

July 1, 1976

Concurring Statement of
Commissioner James H. Quello

Re: Jurisdiction Over Cable Television
Pole Attachment Rates

While I concur in the Commission's action on cable television pole attachments, I fear it is a half-measure at best. Approximately 50 per cent of the poles carrying television cable are power poles rather than telephone poles. Even if the Commission were to find, as a result of the contemplated staff study, that it possessed and should assert jurisdiction over the rental to cable operators of communications space on telephone poles, it could have nothing to say about the rates charged for use of non-telephone utility poles.

Since power company-owned poles may be the only facilities available in one community, or may alternate with telephone poles in another community, or may be jointly owned, I foresee disparate and potentially discriminatory effects on cable operators and the public they serve. Both cable systems and their subscribers depend on the virtually monopolized service of aerial attachment of trunk lines. If the service is over-priced, it makes no practical difference who's in charge.

If the Communications Act must be read to distinguish between two kinds of poles performing the same transmission function for the interstate medium of cable television, then we ought seriously to consider asking Congress to amend the Act. Whether the FCC or the state utility commissions--or some other body or level of government--should regulate cable pole attachments is less important than the power to attack the problem as a whole.

Perhaps the staff study will recommend such a legislative solution. Perhaps, too, Chairman Wiley's informal meetings with state regulatory agencies will bear fruit. But both of these processes will take time, and are subject to delay despite the best of intentions. If private negotiations between pole lessors and lessees already, in less than a year, have proven unsuccessful, they are not likely to be enhanced by today's partial retreat from jurisdiction. Under the circumstances, the Commission should expedite the staff study, complete its decision on jurisdiction swiftly, and meanwhile exercise its good offices wherever feasible if disputes over pole attachment charges and conditions threaten disruption of service to cable television subscribers.

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