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Via Electronic Mail

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Re: Docket No. U-140621 - Comments of Avista Utilities

Avista Corporation, dba Avista Utilities ("Avista" or "Company"), submits the following comments in accordance with the Washington Utilities and Transportation Commission's ("Commission") Notice of Opportunity to Comment on Third Revised Draft Rules ("Notice") issued March 24, 2015 in Docket U-140621.

Avista appreciates the opportunity to provide the following comments in this proceeding in response to the Third Revised Draft Rules and the eight subjects ("Written Comments") on which the Notice seeks comments or information:

I. 480-54-020 DEFINITIONS

Mandatory Attachment Requirements Should Not Extend Beyond Cable and Telecom Companies

As currently written, Draft Rule 480-54-020(9) defines "Licensee" to include every imaginable person or entity, no matter whether the communications service transmitted over the attachment is available to the public or simply for private use, and no matter what use that person or entity envisions for those facilities.

Having no limitations on which entities have attachment rights could easily overburden Washington State utility poles, more than in any other part of the country. Commercial and industrial entities seeking to avoid common carrier telecom fees could install their own private communications systems using electric and telephone company utility poles. Private communications networks using fiber and/or WiFi could be installed on utility poles in order to connect, for example, a port area with industrial parks, offices in an office park, used car lots owned by car dealers, businesses within a shopping center, or any other conceivable combination of businesses. Even residential homeowners could require utilities to make room on their poles for home network WiFi devices used to improve reception on their outdoor property or neighborhoods.

The list of persons and entities which could require utilities to drop their other work to accommodate these private attachments is practically endless. As currently written, the new rules would even require utilities to replace poles to accommodate them.

Pole space is limited on electric utility and other poles. Granting access rights to every person or entity that requests access is not only an inefficient use of that space, it ties up valuable electric utility resources and increases safety risk. It is difficult enough already for utility pole owners to accommodate requests for access by cable television and telecommunications companies whose services are franchised or otherwise regulated. Draft Rule 480-54-020(9) would multiply the number of potential attachers by tenfold to include every person or entity which develops some notion for a communications system, no matter what their motivations or qualifications. It may become very difficult to monitor and control unauthorized attachments and safety violations.

Attachment rights should be restricted to those entities that are in the business of providing common carriage commercial video and telecommunications services. Homeowners and businesses can, and should, continue to receive their services through commercial cable and telecommunications carriers, but not be allowed to install private networks at will over already-burdened utility poles, all at the expense of utility pole owners and professional communications providers.

Avista therefore proposes that the definition of "Licensee" be limited to those entities providing cable television service or telecommunications service on a common carriage, not private carriage, basis.[1]

"Pole" Regulations Should Apply to Distribution Facilities, Not Transmission Facilities

In its February 6 and 27, 2015 Comments, Avista explained that "distribution under-build" does not change the fundamental character of the transmission facility, so that a transmission pole with distribution under-build should still be considered a transmission pole.[2] Avista explained how transmission towers and poles are different than distribution-only poles (*e.g.*, they are much taller, carry much higher voltage, are not commonly used for communications attachments, are regulated by FERC, and are subject to different FERC Accounts).[3] Avista also explained that transmission pole modifications and replacements are complicated and that outages required to replace poles are often unavailable for six months of the year.[4] None of these factors make transmission poles and towers, including those with distribution under-build, suitable for make-ready deadlines and the other requirements of the Draft Rules.

In addition, as explained below in Avista's response to the first of eight questions posed by the Commission, application of the proposed pole attachment rules to transmission facilities raise several safety and reliability concerns. Safety risks associated with unqualified communications workers are compounded when voltages increase from distribution voltages below 35kV to transmission voltages of 115kV or 230kV, or when communications lines are built near specialized equipment or substations. Transmission pole replacements cannot meet the make-ready timelines because outage coordination on 230kV and 115kV systems is a complex process. Most outages cannot be taken during approximately six months of the year due to loads and system conditions, outage scheduling is problematic for other reasons, and the additional burdens caused by communications attachments potentially reduces system reliability.

[1] The FCC recently extended federal pole attachment rights to broadband providers by reclassifying broadband Internet access service as a telecommunications service. *Protecting and Promoting the Open Internet*, Report and Order, GN Docket 14-28, FCC 15-24 (Feb. 26, 2015).
[2] Avista's Feb. 6, 2015 Comments at 2; Avista's Feb. 27, 2015 Comments at 6-7.
[3] *Id.*
[4] *Id.*

Importantly, any planned or unplanned outages of electricity transmission to accommodate third party communications providers would have a directly negative effect on the performance of the North American Electric Reliability Corporation ("NERC") Bulk Electric System ("BES"), which includes the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at transmission voltages of 100kV and above. Avista is accountable to NERC and the Federal Energy Regulatory Commission ("FERC") for reliable and safe operation of its BES facilities, and any performance degradation of BES facilities will affect a large geographic area.

For all of these reasons, Avista respectfully reiterates its request that the Commission modify the second sentence of the Definition for "Pole" in Draft Rule 480-54-020(16) to read as follows: "When the owner is an electrical company as defined in RCW 80.04.010, 'pole' is limited to structures used to attach distribution lines and having a voltage rating of or below 34.5 kV."

