

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

In the Matter of)	
)	
Teleport Communications Atlanta, Inc.)	
Complainant,)	File No. PA 00-005
)	
v.)	
)	
Georgia Power Company,)	
Respondent)	

ORDER

Adopted: November 9, 2001

Released: November 14, 2001

By the Deputy Chief, Cable Services Bureau:

1. On November 14, 2000, the above-captioned Complainant filed a complaint ("Complaint") with the Federal Communications Commission ("Commission") pursuant to Section 224 of the Communications Act of 1934, *as amended* ("Pole Attachment Act")¹ and Subpart J of the Commission's Rules,² against Respondent's unilateral pole attachment rate increase. Respondent filed its Response to the Complaint on December 14, 2000, and Complainant filed its Reply on January 3, 2001. On June 1, 2001, we issued an Order, DA 01-1332³ ("Prior Order") which denied Respondent's motion requesting leave to submit additional evidence. Respondent filed a petition for reconsideration ("Petition") of our Prior Order. In this Order, we deny Respondent's Petition and address the reasonableness of Respondent's pole attachment rate increase.

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. The Commission shall provide that such rates, terms and conditions are just and reasonable.⁴ The Pole Attachment Act grants the Commission general authority to regulate such rates, terms and conditions, except where such matters are

¹ 47 U.S.C. §224.

² 47 C.F.R. §§1.1401-1.1418.

³ Teleport Communications Atlanta, Inc., v. Georgia Power Co., DA 01-1332, 16 FCC Rcd 11831 (2001).

⁴ 47 U.S.C. §224 (b)(1).

regulated by a State.⁵ The Commission is authorized to adopt procedures necessary to hear and to resolve complaints concerning such rates, terms, and conditions.⁶

3. The formula developed to resolve complaints concerning rates for attachments by cable systems is known as the Cable Formula.⁷ The Telecommunications Act of 1996 ("1996 Act"),⁸ expanded the scope of Section 224 by applying the Cable Formula to rates for pole attachments made by telecommunications carriers⁹ in addition to cable systems,¹⁰ until we developed a separate formula¹¹ for telecommunications carriers. We adopted a Telecommunications Formula ("Telecom Formula"), which became effective February 8, 2001.¹² It is to be applied to all attachments by telecommunications carriers and is to be phased in at equal annual increments over a five-year period.¹³ Our two formulas differ in only one respect, namely their methodologies for determining the proportion of unusable space on a pole that is attributable to the attachment. Our Cable Formula attributes unusable space to an attachment based on the portion of usable space occupied by the attachment, while our Telecom Formula attributes unusable space to a telecommunications attachment based on the total number of attaching entities.¹⁴

4. The present case concerns Complainant's attachments to Respondent's poles for telecommunications services. These attachments were made under a contract executed by the parties in early 1998.¹⁵ These attachments continue at present and are expected to continue into the future. By correspondence that began with a letter dated October 10, 2000, Respondent advised Complainant that the annual rent it charged Complainant for attaching telecommunications facilities to Respondent's poles was rising to \$53.35.¹⁶ Pursuant to Section 224 (e)(4) of the Pole Attachment Act, our Cable Formula will apply to the attachments until February 8, 2001, after which one fifth of the differential between the Cable

⁵ 47 U.S.C. § 224 (b) and (c). Georgia has not certified that it regulates rates, terms and conditions of pole attachments. See *Public Notice, "States That Have Certified That They Regulate Pole Attachments,"* 7 FCC Rcd 1498 (1992).

⁶ 47 U.S.C. § 224 (b)(1).

⁷ 47 C.F.R. §1.1409 (e)(1).

⁸ Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁹ 47 U.S.C. § 153 (44).

¹⁰ 47 U.S.C. § 153 (8); 47 U.S.C. § 602 (5).

¹¹ See *Implementation of Section 703(e) of the Telecommunications Act of 1996*, 13 FCC Rcd 6777 at ¶¶ 116-130 (1998).

¹² See 47 U.S.C. § 224 (d)(3) and 47 U.S.C. § 224 (e)(4); *Implementation of Section 703 (e) of the Telecommunications Act of 1996*, 13 FCC Rcd 6777 at ¶ 102 (1998).

