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Attorneys for PacifiCorp, dba Utah Power

Submitted September 17, 2004

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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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COMCAST CABLE COMMUNICATIONS,  
 INC., a Pennsylvania Corporation,

Claimant,

vs.

PACIFICORP, dba UTAH POWER, an  
 Oregon Corporation,

Respondent.

**Docket No. 03-035-28**

**AFFIDAVIT OF COREY FITZ  
 GERALD**

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Corey Fitz Gerald, under oath, states the following:


1. I am the Director of Transmission & Distribution Infrastructure Management for PacifiCorp and am responsible for all pole attachment related matters in the six states where PacifiCorp operates: California, Idaho, Oregon, Utah, Washington and Wyoming.
2. During the hearing in the captioned proceeding, several questions were posed to me by counsel for Comcast Cable Communications ("Comcast") concerning PacifiCorp's change in billing for pole rental. Specifically, on pages 712-714 of the hearing transcript, counsel for Comcast asked a series of questions regarding the notice provided to Comcast of the proposed tariff change. On page 713, lines 17-20, counsel for Comcast inquired whether I had a copy of that letter. I responded that I had a copy at my office.
3. Attached to this Affidavit as Exhibit A is a letter dated May 27, 2003. This letter was prepared by me and sent to all third-party cable operators, including Comcast, maintaining attachments to PacifiCorp's poles as of the date of the letter.
4. The May 27, 2003, letter provided notice of PacifiCorp's intent to file a request with the Utah Public Service Commission to modify the Electric Schedule No. 4, cable television pole attachment rental rate.
5. The May 27, 2003, letter provided third-party cable operators notice of the proposed change from \$4.65 *per pole* to \$9.20 *per attachment* to be effective January 1, 2004. The letter was sent in advance of PacifiCorp's filing its request with the Utah Public Service Commission on October 2, 2003.
6. PacifiCorp's October 2, 2003, filing with the Utah Public Service Commission included a spreadsheet listing all the cable operators that were sent a copy of the May 27, 2003 letter. I have included a true and correct copy of that filing as Exhibit B to this Affidavit.

7. Later in the proceeding, Judge Goodwill addressed questions to me about inspection and application fees, at page 909, lines 23-25, and page 910, lines 1-5, of the transcript.

8. As an additional response to Judge Goodwill's questions, I have attached to this Affidavit as Exhibit C a letter sent to all third-party attachers, including Comcast's predecessors AT&T Broadband, notifying attachers of PacifiCorp's intent to utilize application and inspection fees to recover costs associated with administering joint use.


9. The letter is dated April 17, 2002, and makes note that PacifiCorp's contract with each party allows for cost recovery associated with PacifiCorp's administration of joint use. There is a cover sheet to the April 17, 2002 letter indicating that the letter was also forwarded to Martin Pollock on July 15, 2002.

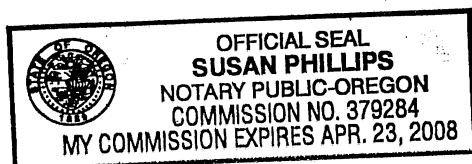
I hereby declare under penalty of perjury that the foregoing is true and correct.

  
Corey Fitz Gerald

Subscribed and sworn before me this 16 day of September, 2004.

My Commission expires \_\_\_\_\_.

  
Notary Public for Oregon



May 27, 2003

Attn: «Contact»  
«Company\_Name»  
«Address»  
«City», «State» «Zip»

Re: Utah Rate Tariff Filing

PacifiCorp's records indicate that your company currently provides cable television service in the state of Utah and that you may currently have pole attachments located on PacifiCorp poles.

PacifiCorp will be filing a request with the Utah Public Service Commission (Commission) for a change to Electric Service Schedule No. 4, CATV pole attachment rental. The current annual rate of \$4.65 per pole was put into effect in 1988; PacifiCorp has not requested an increase since that time. PacifiCorp is now under-recovering its costs to provide space to cable television providers in the state of Utah and will be proposing an annual rate of \$9.20 per attachment effective January 1, 2004. This rate is based upon the methodology developed by the Federal Communications Commission (FCC). Enclosed is a copy of the calculation adjusted to reflect PacifiCorp's actual costs. While we are aware that this rate is a significant increase, the methodology seeks to provide a just, fair and reasonable method of cost recovery.

According to Utah Commission Rule R746-345-4 B, "A public utility will not apply for a change to the pole attachment rate prior to notifying the cable television companies then having attachments to the utility's poles. The rate change petition must provide a statement as to the cable television companies acceptance or rejection of the proposed change."

