



State of Utah  
Department of Commerce  
Division of Public Utilities

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## ACTION REQUEST RESPONSE

To: Public Service Commission

From: Division of Public Utilities  
Chris Parker, Director  
Artie Powell, Energy Section Manager  
Justin Christensen, Utility Analyst

Date: October 27, 2017

Re: Docket No. 17-025-02, Empire Electric Association Pole Attachment Agreement

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### RECOMMENDATION (Acknowledge)

The Division of Public Utilities (Division) recommends that the Public Service Commission (Commission) Acknowledge Empire Electric Association's (EEA) Standard Pole Attachment Agreement (Agreement).

### ISSUE

On September 27, 2017, Empire Electric Association (EEA) filed an Application with the Commission for Acknowledgement of its standard Pole Attachment Agreement. Along with the Application, EEA submitted a copy of the Agreement as well as a copy of attachments that include a list of charges and fees.

On September 27, 2017, the Commission issued an Action Request to the Division for a review of the Application for compliance and recommendations. This memorandum responds to the Commission's Action Request.

## **DISCUSSION**

The Division reviewed the EEA's Application, the Agreement, and the Exhibits that accompany the Agreement, including Rules and Practices for Licensee Attachments (Exhibit B), Application and Permit for use of Poles (Exhibit C), Notification of Removal (Exhibit D) and the List of Charges and Fees (Exhibit E).

The Agreement was approved by the EEA board on May 12, 2017. A phone conversation on October 24, 2017 between the Division and EEA verified this.

The Division reviewed the Agreement and Exhibits to verify it complies with Utah Statute.

Section 5 and Exhibit B #6- describes the inspection process

Section 5 and Exhibit B #26- explains emergency access provisions

Section 9 and Exhibit E- goes over the rentals, charges, and rates

Section 11- refers to any back rent recovery or unauthorized pole attachment fee

Section 19- explains that the cost will be shared equally on a joint audit

Section 9 and Exhibit B #2- describes the Permit process

The EEA's Application and request for Commission acknowledgement includes the computation of the annual pole attachment rental rate of \$16.06 per pole, which is taken directly from Exhibit E. Besides the annual rental rate, the list of charges and fees also includes a pole permit fee of \$25 per pole, and unauthorized attachment fee of \$100 per pole. The Division also notes the presence of a provision requiring that the agreement be governed by Colorado law. Given EEA's business occurs largely inside Colorado, the Division makes no specific objection to this provision in this case. However, such contracts applied to utility facilities in Utah should generally be governed by Utah law.

## **CONCLUSION**

After reviewing EEA's filing and accompanying documents, the Division finds that the EEA's Standard Agreement is reasonable and should be acknowledged. The terms and conditions of the Agreement meet the requirements of R746-345-3.

CC: Josh Dellinger, Empire Electric Association

Michele Beck, OCS