

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 **AR 510**

4 In the Matter of

5 Rulemaking to Amend Rules in OAR 860,  
6 Division 028 Relating to Sanctions for  
7 Attachments to Utility Poles and Facilities.

COMMENTS OF ELECTRIC  
LIGHTWAVE, LLC

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9 Pursuant to the Chief Administrative Law Judge’s Ruling issued September 20, 2006 (the  
10 “Ruling”), Electric Lightwave, LLC hereby submits the following comments on proposed  
11 revisions to certain sections of Division 28 of Chapter 860 of the Oregon Administrative Rules  
12 relating to sanctions. Electric Lightwave bases its comments on the proposal submitted by the  
13 Oregon Joint Use Association (“OJUA”) to Commission Staff on September 12, 2006.

14 Electric Lightwave appreciates the work done by the OJUA and Staff to submit a  
15 proposal that pole owners and occupants can support. Although Electric Lightwave believes that  
16 monetary sanctions are not necessary and should be eliminated entirely, the OJUA’s proposal  
17 reflects a reasonable compromise on certain contested issues. The proposed revisions to the  
18 sanctions rules generally would lower monetary sanctions, provide much needed certainty as to  
19 the amounts of penalties that may be imposed, and give occupants and owners more  
20 opportunities to correct violations before they incur substantial penalties. The proposed  
21 revisions also would eliminate the most perverse incentive in the current rules – the incentive for  
22 pole owners to terminate joint use contracts that have been in place for years solely to maximize  
23 the amount of penalties they may recover. The potential significant windfall that has been  
24 available to pole owners recently has resulted in an increase in the number of joint use disputes  
25 and has generally harmed the tradition of cooperative joint use in the state. Because they fix

1 some of the most egregious unintended problems with the current rules, Electric Lightwave  
2 supports the OJUA's proposed revisions to the sanctions rules in their entirety.

3 Electric Lightwave understands that the OJUA proposal enjoys industry consensus and  
4 supports it as a compromise proposal. However, if other parties oppose the OJUA proposal,  
5 Electric Lightwave reserves its right to respond to issues raised by those parties and to advocate  
6 for more extensive revisions to the sanctions rules.  
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8 Dated this 4th day of October, 2006.

9 Respectfully submitted,

10 ELECTRIC LIGHTWAVE, LLC.  
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