNED, ON BEHALF OF CUSTOMER, ACKNOWLEDGES THAT CUSTOMER HAS RECEIVED AND UNDERSTANDS THE ADVISORIES CONCERNING THE CIRCUMSTANCES UNDER WHICH E911 SERVICE USING A VOICE OVER IP SYSTEM MAY NOT BE AVAILABLE OR MAY BE IN SOME WAY LIMITED BY COMPARISON TO USING TRADITIONAL WIRELINE TELEPHONE SERVICE. SUCH CIRCUMSTANCES INCLUDE, BUT ARE NOT LIMITED TO, RELOCATION OF THE END USER'S TELEPHONE SETS OR OTHER EQUIPMENT, USE OF A NON-NATIVE OR VIRTUAL TELEPHONE NUMBER, FAILURE IN THE BROADBAND CONNECTION, LOSS OF ELECTRICAL POWER, AND DELAYS THAT MAY OCCUR IN UPDATING THE CUSTOMER'S LOCATION IN THE AUTOMATIC LOCATION INFORMATION DATABASE. THE ADVISORIES ARE FURTHER PROVIDED AT [HTTP://SERVICEGUIDENEW.ATT.COM](http://SERVICEGUIDENEW.ATT.COM).



By signing below, the person signing on behalf of customer personally represents and warrants to AT&T that he or she has the authority and power to sign on behalf of Customer and bind Customer to this Agreement. Customer understands and agrees to be bound by the terms and conditions for service as described in the attached terms and conditions, including but not limited to all terms and conditions incorporated by reference. THIS AGREEMENT INCLUDES AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES. This Agreement is effective when signed by both Customer and AT&T Corp. ("Effective Date")



Customer (by its authorized representative)	AT&T Corp. (by its authorized representative)
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:



AT&T Business Network (ABN) Express VPN Value Bundle

INITIAL ORDER SUMMARY

Services in Customer's Initial Order – Check ABN Express VPN Value Plan Options to be ordered at each Customer Site	
Customer Site # 1	Street Address: 400 BOARDMAN AVE City: TRAVERSE CITY ST: Michigan Main Telephone Number: 2319224440
Site Name:	
AT&T VPN Value Bundle Bandwidth with Managed Router	Locations in and outside of AT&T ILEC Areas - With or Without Calling Plan <input type="checkbox"/> A -1.5M <input type="checkbox"/> E1 -20M (In AT&T ILEC Areas Only) <input checked="" type="checkbox"/> B -3M <input type="checkbox"/> E2 -20M <input type="checkbox"/> C -6M <input type="checkbox"/> F -50M <input type="checkbox"/> D -10M <input type="checkbox"/> G -100M
AT&T VPN Value Bundle Calling Plan Bundle	<input type="checkbox"/> Option 1 – 6 Concurrent Calls <input type="checkbox"/> Option 2 – 12 Concurrent Calls <input checked="" type="checkbox"/> Option 3 – 23 Concurrent Calls <input type="checkbox"/> Option 4 – 46 Concurrent Calls <input type="checkbox"/> Option 5 – 92 Concurrent Calls <input type="checkbox"/> Not Applicable
	VPN Value Bundle Network Security with Internet Access <input checked="" type="checkbox"/> Yes - Must be used by each Customer Site ordered under this Agreement <input type="checkbox"/> A <input checked="" type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E1 <input type="checkbox"/> E2 <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> No - Service will not be required
AT&T Business in a Box [®] Service (optional)	<input type="checkbox"/> Yes (Not available for AT&T VPN Calling Plan Bundle Option 4 – 46 Concurrent Calls or Option 5 – 92 Concurrent Calls) <input checked="" type="checkbox"/> No
AT&T IP Toll-Free (optional)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Services in Customer's Initial Order – Check ABN Express VPN Value Plan Options to be ordered at each Customer Site	
Customer Site # 2	Street Address: 1750 PROUGH RD SW City: KALKASKA ST: Michigan Main Telephone Number: 2312586600
Site Name:	
AT&T VPN Value Bundle Bandwidth with Managed Router	Locations in and outside of AT&T ILEC Areas - With or Without Calling Plan <input type="checkbox"/> A -1.5M <input type="checkbox"/> E1 -20M (In AT&T ILEC Areas Only) <input checked="" type="checkbox"/> B -3M <input type="checkbox"/> E2 -20M <input type="checkbox"/> C -6M <input type="checkbox"/> F -50M <input type="checkbox"/> D -10M <input type="checkbox"/> G -100M
AT&T VPN Value Bundle Calling Plan Bundle	<input type="checkbox"/> Option 1 – 6 Concurrent Calls <input type="checkbox"/> Option 2 – 12 Concurrent Calls <input type="checkbox"/> Option 3 – 23 Concurrent Calls <input type="checkbox"/> Option 4 – 46 Concurrent Calls <input type="checkbox"/> Option 5 – 92 Concurrent Calls <input checked="" type="checkbox"/> Not Applicable
	VPN Value Bundle Network Security with Internet Access <input checked="" type="checkbox"/> Yes - Must be used by each Customer Site ordered under this Agreement <input type="checkbox"/> A <input checked="" type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E1 <input type="checkbox"/> E2 <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> No - Service will not be required
AT&T Business in a Box [®] Service (optional)	<input type="checkbox"/> Yes (Not available for AT&T VPN Calling Plan Bundle Option 4 – 46 Concurrent Calls or Option 5 – 92 Concurrent Calls) <input checked="" type="checkbox"/> No
AT&T IP Toll-Free (optional)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



