

August 25, 2006

*Via Electronic Filing and Hand Delivered*

Oregon Public Utility Commission  
Attention: Filing Center  
550 Capital Street, N.E., Suite 215  
Salem, Oregon 97308-2148

Re: AR 506: In The Matter of a Rulemaking to Amend and Adopt Permanent Rules in OAR 860, Division 028 Regarding Pole and Conduit Attachments

Enclosed for filing in the above-captioned docket is Oregon Cable Telecommunications Association's Reply to Staff's Response to the issues lists.

If you have any questions regarding this filing, please contact me at (503) 362-8838.

Sincerely,

Michael W. Dewey  
Executive Director

c: AR 506 Service List

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

AR 506

PHASE II

In the Matter of a Rulemaking to Amend and	)	Reply to PacifiCorp's
Adopt Permanent Rules in OAR 860,	)	Response to Issues List of
Division 028 Regarding Pole and Conduit	)	Verizon Northwest Inc.
Attachments	)	

The Oregon Cable Telecommunications Association (OCTA) supports the inclusion of the sanction rules, OAR 860-028-0120 through 860-028-0200, on the issues list in AR 506 Phase II.

The Oregon Public Utility Commission Staff opposes this request and asserts the administrative rulemaking notice creating AR 506 is not "broad enough" to include sanctions and various parties have "not shown sufficient justification to address the sanction rules now in this docket."

Verizon in a letter submitted on August 16, 2006 provides a clear and concise legal rationale as to why sanctions may be addressed in AR 506. OCTA does not believe it is necessary to expand on Verizon's well-reasoned letter.

As to Staff's claim that there is not sufficient justification to address sanctions, the statement is simply wrong. Sanctions have been a problem since the new pole attachment rules were implemented. Once the pole attachment program was instituted, OCTA members saw first hand how sanctions would be a concern.

In the PUC workshops on pole attachments, a number of parties filed comments on the need to address sanction rules and policy.

In UM 1087, Central Lincoln vs. Verizon, sanctions were clearly an issue, and Staff participated in this proceeding.

In a letter dated September 9, 2005 to William Woods, President, Oregon Joint Use Association (OJUA), from Brooks Harlow, on behalf of Bend Cable Communications regarding pole attachment issues with Central Electric Cooperative, the issue of sanctions was raised. We would be surprised to learn that Staff was not aware of this document since Staff attends OJUA meetings.

An Oregon cable company has been assessed over \$1 million in sanctions since 2002. Amounts of this magnitude demonstrate why pole occupants have concerns with the current sanction rule.

Staff has commented sanctions should not be address because a lawsuit is pending before the Oregon Supreme Court over the legality of the sanction rules. OCTA is aware of a right-of-way lawsuit pending before the Oregon Supreme Court that is well over two years without a decision. Waiting for the Oregon Supreme Court to render a decision is not prudent.

OCTA believes there should be sanction rules, but not the onerous rules that now exist.

The Oregon Joint Use Association (OJUA) on August 15, 2005, in a letter to Christina Smith, Administrative Law Judge, supported adding sanctions to the issues in AR 506. As an advisory committee to the PUC, the OJUA's position should be strongly considered. Furthermore, adding sanctions to the proceeding will help the OJUA to find consensus on the contentious issues that have arisen in Division 28. The OJUA has worked diligently to find answers and compromise to difficult pole and conduit issues. OCTA is impressed with the leadership of the OJUA and their willingness to take the time to address these important issues.

OCTA believes strongly that sanction rules should be discussed in AR 506 Phase II.

Dated August 22, 2006      Oregon Cable Telecommunications Association

By: \_\_\_\_\_  
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