

Kim Douglass  
Senior Staff Consultant  
Northwest Regulatory



HQE02F60  
600 Hidden Ridge  
Irving, TX 75038

Phone 972 718-3418  
Fax 972 719-7948

October 2, 2006

**VIA EMAIL and DHL**

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

**Re: 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**

Enclosed for filing in the above-captioned docket is Verizon Northwest Inc.'s Opening Comments.

If you have any questions, please contact Renee Willer at 503-645-7909.

Sincerely,

Kim Douglass

c: AR 510 Service List

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 510

In the Matter of Rulemaking to Amend and	)	Opening Comments of
Adopt Rules in OAR 860, Division 028	)	Verizon Northwest Inc.
Relating to Sanctions Rules for Attachments	)	
To Utility Poles and Facilities	)	

Verizon Northwest Inc. (“Verizon”) files these opening comments addressing the Commission’s “sanctions rules,” and the OJUA’s proposed amendments to those rules. Verizon is affected by the sanctions rules, as both an occupant (attached to approximately 80,400 poles owned or controlled by 12 power companies and one incumbent local exchange carrier) and a pole owner (owning approximately 38,000 poles) in Oregon. Verizon commends the OJUA for proposing amendments to the current sanctions rules. Verizon generally supports the proposed amendments recommended by the OJUA,<sup>1</sup> and offers only minor modifications below.

Verizon has had a number of problems with the implementation of the sanctions rules. Indeed, it is unlikely that any potential occupant envisioned how the current sanctions rules would have been applied by owners. For example, Verizon never anticipated that it would be sued for millions of dollars in 2003 by owners relying upon and applying the current sanctions rules after it refused to enter into what it considered to be unjust and unreasonable pole attachment agreements. Verizon also did not expect to be assessed by owners with unjustified penalties under the rules. Rather, when the

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<sup>1</sup> Although Verizon supports the OJUA rules with minor revisions, in doing so, it is not waiving the legal arguments it has raised challenging the Commission’s authority to issue the current sanctions rules contained in its *Amicus Curiae* briefs filed with the Oregon Court of Appeals (Docket No. CA A 123511) and the Oregon Supreme Court (Docket No. S SC 53755) in an appeal brought by Qwest Corporation. Both of these briefs have been served upon the Commission as a party to those cases and are part of the Commission’s files. Verizon requests the Commission take administrative notice of those briefs in this proceeding.

sanctions rules were first adopted, Verizon believed that the rules were intended to address problems caused by true "rogue attachers" who attached facilities to poles with no notice to, or contracts and permits with, pole owners.

Unfortunately, the sanctions rules have been used by some owners to try to force occupants into entering into unfair pole attachment agreements based on the occupants' fear that if no agreement is reached, they would face sanctions unilaterally imposed by the owners. The rules also appear to have encouraged owners to conduct duplicitous "special" audits or inspections in the hopes of finding purported attachment violations that would allow the owners to impose sanctions. In short, the application of these rules by certain owners is anticompetitive and, if allowed to continue, will return to owners the near monopoly power that the federal Pole Attachment Act<sup>2</sup> was intended to eliminate.<sup>3</sup>

### **COMMENTS ON PROPOSED OJUA RULES**

#### **1. Rule Number: 860-028-0120**

Verizon recommends adding language to proposed subsections (4) and (5)<sup>4</sup> to clarify the meaning of the term "costs" that may be recovered from pole occupants by pole owners. Owners should only recover the "actual, direct" costs of correcting a violation, as otherwise they would be collecting a windfall for work that was performed. By "actual, direct costs," Verizon means the incremental costs required to make a particular correction.

In addition, Verizon proposed to add a definition of an "emergency" to clarify when pre-authorization is not required. Verizon's proposed definition, focused on a

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<sup>2</sup> 47 U.S.C. 224

<sup>3</sup> See *FCC v. Florida Power Corp.*, 480 US 245, Section I (1987).

<sup>4</sup> For the convenience of the Commission and the parties, Verizon has inserted proposed modifications to the OJUA's proposed amendments in capital letters. Verizon has made no deletions to the OJUA's proposed rules.

safety violation that poses an imminent danger to life or property, is consistent with the language addressing safety violations in the Commission's Order No. 06-547 in the Division 24 rules.

Verizon recommends that this proposed rule be modified to state:

### **Duties of Pole Occupants**

(1) Except as provided in sections (2) and (3) of this rule, a pole occupant attaching to one or more poles of a pole owner shall:

- (a) Have a written contract with the pole owner that specifies general conditions for attachments on the poles of the pole owner;
- (b) Have a permit issued by the pole owner for each pole on which the pole occupant has attachments.