II. MAKE-READY WORK

Utilities Should Not Be Required to Replace Existing Poles with Taller Poles

Draft Rule 480-54-030(1) would require pole owners to replace existing poles with taller poles as long as the new attacher is willing to pay the cost.

As explained in Avista's February 6 and February 27, 2015 Comments, the requirement to replace poles is a forced expansion of capacity that is inconsistent with FCC rules, a burden on electric utility personnel and resources, and ignores that attaching entities have alternatives to pole replacements.[5]

Replacing poles with taller poles simply to accommodate communications attachers is a time-consuming process that utilities have historically been willing to allow, as long as electric utility operations and other considerations are not adversely affected. While historically this has not been an issue, it is becoming a real issue now that wireless companies have begun seeking access.

Private land owners and the general public do not support the installation of oversized, out-of-place, and incompatible utility poles on or near their property. Not only are the sizes of

[5] Avista's Feb. 6, 2015 Comments at 4-5.

these unwanted new and replacement poles unrestricted, the size of the antenna and related facilities wireless companies could seek to install are likewise unlimited.

Wireless companies do not need the ability to require pole replacements on demand, and have managed to deploy successful systems using utility poles across the country in places (including the 30 states where FCC rules apply) where they are not allowed to demand such pole replacements at will.

The only reason wireless companies seek such unrestricted pole expansions is that it saves them money. Wireless companies prefer poles that are taller than existing poles because the propagation characteristics of antennas located higher above ground is better, so that fewer antennas need to be installed. It does not mean they cannot deploy using existing poles; it only means it is more expensive for them to use existing poles.

For example, imagine owning a home in a suburban community whose electricity is distributed using a uniform row of standard 35- and 40-foot poles. A wireless company comes along with options to create a wireless telecommunications network that requires antenna installations on either: (1) 20 existing 35- and 40-foot poles in the line; or (2) five new 55- and 60-foot poles that would be installed among the 35- and 40-foot poles. Either configuration would cover the same territory and serve as many people, but the first option to use existing poles is a bit more expensive. Given the choice, the wireless company would prefer the less expensive option. But why should a homeowner be forced to endure the installation of a 55-foot or 60-foot pole boarding their property with excessive height created by an unsightly antenna structure simply to save a wireless company some money? Such installations are an eyesore to everyone that views them regularly, and they also diminish property values. Reducing property values simply to save a wireless company some money seems contrary to public policy.

Avista experienced this problem first hand in 2001 when the very tall pole and large antenna array pictured below was installed. The City of Spokane eventually required Avista to remove this installation due to outrage voiced by nearby homeowners.

In Avista's view, efficient utility operations and the interests of homeowners and the general public should be considered well before the interest of wireless companies with plenty of other options available to them. Avista therefore proposes that the Commission follow the federal regulatory guidance allowing utility pole owners to deny access for reasons of insufficient capacity on existing poles.

Make-Ready Contractors Hired by Communications Companies Must Be Restricted to the Communications Space

Draft Rule 480-54-030(6)(a)(v) would allow a requester to hire a contractor from a list maintained by the owner to perform make-ready work within the communications space if make-ready work therein is not completed by the date set by the owner. A sentence was added in the Third Draft Rules stating that if the owner does not maintain a list, the requester "may choose a contractor without the owner's authorization." Similar sentences were added to Draft Rule 480-54-030(10) and Draft Rule 480-54-040.

Consistent with the Commission's intent that contractors hired by requesters perform make-ready construction work in the communications space only, Avista requests that these three sections be modified to add the phrase, "to perform such work in the communications space", be added to the end of these new sentences.

Similarly, Avista proposes that Draft Rules 480-54-040(1) and (3) be clarified to add the phrase "in the communications space" after the phrase "make-ready work".

The Make-Ready Deadlines Should Not Apply To 300-Pole Projects

Draft Rule 480-54-030(7) was modified to apply make-ready timelines to projects of 100 poles instead of 300 poles, and removed the provisions from 300 to 3000 poles entirely. Staff now seeks comment on whether the timelines should apply to projects of 300 poles.[6]

As explained in Avista's response to the issues raised by the Commission in Written Comments ¶ (3), the make-ready deadlines should only be modified if the requirement to replace poles on demand is eliminated. Once pole replacements are at issue, timelines are often impossible to meet consistently.

[6] *See* Notice at Written Comment ¶ (3).

