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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of an Investigation into Pole Attachments	<u>Docket No. 04-999-03</u>
	Utah Rural Telecom Association ("URTA") Third Set of Comments to Proposed Rule R746-345 Pole Attachments of Public Utility Companies

The URTA makes the following comments on the proposed changes to R746-345 to be published March 1, 2005:

The changes to R746-345-5 A. stating that "the rental rate must be sufficient to cover any additional cost incurred by the pole owner as a result of the attachments"<sup>1</sup> are ambiguous and could lead to additional litigation. The rate formula in R746-345-5 B. is straightforward; the new language in R746-345-5 A. is not. If there are additional costs beyond those listed in R746-345-3 that are recoverable, the Commission should make it clear in the rule what those costs are. In addition, if the objective is to limit or restrict the recovery of costs not otherwise covered by the formula, the Commission should make that clear as well. Without knowing what the other costs might be or being able to determine the intent of the new language, URTA recommends that the Commission eliminate the language before republishing the rule March 1, 2005.

The new language<sup>2</sup> in the second sentence of R747-345-5 A. makes that sentence ambiguous. It is suggestive and given as an example rather than as a requirement of the rule. Once again, URTA recommends that the Commission eliminate the new language in the second sentence before republishing the pole attachment rule.

Finally, although it is not crucial that the Commission eliminate R746-345-5 B.3.f., the new language is unnecessary because it is a given that the Commission can recalculate the rental rate and that parties can petition the Commission to reexamine the rate at any time.

Respectfully submitted this 11th day of February, 2005

Callister Nebeker & McCullough

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Stephen F. Mecham for URTA

Certificate of Service

I hereby certify that on February 11, 2005 I emailed or mailed, postage prepaid, a true and correct copy of the URTA's Third Set of Comments to Proposed Rule R746-345 Pole Attachments of Public Utility Companies in Docket No. 04-999-03 to the following:

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