

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

August 9, 1985

WC 10-101

IN REPLY REFER TO:

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Federal Communications Commission
Office of the Secretary

Mr. Melvin S. Ishihara
Administrative Director
State of Hawaii
Public Utilities Commission
Department of Budget and Finance
1164 Bishop Street, Suite 911
Honolulu, Hawaii 96813

Re: CATV Pole Attachment Certification

Dear Mr. Ishihara:

This is in reference to your letters of January 24, 1985, and May 15, 1985, concerning Hawaii's certification under Section 1.1414(a) of the Commission's Rules, 47 C.F.R. §1.1414(a), that it regulates pole attachments.

When your January 24 letter was received, the Commission's Rules required that a state asserting jurisdiction over pole attachments certify that

- (1) It regulates rates, terms, and conditions for pole attachments, and
- (2) In so regulating such rates, terms, and conditions, the State has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services.

Hawaii was not included on our February 11, 1985, list of states certified because your certification did not include the second statement. You indicate in your May 15 letter that you were unable to certify that the Public Utilities Commission has "the authority to consider and do[es] consider the interests of cable TV subscribers" because there are two agencies involved in cable television matters, and the Department of Commerce and Consumer Affairs determines the ultimate charges made to cable television subscribers. Section 1.1414 of the Rules does not address the ultimate cable television charge. If, in determining the rate the cable company pays the utility for pole attachments, the Public Utilities Commission has the authority to consider and does consider how those pole attachment rates will affect the interests of cable television subscribers, you may so certify to the Commission even if the Public Utilities Commission

is not involved in determining the ultimate charges to cable television subscribers.

Please note that the Commission recently amended Section 1.1414 of the Commission's Rules, 47 C.F.R. § 1.1414, to implement certain provisions of the Cable Communications Policy Act of 1984. Report and Order in MM Docket No. 84-1296, FCC 85-179 (released April 19, 1985). Among the amendments is new Section 1.1414(a)(3), 47 C.F.R. §1.1414(a)(3), which provides that a state regulating pole attachments must certify to this Commission that

It has issued and made effective rules and regulations implementing the state's regulatory authority over pole attachments (including a specific methodology for such regulation which has been made publicly available in the state)

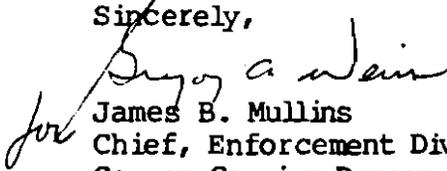
Accordingly, if Hawaii's rules and regulations comply with these requirements, please so certify, and include all three required statements, so that we may add Hawaii to the list of states certified.

Your prompt attention and cooperation are appreciated.

Please address your certification and any inquiries to:

Federal Communications Commission
Attention: Margaret Wood, Esq.
Room 6206
1919 M Street, N.W.
Washington, D.C. 20554
Telephone (202) 632-4890

Sincerely,

for 
James B. Mullins
Chief, Enforcement Division
Common Carrier Bureau

Enclosures