

Susan K. Ackerman, Attorney
P.O. Box 10207
Portland, Oregon 97296-0207

Telephone: (503) 297-2392
Facsimile: (503) 297-2398
Email: susan.k.ackerman@comcast.net

September 28, 2006

VIA Electronic Mail & U.S. Mail

Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol St NE #215
PO Box 2148
Salem OR 97308-2148

Re: AR 510; Opening Comments of CLPUD & NWCPUD

Enclosed for filing is an original of Central Lincoln Peoples' Utility District's and Northern Wasco County Peoples' Utility District's opening comments in the Sanctions phase of this docket. A hard copy of these comments will follow in the U.S. Mail.

Please call me if you have any questions.

Very truly yours,

/s/ Susan K. Ackerman

Susan K. Ackerman
Attorney for CLPUD & NWCPUD

Enclosures

Certificate of Service

I certify that I have this day served the foregoing document upon all parties of record in AR 506 and AR 510 by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to all parties or attorneys of parties listed on the Commission's service list in this matter.

Dated this 28th day of September, 2006.

/s/ Susan K. Ackerman
Susan K. Ackerman
Attorney for CLPUD & NWCPUD
P.O. Box 10207
Portland, Oregon 97296
Tel: (503) 297-2392

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 510

In the Matter of)
)
Rulemaking to Amend Rules in OAR 860,)
Division 028, Relating to Sanctions for)
Attachments to Utility Poles and Facilities)
_____)

**OPENING COMMENTS OF CENTRAL LINCOLN PUD AND
NORTHERN WASCO COUNTY PUD REGARDING SANCTIONS**

Pursuant to the ALJ’s September 20, 2006, Ruling in this docket, Central Lincoln Peoples’ Utility District and Northern Wasco County Peoples’ Utility District (“Utilities”) hereby submit their comments in this docket.

1. DUTIES OF OCCUPANTS (OAR 860-028-0120)

The Utilities support OJUA’s proposal to amend OAR 860-028-0120 by adding two new subsections (subsections (4) and(5)) to deal with those instances when an occupant does not respond to a notice of a safety violation or when the owner is required to correct a hazardous situation attributable to the occupant. In both cases, the OJUA’s rule permits the owner to correct the violation or hazard on its own, following notice to the occupant, and charge the occupant for the owners’ cost of correcting the violation or hazard.

The Utilities believe these rules are necessary to maintaining safe and reliable facilities because they permit the pole owner to take action to cure safety violations or hazardous situations and charge those costs to the pole occupant. The rules are also fair

to occupants as the rules require that the occupant has first received notice of the safety issue or the hazardous situation and been permitted time to correct the situation on their own. The Utilities urge the Commission to adopt OAR 860-028-0120, subsections (4) and (5) as proposed by OJUA.

2. SANCTIONS RULES (OAR 860-028-0120 TO 860-028-0240)

The Utilities do not agree with OJUA that the Commission should adopt revisions to its sanctions rules at this time, and urge the Commission to reconsider modifications to the sanctions rules if and when the Oregon Legislature addresses rental rate reductions.

Currently, rental rate reductions for compliance with pole attachment rules are required by Oregon Statutes (ORS 757.282(2)) (“A licensee *shall* receive a rental deduction if the licensee is in compliance with rules adopted by the Public Utility Commission [...].”). The rental rate reduction thus cannot be changed without legislation. If the OJUA proposal to modify sanctions rules and rates were adopted, but the rental rate reductions remained in place, then the pole occupants will have effectively lowered their sanctions rates and yet still maintained the ability to also achieve rental rate reductions.

The Utilities think that the sanctions provided in the Commission’s existing rules are intended to work in tandem with rental rate reductions: the sanctions are stiff but are intended to provide a “stick” for compliance with pole attachments obligations, while the rental rate reductions are the “carrot” part of the bargain intended to reward good behavior. Reducing sanctions rates tends to mitigate the effectiveness of the “stick” to the detriment of pole owners, while still permitting “carrots” to be extended to pole occupants. Therefore, the Utilities believe that the issues regarding sanctions should not

be dealt with until such time as the rental rate reduction, which is currently mandatory,
has been revisited by the Legislature.

DATED this 28th day of September, 2006.

Respectfully submitted,

CENTRAL LINCOLN PUD
NORTHERN WASCO COUNTY PUD

/s/ Susan K. Ackerman

Susan K. Ackerman OSB #83138
Attorney for CLPUD & NWCPUD
P.O. Box 10207
Portland, Oregon 97296-0207
Tel: (503) 297-2392
Email: susan.k.ackerman@comcast.net