As explained below in Avista's response to the second of eight questions posed by the Commission, Avista's average for replacing poles (including necessary field work) is 46.3 days, but this 46.3 day time period does not include: (i) the additional time that may be required to obtain necessary easements or special permitting, such as those required by the Washington Department of Transportation or railroad companies, those required because environmental issues exist, or those required because poles are located near shorelines, historical sites or archeological sites; (ii) the considerable amount of time required for the ordering and delivery of specially engineered steel or laminated poles; (iii) requests for pole replacements that never occurred because the time required for the replacement was longer than the attaching entity wanted to wait and the attaching entity chose an alternate route or chose to install its facilities underground; and (iv) the time to replace transmission poles, since outages associated with transmission pole replacements need to be coordinated with other scheduled outages on the system, and Avista schedules no planned outages to the 115kV and 230kV transmission systems for six months out of the year due to loads and system conditions. Avista explained in its February 27, 2015 Comments that it could live with a modified proposal to apply the timelines to projects of 300 poles, but only if such projects do not involve pole replacements.[7]

As explained in Avista's February 27, 2015 Comments, other states have much more lenient make-ready deadlines.[8] These states, two of which neighbor Washington, have taken more reasonable approaches to make-ready deadlines than what some attachers have proposed.

III. COMPLIANCE WITH SAFETY AND CONSTRUCTION STANDARDS

Licensees Must Comply with Applicable Safety Codes and Construction Standards

Draft Rule 480-54-030(2) was modified to require all rates, terms and conditions to "be included in an attachment agreement with the licensee or utility." This restriction, however, is too limited.

Apart from attachment agreements themselves, utilities require attaching entities to comply with applicable safety codes, which include the National Electrical Safety Code ("NESC"), the National Electrical Code ("NEC"), the Occupational Safety and Health Act

[7] Avista's Feb. 27, 2015 Comments at 12.
[8] *Id*. at 12-13.

("OSHA"), and with the utility's own construction, engineering and design standards. Such codes and standards protect the general public as well as those accessing the poles, and attaching entities must comply with them in order to operate safely in and around the utility's own electric facilities.

Such codes and utility standards could be regarded as "terms or conditions" of attachment but they do not appear in the pole attachment agreement itself. To clarify, the Commission should add a new sentence after the first that reads: "Licensees and utilities must also comply with applicable safety codes and the owner's construction, engineering and design standards."

Utility Pole Owners Need Remedies to Ensure Compliance with Safety Codes and Utility Standards

Avista explained that cost cutting, speed to market, and inadequate training result in numerous unauthorized attachments and safety violations by communications company licensees. Avista proposed that these violations be curtailed by allowing utility owners to impose sanctions for unauthorized attachments, safety violations, violations of existing contracts, and for attachments made without a contract, all consistent with Oregon's rules.[9] Puget Sound Energy also proposed sanctions.[10]

In the Staff Recommendations associated with Draft Rule 480-54-030(3), Staff notes that the Commission cannot authorize damages or delegate its authority to impose penalties, and in its Recommendations associated with Draft Rule 480-54-070, Staff states it would be bad public policy to delegate penalty authority even if it were lawful.

The problem with these conclusions is that it leaves utility pole owners defenseless against these violations. Without any risk of penalty, licensees lack the incentive to bear the full cost and expense of constructing their facilities in a safe and reliable manner, or even to comply with the utility pole owner's permitting process. Licensees understand that utility pole owners cannot police all activity on their system, and opportunities abound for contractors hired by attaching entities to install or modify facilities without supervision.

If penalties cannot be imposed by utility pole owners, other remedies must be made available. Avista therefore proposes that the Commission's Draft Rules be modified to allow

[9] Avista's Feb. 6, 2015 Comments at 16-17.
[10] Puget Sound Energy's Feb. 27, 2015 Comments at 8.

certain default remedies to be available in the event of default. Avista proposes that the subject heading of Draft Rule 480-54-050 be revised to read: "480-54-050 Modification costs; notice; temporary stay; default remedies", and that a new subsection (6) be added to read:

> (6) If a utility or licensee fails to comply with its attachment agreement with the owner, applicable safety codes, or the owner's construction, engineering or design standards, the owner may: (1) terminate the authorization covering the poles(s) at issue; (2) decline to authorize additional attachments until the default is cured; (3) suspend access to or work on any or all of owner's poles; (4) correct the default at the expense of the utility or licensee; and/or (5) seek specific performance through a court of competent jurisdiction.

IV. OVERLASHING

Draft Rule 480-54-030(11) was revised to accept what the Broadband Communications Association of Washington called a "compromise" to limit overlashing notices to 30 poles in any 10-day period, include weight and conductor information, include a map, and correct safety violations associated with the occupant's attachments. The problem with this "compromise" is that it still only allows seven days for utility pole owners to determine whether the overlashing would have a "significant adverse impact on the poles or other occupants' attachments," substantiate that determination, and identify all make-ready work required prior to overlashing.

Seven days is entirely too short a time for utility pole owners to evaluate the additional wind and ice load on the poles and anchors created by the overlashing, analyze the additional sag mid-span, particularly during storms and extreme temperature conditions, analyze the installation of riser cables extending from the communications space attachments to underground facilities, and design appropriate make-ready.

There is nothing about overlashing that requires such short notice or requires utilities to act so swiftly. Communications companies understand well in advance the areas in which they need to expand capacity through the use of overlashing, just like they know well in advance which areas they want to serve for the first time through the use of new attachment installations. They have no reason to withhold this information about overlashing from utility pole owners any more than they have reason to withhold information about new attachment installations. And there is no reason for them not to wait the same period of time for the approval of overlashing

that they wait for the approval of new attachments. It appears instead that the only reason they are in a rush to overlash is to prevent utility pole owners from conducting adequate safety and engineering analysis of the overlashing, thus lowering the risk of having to pay make-ready expenses. Attacher requests to conduct overlashing without adequate oversight and approval therefore lack a legitimate basis.