Letter of Authorization ("LOA")

Customer Name: TRAVERSE CITY LIGHT & POWER	Customer Account #:	Customer Full Address & Zip: 400 BOARDMAN AVE, TRAVERSE CITY, MI, 496842542, Tel # 2319224440	Customer Contact: Scott Menhart Tel. #: 2319224440 eMail Scott.Menhart@tclp.org
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1. I authorize and appoint AT&T as my agent to take the steps necessary to switch providers, including to handle all arrangements with the Local Exchange Company(s) (LEC), to change (or establish) AT&T Long Distance Service, 'Local Toll' Service, Local Service and International Service to AT&T. AT&T may, upon Customer's express authorization in each instance, offer such service for all telephone lines associated with the main Billed Telephone Number(s) (BTNs) specified in the table below, and to issue instructions to and to otherwise deal with the LEC regarding the BTNs.

2. I understand that: a) only one carrier may be designated for Long Distance Service ("out-of-state" in Connecticut) on any individual telephone number; b) only one carrier may be designated for 'Local Toll' Service, (and in Connecticut "in-state") on any individual telephone number; c) only one carrier may be designated for Local Service on any individual telephone number; and, d) only one carrier may be designated for International Service on any individual telephone number.

3. I understand that Customer may be required to pay a one time charge per line to switch providers. If Company later wishes to return to its current service provider, Company may be required to pay a reconnection charge to that company.

4. Customer Authorizes AT&T to Establish or Switch Services Checked to AT&T for the telephone numbers listed in Attachment A to this LOA.	Long Distance	<input type="checkbox"/> YES
	Local (Intrastate) Toll	<input type="checkbox"/> YES
	Local Service	<input type="checkbox"/> YES
	International Service (For Hawaii Only)	<input type="checkbox"/> YES
5. Customer expressly acknowledges that its authorization is applicable to the locations or to the BTNs and WTNs in the United States listed in Attachment A to this Authorization.	AT&T will maintain a record of any such locations, and of the Billed Telephone Numbers (BTNs), and Working Telephone Numbers (WTNs) to which this Authorization applies. If under Customer's term agreement with AT&T it can add telephone numbers during the course of the term, Customer may add WTNs under this Authorization without the need to modify this LOA or submit a new LOA. (Customer can only select 1 Option for Authorization).	<input type="checkbox"/> YES


This Authorization revokes any prior such authorization for the services involved here, and may be revoked at any time, and shall continue in force unless and until revoked by the Customer. I understand that by signing this document I am authorizing a change in Customer's current telecommunication service provider for the telephone numbers listed in Attachment A to this LOA. By signing below, the person signing on behalf of Customer personally represents and warrants to AT&T that he or she has the authority and power to sign on behalf of Customer.

Customer: (Full Legal Business Name)	
By: (Signature) (Customer completes)	
Print Name (Customer completes)	
Title (Customer completes)	
DATE	

FOR THE LIGHT & POWER BOARD MEETING OF FEBRUARY 10, 2015



TRAVERSE CITY
LIGHT & POWER

To: Light & Power Board
From: Karla Myers-Beman, Controller 
Date: February 4, 2015
Subject: Telecommunications Rate Public Hearing

After reviewing the telecommunications rate that was last adopted in November 1988, staff has prepared new calculations based upon APPA's guidance through their publication Pole Attachment Workbook.

