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June 1, 2006

***Via U.S. Mail & Electronic Mail***

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

Re: AR 506 – Second Round of Comments of CLPUD and NWCPUD

Enclosed for filing are the Second Round of Comments of Central Lincoln Peoples' Utility District and Northern Wasco County Peoples' Utility District Regarding proposed Revised Division 24 Safety Rules.

Please do not hesitate to call me if you have questions.

Very truly yours,

***/s/ Susan K. Ackerman***

Susan K. Ackerman

Enclosures

cc: Paul Davies  
Dwight Langer

## **Certificate of Service**

I certify that I have this day served the foregoing document upon all parties of record in AR 506 by delivering a copy by electronic mail pursuant to all parties or attorneys of parties, attached below.

Dated this 1<sup>st</sup> day of June, 2006.

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BEFORE THE  
PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of a Rulemaking to Amend     )  
And Adopt Permanent Rules in OAR 860,     )  
Divisions 24 and 28, Regarding Pole         )     AR 506  
Attachment Use and Safety.                     )  
\_\_\_\_\_)

COMMENTS OF  
CENTRAL LINCOLN PEOPLES' UTILITY DISTRICT AND NORTHERN WASCO  
COUNTY PEOPLES' UTILITY DISTRICT

Central Lincoln Peoples' Utility District and Northern Wasco County Peoples' Utility District ("utilities") have participated in the informal discussions and in the workshops regarding the Commission's Division 24 Safety Rules. These utilities also worked with the Oregon Joint Use Association to achieve as much industry consensus regarding these rules as possible. While the utilities appreciate what OPUC Staff is trying to accomplish with new safety rules, and appreciate their willingness to discuss safety approaches with industry, the utilities generally support the proposals of the OJUA on the issues raised by these new rules. The utilities think the OJUA approach would achieve a high level of safety in a fair and cost-effective manner.

Central Lincoln and Northern Wasco have already indicated that we do not agree with the general position of the OJUA on the matter of vegetation removal by communications operators. Staff has proposed a rule, 16(8), which requires communications operators to remove vegetation when the vegetation poses a safety risk to the underlying structure. The utilities basically support Staff's approach because we think safety should be every user's obligation. It should be an affirmative obligation for

communications operators to remove vegetation affecting their facilities when the vegetation poses a foreseeable safety risk to the pole structure and its attachments.

As well, Central Lincoln and Northern Wasco would like to address an issue raised by Charter Communications in their Second Round of Comments. Central Lincoln and Northern Wasco have heard the concerns of the telecommunications operators regarding their lack of immunity from lawsuits for vegetation clearance; we are sympathetic with that concern and would support legislation to correct that omission. *See* Charter Second Round Comments, pp. 4-5. However, Charter's comments also suggest that electric utilities would use vegetation removal obligations as a way of sanctioning telecommunications operators, and thereby, apparently, "making money" through vegetation clearance obligations. *Id.*, pp. 5-6. It is absolutely not the intent of either Central Lincoln or Northern Wasco to "make money" by sanctioning telecommunications operators for failure to remove vegetation that poses a safety risk to pole structures. Both Central Lincoln and Northern Wasco operate facilities in high wind areas of Oregon, and vegetation is thereby a heightened safety and reliability concern for these utilities. It is important to Central Lincoln and Northern Wasco that telecommunications operators recognize these risks and act accordingly, and for these reasons Central Lincoln and Northern Wasco have supported a safety obligation on telecommunications operators to clear vegetation when there is a foreseeable risk to their facilities and the safety of the pole structure.

Finally, at the last workshop, there seemed to be a general consensus that the Staff's proposed rule could be moved to Division 28 (and out of Division 24). There also seemed to be general consensus that the cost of vegetation removal should be shared by

users of the utility pole. However, the parties also agreed at the last workshop that additional discussion of all these related issues regarding vegetation removal should take place in the context of Division 28 and that such discussions might result in an approach that is acceptable to all parties. With those general agreements about approach in mind, Central Lincoln and Northern Wasco can support moving this issue into the Division 28 discussions.

Central Lincoln and Northern Wasco think that the parties can reach an agreement about vegetation clearance responsibilities as part of the Division 28 rules, including reaching an agreement that satisfies the concerns of both pole owners and telecommunications operators regarding vegetation removal and cost recovery. Staff has said that it intends the Division 28 rules to establish minimum acceptable terms and conditions regarding pole attachments and use that the Commission will apply when pole owners and users cannot agree among themselves. Central Lincoln and Northern Wasco will look to the Division 28 rules process as the place where we can establish mutually acceptable and reciprocal responsibilities regarding vegetation removal that is required for safe operations.

DATED this 1<sup>st</sup> day of June, 2006.

Respectfully submitted,

**/s/ Susan K. Ackerman**  
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