



**Portland General Electric Company**  
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**Barbara W. Halle**  
Assistant General Counsel

March 3, 2006

***Via Electronic Filing and U.S. Mail***

Oregon Public Utility Commission  
Attention: Filing Center  
PO Box 2148  
Salem OR 97308-2148

Re: CHARTER COMMUNICATIONS HOLDING COMPANY, LLC, FALCON TELECABLE,  
L.P., FALCON CABLE SYSTEMS COMPANY II, L.P., and FALCON COMMUNITY  
VENTURES I, L.P., v. CENTRAL LINCOLN PEOPLE'S UTILITY DISTRICT  
OPUC Docket No. UM 1241

Attention Filing Center:

Enclosed for filing in the above-captioned docket is Portland General Electric's Amended Petition to Intervene. This document is being filed by electronic mail with the Filing Center.

An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

/s/ BARBARA W. HALLE

BWH:am

cc: UM 1241 Service List

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**UM 1241**

CHARTER COMMUNICATIONS HOLDING	)	AMENDED PETITION TO
COMPANY, LLC, FALCON TELECABLE, L.P.,	)	INTERVENE OF
FALCON CABLE SYSTEMS COMPANY II, L.P., and	)	PORTLAND GENERAL
FALCON COMMUNITY VENTURES I, L.P.,	)	ELECTRIC COMPANY
	)	
Complainants,	)	
	)	
v.	)	
	)	
CENTRAL LINCOLN PEOPLE’S UTILITY	)	
DISTRICT,	)	
	)	
Defendant.	)	

Portland General Electric Company (“PGE” or the “Company”) petitions to intervene in this proceeding pursuant to Oregon Administrative Rule (OAR) 860-012-0001. In support of this petition, PGE provides the following:

I. On January 6, 2006, Charter Communications Holding Company, LLC, et al. (“Complainant”) filed with the Public Utility Commission of Oregon (“OPUC” or “Commission”) a Complaint (“Complaint”) against Central Lincoln People’s Utility District (“Defendant”). That same day Complainant filed a Motion for Emergency Interim Relief (“Motion”). PGE petitioned to intervene in this docket on February 7, 2006, and revised its Petition on February 9. On February 14, 2006, PGE participated in a telephone hearing, during which PGE agreed to withdraw and refile its Petition to Intervene. PGE withdrew its Petition on February 16, 2006, and hereby refiles its Petition to Intervene with additional information, as requested by the Administrative Law Judge in this docket.

II. The name and address of the Company is:

Portland General Electric Company  
121 SW Salmon Street  
Portland, Oregon 97204

III. The names and addresses of the persons to be included on the official service list in this proceeding are:

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IV. PGE is a public utility subject to the jurisdiction of the Commission. PGE owns approximately 240,000 power poles, and Complainant is one of the licensees who attaches to PGE's poles. PGE has many current pole attachment agreements with various parties, including Complainant.

V. PGE expects to address the following issues that were raised by Complainant in the Complaint dated January 6, 2006:

A. Do Commission Orders from Docket UM 1087 apply to disputes between different parties under different circumstances?

The Complaint represents that the Orders issued by the Commission in Docket UM 1087 are applicable in this case. For example, Complainant asserts that Order No. 05-583 prohibits

specific conduct by Defendant, including charging an application fee, exceeding an annual rental charge of \$4.14 per foot per year, requiring an attaching entity to pay to rearrange its facilities, requiring excessive information in permit applications, and not responding to those applications in a timely manner.

As a party to Docket UM 1087, PGE argued that the Orders in that docket were applicable only to the specific dispute between Verizon and Central Lincoln People's Utility District, and should not be given the weight of precedent in disputes between different companies involving different circumstances. In Order No. 05-981, the Commission left open the question of the precedential value of the Orders in UM 1087:

The value of any precedent is a subject for parties to argue in the course of litigation. Each party will argue why the factual situation in its case is similar or dissimilar to the factual situation in the case already resolved by the Commission, and each party will argue why the Commission erroneously or correctly decided the last case.

Order No. 05-981 at 4 (September 7, 2005). PGE has already expressed its concerns with this issue. As Complainant has raised it squarely in the context of its Complaint in this docket, PGE has an interest in ensuring that the appropriate standards are applied in this case as well.

B. What weight should be given to federal law in the regulation of pole attachments?

In its Motion, Complainant contends that requiring new permits for overflashing "is not reasonable or consistent with industry practice nationwide . . . ." Motion at 9. In support of this statement, Complainant cites a decision of the FCC. Complainant's reference to the FCC indicates that FCC jurisdiction in particular, and federal jurisdiction in general, over pole attachments in the state of Oregon may be an issue in this proceeding, and PGE expects to raise

the same concerns about this issue that it expressed in its Application for Reconsideration in Docket UM 1087.

C. Is a Complainant entitled to a retroactive refund if the terms of an existing pole attachment agreement are held not to be just and reasonable?

Complainant contends that if the Commission orders Complainant and Defendant to enter into a new contract under terms mandated by the Commission, Complainant would also be entitled to a refund of the difference between the rates paid under the existing agreement and those rates ordered prospectively by the Commission in a new agreement. As a pole owner, with many existing pole attachment agreements, PGE has a strong interest in the adjudication of this issue. This claim for a retroactive refund reflects a general principle, rather than a specific question of fact, and thus has implications for all pole attachment agreements.

VI. PGE has interests in this docket that would not be adequately represented by any other parties, and can provide additional perspective on certain issues raised by this Complaint. As described above, PGE's intervention in this docket will not unreasonably broaden the issues, burden the record, or delay the proceeding.

Accordingly, PGE's Amended Petition to Intervene should be granted.

DATED this 3<sup>rd</sup> day of March, 2006.

/s/ BARBARA W. HALLE

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## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing AMENDED PETITION TO INTERVENE OF PORTLAND GENERAL ELECTRIC COMPANY to be served upon each party on the following official service list in this proceeding:

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Dated at Portland, Oregon, this 3<sup>rd</sup> day of March, 2006.

/s/ BARBARA W. HALLE  
Barbara W. Halle