(c) Install and maintain the attachments in compliance with the written contracts required under subsection (1)(a) of this rule and with the permits required under subsection (1)(b) of this rule; and

(d) Install and maintain the attachments in compliance with Commission safety rules.

(2) A pole occupant that is a government entity is not required to enter into a written contract required by subsection (1)(a) of this rule, but when obtaining a permit from a pole owner under subsection (1)(b) of this rule, the government entity shall agree to comply with Commission safety rules.

(3) A pole occupant may install a service drop without the permit required under subsection (1)(b) of this rule, but the pole occupant must:

- (a) Apply for a permit within seven **calendar** days of installation;
- (b) Except for a pole occupant that is a government entity, install the attachment in compliance with the written contract required under subsection (1)(a) of this rule; and
- (c) Install the service drop in compliance with Commission safety rules.

**(4) Failure of an Occupant to Promptly Respond to a Notification of Violation: If an occupant fails to respond to a notification of violation of the Commission Safety Rules within 60 calendar days after notification, the pole owner may perform the corrections or have the corrections performed by a third party. Such corrections shall be performed at the occupant's expense and shall be charged to the occupant at actual, DIRECT cost. An occupant's response to a notification of violation shall consist of either a submission of a plan of correction or actual correction of the violation.**

**(5) Failure of Occupant to Promptly Repair, Disconnect or Isolate Hazardous Conditions: A pole owner may correct deficiencies which cause hazardous conditions and charge the ACTUAL, DIRECT<sup>5</sup> costs of the correction to the occupant if:**

**(a) The owner provides notice of a hazard, including vegetation posing an imminent threat to the supporting structure; and**

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<sup>5</sup> Verizon has made its insertions to the proposed rules in capital letters for the convenience of the reader.

**(b) The occupant is allowed a reasonable opportunity to repair or correct the hazard.**

**(c) In the event of an emergency, notice or pre-authorization shall not be required. AN EMERGENCY IS A HAZARD CONDITION THAT POSES IMMINENT DANGER TO LIFE OR PROPERTY.**

**2. Rule Number: 860-028-0130**

Verizon has no recommended modifications at this time to the OJUA's proposed amendments to this rule. Verizon reserves the right to propose further modifications when it is discussed in a future workshop.

(1) Except as provided in sections (2) ~~and (3)~~ of this rule, a pole owner may impose a sanction on a pole occupant that is in violation of OAR 860-028-0120(1)(a). The sanction ~~may be the higher of~~ **shall be \$500 per pole.**

~~(a) \$500 per pole; or~~

~~(b) 60 times the owner's annual rental fee per pole.~~

~~(2) A pole owner shall reduce the sanction provided in section (1) of this rule by 60 percent if the pole occupant complies with OAR 860-028-0120 within the time allowed by OAR 860-028-0170.~~

~~(3)~~ (2) This rule does not apply to a pole occupant that is a government entity **or to entities operating under a recently expired or terminated contract who are participating in good faith efforts to renegotiate a contract.**

**3. Rule Number: 860-028-0140**

Consistent with the encouragement of joint inspections between pole owners and occupants in the Commission's recently enacted safety rules, Verizon proposes to add language to provide incentives to both owners and occupants to participate in joint, cooperative inspections. The incentives in this case would be increased sanctions for

pole occupants that refuse in bad faith to participate in joint, cooperative inspections.

Verizon recommends that this proposed rule be modified to state:

**Sanctions for Having No Permit**

(1) Except as provided in sections (2) and (3) of this rule, a pole owner may impose a sanction on a pole occupant that is in violation of OAR 860-028-0120(1)(b), except as provided in OAR 860-027-0120(3).

~~(a) \$250 per pole; or~~

~~(b) 30 times the owner's annual rental fee per pole.~~

~~(2) A pole owner shall reduce the sanction provided in section (1) of this rule by 60 percent if the pole occupant complies with OAR 860-028-0120 within the time allowed by OAR 860-028-0170.~~

(2) Sanctions imposed under this section shall be:

(a) 5 times the owner's current annual rental fee per pole for each violation which is self-reported by the occupant or discovered through a joint, cooperative inspection between the pole owner and pole occupant; or

(b) ONLY IN THE EVENT A POLE OCCUPANT HAS REFUSED IN BAD FAITH TO PARTICIPATE IN A JOINT, COOPERATIVE INSPECTION, MAY THE OWNER IMPOSE A SANCTION OF 5 times the owner's current annual rental fee per pole in addition to a sanction of \$100 per pole for each violation which is reported by the pole owner.

(3) This rule does not apply to a pole occupant that is a government entity.

