

RESOLUTION NO. 20-025

A Resolution of the Board of Commissioners of Jefferson County Public Utility District No.1 of Washington revising pole attachment rates pursuant to RCW 54.04.045.

RECITALS:

WHEREAS, RCW 54.04.045 allows a locally regulated utility, such as Public Utility District No.1 of Jefferson County (the “District”), to set rates charged to other entities for attachment of their wire, cable, or other communications equipment to poles owned by the District; and

WHEREAS, the District’s current pole attachment rate of \$12.45 was adopted at the time it assumed ownership of all of the electric facilities purchased from Puget Sound Energy and began operating the electric utility in and around 2013. The rate has not been adjusted since that time, and the Board concluded that it would be in the best interests of the District to consider revising its pole attachment rate; and

WHEREAS, effective June 12, 2008, the Legislature of the state of Washington enacted amendments to RCW 54.04.045, setting forth a specific formula for determining just and reasonable pole attachment rates to be charged by a public utility district like the District; and

WHEREAS, after two trials and appeals, the Washington Court of Appeals in April 2019 issued a published decision (8 Wn. App. 2d 418) providing the Court’s interpretation of the statutory formula and holding that public utility districts retain discretion regarding data, inputs, assumptions, and other information used to calculate the rate under the statutory formula and that courts should continue to defer to public utility districts like the District in that regard, and reiterating several times, that the Legislature intended the 2008 amendments to RCW 54.04.045 “to recognize the value of the infrastructure of locally regulated utilities” like the District and “to ensure that locally regulated utility customers do not subsidize licensees”; and

WHEREAS, the District’s General Manager has analyzed and calculated the maximum pole attachment rate the District could set under RCW 54.04.045, as amended, in light of the Court of Appeals decision, and in such analysis, has considered the various data and inputs relevant to such calculation, and, applying such data and inputs to the language of the amended statute, has calculated what the District’s maximum pole attachment rate could be and has concluded that the maximum permissible rate is significantly above the District’s current \$12.45 rate; and

WHEREAS, among the data and inputs the District’s General Manager considered in his review of the District’s pole attachment rate, are, without limitation, those relating to the number of poles; data regarding transmission poles as well as distribution poles; average pole height; expected useful pole life; determination of costs using gross versus net numbers and direct and indirect costs; average number of attachments per pole; usable pole space; support and clearance

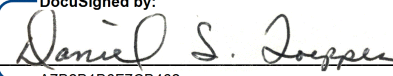
space; safety space as a component of support and clearance space; the share of the costs attachers on District poles should bear; carrying charge (e.g., various expenses and return on investment); and the General Manager has considered these types of inputs and data in light of the Legislature’s statement of its intent in the 2008 amended statute recognizing the value of the District’s infrastructure and ensuring that District utility customers do not subsidize attachers on District poles, pursuant to the Court of Appeals decision; and

WHEREAS, the Commission was provided a report and analysis by FCS Group on October 27, 2020 detailing the pole counts, attachments, rate methodologies and rate history. The Commission has also reviewed the General Manager’s December 7, 2020 report and recommendations and has considered his presentations and recommendations at Commission meetings held on October 27, 2020, December 7, 2020, and December 8, 2020, and finds that revising the District’s pole attachment rate to \$16.45 in 2021 and \$22.45 in 2022 is in the best interests of the District and its Customer owners.


NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. The Commission accepts the General Manager’s report and recommendations.
2. The Commission acknowledges the General Manager’s application of the statutory formula in RCW 54.04.045 as amended, with the inputs, data, and calculations as presented by the General Manager.
3. The Commission finds that the pole attachment rates of \$16.45 to begin in 2021 and a further increase to \$22.45 in 2022, are just and reasonable rates under RCW 54.04.045, and such an increase is below the maximum permissible rate of \$33.89, as calculated by the statute and the related Washington State Court of Appeals case.
4. The Commission approves and adopts a revised pole attachment rate of \$16.45 in 2021, and \$22.45 beginning in 2022, all to be effective January 1, 2021.

APPROVED AND ADOPTED by the Board of Commissioners of Public Utility District No. 1 of Jefferson, County, Washington, this 18th day of December, 2020.

DocuSigned by:

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 Dan Joeppe, President

ATTEST:

DocuSigned by:

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 Kenneth Collins, Vice President

DocuSigned by:

 54D5DB51D999412
 Jeff Randall, Secretary

