

1 **Q. Relocate/Replace Distribution Lines for Third Parties pp. 48-49 of 100.**

2
3 **Please provide the pertinent contract language as regards requests for relocation**
4 **and replacement of distribution facilities by governments and other utility service**
5 **providers.**

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7 Relocation and replacement of plant for Bell Aliant is covered under Section 7 of the
8 Facilities Partnership Agreement. A copy is provided in Attachment A.

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10 Relocation and replacement of plant for cable operators is covered under Article 7 of the
11 Pole Rental Agreement with these parties. A copy is provided in Attachment B.

12
13 Relocation and replacement of plant for the Government of Newfoundland and Labrador,
14 Department of Works, Services and Transportation is covered under the *Works, Services*
15 *and Transportation Act*. An excerpt from the *Act* is provided in Attachment C.

Facilities Partnership Agreement
Section 7

SECTION 7 - ADDING, CHANGING, REPLACING AND RELOCATING EXISTING SUPPORT STRUCTURES OR ATTACHMENTS

7.01 Replacement of Poles, Pole Units or Support Structures

Where there is Replacement of Poles, Pole Units or Support Structures, NP shall make any other necessary changes, including Line Clearing in the Pole Line containing the Support Structures, as may be necessary to meet the requirements of SECTION 16 - CONSTRUCTION PRACTICES.

7.02 Placement and Replacement of Support Structures on Aliant Tower Sites

Except in cases of emergency, NP shall not, without the prior approval of Aliant, place or replace Support Structures within one hundred (100) metres of any telecommunications tower, tower anchor, or associated building at a telecommunications tower site owned by Aliant or used by Aliant in the transmission of telecommunications services.

7.03 Replacement of Joint Use Support Structures for Aliant's Additional Attachments

Where Support Structures are not suitable, as provided in SECTION 16 - CONSTRUCTION PRACTICES, for the proposed additional Attachments of Aliant, and NP replaces the Support Structures, the costs involved in Transferring, Rearranging or removing the Attachments of both Parties shall be paid by Aliant as provided in SECTION 8 - TRANSFER COSTS. Aliant shall also pay to NP the Sacrificed Value for each Support Structure Replaced by NP for which Aliant is required by SECTION 8 - TRANSFER COSTS to pay Transfer costs.

7.04 Replacement of Joint Use Support Structures for NP's Additional Attachments

Where Support Structures are not suitable, as provided in SECTION 16 - CONSTRUCTION PRACTICES, for the proposed additional Attachments of NP, and NP replaces the Support Structures, the costs involved in Transferring, Rearranging or removing the Attachments of both Parties shall be paid by NP as provided in SECTION 8 - TRANSFER COSTS.

7.05 Additional Pole Units in Existing Joint Use Pole Lines

- (a) Where a Party requires the installation of an additional Pole Unit in an existing Joint Use Pole Line, that Party must forward a completed Support Structures Work Request Form to the other Party, and;
 - (i) where one Party requires the installation of an additional Pole Unit in an existing Joint Use Pole Line and the other Party does not require the additional Pole Unit, NP will install the unit and the Party requiring the Additional Pole Unit will pay the costs of placing the Attachments of both Parties.
 - (ii) where both Parties require the installation of an additional Pole Unit in an existing Joint Use Pole Line, NP shall install the unit and each Party shall bear its own costs of placing the Attachments.
- (b) In this Section 7.05, an "additional Pole Unit" includes a mid-span Pole Unit if required in a span length between two Pole Units that exceeds 61 metres.
- (c) The Party who did not request the Pole Unit is expected to use reasonable engineering judgment in assessing whether it will derive a benefit from the additional Pole Unit, and if such Party will derive a benefit from the additional Pole Unit, the Parties shall bear their own costs of attaching to the Pole Unit.

7.06 Replacement of Substandard Joint Use Poles

Where Support Structures are not suitable, as provided in SECTION 16 - CONSTRUCTION PRACTICES, for the existing Attachments of either Party and the condition of the Support Structures presents a safety or service hazard, NP shall replace the Support Structures and each Party shall bear its own Transfer costs.

7.07 Replacement of Damaged Poles or Poles at the End of their Useful Life

Where a Support Structure is suitable, as provided in SECTION 16 - CONSTRUCTION PRACTICES, for the existing Attachments of Aliant but requires replacement solely as a result of having reached the end of its useful life or as a result of being damaged by an external force, NP shall replace the Support Structure at its own cost. The cost of Transferring Attachments will be as provided in SECTION – 8 TRANSFER COSTS.

7.08 Replacement of Transformer Poles

For transformers placed on or subsequent to January 1, 1988, in cases where it can be reasonably established that the transformer was placed subsequent to the attachment of the initial communications cable, and the transformer interferes with the Communications Space, and it is not feasible to relocate the transformer or for Aliant to place its proposed Attachments on the opposite side of the Pole, then NP will replace the Pole to accommodate the proposed Attachments of Aliant and NP will bear the Transfer costs of the Parties.