The California Public Utilities Commission ("CPUC") analyzed this overlashing issue and ruled that overlashing must follow the same application and permitting requirements that new attachments must follow. In CPUC's 1998 pole attachment rulemaking proceeding, Southern California Edison argued that new installations and modifications (including overlashing) must have prior utility approval.[11] The CPUC agreed, ruling that "Telecommunications carriers must obtain express written authorization from the incumbent utility and must comply with applicable notification and safety rules before attempting to make a new attachment or modifying existing attachments."[12] The CPUC stated:

> We generally agree that the incumbent utility, particularly electric utilities, should be permitted to impose restrictions and conditions which are necessary to ensure the safety and engineering reliability of its facilities. In the interest of public health and safety, the utility must be able to exercise necessary control over access to its facilities to avoid creating conditions which could risk accident or injury to workers or the public. The utility must also be permitted to impose necessary restrictions to protect the engineering reliability and integrity of its facilities.[13]

So concerned is the CPUC with unauthorized overlashing that it imposes a $500 penalty on "any carrier … which has performed an unauthorized modification" or other unauthorized attachment.[14]

The concerns about overlashing that led the CPUC to require advance application and approval (and impose $500 fines for unauthorized overlashing) are the same concerns that exist in Washington today. The process of evaluating proposed overlashing takes far longer than the seven days specified in Draft Rule 480-54-030(11). In order to safely manage and protect the

[11] California Public Utilities Commission, Decision 98-10-058 (Oct. 22, 1998), 82 CPUC 2n 510, 1998 WL 1109255 (Cal.P.U.C.), slip copy at *37 ("CPUC Decision 98-10-058").
[12] CPUC Decision 98-10-058, slip op. at *39 (emphasis added).
[13] CPUC Decision 98-10-058, slip op. at *39.
[14] CPUC Decision 98-10-058, slip op. at *39.

limited space on poles for the benefit of all, main line cable overlashing requires a Route Application and design prior to construction in the same manner as new wireline construction.

Avista therefore repeats its recommendation that overlashing be subject to the same application and approval process as other attachment requests, consistent with Avista's current practice. At the very least, should the Commission adopt a simple notice provision for certain overlashing requests, Avista proposes that the 30-pole limit be for all requests in a 20-day period (instead of a 10-day period), and that owners have 14 business days (instead of 7 days) within which to respond.

Apart from the need for adequate advance approval of overlashing, pole owners must be able to recover the costs associated with evaluating overlashing requests. Staff's Recommendation associated with Draft Rule 480-54-030(11) states: "Costs of reviewing and responding to notice [of overlashing] should be included in pole maintenance expenses included in the carrying charge." But the cost of reviewing and responding to overlashing requests is no different than the cost of reviewing and responding to new attachment requests. In both cases, trips to the poles are necessary, engineering analysis and design is required, and a make-ready estimate must be prepared. If this were a new attachment request, those costs would be billed to the requester and recovered separate from the annual rental charge.

Only by separate charge can these types of expenses be recovered. To illustrate, assume the expenses to analyze an overlashing request total $1,000. Adding $1,000 to the $8,701,264 in Avista's Account 593 (the pole maintenance account used to calculate the maintenance carrying charge)[15] is a drop in the bucket that has no effect at all on the annual rental rate that Avista would charge attaching entities. Because the rate does not change, no portion of these expenses would be recovered by Avista and so Avista's ratepayers must pay for all of these expenses incurred only to accommodate communications company overlashing. Electric utility ratepayers should not have to subsidize communications company overlashing.

[15] See Avista Corporation FERC Form 1 for year-end 2013 at p. 322, line 149(b).

V. WRITTEN COMMENTS

Avista respectfully submits these responses to the Commission's request for comments or information regarding the following:

(1) The safety risks posed by attachments to poles on which both electric transmission lines and electric distribution lines are attached, including but not limited to the provisions of the National Electric Safety Code or other industry standard guidelines that identify and quantify those risks and whether poles used primarily for electric distribution lines pose the same risks;

AVISTA RESPONSE: The National Electrical Safety Code ("NESC" or "Code") forms the basis of safe practices for public and private utilities. All provisions of the NESC are important to evaluating safety risks and the following introductory language from the Code is useful to frame any discussion of those risks. In Section 1 ("Introduction to the National Electrical Safety Code"), the purpose of the Code is explained as follows:

010 Purpose

A. The purpose of the NESC is the practical safeguarding of persons, utility facilities, and affected property during the installation, operations and maintenance of electric supply and communication facilities, under specified conditions.
NOTE: NESC rules are founded upon the fundamental principles used for safety of utility facilities, and the NESC is globally accepted as good engineering practice.