¹³ See *Amendment of Commission's Rules and Policies Governing Pole Attachments, CS Docket No. 97-98; Implementation of Section 703(e) of the Telecommunications Act of 1996*, CS Docket No. 97-151, FCC 01-170, 16 FCC Rcd 12103 at ¶ 2 (2001).

¹⁴ *Id.* at ¶ 53-56.

¹⁵ Complaint at Exhibit 1; Response at ¶ 13.

¹⁶ Complaint at ¶¶ 20-21 and Exhibits 2-3; Response at ¶ 15.

Formula rate and the Telecom Formula rate will be phased in annually.¹⁷

5. We first address Respondent's Petition and deny it for several reasons. First, our Prior Order was interlocutory in nature and petitions for reconsideration of interlocutory actions are not permitted under the Commission's rules.¹⁸ Second, the basis of Respondent's argument for reconsideration is that Respondent was denied due process because it was unable to respond to new arguments and evidence raised in Complainant's Reply. The Commission's rules provide for a simple, expeditious complaint process that allows for a complaint, response and reply.¹⁹ Occasionally the Commission will receive requests for leave to file supplemental factual material and considers each request based on the nature of the material. If a complainant wishes to introduce new issues in a pole attachment proceeding, it must file a separate complaint or request leave to file an amended complaint.²⁰ In either case, the pleading cycle would be restarted. As a general matter, a complainant is not permitted to tack on new issues to pending complaints through supplements or amendments and such supplements or amendments are subject to being dismissed or not addressed.²¹

6. In this case, Complainant did not tack on any new allegations in its Reply that would require the filing of a new complaint. Its Reply is directly related to the arguments raised by Respondent in its Response. In addition, as we stated in our Prior Order, Respondent included no factual information in its supplemental material necessary to a calculation of a just and reasonable pole attachment rate under the Commission's existing rules and policies. The entire supplement consisted of materials that purport to support an alternative methodology for calculating pole attachment rates, a methodology that has been rejected by the Commission.²² Respondent has provided no compelling reason why the Commission's procedural rules should be waived to allow this additional filing that contains no new arguments or evidence specific to its present dispute. Respondent has had every opportunity to raise these issues, such as the parties' relative bargaining power and competitive postures and the appropriate treatment of specific accounts prescribed by the Federal Energy Regulatory Commission, in the rulemaking process and indeed these specific issues have been raised and addressed. Respondent has not given us good cause to re-examine or address these issues in this case.

7. In its Response, Respondent argues that our existing formula does not provide just compensation under the Fifth Amendment to the United States Constitution because it does not provide Respondent with the "fair market value" of the property taken. We have recently and thoroughly

¹⁷ This is the first case in which we have had occasion to apply our Telecom Formula.

¹⁸ 47 C.F.R. §1.106 (a)(1).

¹⁹ 47 C.F.R. §§ 1.1401, *et seq.*

²⁰ See *RCN Telecom Services of Philadelphia, Inc. v. PECO Energy Company and Excelon Infrastructure Services, Inc.*, DA 01-1339 at ¶¶ 4-5 (released June 1, 2001).

²¹ *Id.*

²² See *Amendment of Commission's Rules and Policies Governing Pole Attachments, CS Docket No. 97-98; Implementation of Section 703(e) of the Telecommunications Act of 1996*, CS Docket No. 97-151, FCC 01-170, 16 FCC Rcd 12103 (2001); *Alabama Cable Telecommunications Association, et al. v. Alabama Power Company*, File No. PA 00-003, FCC 01-181, 16 FCC Rcd 12209 (2001), *appeal pending sub nom. Alabama Power Company v. FCC*, Case No. 00-14763-I (11th Cir., filed Sept. 13, 2000).

discussed this issue in *Alabama Cable v. Alabama Power*²³ and concluded that the Commission's pole attachment formulas, together with the payment of make-ready expenses, provide compensation that exceeds just compensation. Respondent raises no new arguments not addressed in *Alabama Cable v. Alabama Power*, and we conclude, based on the discussion in *Alabama Cable v. Alabama Power*, that Respondent failed to demonstrate a factual or legal basis for higher compensation than that provided by the Commission's pole attachment formulas.²⁴

8. Respondent next claims that its dispute with Complainant is not ripe for resolution because the parties have not formally met and discussed their differing views face to face²⁵ and because Complainant has not begun paying the disputed rate.²⁶ Our rules require that the parties seek first to resolve their differences by negotiation.²⁷ Although Respondent is correct that the parties have not engaged in as much negotiation as they could, they have engaged in correspondence that has jelled each of their positions.²⁸ We believe that they are clearly at an impasse that would not be resolved by more communications, and that this matter is ripe for us to decide.²⁹ As far as actual payment is concerned, it is not necessary for Complainant to comply with a rate, term or condition in order to file a complaint concerning that rate, term or condition with the Commission. Respondent's unilateral imposition of the new rate as a condition of attachment solidified Complainant's cause of action before the Commission.

9. Respondent next notes that Complainant's facilities will be used in part for traditional telecommunications services and in part for Internet-related services.³⁰ Respondent argues that because the facilities will be used in part for Internet access, the rates are outside the Commission's jurisdiction pursuant to the Eleventh Circuit Court of Appeals decision in *Gulf Power v. FCC* ("*Gulf Power II*").³¹ The Commission requested and was granted a stay of *Gulf Power II* pending review by the Supreme Court,

²³ *Alabama Cable Telecommunications Association, et al. v. Alabama Power Company*, File No. PA 00-003, FCC 01-181, 16 FCC Rcd 12209 at ¶¶ 32-61 (2001), appeal pending sub nom. *Alabama Power Company v. FCC*, Case No. 00-14763-I (11th Cir., filed Sept. 13, 2000).

²⁴ The burden of proving loss, as well as the amount of any loss, is upon the party claiming to have experienced a taking. *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944); see also *Permian Basin Area Rate Cases*, 390 U.S. 747, 767.

²⁵ Response at ¶¶ 7-8, 17-19, 41 and Affidavit of J. Darryl Wilson at ¶¶ 3-4. See also Reply at 41-44.

²⁶ Response at ¶¶ 36-40 and Affidavit of J. Darryl Wilson at ¶ 3.

²⁷ 47 C.F.R. § 1.1404 (k).

²⁸ See also Complaint at ¶ 40 (other meetings with Respondent).

²⁹ Reply at 41-44 and Exhibit 4 (Affidavit of James Everett). See also, *Texas Cable & Telecommun. Ass'n v. Entergy Services, Inc.*, 14 FCC Rcd 9138 at ¶ 12 (1999) ("It is clear at this point that the parties are at an impasse, that Entergy is insisting on the attachment fees and Complainants insist they would result in an unjust and unreasonable rate. The facts and issues have crystallized to the point that the Commission can make a ruling. To do so at this point benefits both parties allowing them to reach agreement, avoiding further negotiation expense and, perhaps, a later complaint proceeding.").

³⁰ Response at ¶¶ 9, 42-44. See also Complaint at ¶ 34 (Respondent's affiliates allegedly provide services that "directly compete" with Complainant's services, including "Internet access.").

³¹ *Gulf Power v. FCC*, 208 F.3d 1263 (2000), stayed pending Supreme Court review; petition for cert. granted January 22, 2001.

which preserves the regulatory status quo pending final action by the Supreme Court.³² We have determined that, pending the issuance of a mandate from the Court, or a clarification of the *Gulf Power II* decision, we will continue to apply our pole attachment rules to all attachers who are either cable service or telecommunications service providers.³³ Accordingly, the present prevailing law concerning the rate for telecommunications pole attachments can be found in the Commission's decision implementing Section 703 (e) of the 1996 Act, which held that the Pole Attachment Act extends to Internet access provided by cable operators and telecommunications carriers.³⁴

10. Respondent also requests that we schedule an evidentiary hearing.³⁵ Our pole attachment complaint procedures are intended to ensure a simple and expeditious process for resolving complaints.³⁶ The Commission may resolve the complaint based upon the filings, it may require meetings with the parties to clarify issues, and it may, at its discretion, order evidentiary proceedings.³⁷ The decision whether to hold a hearing on any issue related to a complaint is solely within the discretion of the Commission.³⁸ In this matter, we conclude that we have before us sufficient information upon which to make a decision in this matter. The material facts are available in written form, namely Respondent's FERC Form 1 filings and accounting records. Accordingly, we deny Respondent's request.

11. We calculate the rate for attachments used to provide telecommunications by applying the Telecom Formula. We have carefully considered the annual rates per pole and material underlying calculations proposed by both Complainant³⁹ and Respondent.⁴⁰ In its calculations, Respondent departs

³² *Commodity Futures Trading Commission, et al. v. British American Commodity Options Corp., et al.*, 434 U.S. 1316, 1319, 98 S.Ct. 10, 12 (1977). See also, *Algonquin Gas Transmission Co. v. Township of Bernards in Somerset County*, 112 F.Supp. 86, 91 (1953) ("The effect of stay of mandate by the United States Court of Appeals is to continue the status quo for period specified in stay.")

³³ See *In the Matter of Alabama Cable Telecommunications Assoc., et al. v. Alabama Power Company*, PA 00-003, DA 00-2078, 15 FCC Rcd 17346 at ¶ 4 (2000), affirmed *Alabama Cable Telecommunications Association, et al. v. Alabama Power Company*, 16 FCC Rcd 12209 (2001), appeal pending sub nom. *Alabama Power Company v. FCC*, Case No. 00-14763-I (11th Cir., filed Sept. 13, 2000).

³⁴ *Implementation of Section 703 (e) of the Telecommunications Act of 1996*, 13 FCC Rcd 6777 (1998); *pet. for recon. denied in part, Amendment of Commission's Rules and Policies Governing Pole Attachments*, CS Docket No. 97-98; *Implementation of Section 703(e) of the Telecommunications Act of 1996*, CS Docket No. 97-151, FCC 01-170, 16 FCC Rcd 12103 (2001). We do not agree with Respondent that *Gulf Power II* precludes our jurisdiction over telecommunications attachments that are also used to provide access the Internet.

³⁵ Response at ¶¶ 45-47. *Contra*, Reply at 45-46.

³⁶ See *Adoption of the Rules for the Regulation of Cable Television Pole Attachments*, 68 F.C.C.2d 1585 at ¶ 36 (1978).

³⁷ 47 C.F.R. § 1.1411.

³⁸ *Id.* See also *Bell Tel. Co. v. FCC*, 503 F.2d 1250, 1263-68 (3d Cir., 1974) (Commission has broad discretion to employ trial-type hearings or "paper proceedings" to resolve material disputes of fact), *cert. denied*, 422 U.S. 1026 (1975); *SBC Commun. Co. v. FCC*, 56 F.3d 1484, 1496-97 (D.C. Cir. 1995) (same).

³⁹ Complaint at Exhibits 4-5; Reply at Exhibit 2.

⁴⁰ Response, Affidavit of Thomas G. Park and Exhibit 1 thereto.

from our established presumptions about the height of, and usable space on, poles, but fails to include any evidence that our presumptions are not reasonable in this case.⁴¹ Accordingly, we will use our standard presumptions in this case. Respondent also proposes its version of replacement costs, rather than historical costs, in setting pole attachment rates.⁴² We have repeatedly rejected this position⁴³ and we do so again here. In addition, as noted above, Respondent has provided no new evidence or arguments to include additional FERC accounts in the pole attachment rate calculation. Finally, Respondent asserts that the average number of attachers is less than two. We have already concluded that the minimum possible number of attachers to be used in the Telecom Formula is two.⁴⁴ We have established presumptive average numbers of attaching entities in a non-urbanized (less than 50,000 population) area to be three attaching entities, and we have established presumptive average numbers of attaching entities in an urbanized (more than 50,000 population) area to be five attaching entities.⁴⁵ Respondent has not provided sufficient evidence to overcome these presumptions. Because the record does not reflect the specific geographic areas involved, we have calculated rates for both three and five attaching entities and the rates should be applied in the appropriate areas in accordance with our presumptions.

12. We calculate the maximum pole attachment rates using data from Respondent's 1999 FERC Form 1. Complainant uses the default rate of return in its initial calculation as well as the depreciation rate reported on the FERC Form 1. In its Response, Respondent indicates a rate of return of 10.55% and a depreciation rate of 3.65%. We find that the 3.65% depreciation rate proposed by Respondent is without evidentiary support. Consequently, we rely upon the depreciation rate of 3.0% reported on Page 337.1 of Respondent's 1999 FERC Form 1 filing. For 1999, Respondent proposes a rate of return of 10.55%. However, the Georgia Power Commission determined that this rate was excessive (see Docket Number 9355-U). It limited Respondent's return on equity to 12.5%, which resulted in a composite authorized rate of return of 9.64% for 1999, and ordered Respondent to refund the excess amount. One-third of the refunds were payable to Respondent. After giving consideration to these refunds, Respondent's effective authorized rate of return for 1999 is 9.95%. Therefore, we substitute this value in our calculations.

13. Using this information and applying the Cable Formula for attachments before February 8, 2001, we calculate a maximum just and reasonable annual rate of \$6.56 per pole attachment up to February 8, 2001.⁴⁶ Using the same information and applying the Telecom Formula for telecommunications attachments beginning February 8, 2001, we calculate a fully implemented maximum just and reasonable annual rate of \$9.91 per pole attachment per year after February 8, 2001 for attachments in areas with a presumptive average number of 5 attachers⁴⁷ and a fully implemented

⁴¹ Response at Affidavit of Thomas G. Park, last page; Reply at 24-26. *See also* 47 C.F.R. §1.1404 (g)(1)(xi, xii).

⁴² *Id.* *See also, e.g.*, Response at ¶¶ 25-31; Reply at 4-18 and Affidavit of Lee L. Selwyn *passim*.

⁴³ *See, e.g., Amendment of Rules and Policies Governing Pole Attachments*, FCC 01-170, 16 FCC Rcd 12103 at ¶¶ 15-25 (2001).

⁴⁴ *See Amendment of Rules and Policies Governing Pole Attachments*, FCC 01-170, 16 FCC Rcd 12103 at ¶ 60 (2001).

⁴⁵ *Id.* at ¶¶ 71-72.

⁴⁶ Our calculations are set forth in Attachment A to this Order.

⁴⁷ Our calculations are set forth in Attachment B to this Order.

maximum just and reasonable annual rate of \$14.95 per pole attachment per year after February 8, 2001 for attachments in areas with a presumptive average number of 3 attachers.⁴⁸ The rates of \$9.91 and \$14.95 will be phased in over a five-year period, with the first of those five years starting on February 8, 2001. For areas with an average of five attachers, the first year rate is \$7.23 and for areas with an average of three attachers, the first year rate is \$8.24. Consequently, we find that Respondent's pole attachment rate of \$53.35 is not just and reasonable.

14. 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 the relief requested in the Complaint IS GRANTED TO THE EXTENT INDICATED HEREIN.

15. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 1.1410 of the Commission's rules, 47 C.F.R. §§ 0.321 and 1.1410, that the annual pole attachment rate of \$53.35 IS UNREASONABLE and IS TERMINATED, effective upon the release of this Order.

16. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 1.1410 of the Commission's rules, 47 C.F.R. §§ 0.321 and 1.1410, that the annual respective rates of \$6.56, \$7.23 and \$8.24 for each pole attachment ARE SUBSTITUTED for the rate of \$53.35, effective upon the release of this Order.

17. IT IS FURTHER ORDERED, pursuant to Sections 0.321 and 1.1410 of the Commission's rules, 47 C.F.R. §§ 0.321 and 1.1410, that Respondent SHALL REFUND to Complainant, within thirty (30) days of the release of this Order, that portion of the amount paid in excess of the respective rates listed above, for the period from November 14, 2000 to the present, plus interest to the date of refund.

18. IT IS FURTHER 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 Respondent and Complainant SHALL NEGOTIATE IN GOOD FAITH, maximum just and reasonable rates for pole attachments for charges beginning in 2002, in accordance with the Commission's rules.

19. IT IS FURTHER ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Respondent's Petition for Reconsideration of Teleport Communications Atlanta, Inc., v. Georgia Power Co., DA 01-1332, 16 FCC Rcd 11831 (2001) IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson, Deputy Chief
Cable Services Bureau

⁴⁸ Our calculations are set forth in Attachment B to this Order.

Attachment A
Pole Attachment Formulas and Calculations

$$\text{Maximum Rate} = \frac{\text{Space Occupied by Attachment}}{\text{Total Usable Space}} \times \frac{\text{Net Cost of Bare Pole}}{\text{Carrying Charge Rate}}$$

Maximum Rate

Space Occupied by Attachment	(A)	1
Total Usable Space	(B)	13.5
Net Cost of a Bare Pole	(C)	\$198.72
Carrying Charge Rate	(D)	0.4454
Maximum Rate per Pole	(A/B) x C x D	\$6.56

Net Cost of a Bare Pole

(1) Gross Pole Investment	\$576,897,022
(2) Depreciation Reserve	\$238,770,397
(3) Net Deferred Operating Income Taxes	\$2,206,108,276
(4) Gross Plant Investment	\$15,690,450,347
(5) Net Deferred Operating Income Taxes (Poles) ((L(1)/L(4) x L(3))	\$81,112,860
(6) Net Investment (Poles) (L(1)-L(2)-L(5))	\$257,013,765
(7) Net Investment (Bare Pole) (L(6) x .85)	\$218,461,701
(8) Number of Poles	1,099,356
(9) Net Cost of a Bare Pole (L(7)/L(8))	\$198.72

Carrying Charge Rate

(1) Administrative Charge	0.0395
(2) Maintenance Charge	0.0640
(3) Depreciation Charge	0.0673
(4) Taxes	0.1750
(5) Return on Investment	0.0995
(6) Total Carrying Charge (L(1)+L(2)+L(3)+L(4)+L(5))	0.4454

Administrative Charge

(1) Total G&A Expenses	\$276,108,942
(2) Gross Plant Investment	\$15,690,450,347
(3) Depreciation Reserve (Plant)	\$6,494,079,381
(4) Accumulated Deferred Taxes (Plant)	\$2,206,108,276
(5) Net Investment (Plant)	\$6,990,262,690
(6) Administrative Charge (L(1)/L(5))	0.0395

Maintenance Charge

(1) Maintenance Expense	\$47,883,208
(2) Gross Investment (364, 365, 369)	\$1,678,266,704
(3) Depreciation Reserve (364, 365, 369)	\$695,613,409
(4) Accumulated Deferred Taxes (364, 365, 369)	\$235,967,610
(5) Net Investment (364, 365, 369)	\$747,685,686
(6) Maintenance Charge (L(1)/L(5))	0.0640

Depreciation Charge

(1) Depreciation Rate	0.030
(2) Gross Pole Investment	\$576,897,022
(3) Depreciation Reserve (Pole)	\$238,770,397
(4) Accumulated Deferred Taxes (Pole)	\$81,112,860
(5) Net Investment (Poles)	\$257,013,765
(6) Depreciation Charge (L(1) x (L(2)/L(5))	0.0673

Taxes

(1) Total Current and Deferred Taxes	\$1,223,266,786
(2) Net Plant Investment	\$6,990,262,690
(3) Taxes (L(1)/L(2))	0.1750

Return on Investment

Authorized by State Regulatory Commission	0.0995
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**Attachment B
Pole Attachment Formulas and Calculations**

$$\left| \begin{array}{l} \text{Maximum} \\ \text{Rate} \end{array} \right. = \left[\frac{\left(\begin{array}{c} \text{Space} \\ \text{Occupied} \end{array} \right) + \left(\frac{2}{3} \times \frac{\text{Unusable Space}}{\text{No. of Attaching Entities}} \right)}{\text{Pole Height}} \right] \times \text{Net Cost of a Bare Pole} \times \left. \begin{array}{l} \text{Carrying} \\ \text{Charge} \\ \text{Rate} \end{array} \right|$$

Maximum Rate

Space Occupied by Attachment	(A)	1
Total Unusable Space	(B)	24.0
Pole Height	(C)	37.5
Number of Attaching Entities	(D)	5.0
Net Cost of a Bare Pole	(E)	\$198.72*
Carrying Charge Rate	(F)	0.4454*

Maximum Rate per Pole	[(A + 2/3 x (B/D))/C] x E x F	\$9.91
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\$9.91 - \$6.56 = \$3.35/5 = \$0.67 + \$6.56 = \$7.23 as of 2/8/01

*See Attachment A calculation

Maximum Rate

Space Occupied by Attachment	(A)	1
Total Unusable Space	(B)	24.0
Pole Height	(C)	37.5
Number of Attaching Entities	(D)	3.0
Net Cost of a Bare Pole	(E)	\$198.72*
Carrying Charge Rate	(F)	0.4454*

Maximum Rate per Pole	[(A + 2/3 x (B/D))/C] x E x F	\$14.95
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\$14.95 - \$6.56 = \$8.39/5 = \$1.68 + \$6.56 = \$8.24 as of 2/8/01

*See Attachment A calculation