The Federal Communications Commission issues guidance on three different methods for investor owned utilities of how to calculate pole attachment fees. There is the Cable Rate Formula, Telecommunications Rate Formula and the New Telecom Rate. Each of these rates do not allocate all of the common or support space of the pole to all attaching entities, instead they only allocate by usable space, allocate $2/3^{\text{rds}}$ of the common space, or only allow 66% or 44% of the capital costs dependent on whether the utility is located in an urban or nonurban area. In summary, these rates do not allocate the full costs of the pole to the attaching entities, thereby subsidizing the cable and telecommunication industries.

Because TCL&P is a municipally owned utility, TCL&P does not have to follow the guidelines set forth by the Federal Communications Commission. APPA has developed a method for municipal utilities, which addresses equality of allocating all common (usable and safety space) and support space to all pole attachments entities. (A typical pole is 37.5 feet, the support space is 24 feet and the usable space is 10 feet with a safety space required of 3.5 feet.) Staff followed the formula calculation utilizing June 30, 2014 audited numbers and computed the new pole attachment rate at \$12.40 per pole attachment, which is a \$2.40 increase in the tariff rate. Included in the telecommunication tariff rate is an inflationary increase on an annual basis based on the Consumer Price Index – All Urban Consumers based period 1982-84, which will allow the rate to be kept current and not have to be reviewed in the near future.

Staff recommends the Board authorizes the Secretary to set a public hearing for the proposed telecommunications rate increase. This item is appearing on the Consent Calendar as it is deemed by staff to be a non-controversial item. Approval of this item on the Consent Calendar means you agree with staff's recommendation.

If any member of the Board or the public wishes to discuss this matter, other than clarifying questions, it should be placed on the "Items Removed from the Consent Calendar" portion of the agenda for full discussion.

(Motion is on the following page)

FOR THE LIGHT & POWER BOARD MEETING OF FEBRUARY 10, 2015

MOVED BY _____, SECONDED BY _____,

THAT THE BOARD AUTHORIZES THE SECRETARY TO SET A PUBLIC HEARING FOR THE PROPOSED TELECOMMUNICATIONS RATE INCREASE TO BE HELD AT THE FEBRUARY 24, 2015 REGULAR MEETING; AND FURTHER THAT A NOTICE OF THE PUBLIC HEARING BE POSTED ON THE UTILITY'S WEBSITE AND PLACED IN THE TRAVERSE CITY RECORD EAGLE.

City of Traverse City
Light and Power Department
Effective:

TELECOMMUNICATIONS RATE

(Rate "TC")

Availability:

Available to customers, on an individually-negotiated basis, other than public utilities located within the Department's existing Service Area. This rate is offered at the discretion of the Light and Power Board and may not be available if the Board determines, in any particular case, that it is not in the public interest to do so. A signed Agreement is required, which describes terms and conditions of service to which this rate applies.

Nature of Service:

Attachments to the Department's poles must conform to applicable federal, state, and local electrical code requirements as well as Department's standards – particularly with conformance to separation of services. The Department reserves the right to remove attachments at any time, without notice, if removal is required for safety or emergency reasons. The Department will not be liable for damage to telecommunications facilities. If any such damage should occur, customer must pay for replacement, relocation, or repair.

Rates and Charges:

One time license agreement fee:	\$360.00
Permit application fee	\$50.00
Annual Pole Attachment Fee:	\$12.40/pole

The Annual Pole Attachment Fee shall be adjusted annually by any change in the Index known as "United States Bureau of Labor Statistics, Consumer Price Index – All Urban Consumers, base period 1982-84 – 100, (CPI-U)," herein referred to as the "Index."

Any unauthorized attachment penalty fee will be five times the annual attachment fee, per occurrence.

Failure to timely transfer, abandon or remove facilities or improperly assign penalty will be 1/5th the annual attachment fee per day, per pole, first thirty (30) days; after the initial thirty (30) days the penalty shall be equal to the annual attachment fee per day, per pole.

Whenever this Agreement requires Licensee to pay for work done or contracted by Utility, the charge for such work shall include reasonable material, labor, engineering, administrative and applicable overhead costs. If Licensee was required to perform work and fails to perform such work, necessitating completion of the work by Utility, Utility may charge an additional ten percent (10%) of its costs or assess the penalty specified above.

