

**PUBLIC UTILITY COMMISSION OF OREGON
ADMINISTRATIVE HEARINGS DIVISION REPORT
PUBLIC MEETING DATE: October 30, 2003**

REGULAR	CONSENT	X	EFFECTIVE DATE	Upon Filing with the Secretary of State
DATE:	October 15, 2003			
TO:	Commissioners Beyer, Savage, and Baum			
FROM:	Donna Roberson, through Ruth Crowley, Administrative Law Judge			
REVIEWED BY:	Terry Lambeth, Rules Project Leader			
SUBJECT:	<u>AR 474</u> : Request to initiate a permanent rulemaking to prescribe a time period for final action in pole attachment complaints.			

ADMINISTRATIVE LAW JUDGE RECOMMENDATION:

Initiate a rulemaking to prescribe a time period for final action in pole attachment complaints.

DISCUSSION:

Section 224 of the Telecommunications Act of 1996¹ provides that a state must take final action on a pole attachment complaint within 180 days after the complaint is filed unless rules and regulations of the state prescribe a time period, not exceeding 360 days, for responding to such complaints. Oregon currently has no rules or regulations that prescribe a time period for responding to such complaints.

The Commission has received a number of complex pole attachment complaints that will require more than 180 days to complete. For instance, UM 1096 involves a complaint with seven claims for relief involving 1,665 separate pole attachments. In

¹Telecommunications Act of 1996, 47 U.S.C. § 224(c)(3), provides:

For purposes of this subsection, a State shall not be considered to regulate the rates, terms, and conditions for pole attachments *** (B) with respect to any individual matter, unless the State takes final action on a complaint regarding such matter – (i) within 180 days after the complaint is filed with the State, or (ii) within the applicable period prescribed for such final action in such rules and regulation of the State, if the prescribed period does not extend beyond 360 days after the filing of such complaint.

AR 474
October 15, 2003
Page 2

order to adequately review this and other complaints, the extended time provided for in the Telecommunications Act is required.

The proposed rule, attached, requires the Commission to issue a final order in any pole attachment complaint within 360 days of the filing of such complaint. This rule will allow time for the Commission to sufficiently review pole attachment complaints while still issuing a final order within the time frame prescribed by the FCC.

PROPOSED COMMISSION MOTION:

Initiate a rulemaking to prescribe a time period for final action in pole attachment complaints.

AR 474
October 15, 2003
Page 3

860-028-0895

Time Frame for Final Action by Commission

Upon receipt of a complaint regarding any individual matter under these rules, the Commission shall, within 360 days, issue a final order.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759, 47 USC § 224(c)(3)(B)(ii)

Stats. Implemented: ORS 756.040, ORS 757.270 through 757.290, ORS 759.045, and ORS 759.650 through 759.675

Hist.: New