

**U-140621 Pole Attachment Rules
Summary of Comments on Proposed Rules
September 17, 2015**

480-54-	WAC Title	PSE	Avista	Pacific Power	Cable/ILECs	Wireless	Staff Recommendation
020(2)	Definitions – Carrying Charge				Frontier: clarify and avoid disputes by substituting “which are limited to” for “including”		Clarify that carrying charges are comprised of the listed items consistent with the FCC’s long-standing practice.
020(15)	Definitions – Owner					AT&T and PCIA: reinsert express exemption of commercial mobile radio service companies because the Commission lacks jurisdiction to regulate attachments to their facilities	Do not make the suggested change. The definition mirrors the language in the statute. If an entity requests access to a CMRS provider’s facilities, the Commission can address the jurisdictional question at that time.

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030(1)	Duty to provide access; make-ready work; timelines	Remove pole replacement requirement as beyond FCC requirements, unsupported by evidence, and improperly prioritizing needs of attachers over other PSE customers; timelines to process applications and conduce make-ready work are arbitrary, do not allow sufficient time for owner evaluation, and will result in increased number of complaints to the Commission	Delete requirement to replace existing poles with taller poles as inconsistent with FCC and other state rules and diminishing ability of electric utilities to provide safe and reliable electric service	Joins Avista and PSE in opposing mandatory capacity expansion; substitute “and” for “or” in last sentence to clarify that a requester must pay all costs incurred to increase pole capacity for attachment			Adopt Pacific Power proposal to use “and” rather than “or” but clarify in the adoption order that the owner need not incur both costs to recover either of them. Do not make other proposed changes. The specific timelines are the same as the timelines in the FCC rules, which PSE proposes the Commission adopt. The pole replacement requirement reflects current industry practice, and the rules provide the pole owners with longer times to complete pole replacements to accommodate issues beyond the owner’s control. The electric utilities have provided no evidence to demonstrate that this practice will have any detrimental impact on their ability to provide safe and reliable electric service. Owners can include language in their attachment agreements to address these concerns if necessary, or they may seek a waiver of this requirement if a legitimate and demonstrable issue arises.

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030(11)	Overlashing	Delete this subsection and rely on FCC rules as more appropriately balancing safety with needs of attachers; alternatively, adopt revisions PSE previously proposed	Delete this subsection and require overlashing projects be submitted as applications to enable owners to evaluate safety and reliability impacts on poles	Joins Avista and PSE in opposing allowing overlashing without an application			Do not make proposed changes. Overlashing without an application is available only for adding communications wires on existing attachments to a small number of poles, and the electric utilities provided no evidence that such overlashing poses any legitimate safety or reliability concerns. The notice requirements provide pole owners with adequate time to inspect the proposed route for the overlashing, consistent with, or more lenient than, the time Pacific Power suggested in prior written comments.
050	Modification costs; notice; temporary stay			Limit time in which owner or occupant has cost responsibility for benefits from modifications to 60 days; Require occupants to transfer their attachments to a new pole at their cost; clarify subsection (2) that a conforming occupant bears no cost to rearrange its attachment if required solely as a result of creating capacity to comply with safety requirements	BCAW: modify language to clarify the intent that an existing compliant attacher (including an owner) is not responsible for modification costs it does not cause or benefit from		Make most of the proposed changes to address commenters' concerns. Staff removed the limitation on timing for cost responsibility in response to concerns about the lack of owners' ability to track such intervals but believes such a limitation is appropriate. Staff agrees that subsection (2) is specific to rearrangements of attachments to address safety issues and that the language concerning space for an additional attachment should be deleted. On the other hand, the requester is responsible for all costs of replacing an existing pole with a taller one, and thus the requester – not the owner or occupants – should bear the cost to transfer attachments to the new pole. Accordingly, Staff recommends that the Commission not revise the proposed rule as Pacific Power suggests on this issue. With respect to BCAW's proposed changes, Staff's intent is also to ensure that neither the owner nor other occupants on the pole are responsible for costs they do not cause or benefit from, and some minor revisions would clarify that intent.

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070	Complaint	Keep burden of proof with the complainant or rely on existing rules regarding complaints	Authorize owners to apply sanctions comparable to those authorized in Oregon against occupants with unauthorized or noncompliant attachments				Do not make proposed change. The proposed rules properly shift the burden of proof only to the entity denying a right or seeking to deviate from the rules. The Commission cannot, and should not, delegate its authority to penalize entities for violating Commission rules. The absence of sanctions in the rules, however, does not preclude parties from negotiating to include such terms in attachment agreements.