B. NESC rules contain the basic provisions, under specified conditions, that are considered necessary for the safeguarding of:
   1. The public.
   2. Utility workers (employees and contractors),
   3. Utility facilities,
   4. Electric supply and communication equipment connected to utility facilities, and
   5. Other facilities or premises adjacent to or containing utility facilities.

C. NESC rules are intended to provide a standard of safe practices that can be adopted by public utilities, private utilities, state or local utility commissions or public service commissions, or other boards or bodies having control over safe practices employed in the design, installations, operation, and maintenance of electric supply, communication, street and area lighting, signal or railroad utility facilities.

D. This Code is not intended as a design specification or as an instruction manual.

Section 2 of the Code ("Definitions of special terms") provides a few useful definitions that also help to frame the safety issues Avista raises below:

> **exclusive control**. Generally covers installation, ownership, restricted access, operation, and maintenance.
> **exclusive control of utility.** Where (a) energized facilities are separated from public access by a spatial or a physical barrier and accessible only to qualified personnel authorized by the serving utility, and (b) the utility is responsible for connection/disconnection of such facilities to/from energized sources of energy or signals.
>
> . . . .
>
> **qualified.** Having been trained in and having demonstrated adequate knowledge of the installation, construction, or operation of lines and equipment and the hazards involved, including identification of and exposure to electric supply and communication lines and equipment in or near the workplace. An employee who is undergoing on-the-job training and who, in the course of such training, has demonstrated an ability to perform duties safely at his or her level of training, and who is under the direct supervision of a qualified person, is considered to be a qualified person for the performance of those duties."

There are a multitude of operational scenarios that could exist in regards to safe access, construction and maintenance of joint facilities on distribution and transmission poles. That is why it is imperative that the rules adopted by the WUTC allow pole owners full oversight capability and do nothing to impede or remove the exclusive pole owner control that is necessary to create and maintain a safe environment for workers and the general public.

Communications line workers are not considered to be "qualified" personnel with respect to identifying electrical hazards. This lack of communications worker qualification explains why the separation of communication and electric supply lines is so embedded in the codes and standards of electric utilities.

The greatest safety risk occurs when a communications worker does not know enough even to comprehend that a hazard exists. Those hazards are of course compounded when voltages increase from distribution voltages below 35kV to transmission voltages of 115kV or 230kV, or when communications lines are built near specialized equipment or substations.

Transmission pole replacements cannot meet the make-ready timelines and should be excluded from these Rules. Outage coordination on 230kV and 115kV systems is a complex process. Most outages cannot be taken approximately six months of the year due to loads and system conditions. In addition to that, Avista plans each outage very carefully so that another unplanned outage on top of the planned outage does not result in any System Operating Limit exceedances. This is required by the Reliability Coordinator for the Western Interconnection. If a system operating limit exceedance is found either in a power flow study for a planned outage, or in real-time, it must be mitigated immediately, usually by shedding load. Any planned outage will compete with other scheduled outages on the system. Additionally, communications facility upgrades, antennas, etc, may require maintenance and that may mean more outages, which require more coordination. Anything that adds burden to how Avista operates its 230kV and 115kV systems may potentially reduce reliability to our customer load.

Essentially, any planned or unplanned outages to accommodate third party communications providers would have a directly negative effect on the performance of the North American Electric Reliability Corporation ("NERC") Bulk Electric System ("BES"), which includes the electrical generation resources, transmission lines, interconnections with neighboring systems, and associated equipment, generally operated at transmission voltages of 100kV and above. Avista is accountable to NERC and the Federal Energy Regulatory Commission ("FERC") for reliable and safe operation of its BES facilities, and any performance degradation of BES facilities will affect a large geographic area.

It is therefore imperative that electric pole owners maintain exclusive control over transmission facilities and that interruptions to the operations of those transmission systems be minimized. Transmission facilities should not be included in any pole attachment regulations which grant communications companies mandatory access rights or the ability to require pole replacements.

(2) The amount of time required to replace a pole (based on actual replacement data, rather than estimates);

AVISTA RESPONSE: Avista compiled joint use pole replacement data covering a period of 3 years for 2012, 2013 and 2014. The data showed that the average number of days per distribution pole replacement was 41.3 days, not including the time to field the job. This field work time takes an additional 5 days on average so the total is closer to 46.3 days.

This 46.3 day time period, however, does not include or account for all of the additional time that may be required to obtain necessary easements or special permitting, such as those required by the Washington Department of Transportation or railroad companies, those required because environmental issues exist, or those required because poles are located near shorelines, historical sites or archeological sites.

This 46.3-day time period also does not include requests for pole replacements that never occurred because the time required for the replacement was longer than the attaching entity wanted to wait. In those situations, rather than wait for the pole replacement, the attaching entity chose an alternate route or chose to install its facilities underground.

This 46.3 day time period also does not account for the considerable amount of time required for the ordering and delivery of specially engineered steel or laminated poles. The photos below depict a laminated pole and a steel pole specifically engineered for distribution circuits and joint use loading. The ordering time on these can take many months. Typically, these are buried at a depth in excess of 10 feet and need to have a concrete backfill or controlled density backfill. The setup time alone for such backfill may take up to two weeks.


