

ISSUED: October 10, 2006

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 506/ AR 510

In the Matters of)	
)	
Rulemaking to Amend and Adopt Rules in)	
OAR 860, Divisions 024 and 028, Regarding Pole)	
Attachment Use and Safety (AR 506))	RULING
)	
and)	
)	
Rulemaking to Amend Rules in OAR 860, Division)	
028 Relating to Sanctions for Attachments to Utility)	
Poles and Facilities (AR 510).)	

**DISPOSITION: DOCKET SCHEDULE MODIFIED; AGENDA FOR
COMMISSIONER WORKSHOP SET**

The workshop on the morning of October 5, 2006, was to resolve discussions related to rules other than those on sanctions and rental rates. Not all of the rules were addressed during that time, and there appeared to be a need for an additional workshop to revisit other issues that arose during that day. Therefore, the schedule is amended as follows:

October 26, 2006	Workshop (to begin soon after the UM 1208 Commissioner Public Meeting, and in no event before 11:00 a.m.)
November 8, 2006	Hearing
November 17, 2006	Last round of comments; Last day of public comment

The workshop on October 26 will focus on proposed OAR 860-028-0070 through OAR 860-028-0100, dispute resolution, and proposed OAR 860-028-0115, duties of structure owners. A more detailed agenda will be sent out as the workshop gets closer.

The agenda for the Commissioner workshop to be held the afternoon of October 12, is set as follows:

- 1:30-2:30 Rental Rates
 - Cost of money for cooperatives – *OTECC/ ORECA, OCTA, Staff*
 - Other issues identified in the morning workshop
- 2:30-3:00 Costs of hearing – *CLPUD/ NWCPUD, Charter, Staff*
- 3:00-3:30 Sanctions – *OJUA, PacifiCorp, Charter*
- 3:30-4:00 Wireless in separate docket – *Wireless industry, OJUA, Staff*
- 4:00-4:30 And as time allows, other issues as identified by the participants

Comments indicated a misunderstanding as to what the “costs of hearing” include. ORS 757.279(2) states,

When the order [determining and fixing the rates, terms and conditions for attachments] applies to a consumer-owned utility, the order shall also provide for payment by the parties of the cost of the hearing. The payment shall be made in a manner which the commission considers equitable.

This is left over from the time when the Department of Commerce in Oregon (Department) regulated pole attachments by entities that were not regulated by the Public Utility Commission. The Department did not have a hearings panel for the purpose of adjudicating pole attachment disputes in the same way that the Commission did. Consequently, entities that were engaged in a dispute before the Department were required to pay the Department’s costs of hearing the case; the Commission already charged utilities for regulation, which includes the hearings division. *See* Docket UM 1087, Order No. 05-042, pp 17-19 (discussing history of the statute and how it should be applied). When the Department of Commerce was abolished in Oregon, these disputes were moved to the jurisdiction of the Commission, along with the requirement that the Commission charge the parties in the case for costs. *See* Or Laws 1987, ch 414, § 165. The Commission did not charge the parties for costs in UM 1087, but remains concerned about how to implement its obligation under ORS 757.279. There is no provision that allows for the Commission to “award costs” to a party.

Dated at Salem, Oregon, this 10th day of October, 2006.

Christina M. Hayes
Administrative Law Judge