**4. Rule Number: 860-028-0150**

Verizon has no recommended modifications at this time to the OJUA's proposed amendments to this rule. Verizon reserves the right to propose further modifications when it is discussed in a future workshop.

**Sanctions for Violation of Other Duties Commission Safety Rules and Terms of**

**Contract (1) Except as provided in sections (2) and (3) of this rule, a** A pole owner may impose a sanction on a pole occupant that is in violation of OAR 860-028-0120(1)(c), (1)(d), or (3). The sanction shall **be the higher of: \$200 per pole.**

**(b) Twenty times the pole owner's annual rental fee per pole.**

(2) A pole owner shall reduce the sanction provided in section (1) of this rule by 70 percent if the pole occupant complies with OAR 860-028-0120 within the time allowed by OAR 860-028-0170.

**(2) A pole occupant shall not be liable for sanctions under this section if:**

**(a) the violation is corrected by the pole occupant within 180 days after receipt of actual notice of the violation; or**

**(b) the pole occupant submits a plan of correction, as provided for in OAR 860-028-0170, within 60 days after receipt of actual notice of a violation.**

**(3) If a pole occupant submits a plan of correction, as provided for in OAR 860-028-0170, the pole occupant must adhere to the material provisions of that plan unless the pole owner consents to a plan amendment. Such consent to a plan amendment shall not be unreasonably withheld by a pole owner.**

(3) This rule does not apply to a pole occupant that is a government entity.

**5. Rule Number: 860-028-0160**

Verizon has no recommended modifications at this time to this existing rule.

Verizon reserves the right to propose modifications when it is discussed in a future workshop.

**Choice of Sanctions**

(1) If a pole owner contends that an attachment of a pole occupant violates more than one rule that permits the pole owner to impose a sanction, then the pole owner may select only one such rule on which to base the sanction.

(2) If a pole owner has a contract with a pole occupant that imposes sanctions that differ from those set out in these rules, then the sanctions in the contract apply unless the pole owner and pole occupant agree otherwise.

**6. Rule Number: 860-028-0170**

Verizon has no recommended modifications at this time to the OJUA's proposed amendments to this rule. Verizon reserves the right to propose further modifications when it is discussed in a future workshop.

**~~Time Frame for Securing Reduction in Sanctions~~ Plans of Correction**

~~(1) Except as provided in section (2) of this rule, a pole owner shall reduce the sanctions provided in these rules, if the pole occupant:~~

~~(a) On or before the 60th day of its receipt of notice, complies with OAR 860-028-0120 and provides the pole owner notice of its compliance; or~~

~~(b) On or before the 30th day of its receipt of notice, submits to the pole owner a reasonable plan of correction, and thereafter, complies with that plan, if the pole owner accepts it, or with another plan approved by the pole owner.~~

~~(2) Notwithstanding section (1) of this rule, a pole owner may, if there is a critical need, or if there is no field correction necessary to comply with OAR 860-028-0120, shorten the times set forth in section (1). A pole occupant that disagrees with the reduction must request relief under OAR 860-028-0220 prior to the expiration of the shortened time period, or within seven days of its receipt of notice of the reduction, whichever is later.~~

~~(3)~~ (1) A plan of correction shall, at a minimum, set out:

(a) Any disagreement, as well as the facts on which it is based, that the pole occupant has with respect to the violations alleged by the pole owner in the notice;

(b) The pole occupant's suggested compliance date, as well as reasons to support the date, for each pole that the pole occupant agrees is not in compliance with OAR 860-028-0120.

(4) If a pole occupant suggests a compliance date of more than 60 180 days following receipt of notice, then the pole occupant must show good cause.

(5) Upon its receipt of a plan of correction that a pole occupant has submitted under subsection (1)~~(b)~~ (a) of this rule, a pole owner shall give notice of its acceptance or rejection of the plan. A pole owner may not unreasonably reject a plan of correction and acceptance of a plan of correction shall not be unreasonably withheld.



~~(a) If the pole owner accepts the plan, then the pole owner shall reduce the sanctions to the extent that the pole occupant complies with OAR 860-028-0120 and provides the pole owner notice of its compliance, on or before the dates set out in the plan;~~

~~(b)~~ (a) If the pole owner rejects the plan, then it shall set out all of its reasons for rejection and, for each reason, shall state an alternative that is acceptable to it;

~~(c)~~ (b) Until the pole owner accepts or rejects a plan of correction, the pole occupant's time for compliance with OAR 860-028-0120 is tolled; Until the pole owner accepts or rejects a plan of correction, the pole occupant's time for compliance with the timelines dictated by the plan of corrections is not commenced.

~~(d)~~ (c) If a plan of correction is divisible and if the pole owner accepts part of it, then the pole occupant shall carry out that part of the plan.

