

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION**

**In the Matter of:** )  
 )  
**AMENDMENT OF RULES AND** ) **CS Docket No. 97-98**  
**POLICIES GOVERNING** )  
**POLE ATTACHMENTS** )

**AFFIDAVIT OF R. E. PRATER**

I, R.E. Prater, being duly sworn, depose and state as follows:

**I. Background**

1. I am employed by Alabama Power Company (“APCO”), 600 North 18<sup>th</sup> Street, Corporate Headquarters, Post Office Box 2641, Birmingham, Alabama 35291. I have been employed with APCO since 1969. In my position as Manager, Power Delivery Support, I have management responsibility over attachments made by third parties to APCO’s distribution poles, including responsibility over pole attachments that are subject to the Pole Attachment Act, 47 U.S.C. § 224.

**II. The Cable Rate**

2. The Federal Communications Commission’s (the “Commission”) Report and Order in the Matter of Amendment of Rules and Policies Governing Pole Attachments, CS Docket No. 97-98 (the “Order”), largely reaffirms the Commission’s requirement that embedded costs be used and the methodology that the Commission has long required for determining pole attachment rates for cable television attachments. As shown in Appendix C-2 to the Order,

the Commission has adopted specific calculations to develop that rate, with the overall calculation essentially being Space Allocation Factor X Pole Investment X Carrying Charge Rate. As shown in my Exhibit 1 that is attached hereto, the rate for APCO, using FY '98<sup>1</sup> information found in APCO's FERC Form 1, would have been \$6.50, based upon \$280.79 (Investment) X 7.41% (space allocation) X 31.27% (carrying charge). The Space Allocation Factor uses the Commission's rebuttable presumptions. It should be emphasized that the Order does not allow any allocation for unusable space and does not allow pole owners to recover cost items from all FERC accounts that are properly attributable to cable attachments. The accounts erroneously omitted from the Commission's rate are:

FERC Capital Accounts:

360 (Land and Land Rights)  
365 (Overhead Conductors and Devices)  
368 (Line Transformers)  
389-399 (General Plant)

FERC O/M Accounts:

580 (Operation Supervision and Engineering)  
583 (Overhead Line Expenses)  
588 (Miscellaneous Distribution Expenses)  
590 (Maintenance Supervision and Engineering)  
593 (Maintenance of Overhead Lines)  
598 (Miscellaneous Distribution Expense).

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<sup>1</sup> FY '98 data is being used for purposes of this filing because it is the most recent cost information for APCO that is not confidential. In this regard, it should be noted that APCO has sought confidential treatment of its FERC Form 1 filing that was made for FY '99. For purposes of consistency and ease of comparison, all of the rates and charges discussed in my affidavit and exhibits use FY '98 data.

As APCO and other electric utilities have informed the Commission in previous filings in this matter, fair allocations must be made on certain of these accounts.

### III. The Telecom Rate

3. In its Report and Order In the Matter of Implementation of Section 703(E) of the Telecommunications Act of 1996, CS Docket No. 97-151 (the "Telecom Rate Order"), the Commission promulgated regulations governing the rates to be charged for telecommunications attachments. For all practicable purposes, the only difference from the Cable Rate is that the Telecom Rate contains a different space allocation. Specifically, while the Cable Rate's allocation is limited to only usable space, the Telecom Rate contains an additional allocation for unusable space. As shown in my Exhibit 2, this results in an overall space allocation factor of 0.24 for a telecommunications attachment. As further shown in that Exhibit 2, a fully-phased in Telecom Rate for APCO based upon FY '98 information found in APCO's FERC Form 1 would have been \$21.07, based upon  $\$280.79 \times 24\% \times 31.27\%$ .
  
4. As demonstrated above and in my Exhibit 1 and Exhibit 2, the Telecom Rate produces a rate that is more than **three times** that produced by the Cable Rate. From a cost-basis, there is no justification for this difference. Under both rates, the attachment, regardless if used solely to provide cable television or telecommunications services, occupies one foot of space, and therefore both types of attachments impose the same burden and costs upon APCO. As discussed above, the only appreciable difference between the two rates is that the Telecom

Rate contains an allocation of unusable space, which is appropriate because the unusable space is of equal benefit to all attachors on the pole, regardless of the amount of usable space they occupy. As such, the attachors should equally bear these costs associated with unusable space. Since the Cable Rate does not appropriately allow for the recovery of those legitimate costs items, it does not allow the pole owner to recover all of its costs associated with cable attachments. Furthermore, it should be emphasized that the Cable Rate - - in all instances - - results in a subsidy to the cable companies because there are costs associated with unusable space in all instances. In other words, the costs associated with unusable space will never be \$0 because attachments require unusable space for safety and other reasons.

#### **IV. Replacement Cost Attachment Charge**

5. It is my understanding that there are various alternatives for determining just compensation for property that has been taken, and that a replacement cost-based approach is only one of those means. To the extent that a cost-based approach is used, the use of replacement costs is much more appropriate than the use of embedded costs because the latter has little to do with the value of the property at the time that the taking occurs, and in the present case the taking is on-going in nature. In addition, replacement costs seems further appropriate in this instance because an alternative to taking our property is to construct an independent system of poles, which system would necessarily be priced at replacement costs. It is also my understanding that just compensation should be the “full and perfect” value of the property taken, which (from a cost-based perspective) should mean that all costs incurred due to the taking should be recovered. Based upon these principles, I have developed a replacement

cost-based approach that provides a conservative estimation of what a replacement cost price should be. APCO's replacement cost price is based upon the formula of Space Allocation Factor X Pole Investment X Carrying Charge Rate.

6. As shown in my Exhibit 3, the pole space allocation factor is based upon Congress' recognition in the 1996 Amendments to the Pole Attachment Act of the obvious fact that the unusable space on a pole is of equal benefit to all parties, and thus an allocation is made for both usable and unusable space. In addition, this factor is based upon a 40 foot pole, with 7 feet allocated to electric utility attachments, 2.5 feet for telephone company attachments, and 1 foot for cable or telecommunications attachments. The use of a 40 foot pole is appropriate for APCO because, as shown in the attached information, APCO's average replacement pole was 40.22 feet in height utilizing all poles installed in 1998. Moreover, a majority of the 30 foot poles that were installed were merely poles used for lighting and contained no cable or telecommunications attachments. Using the conservative assumption that half of those 30 foot poles contained no such attachments yields an average pole height of 41 feet, further demonstrating the reasonableness of utilizing a 40 foot average pole height. Likewise, the use of 7.0 feet for power attachments is appropriate because APCO's standard, distribution specifications uses that assumption for new pole construction, and the use of 2.5 feet for telephone attachments is consistent with the requirements contained in APCO's Joint Use Agreements with those telephone companies. Even though APCO believes that, on average, there are less than three parties attached to its pole, it has used the

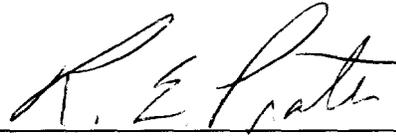
conservative assumption that there are that number of attaching entities. Combining these elements produces a Space Allocation Factor of 27.08%.

7. Regarding the Investment number, it is based upon the replacement cost of a bare pole. In addition, the costs of grounds and arrestors have been incorporated. As discussed in the comments made by electric utilities to the Commission previously in these proceedings, the costs of grounds and arrestors should properly be included in any pole attachment rate because they protect all attaching parties from lightning surges, lightning strikes, stray interference, induced voltages and power surges. Indeed, if the cable or telecommunications companies were to independently build/replace their own, independent system of poles, they would unquestionably use grounds and arrestors to protect their equipment and personnel. In addition, a portion of initial right of way clearing costs have been used because, again, APCO incurred such costs in building its system of poles, and cable or telecommunications companies would incur such costs if they were to independently built/replace that system. It should be noted that many of the costs items contained in the Investment figure are recorded in APCO's Job Estimating and Tracking System ("JETS"), a computer system that is used for the preparation and recording of distribution work orders and estimates. An allocation for General Plant is also included. General Plant is similar to A&G expense that are already included in the Cable Rate in that a portion of the costs are attributable to distribution poles and the attachments thereon. For example, the costs of desks, telephones, computers and buildings used by employees in administering pole attachment contracts are recorded in General Plant. Other relevant General Plant costs include, but are not limited to,

transportation equipment used to construct and maintain distribution poles and stores equipment used to move and store the poles. Combining these elements produces an Investment figure of \$552.93.

8. The Carrying Charge Rate is based upon gross investment and incorporates all of the appropriate FERC O & M Costs and A&G accounts that the electric utilities have previously demonstrated are properly attributable to costs incurred due to attachments. In addition, APCO's cost of capital for 1998 was used. In this regard, it would be more appropriate to use a forward-looking cost of capital due to the forward-looking nature of this methodology. Such cost-of-capital information, however, is confidential and thus inappropriate for use in these public proceedings. Based upon these considerations, the carrying charge rate is 25.91%.
9. As shown in my Exhibit 3, combining these three components utilizing replacement costs produces a charge for pole attachments of \$38.80 for FY '98.
10. It should be emphasized that this replacement cost charge is a highly conservative number that would only begin to move APCO towards the constitutionally required full and perfect price, and makes no recognition of the alternative valuation methods for determining just compensation. In addition, this replacement cost methodology does not include, for example, any enhancement value to recognize the linear corridor and access to APCO's customers. Other examples of the conservative nature of these numbers also include the use

of gross investment in determining the carrying charge rate and the assumption of 3 attaching entities on a pole. To the extent that the Commission or a third party should try to challenge this methodology or its individual components, recognition of these considerations must be taken into account and that none of the alternative methodologies for determining just compensation have been utilities. Indeed, the fact that the replacement cost charge is more than six (6) times the Cable Rate means that even if one were to exclude the vast majority of the legitimate cost items that were included in this methodology, it would still exceed the woefully inadequate Cable Rate.