Due Date:

Payment of the Applicable Annual Rates shall be due no later than July 31 of each year for the previous rental period. The initial annual rental period shall commence upon the execution of this Agreement and conclude on June 30 of the next year and each subsequent annual rental period commence on the following July 1 and conclude on June 30 of the subsequent year.

The due date for billings will be thirty (30) days after the billing is mailed. A late charge of 1% per month compounded for any delinquent payments.



TRAVERSE CITY
LIGHT & POWER

To: Light & Power Board
From: Karla Myers-Beman, Controller and *WMB*
Jessica Wheaton, Manager of Energy Services & Key Accounts *JW*
Date: January 30, 2015
Subject: Public Hearing: Metal Melting & Heat Treating Primary Service Rate

All of Traverse City Light & Power's ("TCL&P") customers have been affected by rising costs of purchased power due to inflation and increased Federal and State regulations. The rising costs are also attributed to coal plants being retrofitted to meet the EPA Clean Air Act mandates, coal plants decommissioning with replacement generation unknown at this time, and the premium costs associated with renewable energy requirements mandated by the State. The customer's most significantly impacted by these regulations is the industrial customer class.

After the July 2014 rate increase, it came to TCL&P's attention that Consumers Energy has a Metal Melting Primary Pilot Rate ("MMPPR") within their rate schedules that a TCL&P customer would benefit from if the utility were to offer a similar rate. It would allow the customer to be more competitive in the market with similar entities within the State of Michigan. As one of TCL&P's goals being to provide the lowest rates in the area, staff began the process of gathering information and analyzing the difference between TCL&P's current industrial rate and the MMPPR.

After analyzing the data, staff shared the information with Utility Financial Solutions. Although all the necessary information on Consumers Energy's rate calculation was not available, specifically the critical peak event information, the analysis provided as close to an apples-to-apples comparison to TCL&P's Primary Rate as possible. The analysis showed that the Consumers Energy rate was more competitive than the rate TCL&P currently offers to a qualifying customer. Based on this information, Utility Financial Solutions created a proposed Metal Melting & Heat Treating Primary Service Rate, which is attached. This rate accelerates the cost of service subsidization between classes while moving to a more accurate way of billing based on the demand charge units (KW) rather than the energy charge (kWh). (This was discussed at the December 9, 2014 meeting with Mark Beauchamp's presentation.) The proposed rate would result in an 8.8% decrease for qualifying industrial customers currently on TCL&P's Primary Rate, or an annual savings of approximately \$180,000.

Currently, there is only one customer of TCL&P's that would qualify for this rate. Included in your packet is a letter from that customer in support of the creation of the new rate.

Staff was initially going to recommend the rate be retroactive to the uncapping of the PCR, October 1, 2013, when the initial impact of true purchase power costs was passed through to the utility's customers. However, General Counsel recommended to not make a rate retroactive that would impact the June 30, 2014 audited fiscal year; therefore, staff's recommendation is to make the rate

FOR THE LIGHT & POWER BOARD MEETING OF FEBRUARY 10, 2015

retroactive for the qualifying customer effective July 1, 2014 to coincide with the last rate increase and start of the new fiscal year. Prior to this rate being implemented a public hearing needs to take place. It is staff's recommendation that the Board set a public hearing for the proposed rate at its February 24, 2015 meeting.

If after Board discussion you are in agreement with staff's recommendation, the following motion would be appropriate:

**MOVED BY _____, SECONDED BY _____, THAT
THE LIGHT AND POWER BOARD AUTHORIZES THE SECRETARY TO SET A PUBLIC
HEARING FOR THE CREATION OF A METAL MELTING & HEAT TREATING
PRIMARY SERVICE RATE TO BE HELD AT THE FEBRUARY 24, 2015 REGULAR
MEETING; AND FURTHERMORE THAT A NOTICE OF THE PUBLIC HEARING BE
POSTED ON THE UTILITY'S WEBSITE AND PLACED IN THE TRAVERSE CITY
RECORD EAGLE.**

City of Traverse City
Light and Power Department
Effective:

METAL MELTING & HEAT TREATING PRIMARY SERVICE

(Rate "MM")

Availability:

Open to any customer who provides metal melting and heat treating services and is desiring primary voltage service for general use where the billing demand is 500 kW or more. This rate is not available for street lighting service or for resale purposes.