## 7. Rule Number: 860-028-0180

Verizon has no recommended modifications at this time to the OJUA's proposed amendments to this rule. Verizon reserves the right to propose further modifications when it is discussed in future a workshop.

## 860-028-0180

### ~~Progressive Increases in Sanctions~~ Removal of Pole Occupant Attachments

~~(1) Except as provided in sections (2) and (3) of this rule, if the pole occupant fails to comply with OAR 860-028-0120 within the time allowed under OAR 860-028-0170, then the pole owner may sanction the pole occupant 1.5 times the amount otherwise due under these rules.~~

~~(2) If the pole occupant has failed to meet the time limitations set out in OAR 860-028-0170 by 30 or more days, then the pole owner may sanction the pole occupant 2.0 times the amount otherwise due under these rules.~~

~~(3)~~ (1) If the pole occupant has failed to meet the time limitation set out in OAR 860-028-0170 0150 by 60 or more days, then the pole owner may request an order from the Commission authorizing removal of the pole occupant's attachments.

~~(4)~~ (2) This rule does not apply to a pole occupant that is a government entity.

## 8. Rule Number: 860-028-0190

Verizon has no recommended modifications at this time to the OJUA's proposed amendments to this rule. Verizon reserves the right to propose further modifications when it is discussed in a future workshop

### **Notice of Violation**

A pole owner that seeks, under these rules, any type of relief against a pole occupant for violation of OAR 860-028-0120 shall provide the pole occupant notice of each attachment allegedly in violation of the rule, including ~~the~~ a provision and explanation of the rule each attachment allegedly violates: **the pole number and location, including pole owner maps and GPS coordinates.**

#### **9. Rule Number: 860-028-0195**

Based upon Staff's comments at the workshop held on September 20, 2006, Verizon does not object to retaining 360 days as the time within which the Commission must issue a decision.

### **Time Frame for Final Action by Commission**

**Notwithstanding the timelines provided for in OAR 860-028,0070, t** The Commission shall issue its final order within ~~180~~ **360** days of the date a complaint is filed in accordance with these rules. This rule does not apply to a complaint involving the attachment(s) of an "incumbent local exchange carrier" (as that phrase is defined in 47 U.S.C. Section 251(h) (2002)).

#### **10. Rule Number: 860-028-0200**

Verizon has no recommended modifications at this time to this existing rule. Verizon reserves the right to propose modifications when it is discussed in a future workshop.

### **Joint-Use Association**

(1) Pole owners and pole occupants shall establish a Joint-Use Association (JUA). The Association shall elect a Board from the JUA, which shall include representatives of pole owners, pole occupants, and government entities. The Board shall act as an advisor to the Commission with respect to:

(a) Adoption, amendment, or repeal of administrative rules governing pole owners and pole occupants; and

(b) Settlement of disputes between a pole owner and a pole occupant that arise under administrative rules governing pole owners and pole occupants.

(2) In the event a representative is involved in a dispute under subsection (1)(b) of this rule, then the representative shall not participate in resolution of the dispute, and the JUA shall appoint a temporary representative with a similar interest.

**11. Rule Number: 860-028-0210**

Verizon has no recommended modifications at this time to this existing rule.

Verizon reserves the right to propose modifications when it is discussed in a future workshop.

**Resolution of Disputes over Plans of Correction**

(1) If a pole occupant and a pole owner have a dispute over the reasonableness of the plan of correction, then either party may request an order from the Commission to resolve the dispute. The party requesting resolution shall provide notice of its request to the Commission and to the other party:

(a) Upon receipt of a request, the Commission Staff shall, within 15 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 15 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 15 days, issue an order.

(2) Notwithstanding section (1) of this rule, either the pole owner or pole occupant may request a settlement conference with the Joint-Use Association. The settlement conference shall be in addition to, not in lieu of, the process set forth in section (1).

**12. Rule Number: 860-028-0220**

Verizon has no recommended modifications at this time to this existing rule.

Verizon reserves the right to propose modifications when it is discussed in a future workshop. One concept that could be discussed at the workshops is whether an express

requirement should be added to the rule specifying that a party must participate in a settlement conference if requested by another party.

### **Resolution of Factual Disputes**

(1) If a pole occupant and pole owner have a dispute over facts that the pole occupant and pole owner must resolve so that the pole owner can impose appropriate sanctions, or in the event that a pole occupant is alleging that a pole owner is unreasonably delaying the approval of a written contract or the issuance of a permit, then either the pole owner or the pole occupant may request a settlement conference before the Joint-Use Association (JUA). The party making the request shall provide notice to the other party and to the JUA.

