



## MEMORANDUM

**TO:** Mayor and Council Members

**CC:** Marc A. Ott, City Manager  
Robert D. Goode, Assistant City Manager

**FROM:** Jackie A. Sargent, General Manager

**DATE:** August 31, 2016

**SUBJECT:** Agenda Item 24 Additional Backup - Response to Charter Communications' Letter to Council

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This memorandum is in response to concerns raised by Charter Communications' (formerly known as Time Warner Communications) August 17, 2016, letter to Council regarding Austin Energy's proposed cost reimbursement agreements for make-ready, construction, and replacement work on utility poles with telecommunication, cable, data, and franchised video-service providers who have infrastructure license agreements with Austin Energy.

### Background

Austin Energy (AE) first presented this item to Council in the June 17, 2016, General Manager's Report, and again in a presentation to the Utility Oversight Committee on August 8, 2016. On August 15, 2016, the Electric Utility Commission recommended approval of the RCA slated for Council consideration on August 18, 2016, (Item 65). For agenda management purposes and to enable AE to respond to Charter, the item was postponed to the September 1, 2016, Council meeting.

### Response

AE considers Charter's concerns to be unfounded, as clarified in this memo below and as discussed with Charter's representative. This RCA is requesting authority to negotiate and execute cost reimbursement agreements with already licensed telecom providers. It is not specific to any one provider, but instead allows those providers who are seeking an expedited deployment and a quicker pole replacement process to enter into agreement with AE to receive reimbursement for the costs for which AE would normally be responsible.

Charter's letter requested further clarification regarding the following:

1. Will the City be paying for pole costs that are the responsibility of third party attachers?
2. Is AE incorporating a "One Touch" process into this request?

The City will only be paying pole costs for which it is responsible. This RCA explicitly authorizes only the reimbursement for AE poles that are broken, rotten, or otherwise non-compliant (e.g. code or standard violation), for which AE has financial responsibility to pay. AE

has a thorough and detailed process to review pole attachment applications that include determining the current condition of the pole. If the pole is deemed needing to be replaced due to the conditions listed above, then AE normally suspends the application until pole replacement can be scheduled; due to the heavy workload and current staffing levels, this could take 6-12 weeks. For small telecom deployments, this is typically manageable. If it is deemed that the pole needs to be replaced because there is not enough space on the pole to add a new attachment, then the telecom making the application is responsible for the cost to replace the pole. The accounting of who is responsible for pole replacement costs is clearly defined in the current process and will be a part of any agreements entered into with third party attachers going forward.

AE is not authorizing or incorporating a “One Touch” process. “One Touch” is a process where a single entity or contractor is authorized to perform all of the make-ready or relocations on a pole, including relocating other third party attachers’ infrastructure. The current process and the process moving forward to be incorporated in any cost reimbursement agreements requires a third party attacher to notify and obtain consent to relocate another attacher’s infrastructure. If an attacher does not grant consent, they are given time to relocate their infrastructure themselves.

Charter’s letter posed specific questions; they are listed below with AE’s responses:

How many (or what percentage of) AE poles need to be replaced that are AE's responsibility?

This is unknown, as the percentage of poles that are broken or rotten depends on the age of the poles in the area in which communication facilities are being deployed. Although in general the number of non-compliant poles is relatively small, it will vary dependent upon routes chosen by an attacher and the age, environmental conditions, and upgrade and maintenance history of AE’s poles serving those routes.

Is this consistent with the experience of other pole owners within the City (namely, AT&T)?

AE is not able to address another pole owner’s infrastructure as an attacher is responsible for entering separate agreements with that pole owner.

Is the Council, City staff and AE staff certain that no new poles will be paid for from these funds that are not being replaced to accommodate a new entrant, including Google Fiber?

What mechanisms are in place to ensure that this does not happen? Yes. AE’s Infrastructure Asset Management (IAM) Group manages all third party attachments. All attachers who have a license agreement with AE have to file an application which is reviewed and approved or denied by the IAM Group. All poles requiring replacement are inspected by IAM personnel prior to work commencing.

Will there be periodic reporting and accounting of pole replacement costs made to the Council or City staff? AE is responsible for tracking and monitoring all pole replacement costs incurred by the utility.

AE staff is scheduled to meet with Charter today, August 31, to further address their concerns. Please let me know if you have any questions.

Attachment: Charter’s letter