Nature of Service:

Alternating current, 60 hertz, single phase or three phase, the particular nature of the voltage in each case to be determined by the Department.

Where service is supplies at a nominal voltage of 15,000 volts or less, the customer shall furnish, install and maintain all necessary transforming, controlling and protective equipment.

Beginning July 1, 2014 any new customers must purchase and retain ownership of all necessary transforming, controlling and protective equipment, and, install and maintain this equipment at their expense. The customer is responsible for all costs and liability associated with the transforming, controlling and protective equipment.

Where the Department elects to measure the service at a nominal voltage of less than 2,400 volts, 3% will be added for billing purposes to the demand and energy measurements thus made.

Monthly Rate:

Customer Charge:	\$40.00 per meter per month, plus
Capacity Charge:	\$8.48 per kW of the highest on-peak billing demand for the past twelve months
Energy Charge:	6.4¢ per kWh for all kWh consumed during the on-peak period, November through May. 6.7¢ per kW for all kWh consumed during the on-peak period, June through October 5.0¢ per kWh for all kWh consumed during the off-peak period.

Power Service Cost Recovery:

This rate is subject to the Department's Power Service Cost Recovery.

Metal Melting & Heat Treating Primary Service (Rate"MM"), cont.

High Load Factor Credit:

Monthly credits will be given to high load factor customers as follows:

<u>Load Factor</u>	<u>% Credit on Total Billed Amount</u>
90% - 100%	5%
80% - 89%	4%
70% - 79%	3%

Minimum Charge:

The capacity charge included in the rate.

Due Date:

The due date of the customer's bill will be shown on the bill and will be at least twenty-one (21) days. Payments received after the due date are considered late, and a penalty charge of 2% shall be imposed as a one-time charge.

On-Peak Billing Demand:

The on-peak billing demand shall be the kilowatts (kW) supplied during the 30-minute period of maximum use during on-peak hours during the month, per schedule below.

Schedule of On-Peak, Off-Peak and Intermediate-Peak Hours

The following schedule shall apply Monday through Friday (except holidays designated by the Department). Weekends and holidays are off-peak.

On-Peak Hours:	10:00 a.m.	to	5:00 p.m.
Off-Peak Hours:	5:00 p.m.	to	10:00 a.m.

Holidays designated by the Department

The following are designated as holidays by the Department:

New Year's Day	Independence Day	Thanksgiving Day
Memorial Day	Labor Day	Christmas Day

Adjustment for Power Factor:

This rate requires a determination of the average power factor maintained by the customer during the billing period. Such average power factor will be determined through metering of lagging kilovar hours and kilowatt hours during the billing period. The calculated ratio of lagging kilovar hours to kilowatt hours will then be converted to the average power factor for the billing

Metal Melting & Heat Treating Primary Service (Rate"MM"), cont.

period by using the appropriate conversion factor. Whenever the average power factor during the billing period is above 0.899 or below 0.800, the capacity charge will be adjusted as follows:

- a. If the average power factor during the billing period is 0.900 or higher, the capacity charge will be reduced by 2%. This credit shall not in any case be used to reduce the prescribed minimum charge.
- b. If the average power factor during the billing period is less than 0.800, the capacity charge will be increased by the ratio that 0.800 bears to the customer's average power factor during the billing period.



2411 West Aero Park Court
Traverse City, Michigan 49686
Telephone: (231) 941-7800
Telefax: (231) 941-2346

Traverse City Light & Power

1131 Hastings Street

Traverse City, MI 49686

Dear TCL & P Board members,

On July 1, 2014 we received a substantial rate increase for our electricity. On October 8, 2014 we were informed that the Power Service Cost Recovery rate will be increasing as well. The combination of these increases is having a significant negative impact on our financial stability and threatens our ability to compete within the metal treating markets.

At this time we would like to respectfully request that you consider a "Metal Melting Rate" for large industrial energy consumers such as ourselves. This type of "Pilot Rate" could substantially lower our energy costs and allow us to compete on a more even playing field within our industry.

Any consideration on your part would be appreciated as it would be instrumental in helping us secure and maintain our market share and the jobs that we provide for the community.

Sincerely,

Jim Black, Vice President

A handwritten signature in black ink that reads "Jim Black".