(2) If the JUA does not settle a dispute described in section (1) of this rule within 90 days of the notice, then either the pole owner or the pole occupant may request a hearing before the Commission and an order from the Commission to resolve the dispute:

(a) Upon receipt of a request, the Commission Staff shall, within 30 days, provide to the parties a recommended order for the Commission;

(b) Either party may, within 30 days of receipt of the recommended order, submit written comments to the Commission regarding the recommended order;

(c) Upon receipt of written comments, the Commission shall, within 30 days, issue an order.

### **13. Rule Number: 860-028-0230**

Verizon proposes that subsection 3(f) be modified by noting that the fees must be “undisputed” before they are considered part of a pattern of delay. Good faith disputes do not give rise to a presumption that there is a pattern of delay.

### **Pole Attachment Rental Reductions**

(1) Except as provided in section (3), a licensee shall receive a rental reduction.

(2) The rental reduction shall be based on ORS 757.282(3) and OAR 860-028-0110.

(3) A pole owner or the Commission may deny the rental reduction to a licensee, if either the pole owner or the Commission can show that:

(a) The licensee has caused serious injury to the pole owner, another pole joint-use entity, or the public resulting from non-compliance with Commission safety rules and Commission pole attachment rules or its contract or permits with the pole owner;

(b) The licensee does not have a written contract with the pole owner that specifies general conditions for attachments on the poles of the pole owner;

(c) The licensee has engaged in a pattern of failing to obtain permits issued by the pole owner for each pole on which the pole occupant has attachments;

(d) The licensee has engaged in a pattern of non-compliance with its contract or permits with the pole owner, Commission safety rules, or Commission pole attachment rules;

(e) The licensee has engaged in a pattern of failing to respond to the pole owner, PUC Staff, or civil authorities in regard to emergencies, safety violations, or pole modification requests; or

(f) The licensee has engaged in a pattern of delays, **each delay greater than 60 days from the date of billing**, in payment of **UNDISPUTED** fees and charges due the pole owner.

(4) A pole owner that contends that a licensee is not entitled to the rental reduction provided in section (1) of this rule shall notify the licensee of the loss of reduction in writing. The written notice shall:

(a) State how and when the licensee has violated either the Commission's rules or the terms of the contract;

(b) Specify the amount of the loss of rental reduction which the pole owner contends the licensee should incur; and

(c) Specify the amount of any losses that the conduct of the licensee caused the pole owner to incur.

(5) If the licensee wishes to discuss the allegations of the written notice before the Joint-Use Association (JUA), the licensee may request a settlement conference. The licensee shall provide notice of its request to the pole owner and to the JUA. The licensee may also seek resolution under section (6) of this rule.

(6) If the licensee wishes to contest the allegations of the written notice before the Commission, the licensee shall send its response to the pole owner, with a copy to the Commission. The licensee shall also attach a true copy of the written notice that it received from the pole owner.

(a) Upon receipt of a request, the Commission shall set the matter for hearing and comply with its procedures for petition, regulation and enforcement relative to attachments,

including any rights of appeal from a decision of the Commission as provided in ORS 757.290

(7) Except for the rental reduction amount in dispute, the licensee shall not delay payment of the pole attachment rental fees due to the pole owner.

**14. Rule Number: 860-028-0240**

Verizon has no recommended modifications at this time to the rule amendments proposed by the OJUA. Verizon reserves the right to propose further modifications when it is discussed in a future workshop.

**Effective Dates**

(1) Except as provided in section (2) of this rule, OARs 860-028-0120 through 860-028-0230 are effective on January 1, 2001.

(2) OAR 860-028-0150 does not apply to attachments installed on or before December 31, 2000, until January 1, 2003.

**These changes are effective January 1, 2007, or upon the issuance of the Commission order, which ever is later. The new rules only apply to attachments about which a pole owner or occupant is notified on or after the effective date.**

*(PUC Staff made slight revisions to this subsections for clarity.)*

**Conduit Attachments**

**15. Rule Number: 860-028-0310**

Verizon has no recommended modifications to this existing rule at this time. Verizon reserves the right to propose modifications when it is discussed in a future workshop.

**Attachments by Licensees to Conduits Owned by Public, Telecommunications, and Consumer-Owned Utilities**

(1) This rule applies whenever a party files a complaint with the Commission pursuant to ORS 757.270 through ORS 757.290 or ORS 759.650 through ORS 759.675.

(2) As used in this rule:

(a) "Annual Carrying Charge" shall be equal to the return on investment authorized by the Commission in the conduit owner's most recent rate proceeding times the conduit cost.

