

Unresolved Issues List for Division 28
Submitted by the Oregon Joint Use Association
August 21

860-028-0020 – Definitions for Pole and Conduit Attachments

1. Carrying charges - adjusted for inflation when using old data (860-028-0020(3))
2. Clarification is needed as to what rate of return is being described. Is this the company's Return on Equity, Return on Debt; or Weighted Average Cost of Capital?
3. Cost of money (860-028-0020(3)(e)(C))
4. Exclusion of government entities from definition of "Licensee" (860-028-0020(3)(e)(C)(10))
5. Incremental costs of make ready (and what's included) (860-028-0020(11))
6. Definition of "Pattern" (860-028-0020(3)(e)(C)(17))
7. Pole cost (Should pole costs be limited to distribution poles?)
8. Preconstruction and reconstruction costs (wordsmithing) (860-028-0020(22))
9. Special inspections (as opposed to routine inspections—define which are routine, for purpose of allocating costs) (860-028-0020(25))
10. Threshold number of poles—does the threshold apply per day? Per month? What IS the time frame? (860-028-0020 (30))
11. If "agreement" is left in, it should be defined. What constitutes "unauthorized"? (860-028-0020(32))
12. Lack of agreement regarding "safety clearance space" (second time it's used) (860-028-0020(32))

860-028-0050 - General

1. What is included in the term "utility pole"? (860-028-0050(1)(a)); (860-028-0020(3)); (860-028-0020(20))

860-028-0060 – Attachment Contracts

1. Wordsmith subsection 4—it is silent on what happens if parties are not negotiating.

860-028-0070 – Resolution of Disputes for Proposed New or Amended Contractual Provisions

1. Subsection B—wordsmith for clarity (complainant, not licensee) and timeframes (we definitely like 60 days, not 30).
2. Subsection 6—OJUA participation during dispute resolution prior to issuing a resolution.
3. Subsection 6—180 days may not be the right timeframe for the Commission—we would be willing to reconsider other timeframes for the Commission.

860-028-0080 – Costs of Hearing in Attachment Contract Disputes

1. Clarify how each entity is paying its way in the dispute process.

860-028-0100 – Application Process for New or Modified Attachments

1. Subsection 1—we believe that it should include government entities, not just consumer-owned utilities.
2. Subsection 2—should be “14” calendar days (‘calendar days’ is consistent throughout).
3. Develop expedited procedures for held orders
4. Further discuss proposed language for 4-c

860-028-0110 – Rental Rates and Charges for Attachments to Poles Owned by Public Utilities, Telecommunications Utilities, and Consumer-Owned Utilities

1. Subsection 2 and 3—Elimination of “usable space” could be an issue. A brace or p-hook (for example) attached to a pole does not decrease the usability of the space. ‘Usable space’ needs to be defined.
2. Subsection 5c needs more work to reach consensus.
3. Subsection 5b most existing permits don’t specify amount of authorized space.
4. Subsection 6—refers to all work allowed under 0100 rather than ‘make ready’ work only—we don’t like that.
5. Subsection 7—language should be tightened up to reflect: onus on licensee to request info, response required from owner, timeframe for making response, and suspension of billing until response is received.

860-028-0115 – Duties of Pole Owners

1. Subsection 3a—owner should be required to respond if licensee notes a problem on the pole and requests a response. “Upon notification by a licensee, the structure owner will respond pursuant to ...” still needs to be worked out.
2. Possible addition of cost recovery mechanism for licensee costs incurred when disproving sanctioned pole violations.
3. Communication protocol should be “mutually agreeable” between the parties.

860-028-0120 – Duties of Pole Occupants

1. Consensus on OJUA’s language for this section.
2. Add language similar to that proposed for 0110 Subsection 7 (see above).
3. Address remedies for governmental entities failing to permit, being non-compliant, etc.

860-028-0130

1. Address the amount of the fine. (Higher of the two? Should it be adjusted for inflation?)

860-028-0140

1. Address the amount of the fine.
2. Are reduced rates and sanctions having the desired outcome?
3. Sanctions should be used to make ratepayer whole (recover revenue).

4. Should the punitive portion be allocated to the OJUA to further promote cooperation between pole owners and users?
5. Address potential for abuses of sanctions.
6. OJUA is reworking the issues of subsidizing licensees through rent reduction and sanctions as a whole.

860-028-0150

1. Address the amount of the fine.

860-028-0160

1. Define sanctions “per pole” as per pole.

860-028-0180

1. Address the amounts of the sanction escalations.
2. Should 860-028-140 to 860-028-180 apply to government entities?

860-028-0190

1. Address what specifics should be included in notices of violations (i.e. specific pole location, maps, etc.).

860-028-0200

1. Include legislation in (1)(a)
2. Modify
3. Modify subsection 2 to clarify the parties involved in disputes may not be part of the decision making process at either the Conflict Resolution Committee level or OJUA Board of Directors.