In light of this requirement, PacifiCorp would appreciate receipt of any statements of acceptance or rejection that you desire to have included in the rate change application by **June 6, 2003**. Please feel free to contact me at (503) 813-6144 if you have any questions.

Respectfully,

Corey Fitz Gerald  
T&D Infrastructure Management  
Director

Enclosure



October 2, 2003

Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84114

Attn: Julie P. Orchard  
Commission Secretary

RE: Advice Filing 03-09  
Schedule 4 - Pole Attachments - Cable Television

PacifiCorp (d.b.a. Utah Power & Light Company) hereby submits for filing an original and ten copies of proposed changes to Schedule 4 of Tariff P.S.C.U. No. 44 of Utah Power & Light Company applicable to electric service in the State of Utah. Pursuant to the requirement of Rule R746-405D, PacifiCorp states that the proposed tariff sheets do not constitute a violation of state law or Commission rule. PacifiCorp will also provide an electronic version of this filing to [aflanders@utah.gov](mailto:aflanders@utah.gov). PacifiCorp respectfully requests an effective date of January 1, 2004.

First Revision of Sheet No. 4.1	Schedule 4	Pole Attachments – Cable Television
First Revision of Sheet No. 4.2	Schedule 4	Pole Attachments – Cable Television

PacifiCorp proposes to modify the pole attachment tariff rate for cable television service providers (CATV). The current tariff rate of \$4.65 per pole per year became effective in 1988 and has not been modified since that time. The pole attachment rental rate should be adjusted to provide adequate cost recovery related to accommodating third parties on overhead utility systems.

Commission Rule R746-345-4 provides "A public utility will not apply for a change to the pole attachment rate prior to notifying the cable television companies then having attachments to the utility's poles. The rate change petition must provide a statement as to the cable television companies' acceptance or rejection of the proposed change..." In accordance with that rule, attached is a copy of the letter that was sent to all CATV companies listed on the attached spreadsheet, along with their response, if any.



In addition, Rule R746-345-3C provides that "The Commission will allow a public utility and the cable television companies to first negotiate tariff rates that they jointly agree are fair and reasonable." In recognition of this rule and in parallel with this filing, PacifiCorp will have discussions with any of the cable companies who are willing to discuss our tariff filing, and we will notify the Commission of the status of any discussions/negotiations.

The Federal Communication Commission (FCC) has prescribed a methodology for the calculation of CATV pole attachment rental that is used as a guideline in all states whose pole attachment terms and conditions are governed by the authority of the FCC. It is the opinion of the FCC that the calculation meets the "just and reasonable" industry standard that all parties are encouraged to adhere to in the negotiation of CATV pole attachment contracts according to FCC Report and Order, CS Docket 97-151, adopted Feb. 6, 1998 and further supported by FCC Report and Order, CS Docket 97-98, adopted March 29, 2000. While all parties remain free to negotiate the terms, provisions and rates of contracts between themselves, the methodology is used in FCC regulated states to settle disputes between pole owners and pole users in the event that negotiations come to an impasse.

It is further the opinion of the FCC that the methodology represents adequate investment cost recovery for the pole owner. *Id.* The FCC sets forth the appropriate FERC accounts that may be used by electric utilities as well as any rebuttable presumptions that are applicable in the absence of actual asset data. *See* FCC Report and Order, CS Docket 97-98, adopted March 29, 2000 and 47 CFR §1.1401 *et seq.*

While PacifiCorp does not dispute the general approach of the FCC methodology, we believe that some aspects of just, fair and reasonable cost recovery are not included. PacifiCorp has modified the FCC methodology to include the following items:

1. A 2.5% per annum increase from the base rate. This is based on the Handy-Whitman Index of Public Utility Construction Costs for the Pacific Region 10-year average annual increase for Transmission and Distribution plant accounts. The adjustment to the methodology is based on the use of data from the Company's 2001 FERC Form 1, and the fact that the Company's pole attachment contracts require a minimum of 90 days notice prior to changes. That is, the adjustment is made to more accurately reflect the Company's level of investment in poles and support equipment utilized by the CATV companies. Without the 2.5% increase, the rate and required notice result in charges which are outdated by the time they become effective, and PacifiCorp would not be recovering its current cost of providing pole space.
2. An additional amount has been added based on the expenses PacifiCorp charges to FERC accounting series 588, which is not included in the carrying charges of the methodology. The costs in this account are the actual administrative expenses that PacifiCorp incurs in managing pole attachment contracts. These are the reasonable administrative and general costs that would not be incurred without the regulatory requirement to share poles with third parties. The costs are split evenly by the total number of attachments throughout PacifiCorp's service territory.

