

December 1, 2006

VIA E-MAIL & UPS OVERNIGHT DELIVERY

Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol Street NE #215
Salem, OR 97308-2148

Re: UM 1272
Oregon Trail Electric Consumers Cooperative, Inc. v. Almega Cable

Dear Ms. Hulse:

Attached for filing are Oregon Trail Electric Consumers Cooperative, Inc.'s Motion to Stay Proceedings, Affidavit of Amie Jamieson in Support of Motion, and Certificate of Service regarding the above-referenced matter. The original, plus one copy, are being sent via overnight delivery today.

Please contact me with any questions.

Sincerely,



Amie L. Jamieson

Enclosures

cc: Thomas Kurien, Almega Cable (w/encls.-via E-mail & UPS Overnight Delivery)
Ken Kissell, Oregon Trail Electric Consumers Cooperative, Inc. (w/encls.-via E-mail)

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **UM 1272**

4 OREGON TRAIL ELECTRIC CONSUMERS
5 COOPERATIVE, INC.

6 Petitioner,

7 v.

8 ALMEGA CABLE,

9 Respondent.

MOTION TO STAY PROCEEDINGS

10
11 Oregon Trail Electric Consumers Cooperative, Inc. ("Oregon Trail") respectfully submits
12 this Motion to Stay Proceedings ("Motion to Stay") to the Public Utility Commission of Oregon
13 ("Commission") in accordance with OAR 860-013-0031.

14 **I. INTRODUCTION**

15 On July 14, 2006, Oregon Trail submitted its Petition for Remedy of Pole Attachment
16 Violations, Payment of Sanctions and Rental Fees, and Removal of Pole Attachments
17 ("Petition"). In the Petition, Oregon Trail asked that the Commission order Almega Cable
18 ("Almega") to remedy all violations of OAR 860-028-0120(1)(c) and (d) on Oregon Trail's poles
19 caused by Almega, to pay sanctions to Oregon Trail for violations of OAR 860-028-0120(1)(c)
20 and (d), and to pay past-due rental fees to Oregon Trail. Oregon Trail also requested that the
21 Commission include in its order the condition that if Almega fails to comply with the
22 Commission's order within 30 days, Oregon Trail may remove Almega's pole attachments and
23 charge Almega any costs associated with removal of the attachments. On August 1, 2006,
24 Oregon Trail filed a Motion to Amend Petition ("Motion to Amend") to correct and update
25 information contained in the Petition. The Motion to Amend was granted on August 23, 2006.
26

1 On November 7, 2006, the parties participated in a telephone pre-hearing conference to
2 set the schedule for the docket. On November 8, 2006, Administrative Law Judge Christina
3 Hayes issued a ruling setting the schedule for the docket. Almega filed its answer (“Answer”)
4 with the Commission on November 22, 2006 and served Oregon Trail with a complete version of
5 the Answer on November 27, 2006.¹ According to OAR 860-013-0050(3)(b), Oregon Trail has
6 15 days from service to file a motion against the Answer. Therefore, Oregon Trail must file its
7 motion against the Answer by December 12, 2006.

8 II. MOTION

9 Oregon Trail hereby moves for the Commission to stay the proceedings and all filing
10 requirements in this docket in order to allow the parties to settle without prejudicing the rights of
11 either party. Oregon Trail respectfully requests that the Commission rule on this Motion to Stay
12 in sufficient time for Oregon Trail to prepare a motion against the Answer by the December 12,
13 2006 deadline or extend the time by which Oregon Trail may file its motion in response to the
14 Answer.

15 III. DISCUSSION

16 In the time since the pre-hearing conference, the parties have been in contact to discuss a
17 potential settlement of their dispute. On November 30, 2006, the parties reached a preliminary
18 verbal agreement that, if finalized, would result in the disposition of Oregon Trail’s claims in this
19 docket. In order to allow the parties time to finalize their agreement and avoid having the rights
20 of either party prejudiced, Oregon Trail respectfully requests that the Commission grant this
21 Motion to Stay.

