

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

Charter Communications, Inc., et al.	)	
Complainant,	)	
	)	File No. PA 01-001
v.	)	
	)	
Union Electric Company d/b/a AmerenUE	)	
Respondent.	)	

**ORDER**

**Adopted: May 31, 2001**

**Released: June 1, 2001**

By the Deputy Chief, Cable Services Bureau:

1. On January 11, 2001, the above-captioned Complainant filed a pole attachment complaint ("Complaint") with the Federal Communications Commission ("Commission") against the above-captioned Respondent pursuant to Section 224 of the Communications Act of 1934, *as amended* ("Pole Attachment Act")<sup>1</sup> and Subpart J of the Commission's Rules.<sup>2</sup> On May 23, 2001, Complainant requested that the Commission schedule a meeting with the parties on an expedited basis to discuss settlement of the claims asserted in this pole attachment complaint proceeding.<sup>3</sup> Complainant asserts that the parties are in settlement negotiations at this time but that there remain fundamental points of dispute that pertain to the Commission's jurisdiction and prior precedent. Complainant believes that direction from the Commission on issues concerning the underlying dispute will advance efforts to resolve the pending issues.<sup>4</sup> Respondent, through counsel, opposes such a meeting.

2. Pursuant to the Pole Attachment Act, the Commission has the authority to regulate the rates, terms, and conditions for attachments by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility.<sup>5</sup> The Commission shall

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<sup>1</sup> 47 U.S.C. §224.

<sup>2</sup> 47 C.F.R. §§1.1401-1.1418.

<sup>3</sup> See letter to the Federal Communications Commission dated May 23, 2001 from John D. Seiver, counsel for Complainant.

<sup>4</sup> Complainant points out that there is also a pending state court proceeding, *Union Electric Co. d/b/a AmerenUE v. Charter Communications*, No. 00CC-004163 (Cir. Ct. St. Louis Cty.) (filed Dec. 12, 2000). Although certain remedies for breach of contract may be pursued in forums other than the Commission, the Commission has primary jurisdiction over issues about the reasonableness of rates, terms and conditions concerning pole attachments. See *Alabama Cable Telecommunications Assoc., et al. v. Alabama Power Company*, File No. PA 00-003, FCC 01-181 at ¶ 18 (released May 25, 2001).

<sup>5</sup> 47 U.S.C. § 224(b)(1) and (2).

provide that such rates, terms and conditions are just and reasonable.<sup>6</sup> The Commission is authorized to adopt procedures necessary to hear and to resolve complaints concerning such rates, terms, and conditions.<sup>7</sup> The Commission may require informal meetings with the parties to clarify issues or to consider settlement of the dispute.<sup>8</sup>

3. Both Complainant and Respondent indicated that they are actively involved in settlement negotiations. In order to clarify issues and encourage and facilitate settlement negotiations, we will order the parties to meet together with Cable Services Bureau staff to discuss the issues pertinent to a settlement of the Complaint. By June 8, 2001, each party is required to provide to the Cable Services Bureau staff and opposing counsel a brief outline of the unresolved issues blocking settlement of the Complaint along with a list of meeting attendees, including title and brief description of involvement or responsibility for issues identified in the outline. Respective counsel for the parties, John D. Seiver for Complainant and Thomas B. Magee for Respondent, are each responsible for coordinating the representatives of Complainant and Respondent who will attend the meeting and are requested to contact Cable Services Bureau staff member Latashia Middleton at (202) 418-7200 by June 4, 2001 to schedule a meeting for the week of June 11, 2001. The parties should be prepared to discuss settlement of the issues at the meeting. This Order is not to be construed as a stay of the Commission's resolution of the pending Complaint.

4. Accordingly, IT IS ORDERED, pursuant to Sections 0.321 and 1.1401-1.1418 of the Commission's rules, 47 C.F.R. §§ 0.321 and 1.1401-1.1418, that Complainant and Respondent SHALL MEET IN COMPLIANCE WITH THIS ORDER.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson  
Deputy Chief  
Cable Services Bureau

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<sup>6</sup> 47 U.S.C. §224 (b) (1).

<sup>7</sup> 47 U.S.C. § 224(b)(1).

<sup>8</sup> 47 C.F.R. §1.1411.