

Oregon Joint Use Association Request for Opinion (RFO) Procedures *Effective June 16, 2011*

The Oregon Administrative Rules (OAR's) Nos. 860-028-0200 through 860-028-0230 prescribes the role of the Oregon Joint Use Association (OJUA) in dispute resolution between pole owners and pole occupants. This document details the procedures which parties must follow when seeking opinions from the OJUA Conflict Resolution Committee (CRC) on the following types of disputes:

1. Dispute over Plans of Correction
2. Dispute over facts used to impose sanctions
3. Unreasonable delay in approval of written contract or issuance of a permit
4. Dispute over loss of Rental Reduction

Before the Conflict Resolution Committee (CRC) will review a Request for Opinion (RFO), it requires documentation that written communication has occurred or been attempted between the parties to resolve the dispute.

Eligibility

Any pole occupant in the State of Oregon may utilize these procedures.

Fees

A fee is required from the party filing the complaint. For OJUA member companies the fee is \$150.00 and non member companies must submit a \$250 fee. Payment is required with each Request for Opinion (RFO) to the OJUA. Checks must be made payable to OJUA. There is no fee for the party against whom the complaint is filed.

Procedures

1. The company filing the RFO must use the attached form and must provide as much information as possible, providing factual evidence to support the allegations (attachment records, correspondence, pictures, videotape, statements of witnesses, etc.) If the OJUA opinion is appealed to the Oregon Public Utility Commission (OPUC), the information supplied may be used in the OPUC or perhaps in civil court proceedings. Therefore all forms submitted must contain complete, precise and factual information. The form must be signed by an authorized representative of the company bringing the complaint. **All incomplete or ineligible submissions will be returned.**

Additional information may be attached to the RFO form.

One hard copy of both the completed form and supporting documentation should be sent via U S Mail to the:

Oregon Joint Use Association
Attn: Chairperson, Conflict Resolution Committee
1286 Court Street
Salem, OR 97301

The completed form and supporting documents must also be filed electronically in PDF format (or similar format that prohibits modification) and submitted to info@ojua.org.

2. Confirmation of receipt of the RFO will be sent to both parties within seven (7) business days. A copy of the completed form, RFO procedures, and supporting documentation will be sent to the party against whom the complaint is filed.

The party against whom the complaint is being filed must acknowledge their willingness to participate in the RFO in writing within (7) business days of receipt of a copy of the completed form and supporting documentation. Said party may supply any additional information it would like the CRC to consider within 15 business days of receipt of complaint or notify the Chairman within the same timeframe when such documents will be available. Copies of the response shall be forwarded to the party filing the RFO. In addition both parties shall respond in writing to requests for additional information from the OJUA CRC. The parties are expected to cooperate fully with the OJUA. Failure by any party to respond may result in termination of the process. Additional correspondence, arguments, responses, etc., will be allowed at the Committee Chair's discretion.

3. The Chairperson of the CRC will call the CRC into session to review any RFO's received. The CRC will investigate each RFO, and make its recommendation(s) to the affected parties within ninety (90) days of the receipt of all documentation.
 - A. A subcommittee composed of a Chairperson and at least four OJUA Members will review complaints. The subcommittee should be comprised of diverse industry interests who are not directly or indirectly involved in either side of the conflict. The Chairperson of the CRC may appoint alternates if necessary. The Chairperson of the CRC shall be an OJUA Board Member. There is an expectation by the OJUA Board that subcommittee members shall refrain from discussing disputes outside of the subcommittee process. Failure to adhere to that expectation may be cause for removal.

- B. The OPUC has sole discretion as to enforcement actions taken and CRC opinions are not binding.

Optional Settlement Conference

4. Prior to the next step in this procedure, either party to the conflict may request a settlement conference with the subcommittee. The purpose of the conference will be to seek resolution of the conflict. Both parties must be willing to participate in such conference. The participants in the conference are limited to the OJUA subcommittee selected to review the conflict, a maximum of two representatives from each of the parties involved in the conflict and a note taker designated by the Committee Chairperson. In no event shall either party have legal representation at the settlement conference. If the conference resolves the conflict then the process is terminated. In the event the conflict is not resolved the subcommittee will proceed to the next step in this procedure. The Chair shall moderate the proceedings and determine the duration of the conference.
5. The subcommittee will document its opinion in writing and submit the written opinion to the OJUA Board for review prior to notifying the parties to the dispute. The written opinion from the subcommittee shall include a background discussion of the dispute along with the subcommittee's findings and an analysis of the adherence to the governing rules. Board members who are party to the dispute will not be included in the Board review.
6. Once the OJUA Board has completed its review the Chair of the CRC will notify the parties involved in the dispute of the subcommittee's findings. The OPUC Liaison to the OJUA will also be notified at this time. None of the findings shall be deemed confidential after this point in the process and may be distributed to other interested parties no sooner than five (5) business days after the parties to the dispute are notified.
7. Opinions rendered by the OJUA CRC are final, are not binding and are not subject to appeal within the OJUA. The parties are encouraged to provide feedback to the OJUA Board of Directors after the process has concluded.