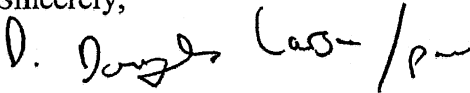
PacifiCorp proposes the use of the FCC CATV pole attachment rental rate methodology with the above stated adjustments to provide for a just, fair and reasonable annual rate of \$9.20 per pole. The calculation of this proposed rate is further described in the attached Exhibit A.

It is respectfully requested that all formal correspondence and Staff requests regarding this matter be addressed to:

By E-mail (preferred):      datarequest@pacificorp.com  
  
By Fax:                              (503) 813-6060  
  
By regular Mail:              Data Request Response Center  
   PacifiCorp  
   825 NE Multnomah, Suite 800  
   Portland, Or 97232

Informal inquiries may be directed to John Stewart, Regulatory Manager, at (801) 220-4561

Sincerely,

A handwritten signature in black ink, appearing to read "D. Douglas Larson" with a stylized flourish at the end.

D. Douglas Larson  
Enclosures

'Exhibit A'

STATE OF UTAH  
2004  
COMPUTATION OF ANNUAL POLE ATTACHMENT RENTAL RATE  
PACIFICORP, d.b.a. UTAH POWER & LIGHT COMPANY

FCC formula for cable TV attachments (47 CFR §1.1409(e)(1):

Rate = Space Factor x Net Cost of Bare Pole x Carrying Charge Rate

Where Space Factor = Space occupied by attachment / total usable space

A. Net Investment Per Bare Pole

(1)	Investment in poles, towers, & fixtures	\$370,786,082
(2)	Less depreciation reserve associated with Item (1)	(\$134,237,118)
(3)	Less deferred Federal income taxes associated with Item (1)	<u>(\$33,401,051)</u>
(4)	Net investment in poles and support equipment	\$203,147,914
(5)	Less Crossarms & Appurtenances	<u>(\$3,472,187)</u>
(6)	Net investment in poles and support equipment	\$172,675,727
(7)	Total number of poles	<u>÷ 424,302</u>
Net Pole Value		<u><b>\$406.96 (PV)</b></u>

B. Annual Carrying Charge

(1)	Depreciation Expenses	6.74%
(2)	Administration and General Expenses	3.02%
(3)	Maintenance Expenses	4.93%
(4)	Taxes	4.17%
(5)	Authorized Cost of capital	8.87%
		<u><b>27.73% (CC)</b></u>

C. Use Ratio Per Pole (Space Factor)<sup>1</sup>

(1)	Usable space on pole, in feet	13.5
(2)	Effective space occupied by Licensee Attachment	<u>1.0</u>
		<u><b>7.41% (PR)</b></u>

<sup>1</sup> Space occupied and usable space values are presumptive values adopted by the FCC. 47 CFR § 1.1418.