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The time to replace transmission poles was also not included in this 46.3 day average calculation because outages associated with transmission pole replacements need to be coordinated with other scheduled outages on the system. As noted in Avista's response to Question 1 above, Avista schedules no planned outages to the 115kV and 230kV transmission systems for six months out of the year due to loads and system conditions.

Avista today, and historically, has made every effort to coordinate pole replacements with communications companies by allowing them to help prioritize the work for their own projects.

We have also strived to create temporary or alternative solutions so their jobs are not delayed unnecessarily.

(3) Whether the timelines in draft WAC 480-54-030 should be modified to apply to applications for attachment to up to 300 (rather than 100) poles on condition that the owner may complete any required pole replacement within a longer period of time than authorized for other make-ready work (and if so, a proposal for that longer period of time);

AVISTA RESPONSE: Applying the draft timelines to applications for significantly larger jobs up to 300 poles creates considerable safety and operational issues for utilities if pole replacements become mandatory. As explained more fully in Avista's February 6, 2015 comments in this rulemaking, the proposed make-ready deadlines applicable to requests totaling no more than 300 poles per month are manageable from a design engineering perspective only if no pole replacements are required.

It has been Avista's experience that the communication companies which undertake large projects have budgets and planning efforts set well in advance. Sometimes, however, pole owners receive minimal advance notice. Leaving the maximum at 100 poles would encourage proper planning timelines with pole owners and allow for phasing in of large projects. Deadlines for a larger project can then be negotiated if distribution pole replacements were mandatory.

Avista believes the deadlines associated with the current Draft Rules are appropriate at 100 poles. But as stated above, Avista could live with a modified proposal to apply the timelines to projects of 300 poles only if such projects do not involve pole replacements.

A project of 300 poles that might have a high number of pole replacements would cause a significant impact to available resources. Replacing 20, 40 or 60 distribution poles in a project this size needs specialized planning for a utility the size of Avista, particularly if the project is located in one of our more rural service areas. If there are more than 100 poles in a Route Application, the parties should negotiate a mutually acceptable longer period to complete the work. If communication companies know these terms in advance, they have time to plan accordingly and work together in good faith with utility pole owners.

(4) The fees that owners currently charge to process and respond to applications for attachments to poles, ducts, or conduits and the types of costs on which those charges are based;

AVISTA RESPONSE: A flat rate Route Application Fee applies to most jobs and is charged up front when the application is submitted. This fee covers one field review and one review of a resubmitted design up to 40 poles. If additional design reviews are required for the same route or if the route is greater than 40-poles, then added charges will apply.

A Route Application is required to be submitted and to accompany designs for all extensions, upgrading or overlashing of cable facilities on Avista poles or for conduit installations located in the Spokane Downtown Network. The fees for processing all jobs requiring main line cable construction are as follows:

Includes One Field Review and One Resubmitted Design Review

- New Pole Attachments – 1 to 40 Poles = $360
- New Pole Attachments – Over 40 Poles = $360 plus $60/hr rate
- Overlashed Pole Attachments 1 to 10 Poles = No Charge (see note below)
- Overlashed Pole Attachments - 11 to 40 Poles = $360
- Overlashed Pole Attachments – Over 40 Poles = $360 plus $60/hr rate

Avista assesses no charge to process Route Applications for overlash jobs of 10 poles or less in order to encourage attaching entities to report small overlash jobs. Avista, however, does not allow overlashing projects to size down to multiple smaller requests just to minimize Route Application Fees.

Avista similarly assesses no charge for Route Applications used to notify Avista of new pole attachments for service drops, again in order to encourage attaching entities to report them.

For jobs over 40 pole attachments, the $60/hr rate excludes the first six hours worked on a project and the additional hours are billed as a make-ready expense.

Any Route Applications that would require Avista to perform more than one field review and one resubmittal review of the design may require either additional Route Application Fees, or supplementary charges assessed as an additional make-ready expense.

Route Application Fees include non-binding estimates for Avista make-ready work, but do not include actual design costs. Actual design costs are part of the make-ready work if the communication company accepts the non-binding estimate.

For conduit installations in the Downtown Spokane Network, the Route Application Fee covers an engineering review. If the review of the route appears feasible, then a crew needs to physically inspect the vaults to determine if the proposed route is accessible as part of the Route Application process. Crew time is then billed as a make-ready expense.

(5) The fees that owners currently charge to undertake make-ready work and the types of costs on which those charges are based;

AVISTA RESPONSE: In its response to Question # 4 above, Avista identified a couple miscellaneous make-ready expenses. Otherwise, Avista's make-ready charges for distribution poles fall generally into one of two categories -- alterations or replacement. Alterations to an existing pole without a need to replace it may include raising streetlights, extending or modifying conduit risers, trimming secondary drip loops, changing switch rod insulator locations, and other changes located in the supply or safety space. Alterations to an existing pole can be done by an electric serviceman in some cases, while other alterations require the work of a crew. Replacement of poles and/or anchors will always require crews to do the work.

Work done by an electric serviceman is flat-rated in most cases. For example, the charge to raise up a streetlight is $190. The charge to extend a 2-inch conduit riser is $100. These costs would be much higher if the work were contracted out with unit pricing. The flat-rate pricing is made up of material cost and assigned loaded labor hours.

