



# NEWS

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

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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FOR IMMEDIATE RELEASE  
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## **FCC RESOLVES TWO POLE ATTACHMENT PROCEEDINGS** *Makes Adjustment to Accounting Formula and Affirms Cable Bureau's Decision Granting Pole Attachment Rate Complaint*

Washington, DC – Today the Federal Communications Commission (FCC) released two items related to pole attachment rules and regulations. In the first item, the FCC granted in part and denied in part petitions for reconsideration and/or clarification of two previous FCC rulemakings and amended the FCC's rules relating to the formula for calculating pole attachment rates. In the second item, the FCC affirmed a Cable Services Bureau Order that granted a pole attachment complaint filed by Alabama Cable Telecommunications Association, et al. against Alabama Power Company.

In the reconsideration order, the FCC addressed issues relating to the pole attachment rate formula for cable attachers as well as the formula for telecommunications attachers that became effective on February 8, 2001. Among other actions, the FCC clarified the methodology for calculating maximum pole attachment rates when the net pole investment becomes zero or negative due to accumulated depreciation attributable to removal costs; clarified the way in which entities are counted for the purpose of allocating and apportioning costs of unusable space for telecommunications attachers after February 8, 2001; affirmed that there is no unusable capacity in a conduit; and delayed reconsideration of two issues, application of the Pole Attachment Act to wireless telecommunications service providers and the effect of Internet service on pole attachments, pending the issuance of a final mandate from the courts.

In the second item released today, the FCC affirmed a Cable Services Bureau Order that found Alabama Power's proposed annual pole attachment rate of \$38.81 to be unreasonable pursuant to the Pole Attachment Act and the FCC's rules and ordered Alabama Power to allow Alabama Cable to continue to remain attached to Alabama Power's poles at the current annual negotiated rate of \$7.47 per pole, pending the satisfactory negotiation of a new agreement. The FCC found that application of the FCC's rules provides just compensation to the utility pole owner.

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## **Background on Pole Attachment Regulations:**

Section 224 of the Communications Act ensures that cable operators and telecommunications carriers are charged just and reasonable rates for their attachments to utility poles, ducts, conduits and rights-of-way. The FCC developed a methodology to determine the maximum allowable pole attachment rate for cable attachers. The Telecommunications Act of 1996 amended Section 224 to mandate nondiscriminatory access to, and reasonable rates for, attachments to poles, ducts, conduits and rights-of-way by telecommunications carriers, as well as cable operators. Following the 1996 Act, in CS Docket 97-151, the FCC adopted a separate methodology for calculating pole attachment rates for providers of telecommunications services, which became effective February 8, 2001.

Appeals of the CS Docket 97-151 Order were consolidated in the United States Court of Appeals for the 11<sup>th</sup> circuit and resulted in a decision, *Gulf Power v. FCC*. That decision was stayed by the 11<sup>th</sup> Circuit Court of Appeals and the FCC filed a petition for certiorari with the United States Supreme Court that was granted. Also pending in the 11<sup>th</sup> Circuit is a petition for review of DA 00-2078.

Action by the Commission, May 22, 2001, by Order (FCC 01-170). Chairman Powell, Commissioners Ness, Furchtgott-Roth, and Tristani.

Action by the Commission, May 23, 2001, by Order (FCC 01-181). Chairman Powell, Commissioners Ness, and Tristani, with Furchtgott-Roth concurring and issuing a statement.

CS Docket Nos. 97-98, 97-151, DA 00-2078

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