Century Sun Metal Treating



STRATEGIC ISSUE: Financial Stability

OPERATING STRATEGY: “Maintain positive operating cash flows and adequate capital reserves to sustain the financial health of the utility.”

BUSINESS GOALS:

1. Provide transparent communications on the financial health of the organization to customers through an annual report by March 31, 2015.
2. Enhance public engagement through quarterly performance reporting to the Board and public (on-going).
3. Gather information from the utility’s ratepayers as to an acceptable annual contribution to the City of Traverse City.
4. Review current workplace flows for efficiency enhancement through new developed process and procedures that will provide a proper planning environment and execution process for utility projects.
5. Develop and implement rate structures to promote financial stability along with energy conservation.

BOARD NOTES:

STRATEGIC ISSUE: Power Supply Strategy

OPERATING STRATEGY: “Ensure sufficient power supply in a fiscally responsible manner.”

BUSINESS GOALS:

1. Create a long-term plan designed to implement programs and/or incentives that will manage load growth aimed at reducing on-peak demand by July 31, 2015. Energy efficiency programs will be implemented to achieve the maximum energy efficiency outcomes for the dollar amounts budgeted for the benefit of all ratepayers.
2. Implement recommendations from the Integrated Resource Plan (IRP) report.
3. Investigate generation opportunities that compliment the power supply mix.
4. Develop a plan for meeting State guidelines on the new Energy Plan – 2015.

BOARD NOTES:



STRATEGIC ISSUE: System Reliability & Power Quality

OPERATING STRATEGY: “Take a proactive approach to maintain a high level of system reliability in a cost effective manner.”

BUSINESS GOALS:

1. Annually review, enhance and develop system maintenance programs ensuring Average Service Availability Index (ASAI) remains above 99.970%.
2. Develop a rating system to prioritize capital system improvements, to be updated annually.
3. Coordinate construction projects between TCL&P, other city departments, and other utilities.
4. Create written switching and tagging procedures as recommended by Hometown Connections.

BOARD NOTES:

STRATEGIC ISSUE: Technology

OPERATING STRATEGY: “Embrace technologies for the benefit of the customers and community.”

BUSINESS GOALS:

1. Enhance video security monitoring at TCL&P’s facilities by June 30, 2015.
2. Implement a new work order management system by June 30, 2015.
3. Install and implement an Integrated Voice Response (IVR) system for outage management by September 30, 2015.
4. Fully implement MilSoft Outage Management and Engineering Analysis Program by June 30, 2015.
5. Update the utility’s Supervisory Control and Data Acquisition (SCADA) System to current technology by December 31, 2015.
6. Complete a study analyzing implementation reasons for the Advanced Metering Infrastructure (AMI) Pilot by December 31, 2015.
7. Safeguard the utility from cyber threats to stay current with industry standards (on-going).
8. Create emergency technology back-up procedures by September 30, 2015.
9. Research and implement technology that will effectively communicate pertinent utility information with customers.

BOARD NOTES:



STRATEGIC ISSUE: High Quality Workforce

OPERATING STRATEGY: “Create and maintain an organizational culture that empowers and educates employees with the end result being a safe, motivated, and highly skilled workforce.”

BUSINESS GOALS:

1. Continue engaging in efforts towards employee professional development and performance management in order to ensure that the workforce has the knowledge, skills and abilities to evolve in their positions and are accountable in the work being performed (on-going).
2. Align work tasks, processes, and knowledge and skill requirements with both current and future needs of the organization.
3. Enhance employee engagement on issues facing the utility through communication efforts that are transparent and effective.
4. Modernize recruitment strategies, selection techniques and retention efforts to ensure that the utility is successful in attracting and retaining qualified candidates.
5. Promote employer and worker awareness of, commitment to, and involvement with safety to effect positive change in the workplace culture through cooperative efforts and strong leadership.

BOARD NOTES:

STRATEGIC ISSUE: Customer Satisfaction

OPERATING STRATEGY: “Sustain and improve the utility’s goodwill to all customers by going the extra mile.”

BUSINESS GOALS:

1. Maintain a customer satisfaction rating above 95%.
2. Maintain customer rates lower than other utilities in the area.
3. Enhance the utilities communications efforts and community involvement by implementing the Communications Strategy.
4. Continually analyze new and current value-added programs to meet or exceed the customer expectations of its utility.
5. Evaluate and implement services focused on assisting the unique needs of the utility’s key account customers by December 31, 2015.

BOARD NOTES: