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TO: Beth O'Donnell
Public Service Commission of Kentucky

DATE: February 25, 2005

FROM: Gardner F. Gillespie
202-637-8796

TIME: 4:00
PM

TOTAL NO. OF PAGES, INCLUDING COVER: 10

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TELECOPY/FAX NUMBER: 502-564-7279
CLIENT NUMBER: 50331.0001
ATTORNEY BILLING NUMBER: 0355
CONFIRMATION NUMBER: 502-564-3940

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February 25, 2005

BY FAX AND U.S. MAIL

Beth O'Donnell
Executive Director
Public Service Commission of Kentucky
211 Sower Boulevard
Frankfurt, KY 40601

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PUBLIC SERVICE
COMMISSION

Re: Case No. 2004-00319

Dear Ms. O'Donnell:

In accordance with the request of Anita Mitchell of the Commission Staff, and the Staff memorandum in this matter dated February 16, 2005, on behalf of the Kentucky Cable Telecommunications Association ("KCTA") I am providing the calculations of the proper pole attachment rate under the Commission's methodology established in Admin. Case No. 251 for Jackson Purchase Energy Corporation ("JPEC").

The calculations are included in Attachment A of this letter. KCTA's calculations differ from those submitted by Frank King on behalf of JPEC in his letter to the Commission on February 10, 2005 in three respects.

First, JPEC has used an average investment in grounds of \$33.08. In its Order in Administrative Case No. 251, however, the Commission made clear that the appropriate figure representing investment in grounds is \$12.50 per ground. We understand that this figure represents an industry proxy and is not intended necessarily to represent the actual investment by any particular company. The Commission undoubtedly understood in 1982 that some utilities might have a greater investment in grounds, and some might have a lesser investment. Nevertheless, in the interest of simplifying the calculations for all parties, the Commission adopted \$12.50 as an average number to be used in all cases. The Commission should not depart from that number in those individual

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Letter to Beth O'Donnell

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cases where the utility believes that a higher number is appropriate. Nor should the Commission attempt to revise the proxy generally in the absence of a replay of the generic case decided in 1982.

We note that JPEC apparently includes its investment in grounds in Account No. 365 (overhead devices), rather than the more typical practice as recognized by the Commission in Case No. 251 of the utilities including grounds in Account 364 (poles, towers and fixtures). The \$12.50 number is to be used not only when the when grounds are to be added to the pole investment, but also when grounds are to be deducted from the pole investment. Thus, the general reliance on an estimate of \$12.50 for the cost of each ground cuts both ways.

Second, JPEC suggests that "[b]ased on recent field observations," cable operators attach to its grounds on approximately every other pole. KCTA's members' construction practices, however, are generally to attach to the grounds on the first and last pole on a run, and every fifth pole in between. Although KCTA would be willing to accept some clear evidence that its members are attached to JPEC's grounds on more than one quarter of the poles, we have not seen any such evidence. Accordingly, we believe that grounds should be counted on one quarter of the poles.

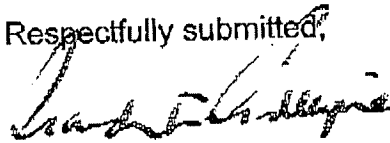
Third, although JPEC accepts that the Commission generally requires a 15% deduction for the cost of minor appurtenances, it argues that, in this case, only a 6.4% adjustment is appropriate. Again, JPEC asks the Commission to disregard clear prior holdings of the Commission. This issue arose in connection with Case No. 251. Following the Commission's Order dated September 17, 1982 in Case No. 251, the utilities filed tariffs which were then reviewed by the Commission. The tariff of Union Light, Heat and Power Company was reviewed in Admin. Case No. 251-27. A copy of the Commission's Order dated July 14, 1983 is attached here as Attachment B. The Commission held that electric utilities should segregate out the cost of major appurtenances such as anchors, cross-arms and braces – as JPEC has done here – and then deduct an additional 15% of the pole costs – as JPEC has not done. Again, this is intended as a general industry proxy, and the Commission ought not to depart from it. The reason why the Commission has adopted this proxy is to avoid the problems that arise with investigating the accuracy of utilities' estimates of their investment in minor appurtenances, which include items that are not accurately tracked.

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One note regarding the calculations performed by Ballard. Ballard has performed its calculations generally as we have, except that it uses a rate of return of 4.61, it does not include any investment for grounds and it bases its calculations on accumulated depreciation numbers for pole investment based on JPEC's internal records, whereas both JPEC and we have calculated pole depreciation based on gross to net overall plant. We would have no objection to reliance on the internal accumulated depreciation numbers in this case, although we have not used them because we have found that such numbers are not always reliable.