22 If the Commission rules on this Motion to Stay after December 12, 2006, Oregon Trail
23 will have lost its opportunity to file a motion against the Answer. Oregon Trail wishes to
24 preserve its ability to file a motion against the Answer in the event that the parties are unable to
25 finalize their settlement discussions and Oregon Trail deems such a motion appropriate.

26 ¹ Although Almega sent the Answer to Oregon Trail via e-mail on November 21, 2006, the Answer attached to the e-mail did not include the appendices. Oregon Trail received the complete Answer via mail on November 27, 2006.

1 Therefore, Oregon Trail requests that the Commission rule on this Motion to Stay in sufficient
2 time for Oregon Trail to prepare a motion against the Answer or, alternatively, provide Oregon
3 Trail with additional time to prepare such a motion. Should the settlement discussions between
4 the parties fail, Oregon Trail agrees to provide the Commission notice of this event and move the
5 Commission to order a pre-hearing conference.

6
7 WHEREFORE, Oregon Trail respectfully requests that the Commission stay the
8 proceedings and all filing requirements in this docket and either provide expedited review of this
9 Motion to Stay or extend the time by which Oregon Trail may file its motion in response to the
10 Answer.

11
12 Respectfully submitted this 1st day of December, 2006.

13 ATER WYNNE LLP

14
15 By: 

16 Kirk Gibson OSB #85122
17 Amie Jamieson OSB #05439
18 Ater Wynne LLP
19 222 SW Columbia, Suite 1800
20 Portland, OR 97201
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4 OREGON TRAIL ELECTRIC CONSUMERS
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6 Petitioner,

7 v.

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9 Respondent.

**AFFIDAVIT OF AMIE JAMIESON
IN SUPPORT OF MOTION TO
STAY PROCEEDINGS**

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11
12 I, Amie Jamieson, do depose and say:

13 1. I am an attorney representing Oregon Trail Electric Consumers Cooperative, Inc.
14 (“Oregon Trail”) in the above-referenced docket.

15 2. On November 21, 2006, I received an e-mail message from Thomas Kurien with a
16 document labeled “Response” attached.

17 3. The e-mail message stated “Response from Almega Cable without attachments.
18 Hard copy of the response Document and Attachments [*sic*] are mailed US Mail.”

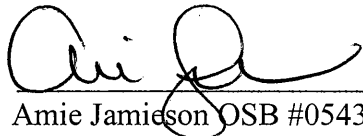
19 4. On November 27, 2006, I received via mail a copy of the Response with
20 appendices attached.

21 5. On November 29, 2006, Ken Kissell, Manager of Operations of Oregon Trail,
22 informed me that he had discussed a settlement with Thomas Kurien and that the parties verbally
23 agreed to settlement terms.

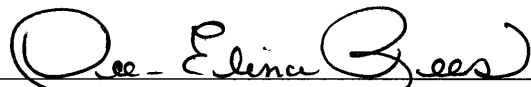
24 ///

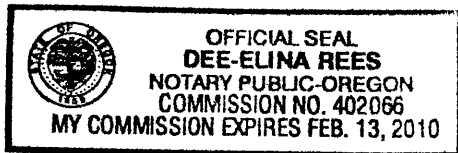
25 ///

1 Respectfully submitted this 1st day of December, 2006.

2
3
4 By: 
5 Amie Jamieson OSB #05439
6 Attorney
7 Ater Wynne LLP
8 222 SW Columbia, Suite 1800
9 Portland, OR 97201
10 Telephone: (503) 226-8442
11 FAX: (503) 226-0079
12 E-mail: alj@aterwynne.com

13 SUBSCRIBED AND SWORN TO before me this 1st day of December, 2006.

14 
15 Notary Public for Oregon
16 My commission expires: 2/13/2010



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **OREGON TRAIL ELECTRIC CONSUMERS COOPERATIVE, INC.'S MOTION TO STAY PROCEEDINGS** and **AFFIDAVIT OF AMIE JAMIESON IN SUPPORT OF MOTION TO STAY PROCEEDINGS** was served via e-mail and overnight delivery on the following party:

Thomas Kurien
Almega Cable
4001 West Airport Freeway, Suite 530
Bedford, TX 76021-6125

Dated: December 1, 2006

ATER WYNNE LLP



Dee-Elina Rees, Legal Secretary

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