(b) "Annual Operating Expense" means annual operating maintenance, administrative, general, depreciation, income tax, property tax, and other tax expenses attributable, on a per-duct basis, to the section of conduit occupied by the licensee.

(c) "Conduit Cost" means the depreciated original installed cost, on a per-duct basis, of the section of conduit occupied by the licensee.

(d) "Duct" means a single enclosed raceway for conductors or cable.

(e) "Surplus Ducts" means ducts other than those occupied by the conduit owner or a prior licensee, one unoccupied duct held as an emergency use spare, and other unoccupied ducts that the owner reasonably expects to use within the next 18 months.

(3) A disputed conduit rental rate will be computed by adding the annual operating expense to the annual carrying charge and then multiplying by the number of ducts occupied by the licensee.

(4) A licensee occupying part of a duct shall be deemed to occupy the entire duct.

(5) Licensees shall report all attachments to the conduit owner. A conduit owner may impose a penalty charge for failure to report or pay for all attachments. If a conduit owner and licensee do not agree on the penalty and submit the dispute to the Commission, the penalty amount will be five times the normal rental rate from the date the attachment was made until the penalty is paid. If the date the attachment was made cannot be clearly established, the penalty rate shall apply from the date the conduit owner last inspected the conduit in dispute. The last inspection shall be deemed to be no more than three years before the unauthorized attachment is discovered. The conduit owner also shall charge for any expenses it incurs as a result of the unauthorized attachment.

(6) The conduit owner shall give a licensee 18 months' notice of its need to occupy licensed conduit and shall propose that the licensee take the first feasible action listed:

(a) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with multiplexing, optical fibers, or other space-saving technology sufficient to meet the conduit owner's space needs;

(b) Pay revised conduit rent based on the cost of new conduit constructed to meet the conduit owner's space needs;

(c) Vacate ducts that are no longer surplus;

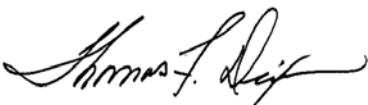
(d) Construct and maintain sufficient new conduit to meet the conduit owner's space needs.

(7) When two or more licensees occupy a section of conduit, the last licensee to occupy the conduit shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting of space-saving technology or construction of new conduit, all licensees shall bear the increased cost.

(8) All conduit attachments shall meet local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between the conduit owner and the licensee. A conduit owner may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay the conduit owner for any fines, fees, damages, or other costs the licensee's attachments cause the conduit owner to incur.

Dated: October 2, 2006

VERIZON NORTHWEST INC.

By 

Thomas F. Dixon  
707 – 17<sup>th</sup> Street, #4200  
Denver, Colorado 80202  
303-390-6206  
303-390-6333 (fax)  
thomas.f.dixon@verizon.com



**CERTIFICATE OF SERVICE  
AR 510**

I certify that on October 2, 2006, I served the Comments of Verizon Northwest Inc. by electronic mail and Overnight Mail to:

Filing Center  
Public Utility Commission of Oregon  
550 Capitol Street NE, Suite 215  
Salem, OR 97301-2551  
[puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us)

I further certify that I have this day sent the above-referenced document(s) upon all parties of record in this proceeding by mailing a copy properly addressed with the first class postage prepaid, and by electronic mail pursuant to OAR 860-013-0070, to the following parties or attorneys of parties:

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

Jim Deason  
Attorney at Law  
521 SW Clay St, Ste 107  
Portland, OR 97201-5407

Roger Kuhlman  
633 7<sup>th</sup> St, NW  
Salem, OR 97304

Scott Johnson  
City of Ashland  
90 North Mountain Ave  
Ashland, OR 97520

Denise Estep  
Central Lincoln PUD  
P.O. Box 1126  
Newport, OR 97365

Michael L. Wilson  
Central Lincoln PUD  
2129 N. Coast Hwy  
Newport, OR 97365-0090

Doug Cooley  
CenturyTel of Oregon Inc.  
707 13<sup>th</sup> Street, Ste 280  
Salem, OR 97301

David Luchini  
CenturyTel of Oregon Inc.  
P. O. Box 327  
Aurora, OR 97002

Gary Lee  
Charter Communications Corp.  
521 NE 136<sup>th</sup> Ave  
Vancouver, WA 98684

Keene C. Basso  
Clatskanie PUD  
P.O. Box 216  
Clatskanie, OR 97016

Bill Kiggins  
Clear Creek Mutual Telephone Co.  
18238 S. Fischers Mill Rd.  
Oregon City, OR 970445-9696

Stephen R. Cieslewicz  
CN Utility Consulting  
P.O. Box 746  
Novato, CA 94948-0746