Make-Ready costs requiring crews to perform the work can vary greatly from pole to pole, due in part to the circumstances noted in Avista's response to Question 2 above. Crew work, whether for alterations or replacement of facilities, is billed based on actual costs after the work is completed. Crew time, material costs, equipment expense, contractor costs and any specialized costs (such as easement procurement) are all tracked for the final billing to the joint use customer. The loaded cost components are provided by Avista's Utility Accounting and are updated regularly. These billings for joint use make-ready work are basically the same as any

customer or property owner would be billed for undertaking electric line work that is not covered by Avista's Schedule 51 Electric Line Extension Tariff.

At Avista, make-ready work required for facilities owned by other entities is coordinated directly by the communication company requesting the attachment or modification, and is not included in Avista's make-ready fees mentioned above. If Avista were required to administer make-ready work performed by other communication companies in order to accommodate new communications company attachments, then those administrative costs would add considerably to the fees Avista currently charges. Avista's existing procedure allowing applicants to coordinate make-ready work with other existing communications company attachers is a much more cost effective, efficient and direct approach that has been successfully executed for many years.

(6) The rates that owners currently charge occupants for attachment to the owner's poles, ducts, or conduits, and the types of costs included in the ARMIS or FERC accounts used to calculate attachment rates in compliance with the Federal Communications Commission (FCC) formula;

AVISTA RESPONSE: Avista's pole attachment rates in Washington have all the same cost components used in the FCC formulas. The three components of the rate structure are Usable Space Factor, Carrying Charges and Net Cost of a Bare Pole. Carrying Charges are made up of Depreciation Expense, Administrative Expense, Maintenance Expense, Normalized Taxes and Rate of Return. The Net Cost of a Bare Pole takes the Net Investment in Poles and multiplies it by .85, consistent with the appurtenances presumption prescribed by the FCC, and then divides that by the number of Account 364 distribution poles system-wide.

The Carrying Charges are derived from FERC accounts 364, 365, 369 and 593. Accumulated Deferred Income Taxes are adjusted from FERC accounts 190, 282 and 283. Accounts 408.1, 409.1, 410.1, 411.1 and 411.4 create the total allocated taxes.

The Usable Space Factors were established contractually and prior to the 1996 Telecommunications Act. Cable company rates are calculated based on the cable company occupying one foot of space and the usable space on the pole equaling ten feet. This varies from the FCC's presumption that the amount of usable space equals 13.5 feet. The 3.5-feet difference results from the FCC's treatment of the 40-inch safety space on the pole required in most cases

between the lowest energized conductor and the highest communications attachment. The NESC refers to this space as the "Communication Worker Safety Zone." Because this space exists solely to accommodate communications attachments, Avista believes it should be treated as space occupied by communications attachments. Rather than allocate it all to the communications attachers, Avista treats it as unusable space.

Using year-end 2013 FERC Form 1 cost data, Avista's current cable company rate is calculated to be $13.05 per pole per year. Telecommunication rates for competitive local exchange carrier ("CLEC") attachers are based on the pre-2011 FCC Order Telecom Rate, which more equitably allocated pole costs, and again Avista allocates ten feet to usable space rather than 13.5 feet. The current calculated CLEC Telecommunication rate is $21.71 per pole per year. ILEC rates are calculated in the same way as cable company rates except that Avista allocates 1.5 feet as the space occupied by ILECs. This is because ILECs have multiple and separate attachments on poles that use more vertical space on average than either cable companies or CLECs. Using year-end 2013 data, the current calculated ILEC rate is $19.58 per pole per year.

Avista has a contractual flat rate of $2.50 per foot of cable for duct use within the Spokane Downtown Network and that rate has not increased in over the past 15 years.

(7) The types of costs, if any, that an owner incurs in connection with attachments to its poles, ducts, or conduits that the owner cannot recover through an application fee, make-ready work charge, or attachment rate calculated and charged consistent with the FCC rules; and

AVISTA RESPONSE: Electric pole owners incur a wide array of costs associated with joint use that typically are not recovered by other means.

If a communication company occupies space on a pole and that space later needs to be recovered by a pole owner to serve its own customers (*e.g.*, by installing a transformer), the pole owner often bears the expense of replacing the pole even though that expense would not have to be incurred if the communications attacher were not attached to the pole taking up the space it occupies plus the 40-inch Communications Worker Safety Zone. The cost to replace a pole in such situations is $5,000 or more. Financially, of course, it makes no sense to allow an attachment on a pole for $10 a year and risk replacing that pole later for $5000 or more. Avista has not performed a study, but

assuming Avista might replace 100 poles per year under these circumstances, the cost to Avista's ratepayers would be $500,000 ($5,000 X 100 = $500,000)

Removal of abandoned communication facilities has grown to be an expensive problem in the last couple of years and could become worse in the future as more entities are allowed to contact poles, and certainly if the very permissive Third Draft Rules are adopted allowing any person or entity at all to attach. Currently, Avista is in the process of removing approximately 3000 TV attachments from rural communities. Some of these systems were sold by large national cable television companies to small mom-and-pop companies who in turn went out of business when they could not afford to maintain them. Avista estimates that the costs to its ratepayers to remove these abandoned attachments will be $450,000. The Company plans to perform this work over five years.

