BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of COMCAST CABLE COMMUNICATIONS, INC., a Pennsylvania Corporation,)

Claimant,

Docket No. 03-035-28

vs.

PACIFICORP dba UTAH POWER, an Oregon Corporation,

Respondent.

TRANSCRIPT OF HEARING

TAKEN AT:

160 East 300 South, 4th Floor

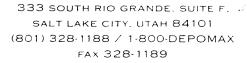
Salt Lake City, Utah

DATE:

April 6, 2004

REPORTED BY: Wendy S. Alcock, RPR





So it's unfair to say this issue first appeared in March or February. This is an issue that had been ongoing for several months. It wasn't included in this docket until Comcast essentially raised the issue by claiming that there was no particular relation to safety between unauthorized attachment fees and safety problems. The fact of the matter is that the permitting process is designed to ensure that their operations are safe. They've been skirting that, and that's why we're here.

MR. KOWALSKI: Mr. Chairman, we began our presentation with the suggestion that there are multiple time lines and threads that come together in a certain point. And so it's quite understandable that at some point, say in September of 2003, the parties are talking about the payment of money pursuant to an agreement, et cetera. However, you get the overlapping time line now of the audit being conducted.

The audit does a couple of things. First of all, it discloses attachments that were not there in 1997 for which there is no permit and which are there now. It also discloses attachments that have been made in an unsafe manner. Of course, if they haven't been through the permit process, it's not a surprise.

So now you have the existing audit results that start to come in and begin to play in here. So it's really

quite understandable that you wouldn't be saying from the very outset, "Correct these safety violations" because they're just coming to light as part of the audit. And true, the audit's purpose is to find out what attachments are on the pole, but at the same time, they document if there's a safety violation.

So this is one of those overlapping threads. You look at it today and say, "Why didn't you deal with that earlier?" And the point is, that thread hadn't started earlier.

CHAIRMAN CAMPBELL: I'm going to ask the Division a question about safety. But before I do that, Mr. Kowalski, you began by talking about a broader perspective, and under the Utah code we have obligations as it relates to new technologies in telecommunications and so forth, and so certainly the Commission would be deeply troubled if a utility was leveraging their debt collection against the delay in the broadband plans, that is certainly one of those broader perspectives that we at the Commission have.

I am interested in the safety issue as it relates to this immediate delay or denial of permit processing and so I'm going to ask the Division, I mean, what we've heard is that there's been no reported injury or problems. I guess the question is: When you do an audit, you're going to find things that are wrong. Somebody does a job and some

contractor does it poorly and doesn't comply. I guess the question is: How certain are you of whether this is a routine — that Comcast just every time they go out and installs is doing it wrong and doing it unsafely? And so, I mean, is that the level of the safety problems we're dealing with right now?

MS.SCHMID: I do not know. What I know is that at a meeting yesterday various documents were shown to Judith Hooper, who, while not acting as an engineer, has had significant practical experience as — I want to call her a pole engineer, but that probably want the term of art, but I know she's worked in the industry before and is familiar with the standards, and as a result of seeing those pictures, she was very concerned.

CHAIRMAN CAMPBELL: And do we know how widespread those picture are? Is that the routine thing or is that just one area? One job?

MS.SCHMID: There was a stack of, I believe, approximately 700 incidents. And I don't know how many attachments there are. But at least, to me, it seemed like that is a significant number. And if there is a safety problem that is widespread, perhaps we need to look at the attachment practices of all the other attachments as well, and we could open yet another docket to explore those things.

WENDY ALCOCK - DEPOMAX REPORTING, LLC

MR. THOMAS: Mr. Chairman, if I may, I think those