Scott Thompson  
Cole Raywid & Braverman LLP  
1919 Pennsylvania Av NW, Ste 200  
Washington, DC 20006

Stuart Sloan  
Consumer Power Inc.  
P.O. Box 1180  
Philomath, OR 97370

Linda Spurgeon  
Coos Curry Electric Cooperative  
P.O. Box 1265  
Port Orford, OR 97465

Michael Weirich  
Department of Justice  
1162 Court St, NE  
Salem, OR 97301-4096

Nancy Judy  
Embarq Communications Inc.  
902 Wasco Street A0412  
Hood River, OR 97031

Catherine A. Murray  
Eschelon Telecom of Oregon Inc.  
730 Second Ave S., Ste 900  
Minneapolis, MN 55402-2489

Christy Monson  
Harold Leahy & Kieran  
223 A Street, Ste D  
Springfield, OR 97477-4500

Ronald Jones  
IBEW Local 659  
4480 Rogue Valley Hwy, #3  
Central Point, OR 97502-1695

Brent Van Patten  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83707

Scott Wheeler  
Comcast Phone of Oregon LLC  
9605 SW Nimbus Av  
Portland, OR 97008

Scott Adams  
Coos Curry Electric Cooperative  
P.O. Box 1268  
Port Orford, OR 97465

Sarah Wallace  
Davis Wright Tremaine  
1300 SW Fifth Avenue, Suite 2300  
Portland, OR 97201

Tamara Johnson  
Springfield Utility Board  
P.O. Box 300  
Springfield, OR 97477

Craig Andrus  
Emerald PUD  
33733 Seavey Loop Rd.  
Eugene, OR 97405-9614

Mark Oberle  
Eugene Water & Electric Board  
P.O. Box 10148  
Eugene, OR 97440

Richard W. Ryan  
Hunter Communications Inc.  
801 Enterprise Dr., Ste 101  
Central Point, OR 97502

Jeannette C. Bowman  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83707

Andrea Fogue  
League of Oregon Cities  
P.O. Box 928  
1201 Court St, NE, Ste 200  
Salem, OR 97308

Scott Rosenbalm  
McMinnville City of Water & Light  
P.O. Box 638  
McMinnville, OR 97128-0638

Eugene A. Fry  
Millennium Digital Media  
3633 136<sup>th</sup> Pl, SE # 107  
Bellevue, WA 98006

Brooks Harlow  
Miller Nash LLP  
601 Union Street, Ste 4400  
Seattle, WA 98101-2352

Laura Raypush  
Pacific Corp  
825 NE Multnomah, Ste 1700  
Portland, OR 97232

Dave Wildman  
City of Monmouth  
401 N. Hogan Rd.  
Monmouth, OR 97361

Michael Dewey  
Oregon Cable & Telecom Assn  
1249 Commercial St, SE  
Salem, OR 97302

The Honorable Robert Ackerman  
Oregon House of Representatives  
900 Court St, NE Rm H-389  
Salem, OR 97310

Genoa Ingram  
Oregon Joint Use Assn  
1286 Court St, NE  
Salem, OR 97301

John Sullivan  
Oregon Joint Use Assn  
2213 SW 153<sup>rd</sup> Dr.  
Beaverton, OR 97006

William C. Woods  
Oregon Joint Use Assn  
9605 SW Nimbus Ave  
Beaverton, OR 97008

Tom O'Connor  
Oregon Municipal Electric Utilities  
P.O. Box 928  
Salem, OR 97308-0928

Don Godard  
Oregon PUD Assn  
727 Center Street NE, Ste 305  
Salem, OR 97301

Randall Miller  
Pacific Power & Light  
1407 W N Temple Ste 220  
Salt Lake City, UT 84116

Brant Wolf  
Oregon Telecommunications Assn  
707 13<sup>th</sup> St, SE, Ste 280  
Salem, OR 97301-4036

Cece L. Coleman  
Pacific Power & Light  
825 NE Multnomah, Ste 800  
Portland, OR 97232

William Equinto  
Pacific Power & Light  
825 NE Multnomah, Ste 1700  
Portland, OR 97232

Corey Fitzgerald  
Pacific Power & Light  
825 NE Multnomah, Ste 800  
Portland, OR 97232

Randall Miller  
1407 W. N. Temple, Ste 220  
Salt Lake City, UT 84116

Bill Cunningham  
Pacific Corp  
825 NE Multnomah, Ste 1500  
Portland, OR 97232

Pete Craven  
Pacific Corp  
825 NE Multnomah, Ste 300  
Portland, OR 97232

Andrea Kelly  
Pacific Corp DBA Pacific Power &  
Light  
825 NE Multnomah, Ste 2000  
Portland, OR 97232