Failure to transfer communication facilities from old poles to the new poles when they are replaced is a growing problem. Avista will install a new replacement pole, direct attaching entities to transfer their facilities, and find that the facilities of one or more attachers have not been transferred at all. This results in two poles remaining right next to each other in what is referred to as "double wood". Avista spends a great deal of man hours fielding, identifying and re-notifying communication companies to make pole transfers. We also spend time with city inspectors who may hold work permits open until the job is done because asphalt and concrete repairs are often delayed. Return visits to the poles are often required because of failures to timely transfer. Avista has not performed a study, but if you assume that 1000 hours of man hour time per year is devoted to managing these delinquent communications company transfers, then the cost to Avista's ratepayers would be $60,000 per year (1000 hours X $60/hour = $60,000).

In addition to this financial burden, most poles are replaced because they are in bad condition or undersized. This creates a real liability and safety issue for all parties involved when a communication company fails to transfer its attachments and continues to add weight and tension to a bad pole. Avista also has been required to deal with customer complaints when the old poles are viewed as an eyesore to property owners.

Avista revised its construction standards not long ago to start installing taller and stouter poles, primarily to accommodate anticipated joint use. There is no direct recovery of those costs available to Avista. In addition to installing taller and stouter poles, Avista has shortened average span lengths for new construction in urban areas requiring more poles installed that help accommodate, in part, increased loads and sagging created by communications attachments that Avista might not need to install if communications attachments were not there. It makes sense to

install such poles from a construction standpoint so that poles lines do not have to be upgraded later. The requirement to install taller and stouter poles means that Avista is installing 45-foot class 3 poles, which cost approximately $200 more per pole in material cost alone than the 40-foot class 4 poles that Avista might otherwise install. Avista has not performed a study, but assuming Avista replaces two percent (2%) of its 240,000 distribution poles per year means that Avista's ratepayers incur $960,000 per year (240,000 X 0.02 X $200 = $960,000) in higher pole costs primarily to accommodate communications attachers.

Avista crews who access and/or replace poles typically deal with joint use attachments on a daily basis. When feasible, electric crews will try to do temporary transfers of joint use attachments so the old pole can be removed and that adds up to man hours that are not recovered. It also takes extra time typically to set new poles encumbered by joint use attachments. During storms or other disasters, many poles are damaged because of joint use attachments, such as when a tree limb hits a communication cable and breaks the pole. In addition, crews responding to car-hit-poles at all hours have to work around hazards sometimes compounded by communication cables in the way. Avista has not done a study, but assuming 250 crew-hours per year are devoted to these communications attacher matters, then at $300/crew-hour the annual cost to Avista's ratepayers is $75,000 ($300 X 250 = $75,000).

Finally, Avista's Joint Use department performs field inspections that include identifying unauthorized attachments and determining joint use code compliance. These costs also are not typically recouped directly. Avista has not done a study, but assuming 500 hours of time per year at $60/hour means that the cost to Avista's ratepayers for such attacher-related field inspections is $30,000.

Based on the non quantitative assumptions noted above, the costs at Avista's ratepayers for all of these capital costs and operating expenses due solely to communications attacher is as follows:

New poles because Avista cannot reclaim space:	$ 500,000
Removing abandoned attachments:	$ 100,000
Delinquent communications company transfers	$ 60,000
Taller and stouter poles	$ 960,000
Crew work for communications company matters	$ 75,000
Attacher-related field inspections	$ 30,000
Total	$1,725,000

The estimated $1,725,000 in expenses in these examples that are presumed to be incurred by Avista's ratepayers and attributable to communications company attachments is more than two-thirds of the total amount Avista collects every year in annual attachment rentals from these entities, and this is before factoring in any rate reduction that may occur as a result of this rulemaking.

(8) The extent, if any, to which the FCC's Open Internet decision, In re Protecting and Promoting the Open Internet, GN Docket No. 14-28, FCC 15-24, Report and Order on Remand, Declaratory Ruling, and Order (March 12, 2015), affects the Commission's ability to adopt rules implementing RCW 80.54 or rules that vary from the FCC's own pole attachment rules.

AVISTA RESPONSE: Avista does not believe this FCC decision affects the Commission's ability to adopt rules implementing RCW 80.54 or rules that vary from the FCC's own pole attachment rules.

VI. CONCLUSION

Protecting the public and all line workers (power and communications alike) continues to be one of Avista's primary goals and responsibilities. We strongly believe that in order to accomplish this, utilities need to maintain control over the safety, engineering and reliability of their facilities, and the Commission's pole attachment regulations should promote that objective.

Avista again appreciates the opportunity to provide these comments, and we look forward to participating in any future workshops or discussions. If you have any questions regarding these comments, please contact me at 509-495-4975 or at linda.gervais@avistacorp.com.

Sincerely,

/s/Linda Gervais/

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