D. Annual Pole Attachment Rate

**(PV) X (CC) X (PR)**

**\$8.36**

E. 2004 Basic Rate (2001 escalated at 2.5% per year)

**\$8.79**

F. Adjustment for actual A&G costs directly associated to pole attachments

**\$0.41**

**2004 TOTAL ANNUAL RENTAL RATE PER ATTACHMENT**

**\$9.20**

Company Name	Address	City	State	Zip	Contact	Current Rate	Response
ALL WEST CABLE	PO BOX 588	KAMAS	UT	84036	JACK WALKENHORST	4.65	No Response
AMERICAN TELEVENTURE	133 N MAIN ST	SMITHFIELD	UT	84335	POLE ATTACHMENTS	4.65	No Response
BRESNAN COMMUNICATIONS	1 Manhattanville Rd.	Purchase	NY	10577	General Counsel	4.65	No Response
COMCAST	P.O. BOX 1827	IDAHO FALLS,	ID	83403	DEAN JONES	4.65	No Response
COMCAST	4700 S SYRACUSE PARKWAY, ST 100	DENVER	CO	80237	MIKE SLOAN	4.65	No Response
BLACK DIAMOND CABLE	P.O. BOX 7332	PHOENIX	AZ	85001	GREG CARDER	4.65	No Response
BULLOCK & BEATTY ASSOCIATION	3300 BLOOMINGTON DR	ST GEORGE	UT	84770	CABLE TV POLE HITCHES	4.65	No Response
CHARTER COMMUNICATIONS	111 W 700 S	ST GEORGE	UT	84770	RICHARD RENIEWICKI	4.65	No Response
CHARTER COMMUNICATIONS	12444 POWERSCOURT DR. STE 100	ST. LOUIS	MO	63131	CYNTHIA J. WOODEN	4.65	No Response
COLONIAL CABLEVISION	3011 JOAQUIN MILLER RD.	OAKLAND	CA	94602	NEAL SCHNOG	4.65	No Response
COMMUNITY CABLE OF UTAH	1515 RIVERSIDE AVE	PROVO	UT	84604	MIKE OSWALD	4.65	No Response
INSIGHT COMMUNICATIONS	126 E 56TH ST	NEW YORK	NY	10022	LORENA GRAHAM	4.65	No Response
MALLARD CABLEVISION	PO BOX 5716	TRAVERSE CITY	MI	49696	ARLENE SMITH	4.65	No Response
NAVAJO COMMUNICATION	PO BOX 6000	WINDOW ROCK	AZ	86515	GARY KLASSEN	4.65	No Response
PEAK CABLEVISION	1750 SOUTH HIGHWAY 10	PRICE	UT	84501	SHANE BAGGS	4.65	No Response
SOUTHWEST CABLEVISION	2134 WEST LEGACY CIRCLE	CEDAR CITY	UT	84720	DENNIS JOHNSON	4.65	Objects to Proposal



P.S.C.U. No. 44

First Revision of Sheet No. 4.1  
Canceling Original Sheet No. 4.1

**UTAH POWER & LIGHT COMPANY**  
**ELECTRIC SERVICE SCHEDULE NO. 4**  
**STATE OF UTAH**

**Pole Attachments - Cable Television**

**AVAILABILITY:** To companies distributing cable television programming (CATV) (C)  
whose operation requires that cables, wires, and other appurtenances be placed on Company utility  
poles. This Schedule shall be available only upon the following three conditions:

1. The execution of an appropriate Pole Attachment Agreement between the CATV and (C)  
Utah Power & Light Company.
2. The approval by Utah Power & Light Company of the CATV application for (C)  
permission to place equipment on Company poles.
3. The availability of utility poles located on the Company's interconnected system in (C)  
the State of Utah which are, and will continue to be, of sufficient size and capacity  
to accommodate CATV equipment installed in accordance with PacifiCorp's (C)  
construction standards as well as the National Electric Safety Code (NESC). This  
Schedule shall not be available where CATV equipment is proposed to be placed  
upon particular poles in a manner that would interfere with the Company's  
requirements for poles or space on poles to accommodate additional electrical  
transmission and distribution equipment that is reasonably expected to be added to (C)  
the poles in the foreseeable future.

**APPLICATION:** The rate specified in this Electric Service Schedule shall apply to all  
Company-owned poles.

**ANNUAL CHARGE:** \$9.20 per attachment.

(I,C)

(continued)

Issued by authority of Report and Order of the Public Service Commission of Utah in Advice 03-09

**FILED:** October 2, 2003

**EFFECTIVE:** January 1, 2004



P.S.C.U. No. 44

First Revision of Sheet No. 4.2  
Canceling Original Sheet No. 4.2

### **ELECTRIC SERVICE SCHEDULE NO. 4 - Continued**

**TERMS, CONDITIONS, LIABILITIES:** The terms, conditions, and liabilities for service under this Schedule shall be those specified in the Pole Attachment Agreement between the Company and the CATV provider. The rental rate specified by the Pole Attachment Agreement shall be in accordance with the annual charge specified in this Schedule and the rules established by the Public Service Commission of Utah and subject to its approval.

**STANDARD POLE ATTACHMENT AGREEMENT:** A copy of the Company's current standard Pole Attachment Agreement is on file with the Public Service Commission.

**ELECTRIC SERVICE REGULATIONS:** Service under this Schedule will be in accordance with the terms of the Pole Attachment Agreement between the Company and the CATV provider. The Electric Service Regulations of the Company on file with and approved by the Public Service Commission of the State of Utah, including future applicable amendments, will be considered as forming a part of and incorporated in said Agreement. In case of any conflict between any of the provisions of the Pole Attachment Agreement, this Rate Schedule, and the Electric Service Regulations, the provisions of this Rate Schedule will take precedence followed by the provisions of the Pole Attachment Agreement.