Richard Gray  
City of Portland-Office of Trans  
1120 SW 5<sup>th</sup> Ave, Rm 800  
Portland, OR 97204

Randall Dahlgren  
Portland General Electric  
121 SW Salmon St. 1WTC-0702  
Portland, OR 97204

Doug Kuns  
Portland General Electric  
121 SW Salmon St  
Portland, OR 97204

John Sullivan  
Portland General Electric  
2213 SW 153<sup>rd</sup> Dr.  
Beaverton, OR 97006

Thomas F. Dixon  
Verizon  
707 17<sup>th</sup> Street, #4200  
Denver, CO 80202

Jerry Murray  
Public Utility Commission  
P.O. Box 2148  
Salem, OR 97308-2148

Heidi Caswell  
Pacific Corp  
825 NE Multnomah  
Portland, OR 97232

Jim Marquis  
Pacific Corp  
830 Old Salem Rd.  
Albany, OR 97321

General Manager  
Pioneer Telephone Cooperative  
1304 Main St  
P.O. Box 631  
Philomath, OR 97370

Jennifer Bosch  
Portland General Electric  
121 SW Salmon St.  
Portland, OR 97204

Barbara Halle  
Portland General Electric  
121 SW Salmon St, 1WTC-13  
Portland, OR 97204

Inara K. Scott  
Portland General Electric  
121 SW Salmon St.  
Portland, OR 97204

David Van Bossuyt  
Portland General Electric  
4245 Kale St, NE  
Salem, OR 97305

Priority One Telecommunications  
Inc  
P.O. Box 758  
La Grande, OR 97850-6462

Gary Putnam  
Public Utility Commission  
P.O. Box 2148  
Salem, OR 97308-2148

Corey Fitzgerald  
Pacific Power & Light  
825 NE Multnomah Ste 800  
Portland, OR 97232

Frank McGovern  
Quality Telephone Inc.  
P.O. Box 141048  
Dallas, TX 75214

Alex Duarte  
Qwest Corporation  
421 SW Oak Street, Ste 810  
Portland, OR 97204

Tom McGowan  
Sprint/United Telephone Co of NW  
902 Wasco St.  
Hood River, OR 97031

Brian Thomas  
Time Warner Telecom of Oregon  
223 Taylor Ave, N.  
Seattle, WA 98109-5017

Richard Stewart  
Verizon Northwest Inc.  
600 Hidden Ridge-HQE03J28  
Irving, TX 75038

Cindy Manheim  
Cingular Wireless  
P.O. Box 97061  
Redmond, WA 98073

J. White  
City of Monmouth  
151 W. Main Street  
Monmouth, OR 97361

Jennifer Busch  
Portland General Electric  
121 SW Salmon Street  
Portland, OR 97204

John Wallace  
Public Utility Commission  
P.O. Box 2148  
Salem, OR 97308-2148

Jeff Kent  
Qwest  
8021 SW Capitol Hill Rd., Rm 180  
Portland, OR 97219

Barbara Young  
Sprint Communications Co LP  
902 Wasco St-ORHDRA0412  
Hood River, OR 97031-3105

Kevin O'Connor  
Time Warner Telecom  
520 SW 6th Ave  
Portland, OR 97204

Steven Lindsay  
Verizon  
P.O. Box 1033  
Everett, WA 98206

Marty Patrovsky  
Wantel Inc.  
1016 SE Oak Ave  
Roseburg, OR 97470

Richard J. Busch  
Graham & Dunn PC  
Pier 70  
2801 Alaskan Way, Ste 300  
Seattle, WA 98121-1128

Sandra Flicker  
Oregon Rural Electric Coop Assn  
707 13th Street, SE, Ste 200  
Salem, OR 97301-4005

Randall Dahlgren  
Portland General Electric  
121 SW Salmon Street, 1WTC-13  
Portland, OR 97204

Kristin L. Jacobson  
Sprint Nextel  
201 Mission Street, Ste 1400  
San Francisco, CA 94105

Mark P. Trincherro  
Davis Wright Tremaine  
1300 SW Fifth Avenue, Suite 2300  
Portland, OR 97201

Dave Wildman  
City of Monmouth  
401 N Hogan Rd  
Monmouth, OR 97361

Jill M. Valenstein  
Cole, Raywid & Braverman, L.L.P.  
1919 Pennsylvania Avenue, NW, Suite 200  
Washington, DC 20006

Kevin L. Saville  
Frontier Communications of America Inc  
2378 Wilshire Blvd  
Mound, MN 55364

William Equinto  
Pacific Power & Light  
825 NE Multnomah Ste 1700  
Portland, OR 97232

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Kim Douglass