

## **RESOLUTION NO. 2024-003**

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**, the District held a Special Meeting on January 9, 2024; where a study and findings were presented by FCS Group evaluating the District's pole attachment rates and recommending adoption of a just and reasonable pole attachment rate; and

**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**, 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";

**WHEREAS**, the Board of Commissioners adopted Resolution No. 2020-025 establishing a 2022 pole attachment rate of \$22.45; 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 to be \$32.00, and has concluded that the current maximum permissible rate is significantly above the District's current \$22.45 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 January 9, 2024 rate methodologies and rate history. The Commission finds that revising the District's pole attachment rate to \$28.00 is in the best interests of the District and its Customer owners.

**NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:**

1. The foregoing recitals are incorporated herein as if fully set forth, and the Commission accepts the General Manager's recommendations.


2. The Commission finds that a pole attachment rate of \$28.00 to begin in 2024 and a further increase to \$32.00 in 2025 is consistent with the permissible rate under RCW 54.04.045, as amended, and pursuant to the Court of Appeals decision, and that rates of \$28.00 and \$32.00 are each just and reasonable rates under that statute.

3. The Commission approves and adopts a revised pole attachment rate of \$28.00 effective February 1, 2024, and a revised pole attachment rate of \$32.00 effective January 1, 2025.

**APPROVED AND ADOPTED** by the Board of Commissioners of Public Utility District No. 1 of Jefferson County, Washington, this 6th day of February, 2024.

DocuSigned by:  
  
F8F1549A386F418...  
Jeff Randall, President

DocuSigned by:  
  
AFB3B1B6F7CB482...  
Dan Toepfer, Vice- President

DocuSigned by:  
  
B55120D92D6C415...  
Kenneth Collins, Secretary