R.E. Prater

STATE OF ALABAMA            )  
  )  
COUNTY OF JEFFERSON    )

R.E. Prater, being first duly sworn, deposes and says that he has read the foregoing Affidavit of R.E. Prater, and that the matters and things set forth therein are true and correct to the best of his knowledge, information, and belief.

Sworn to and subscribed before me this 15<sup>th</sup> day of June, 2000.



Mary Elizabeth Tucker  
Notary Public

My Commission Expires: 7-10-00

# Exhibit 1

**Alabama Power Company  
Pole Attachment Rate Calculation  
(Based on FCC CATV Methodology)**

Net Investment		\$	280.79
Carrying Charge:			
Administrative Element	2.98%		
Maintenance Element	7.03%		
Depreciation Element	6.61%		
Taxes Element	6.12%		
Return Element	8.53%		
Total Carrying Charge			<u>31.27%</u>
Annual Cost per Pole		\$	<u>87.81</u>
Pole Space Allocation			<u>7.41%</u>
<b>Pole Attachment Rate</b>		<b>\$</b>	<b><u>6.50</u></b>

**Net Pole Investment:**

Gross Pole Investment (Account 364)	627,605,935	
- Accumulated Depreciation (Account 108)(Poles)	212,663,793	
- Accumulated Deferred Income Taxes	-	
<b>Net Pole Investment</b>	<b>414,942,142</b>	
Total Number of Poles	- 1,256,099	
Net Pole Investment Per Pole	\$ 330.34	
	x 85%	
<b>Net Investment Per Pole for Rate Calculation Purposes</b>	<b>280.79</b>	

**Carrying Charge Rate:**

**Administrative Element**

Total General & Administrative (FERC Form 1, Page 323, line 168, col. b.)	198,175,883	=	2.98%
Gross Plant Investment - Accumulated Depreciation	6,645,328,749		

**Maintenance Element**

Account 593	64,825,695	=	7.03%
Pole Investment in Accounts 364, 365, & 369 - Depreciation (poles) Related to Accounts 364, 365, & 369 - ADITs related to Accounts 364, 365, & 369	922,605,781		

**Depreciation Element**

Gross Pole Investment	627,605,935	=	1.512514	x	4.37%	=	6.61%
Net Pole Investment	414,942,142						

**Taxes Element**

Accounts 408.1+409.1+410.1+411.4-411.1	406,747,910	=	6.12%
Gross Plant Investment - Accumulated Depreciation	6,645,328,749		

**Return Element**

Applicable Rate of Return		=	8.53%
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**Pole Space Allocation:**

Space Occupied	1	=	7.41%
Usable Space	13.5		

# Exhibit 2

**Alabama Power Company  
Pole Attachment Rate Calculation  
(Based on FCC Telecom Methodology)**

Net Investment		\$	280.79
Carrying Charge:			
Administrative Element	2.98%		
Maintenance Element	7.03%		
Depreciation Element	6.61%		
Taxes Element	6.12%		
Return Element	8.53%		
Total Carrying Charge			<u>31.27%</u>
Annual Cost per Pole		\$	<u>87.81</u>
Pole Space Allocation			<u>24.00%</u>
<b>Pole Attachment Rate</b>		<b>\$</b>	<b><u>21.07</u></b>

**Net Pole Investment:**

Gross Pole Investment (Account 364)	627,605,935	
- Accumulated Depreciation (Account 108)(Poles)	212,663,793	
- Accumulated Deferred Income Taxes	-	
<b>Net Pole Investment</b>	<b>414,942,142</b>	
Total Number of Poles	-	1,256,099
Net Pole Investment Per Pole	\$	330.34
	x	85%
<b>Net Investment Per Pole for Rate Calculation Puposres</b>		<b>280.79</b>

**Carrying Charge Rate:**

Administratvie Element

Total General & Administrative (FERC Form 1, Page 323, line 168, col. b.)	198,175,883	=	2.98%
Gross Plant Investment - Accumulated Depreciation	6,645,328,749		

Maintenance Element

Account 593	64,825,695	=	7.03%
Pole Investment in Accounts 364, 365, & 369 - Depreciation (poles) Related to Accounts 364, 365, & 369 - ADITs related to Accounts 364, 365, & 369	922,605,781		

