

WC 10-001

IDAHO PUBLIC UTILITIES COMMISSION

STATEHOUSE
BOISE, IDAHO 83720
334-3143



PERRY SWISHER, *President*
CONLEY WARD, JR., *Commissioner*
RICHARD S. HIGH, *Commissioner*

JOHN V. EVANS
Governor

MAY 20 1982
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FILED/ACCEPTED.

APR 26 2010

Federal Communications Commission
Office of the Secretary

May 24, 1982

Federal Communications Commission
William J. Tricarico, Secretary
1919 M Street, NW
Washington, D.C. 20554

RE: Certification of the Idaho Public Utilities Commission of Jurisdiction Over Cable Pole Attachments

Dear Mr. Tricarico:

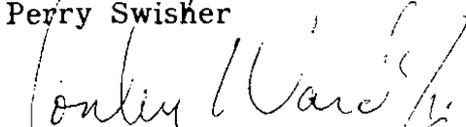
Pursuant to the request of Mr. Dan Marin of the Federal Communications Commission, the Idaho Public Utilities Commission hereby recertifies its jurisdiction over cable pole attachments. The Idaho Public Utilities Commission hereby certifies pursuant to 47 USC § 224(c) that, effective July 1, 1982, the Commission will have authority and will exercise its authority:

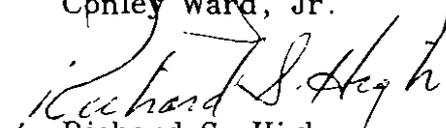
- (1) To regulate rates, terms and conditions of cable pole attachments to utility poles, ducts, conduits or rights-of-way as those terms are defined in 47 U.S.C. § 224(a); and
- (2) To consider the interest of subscribers of cable television services as well as the interest of consumers of utility services in regulating rates, terms and conditions of cable pole attachments.

A copy of Idaho Senate Bill 1287, which passed the Idaho Legislature in 1982 and was signed into law by the Governor, is attached for your information.

Sincerely,


Perry Swisher


Conley Ward, Jr.


Richard S. High

ss/5m

IN THE SENATE

SENATE BILL NO. 1287

BY COMMERCE AND LABOR COMMITTEE

AN ACT

1
2 RELATING TO REGULATION, UPON DISAGREEMENT BETWEEN A PUBLIC UTILITY AND A
3 CABLE TELEVISION COMPANY, OF RATES, TERMS AND CONDITIONS FOR ATTACH-
4 MENTS TO DISTRIBUTION FACILITIES BY CABLE TELEVISION COMPANIES; AMEND-
5 ING CHAPTER 5, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
6 61-538, IDAHO CODE, TO DEFINE PUBLIC UTILITY AND ATTACHMENTS AND TO
7 GIVE THE PUBLIC UTILITIES COMMISSION AUTHORITY TO REGULATE, UPON DIS-
8 AGREEMENT, THE RATES, TERMS AND CONDITIONS OF POLE ATTACHMENTS BY CABLE
9 TELEVISION COMPANIES TO THE DISTRIBUTION FACILITIES OF PUBLIC UTILI-
10 TIES.

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Chapter 5, Title 61, Idaho Code, be, and the same is
13 hereby amended by the addition thereto of a NEW SECTION, to be known and
14 designated as Section 61-538, Idaho Code, and to read as follows:

15 61-538. POLE ATTACHMENTS -- REGULATION. As used in this section, the
16 term "public utility" includes any person, firm or corporation except a
17 publicly owned utility which owns or controls poles, ducts, conduits or
18 rights-of-way used or useful, in whole or in part, for wire communication,
19 and which are not subject to the jurisdiction of the commission under
20 section 61-129, Idaho Code.

21 The term "cable television company" means any individual, firm, part-
22 nership, corporation, company, association, or joint-stock association, and
23 includes any trustee, receiver, assignee, or personal representative
24 thereof, which transmits television signals for distribution to subscribers
25 of its services for a fee by means of wires or cables connecting its
26 distribution facilities with the customer's television receiver or the
27 customer's equipment connecting to the customer's receiver rather than by
28 transmission of the television signal through the air.

29 The term "pole attachment" when used in this section means any wire or
30 cable for the transmission of cable television, and any related device,
31 apparatus, or auxiliary equipment, installed upon any pole or in any tele-
32 graph corporation, telephone corporation, electrical corporation or commu-
33 nications right-of-way, duct, conduit or other similar facilities owned or
34 controlled, in whole or in part, by one or more public utilities.

35 The legislature hereby finds that many public utilities have, through a
36 course of conduct covering many years, made available space on and in their
37 poles, ducts, conduits, and other support structures for use by the cable
38 television industry for pole attachment service, and that the provision of
39 such pole attachment service by such public utilities is and has been a
40 public utility service.

41 Whenever a public utility and a cable television company are unable to
42 agree upon the rates, terms or conditions for pole attachments or the
43 terms, conditions or cost of production of space needed for pole attach-
44 ments, then the commission shall establish and regulate the rates, terms

1 and conditions, and cost of providing space needed for pole attachments so
2 as to assure a public utility the recovery of not less than all the addi-
3 tional costs of providing and maintaining pole attachments nor more than
4 the associated capital cost and operating expenses of the public utility
5 attributable to that portion of the pole, duct, or conduit used for the
6 pole attachment including a share of the required support and clearance
7 space. In determining and fixing the rates, terms and conditions, the com-
8 mission shall consider the interest of the customers of the attaching cable
9 television company, the public utility upon which the attachment is made as
10 well as the customers of the public utility. To the extent applicable, the
11 procedures set forth in title 61, Idaho Code, shall apply under the provi-
12 sions of this section.