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Issued by authority of Report and Order of the Public Service Commission of Utah in Advice 03-09

**FILED:** October 2, 2003

**EFFECTIVE:** January 1, 2004

## CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2003, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing Advice Filing to:

All West Cable  
Attn: Jack Walkenhorst  
P.O. Box 588  
Kamas, UT 84036

American Televenture  
Attn: Pole Attachments  
133 N. Main Street  
Smithfield, UT 84335

Bresnan Communications  
Attn: General Counsel  
1 Manhattanville Road  
Purchase, NY 10577

Comcast  
Attn: Dean Jones  
P.O. Box 1827  
Idaho Falls, ID 83403

Comcast  
Attn: Mike Sloan  
4700 S. Syracuse Parkway, Ste 100  
Denver, CO 80237

Black Diamond Cable  
Attn: Greg Carder  
P.O. Box 7332  
Phoenix, AZ 85001

Bullock & Beatty Association  
Attn: Cable TV Pole Hitches  
3300 Bloomington Drive  
St. George, UT 84770

Charter Communications  
Attn: Richard Reniewicki  
111 W. 700 S.  
St. George, UT 84770

Charter Communications  
Attn: Cynthia J. Wooden  
12444 Powerscourt Drive  
St. Louis, MO 63131

Colonial Cablevision  
Attn: Neal Schnog  
3011 Joaquin Miller Road  
Oakland, CA 94602

Community Cable of Utah  
Attn: Mike Oswald  
1515 Riverside Ave.  
Provo, UT 84604

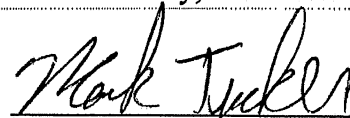
Insight Communications  
Attn: Lorena Graham  
126 E. 56<sup>th</sup> Street  
New York, NY 10022

Mallard Cablevision  
Attn: Arlene Smith  
P.O. Box 5716  
Traverse City, MI 49696

Navajo Communication  
Attn: Gary Klassen  
P.O. Box 6000  
Window Rock, AZ 86515

Peak Cablevision  
Attn: Shane Baggs  
1750 South Highway 10  
Price, UT 84501

Southwest Cablevision  
Attn: Dennis Johnson  
2134 West Legacy Circle  
Cedar City, UT 84720



Mark Tucker,  
Regulatory Filing Coordinator

830 NE Holladay, Suite 250  
Portland, OR 97232  
(503) 813-5131



## Facsimile Transmittal

To: Marty Pollock AT&T Broadband	From: Jackie Carter T&D Infrastructure Mgt.
Fax: 801/255-2711	Phone: 503-813-6304
Pages: 2 including cover	Fax: 503-813-6005
Subject: Application Fees	Date: 07/15/2002

### Message:

Marty, per your request, I have attached a letter that was sent out to all of our licensees in April of this year. The charges are as follows:

\$29.00 Application processing fee (per pole)  
\$70.00 Inspection fee with load calc  
\$30.00 Inspection fee no load calc  
\$9.00 drive-by inspection fee

If you have any additional questions, please do not hesitate in contacting me at the number above.

Thanks,  
Jackie Carter  
Billing Coordinator

830 N.E. Holladay  
Suite 250  
Portland, Oregon 97232



April 17, 2002

Dear Sir or Madam,

Effective April 1, 2002, PacifiCorp will begin implementing fees for various services such as application processing and inspection throughout our service territory. These fees represent cost recovery associated with administering and employing these services.

PacifiCorp's contract with each party, as well as the statutes or administrative rules of most regulatory agencies, allow the cost associated with administering and maintaining third party attachments to be billed directly to the party owning such equipment that potentially or currently occupies space on PacifiCorp's overhead assets.

For further questions, please contact billing department at:

Jackie Carter  
Administrative Services Coordinator  
503.813.6304

Deb Wright  
Budget Analyst  
503.813.6611

Respectfully,

Corey Fitz Gerald  
T&D Infrastructure Management  
Manager

## Confirmation Report - Memory Send

Time : Jul-15-02 10:06am  
Tel line : +15038136005  
Name : PACIFICORP JOINT USE

Job number : 285  
Date : Jul-15 10:05am  
To : 918012552711  
Document pages : 02  
Start time : Jul-15 10:05am  
End time : Jul-15 10:06am  
Pages sent : 02  
Status : OK

Job number : 285

\*\*\* SEND SUCCESSFUL \*\*\*

830 NE Holladay, Suite 250  
Portland, OR 97232  
(503) 813-5131



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