Depreciation Element

Gross Pole Investment	627,605,935	=	1.512514	x	4.37%	=	6.61%
Net Pole Investment	414,942,142						

Taxes Element

Accounts 408.1+409.1+410.1+411.4-411.1	406,747,910	=	6.12%
Gross Plant Investment - Accumulated Depreciation	6,645,328,749		

Return Element

Applicable Rate of Return		=	8.53%
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Pole Space Allocation:

Space Occupied	9	=	24.00%
Usable Space	37.5		

# Exhibit 3

ALABAMA POWER COMPANY

Replacement Cost Attachment Charge  
Based on 1998 Costs

INVESTMENT (Replacement Costs)

Replacement Cost of Bare Poles

1998 additions (40 ft.)	14,413
1998 investment (40 ft)	\$7,107,675
Investment /Pole	\$493.14

Grounds and Arrestors

JETS Estimate of One Ground and One Set of Arrestors (1 Phase)	\$152
Grounding and Arrestor Investment/Pole (4grnds/mile & 21 poles /mile)	\$28.95

Initial Right of Way Clearing Costs

Total 1998 Initial Clearing Costs from JETS	\$2,657,444
Portion Allocable to Act. 364 (15.12%)	\$401,806
Pole Inv. at year end 1998	1,256,099
Pole Inv. at year end 1997	1,233,389
Net Increase in Pole Inventory in 1998	22,710
R/W Clearing Costs/ Pole	\$17.69

TOTAL DISTRIBUTION INVESTMENT PER POLE

Bare Pole	\$493.14
Grounds and Arrestors	28.95
Initial R/W Clearing Costs	<u>17.69</u>
TOTAL	\$510.83

GENERAL PLANT

Allocation Factor [(Total Elec. Plt.)/(Total Elec. Plt.-Gen. Plt.)]	1.08242
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TOTAL INVESTMENT PER POLE

(\$510.83 X 1.08242)	\$552.93
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## POLE SPACE ALLOCATION

### Assumptions:

1. The average pole is 40 ft. in height.
2. 7.0 ft. is allocated for power attachments.
3. 2.5 ft. is allocated for telephone attachments.
4. 1.0 ft. is allocated for each CATV or telecommunications attachment.
5. The pole occupancy rate is 3.0 including the pole owner.

### Pole Space Allocation Factor

$$[(40-7-2.5-1)/3 + 1] / 40 = 0.2708$$

Note: APCO estimates that for poles attached by parties to which this rate will be applied, the pole occupancy rate is slightly less than 3.0. It is assumed that most poles attached by CATV are also attached by a telephone company. However, there are some poles having CATV attachments where the telephone company is underground. Also, to a lesser degree, there are some poles attached by two or more CATV companies. These cases are offsetting, and it is almost certain that any error in the assumption of 3 parties per pole (power, telephone, and CATV) for only those poles which are applicable to this rate is on the high side which favors lower attachment rates. If it were practical to determine the actual pole occupancy rate, it is believed that it would be within the range of 2.6 to 2.9.

ANNUAL CARRYING CHARGE RATE BASED ON 1998 COSTS

Cost of Capital	9.706%
Income Tax	3.546%
Maintenance Expense	4.778%
Depreciation & General Expense	4.374%
Administration & General Expense	1.776%
Other Taxes	1.730%
	=====
Total	<b><u>25.910%</u></b>

RATE CALCULATION

$$\begin{aligned} \text{Rate} &= \text{Investment} \times \text{Annual Charge} \times \text{Space Allocation} \\ &= \$552.93 \times .25910 \times 0.2708 = \$38.80 \end{aligned}$$

**1998 TOTAL POLE ADDITIONS  
AND AVERAGE POLE HEIGHT**

<b>Height</b>	<b>Number of Poles</b>	
30	5,268	158,040
35	5,406	189,210
40	14,563	582,520
45	8,571	385,695
50	2,694	134,700
55	646	35,530
60	226	13,560
65	88	5,720
70	21	1,470
75	17	1,275
80	2	160
85	3	255
90	3	270
95	1	95
		1,508,500
	<b>Total Poles 37,509</b>	<b>Avg. Height 40.22</b>

**1998 TOTAL POLE ADDITIONS  
(LESS 30' LIGHT POLES)  
AND AVERAGE POLE HEIGHT**

Height	Number of Poles	
30	2,634	79,020
35	5,406	189,210
40	14,563	582,520
45	8,571	385,695
50	2,694	134,700
55	646	35,530
60	226	13,560
65	88	5,720
70	21	1,470
75	17	1,275
80	2	160
85	3	255
90	3	270
95	1	95
		1,429,480
	Total Poles 34,875	Avg. Height 40.99