Respectfully submitted,



Gardner F. Gillespie
Counsel for Kentucky Cable
Telecommunications Association

GFG/ddf

Enclosures

cc: Frank N. King, Jr.
John E. Selent
Anita Mitchell
Frank Chuppe
Patsy Judd

JPEC POLE AND ANCHOR RATES (Using Net Investment)

(35' poles) 13,982 poles at embedded inv. \$2,402,756
 (40' poles) 16,538 poles at embedded inv. \$6,765,738
 (45' poles) 3,971 poles at embedded inv. \$1,647,550
 (Anchors) 39,833 anchors at embedded inv. \$2,963,785

Bare pole factor of .85

Gross plant \$92,183,357
 Depreciation reserve \$25,978,038

Net plant as % of gross plant = 71.82%

Carrying charge .2023

2-Party Poles

(35') \$2,402,756 x .85 = \$2,042,343 13,982
 (40') \$6,765,738 x .85 = \$5,750,877 16,538
 \$7,793,220 30,520 = \$255.348 (avg. gross bare pole)

Grounds = ¼ x \$12.50 = \$3.125	\$258.473
x net plant factor of .7182	\$185.64
x carrying charge of .2023	\$37.56
x usable space factor of .1224	<u>\$4.60</u>

3-Party Poles

(40') \$6,765,738 x .85 = \$5,750,877 16,539
 (45') \$1,647,550 x .85 = \$1,400,418 3,971
 \$7,151,295 20,509 = \$348.69

Grounds = ¼ x \$12.50 = \$3.125	\$351.82
x net plant factor of .7182	\$252.67
x carrying charge of .2023	\$51.12
x usable space factor of .0759	<u>\$3.88</u>

Anchors

\$2,663,785 / 38,833 = \$74.405

x net plant factor of .7182 = \$53.44

x carrying charge of .2023 = \$10.81

2-Party Anchor Charge = \$5.41

3-Party Anchor Charge = \$3.60

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

In the Matter of:

THE CATV POLE ATTACHMENT)	ADMINISTRATIVE
TARIFFS OF THE UNION LIGHT,)	CASE NO. 251-27
HEAT AND POWER COMPANY)	

O R D E R

Procedural Background

On June 1, 1983, the Commission issued an Order rejecting the CATV pole attachment tariff filing of the Union Light, Heat and Power Company ("ULH&P") and directing ULH&P to file revised rates, rules and regulations governing CATV pole attachments. On June 24, 1983, the Kentucky Cable Television Association, Inc., ("KCTA") filed a petition to rehear, reconsider and modify paragraph 4 of the Order of June 1, 1983. On July 1, 1983, ULH&P filed a revised pole attachment tariff and supporting workpapers. On July 8, 1983, ULH&P filed a memorandum in opposition to KCTA's petition for rehearing.

FINDINGS

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. ~~In finding 4 of the June 1, 1983, Order the Commission found that, as ULH&P does not segregate the cost of ULH&P's major expenditures, 22 percent should be deducted~~

from its pole account in calculating its bare pole cost. KCTA's petition argues that 35 percent should be deducted in calculating ULH&P's bare pole cost. The Commission's Orders of August 12, 1982, and September 17, 1982, in Administrative Case No. 251, The Adoption of a Standard Methodology for Establishing Rates for CATV Pole Attachments, established uniform methods of estimating bare pole costs for telephone utilities and electric utilities that do not account separately for all appurtenances. For telephone utilities, the method consisted of deducting 22 percent for all appurtenances. For electric utilities, the method consisted of excluding 15 percent for minor appurtenances and deducting \$12.50 per ground. KCTA correctly argues that electric utilities make much greater use than telephone utilities of cross-arms and other appurtenances. Therefore, deducting 22 percent for all appurtenances is not adequate for electric utilities.

The Commission's Order of August 12, 1982, did not provide for electric utilities that do not segregate the cost of major appurtenances. ULH&P did not petition for reconsideration of that Order regarding ULH&P's failure to maintain separate records for all major appurtenances in account no. 364. The Amended Order of September 17, 1982, again did not provide for electric utilities that do not segregate the cost of major appurtenances. Therefore, to conform to the Commission's Amended Order of September 17, 1982, ULH&P should reconstruct separate cost records for

major appurtenances, such as anchors, cross-arms and braces, and estimate bare pole costs by deducting the cost of the major appurtenances plus 15 percent for minor appurtenances, such as aerial cable clamps and pole top pins, plus \$12.50 for ground wires.

2. ULH&P's rules and regulations governing CATV pole attachments conform to the principles and findings of the Commission's Order of June 1, 1983, and would be approved, except for the following objections:

a. In No. 2 the statement, "The Company shall have the sole right to determine the availability of such pole for joint use and shall be under no obligation to grant permission for its use by attachee," should be deleted along with the phrase "in the company's opinion" which is in the last sentence.

b. In No. 5 the statement, "if the company and other attachees or permittees are willing to make such rearrangement," should be deleted.

c. In Nos. 7 and 8 there should be a statement to the effect that ULH&P is liable for any negligence on its part whether or not it causes damages to CATV equipment.

d. In No. 11 there should be a statement which makes ULH&P liable for damage to CATV equipment when the damage is due to ULH&P's negligence.

e. In No. 15 the tariff may be subject to previously granted rights but shall not be subject to subsequently granted rights.

IT IS THEREFORE ORDERED that ULH&P's CATV pole attachment tariff filed with the Commission on June 29, 1983, be and it hereby is rejected.

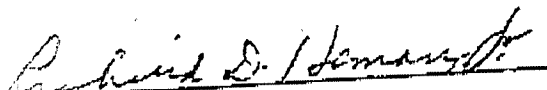
IT IS FURTHER ORDERED that ULH&P shall file revised rates, rules and regulations governing CATV pole attachments with the Commission within 30 days from the date of this order, and that the revised rates, rules and regulations shall conform to the findings of this Order.

IT IS FURTHER ORDERED that ULH&P shall file detailed workpapers supporting its revised rates at the same time it files its revised rates, rules and regulations.

Done at Frankfort, Kentucky, this 14th day of July, 1983.

By the Commission

ATTEST:


Secretary