7.09 Replacement of Specific Poles

Where a Pole carrying certain Attachments including but not limited to distribution terminals, load coils, repeaters, cross boxes, air dryers, terminals of aerial cable, transformers and underground cables, or where a Pole is located at such locations including but not limited to dead ends, corners, and junctions, and the Pole is to be Replaced, NP shall co-ordinate with Aliant to place the new Pole in a mutually acceptable location to accommodate the Attachments of both Parties.

Pole Rental Agreement
Article 7

ARTICLE 7 - POLE INSTALLATIONS, REPLACEMENTS AND REARRANGEMENTS

- 7.01 If the placement of the Facilities causes, in the reasonable opinion of the Power Company and the Licensee, the installation, replacement or relocation of any Poles or any Power Company equipment, the Power Company will install, replace or relocate the Poles and the Power Company equipment as necessary and the Licensee shall, on demand and presentation of a statement of cost, reimburse the Power Company for its reasonable costs and expenses less any benefit derived by the Power Company from the alterations, such benefits to be restricted to replacement cost of a Pole of similar size less the Structural Value of the Pole being removed. The Structural Value shall be calculated as the estimated cost to install a new Pole of similar size multiplied by the appropriate percent condition factor as set forth in Schedule 2 of the Agreement. Prior to commencing any work, the Power Company shall provide to the Licensee, in reasonable detail, a written estimation of costs and expenses and a reasonable period to elect or decline to have such work carried out. In any event, the Power Company undertakes to carry out any and all such work as economically as possible. In the event that the Licensee elects to decline to have such work carried out, then it shall, at its expense, remove the Facilities from the Pole(s) in question.

Work Services & Transportation
Highway Relocations

SNL1995 CHAPTER W-12

WORKS, SERVICES AND TRANSPORTATION ACT

Amended:

**1996 cR-10.1 s84; 1998 c20; 1999 c41 (this amendment has not been proclaimed and does not form part of this consolidation);
2001 cN-3.1 s2; 2004 cG-6.1 s11**

CHAPTER W-12

AN ACT RESPECTING PUBLIC WORKS, SERVICES AND TRANSPORTATION

(Assented to December 21, 1995)

PART I

PROVISIONS CONCERNING HIGHWAYS

Utility poles

29. (1) A public utility as defined in the *Public Utilities Act* which provides telephone or telegram service or electric power or energy or heat may erect or place and maintain on or under a highway, poles, anchors, underground cables, conduits or pipes where the poles, anchors, underground cables, conduits or pipes are erected or placed

- (a) within a reservation prescribed in regulations made under section 8;
- (b) not nearer to the centre of the highway than 1.5 metres from the outside boundary of a reservation referred to in paragraph (a); and
- (c) other than on or under a roadway.

(2) Notwithstanding subsection (1), a public utility referred to in subsection (1) may, with the prior written consent of the minister, erect or place and maintain poles, anchors, underground cables, conduits or pipes on or under a portion of a reservation referred to in paragraph (1)(a) which is nearer to the centre of the highway than 1.5 metres from the outside boundary of that reservation, which consent may contain terms and conditions pertaining to the erection or placement and maintenance.

(3) A public utility referred to in subsection (1) whose wires or cables cross a highway shall ensure that those wires or cables installed, repaired or replaced after December 3, 1982 have a minimum clearance over the highway in accordance with specifications made by the Canadian Standards Association but in no event shall the clearance be less than 5.5 metres.

(4) Notwithstanding subsection (3), a public utility referred to in subsection (1) whose wires or cables cross a highway shall, not later than a date set by the regulations, ensure that those wires or cables have a minimum clearance over the highway in accordance with specifications made by the Canadian Standards Association but in no event shall the clearance be less than 5.5 metres.

(5) In subsection (1) the expression "reservation prescribed in regulations made under section 8" means that area in which under those regulations the erection, alteration, repair or improvement of fences, buildings or other structures or the planting of trees, shrubs or hedges is, without the minister's permission, prohibited.

30. (1) Where a person has works or structures, including telegraph, telephone or electric light or power wires and poles, upon or crossing a highway, the minister may repair or make those alterations in location or elevation or grade that may be necessary for the proper construction of the highway and may by an order in writing direct the removal or alteration of the works or structures by the owner of the works or structures and may designate the place to which they shall be removed and the alterations to be effected, and the owner of the works or structures shall, upon the receipt of the order, proceed to effect their removal or alteration in accordance with the order and within a period that may be prescribed in the order.

(2) The minister may, from money provided by the Legislature, pay to the owner of the works or structures referred to in subsection (1) an amount sufficient to defray expenses or losses incurred by the owner in carrying out an order of the minister made under that subsection, and the amount to be paid may be settled by agreement between the minister and the owner, but, where the amount cannot be so settled, the minister shall decide the amount and his or her decision is final and binding upon the parties.

(3) Where the owner of the works or structures referred to in subsection (1) fails to carry out the order of the minister referred to in that subsection within the period specified in the order or within a further period that the minister may in writing allow, the owner is guilty of an offence, and the minister may by his or her servants or agents effect the removal or alteration required by the order and the minister may sue for and recover the cost of the removal or alteration from the owner as a civil debt.