

June 29, 2006

Oregon Public Utility Commission  
Attn: Filing Center  
Oregon Public Utility Commission  
550 Capitol Street N.E., Suite 215  
Salem, Oregon 97301

Subject: AR 506 Division 24 Rulemaking

Dear PUC Filing Center:

Enclosed are the final comments of Verizon Northwest Inc. in the above mentioned docket. Please call me at (503) 645-7909 if you have any questions.

Sincerely,

Renee M. Willer  
Regulatory Manager

c: Service List

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 506

In the Matter of a Rulemaking to Amend and	)	Final Comments of
Adopt Permanent Rules in OAR 860,	)	Verizon Northwest Inc.
Division 024 Regarding Pole Attachment Safety	)	

Verizon Northwest Inc. (“Verizon”) files these final comments as authorized in the Ruling issued by Administrative Law Judge Christina Smith dated June 8, 2006. The record in this proceeding fails to demonstrate any need or benefit for consumers, the industry or other stakeholders that justifies adoption of the proposed revisions.

Moreover, the Commission cannot adopt Staff’s proposed revisions because it has not complied with the requirement in ORS § 183.335(2)(b)(E) to properly estimate the costs associated with the proposed revisions.

Verizon continues to support the previous comments filed by the Oregon Joint Use Association (“OJUA”) (including the comments filed on June 23, 2006 addressing retroactive application of the Division 24 rules), as well as the Talking Points filed by the OJUA filed on or about June 12, 2006.

As indicated in the Supplemental Comments filed June 1, 2006 (which Verizon will not repeat extensively here), there is no meaningful evidence in this record to support adoption of the proposed Division 24 rule revisions. In particular, there is no convincing recorded evidence that adoption of the proposed revisions will produce any appreciable increase in safety or otherwise benefit Oregon consumers or utility operators. In other words, there has been neither a showing of need for the revisions, nor evidence

demonstrating that adoption of the proposed revisions will produce any benefit. For these reasons alone, the proposed revisions should be rejected.

Moreover, Staff's assertion that the proposed revisions will have little overall financial impact on the business, the industry and the public is flat wrong. In fact, adoption of the proposed revisions will result in significant costs to the industry that the Staff has failed to properly quantify from the outset of this proceeding.

At great expense and without any need or benefit, Staff's proposed revisions would even go well beyond the minimum requirements of the NESC. Requiring the industry to correct virtually all violations within 2 years, regardless of the nature of the violation, is unreasonable and unjustified. The OJUA and VZ propose generally a 5 year corrective program, allowing some minor infractions identified as Tier 3 violations to be repaired within 10 years. Allowing non-life threatening violations to be corrected between 5 and 10 years will allow operators to likely correct non-life threatening violations during the normal course of business, rather than under an artificial timeline. Correction of non-life threatening problems when the operator is already inspecting or otherwise repairing a pole eliminates the need for special activities that would have little benefit and would increase costs significantly.

Staff attempts to minimize projected costs associated with the proposed rules by transforming the millions of dollars in costs to be incurred by operators into small change per month for each customer. The Staff has variously described correction costs as 72 cents per electric customer per month or, more recently, 27 or 16 cents per month, a moving target. The changing figures obviously raise questions about the validity of the Staff's study. Moreover, Staff's approach dilutes and misguides the true costs the

utilities would incur if Staff's proposed revisions were enacted, which staff estimates to be \$127 million and OJUA estimates to be \$165 million as stated in Staff's power point presentation attached to its cost analysis filed May 25, 2006..

Moreover, Staff suggests that the electric companies can pass the cost of these revisions onto their customers. Even if that were true, Staff ignores the fact that companies providing telecommunications services in Oregon operate in a competitive market. Assuming Verizon or other telecommunications carriers desired to pass such increased costs onto their customers; the real issue is whether they could, in fact, pass those costs onto consumers without losing such customers to other carriers. The existing telecommunications market will not likely allow Verizon or other incumbent local exchange carriers to pass such extra costs onto consumers, and particularly not on business customers, which represent a particularly competitive market. For the same reason, it is also likely that cable providers and facilities-based competitive local exchange carriers ("CLECs") would have to either absorb these costs or increase rates. With the exponential growth of wireless, Internet providers of voice services, as well as cable providers, it is very unlikely that these increased costs could be passed through to consumers.

The cost analysis prepared by the Staff was provided only days before the final hearing in a proceeding that has been pending for months. There is no demonstration in the Staff's study that its sample size or nature of the sample is statistically valid or representative. In spite of asserting that there are 2 million poles in Oregon, Staff used a sample of 800 poles, or 4/10ths of 1 percent. Moreover, the actual 800 poles inspected may not be representative of the entire 2 million poles. Projected costs are only as good

as the sample upon which they are based, and the sample utilized in Staff's study appears faulty.

As illustrated by these flaws that are obvious even upon cursory examination, receipt of Staff's cost analysis at the final stages of this proceeding have prevented proper review, determination and testing of the assumptions relied upon in that study and call into question the cost figures cited. As noted earlier, Staff asserted initially that its revisions would have little overall financial impact on the business, the industry and the public. When this assertion was challenged, Staff produced this flawed analysis. It is fundamentally unfair and contrary to due process to allow such a late-filed cost analysis to be probative of actual costs that the industry would incur to implement Staff revisions. The purpose of ORS § 183.335(2)(b)(E) is to ensure cost analyses such as this one are provided up-front in the rulemaking process, not as an after thought. As discussed at length in Verizon's Supplemental Comments filed June 1, 2006, the true economic impact of Staff's proposed revisions has not been shown in this proceeding.

### **CONCLUSION**

Verizon respectfully requests that the Commission reject the revisions proposed by Staff to the Division 24 rules. There has been no showing of a demonstrated need or benefit to warrant the adoption of the revisions. Moreover, the economic impact that would result from adoption of these proposed revisions has not been assessed properly, and the Staff's eleventh hour cost analysis is invalid. Finally, adoption of the proposed revisions is not in the public interest because it will likely result in increased costs to consumers and significant increased costs on operating utilities without proper justification.

Dated: June 29, 2006

VERIZON NORTHWEST INC.

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

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**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of Verizon's Northwest Inc.'s final comments in OPUC Docket AR 506, by US Mail and electronic mail, to the parties on the attached service list.

Dated this 29<sup>nd</sup> day of June, 2006

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