
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

COMCAST CABLE COMMUNICATIONS,)
INC., a Pennsylvania Corporation,)
)
 Claimant,)
vs.)
)
PACIFICORP, dba UTAH POWER , an)
Oregon Corporation,)
)
 Respondent.)

Docket No. 03-035-28

INITIAL TESTIMONY
OF
GARY GOLDSTEIN
COMCAST CABLE COMMUNICATIONS, LLC

July 2, 2004

1 **Q: Please state your name and occupation.**

2 A: My name is Gary Goldstein. I work for Comcast as a Designer. My place of business is
3 Sandy, Utah.

4 **Q: Please state your work history.**

5 A: I have been employed by Comcast and its predecessors as a Designer since 1979.
6 Although my title has changed over the years, I have basically had the same job.

7 **Q: Please describe your responsibilities as a Designer.**

8 A: In conjunction with other Comcast employees in the Design department, I design the
9 route and placement of Comcast's cables and other facilities that are necessary in the
10 construction of our cable system in order to serve Comcast's customers. Basically, I
11 draw maps showing where the facilities need to go. This involves walking out into the
12 field to measure distances between poles and to determine how best to install associated
13 equipment, such as cabinets or power supplies. Sometimes I do the walk-out myself,
14 other times I delegate this to other Comcast employees or contractors. After the walk-
15 out, I draw the maps which tell the construction department where to go and what types
16 of facilities to construct. Although my titles have changed and my responsibilities have
17 expanded to include supervising others, I basically have been doing the same type of
18 work since I began working at Tele-communications, Inc. in 1979.

1 **Q: What happens to the maps after you design the network?**

2 A: I send the maps out to the Project Managers who oversee the construction I've designed.
3 For example, all of the design maps I draw for the Salt Lake Valley upgrade go to
4 Comcast's Upgrade Project Manager, Rodney Bell.

5 **Q: What happens after you submit the maps to the Project Managers?**

6 A: Sometimes the Project Managers want to make adjustments or changes based on
7 conditions in the field. For example, sometimes there is a discrepancy between the
8 maps and the field or a problem with a customer that prevents us from accessing poles
9 in particular yard. Other times the make-ready on a given pole ends up being much
10 more expensive than originally estimated, so we redesign the route to construct our
11 facilities underground or otherwise avoid that particular pole. There are any number of
12 reasons why the design must be modified in the field. I can't always anticipate all
13 construction related concerns at the drafting table.

14 **Q: Do you make the changes?**

15 A: Yes. The Project Managers then submit those changes and we make them in the Design
16 department.

17 **Q: Can you describe what pole attachment permitting process Utah Power had in
18 place when you started working for Tele-communications, Inc. in 1979?**

19 A: I can only describe the permitting process that was in effect for the Salt Lake Valley.

1 **Q: Why is that?**

2 A: I was only involved in permitting in the Salt Lake area, as I understand it, permitting
3 processes varied district by district.

4 **Q: Can you describe the procedure in the Salt Lake Valley district?**

5 A: Yes. Pole attachment permitting was not my direct area of responsibility, but I worked
6 directly with Stuart Smythe who was responsible for permitting and, therefore, I became
7 aware of, and participated in, the permitting process. Basically, Mr. Smythe took maps
8 that I, or other designers, created and would then go on a three-party walk-out into the
9 field with representatives of Utah Power and Qwest, which was then known as
10 Mountain Bell. The parties would visually check each pole and come to agreement on
11 what make-ready was necessary. Stuart would mark make-ready notes on his copy of
12 the map and submit it attached to an Exhibit A.

13 **Q: What is an Exhibit A?**

14 A: Exhibit A was a single page application form that requested the applying party to
15 identify itself, the basis for its authority to attach—which was the pole attachment
16 agreement—and the poles to which it sought to attach. Several sample Exhibit A's are
17 attached to this testimony as Exhibit 1.

18 **Q: Do you know why it was called "Exhibit A?"**

19 A: I do not know. It was the term the power company gave it. I believe it said "Exhibit A"
20 across the top. It may have been an exhibit to the pole attachment agreement.

1 **Q: Did Mr. Smythe list each individual pole on the Exhibit A?**

2 A: No, that is not how it worked. Instead of identifying each pole, the Exhibit A simply
3 made a blanket reference to the poles marked on the map that was attached to the
4 Exhibit A.

5 **Q: Was it the parties' practice to identify the poles by number?**

6 A: There was a numbering system that Tele-communications, Inc. placed on the maps
7 during the initial walk out. We created those numbers for our internal use, but I do not
8 believe the power company used them.

9 **Q: Can you describe the numbering system?**

10 A: Yes. The maps were copies of Utah Power's service maps showing the power poles and
11 routing marked on them. Utah Power had a system that numbered each map. Tele-
12 communications, Inc.'s map number was the same as Utah Power's map number. Tele-
13 communications, Inc., also gave each pole on the map a number. So, for example, if the
14 Map No. was 39, then the first pole would be 39-1, the second would be 39-2 and so
15 forth.

16 **Q: Were the poles numbered in the field?**

17 A: Only some of them had tags. We couldn't rely on numbers in the field because very few
18 poles were labeled.

1 **Q: What happened after Mr. Smythe submitted the Exhibit A's with maps attached?**

2 A: Sometimes Utah Power would propose make-ready changes by returning a copy of the
3 maps to us with make-ready requirements marked on it. Usually we would either
4 incorporate the changes, or, if the changes were too costly, re-route the cable facilities to
5 avoid the pole in question. Once it was agreed upon as to what make-ready work was
6 required, Utah Power would provide a cost estimate for that make-ready work.

7 **Q: What happened after Utah Power provided the cost estimate?**

8 A: We would either agree to pay all or some of the make-ready, or, as I mentioned
9 previously, we would try to find a less costly way to route the facilities.

10 **Q: Assuming you agreed to the make-ready estimates, what would happen next?**

11 A: We would countersign the Exhibit A, indicating that we authorized PacifiCorp to do the
12 make-ready and bill us for the work.

13 **Q: How did Utah Power grant final authority to attach?**

14 A: Utah Power would countersign the Exhibit A, granting permission to attach to all of the
15 poles on the attached maps.

16 **Q: Who retained copies of the Exhibit A's and the attached maps?**

17 A: A number of copies were made. We kept one set of the applications as they were
18 submitted and then another set of copies that were countersigned by Utah Power
19 indicating final approval to attach. It is my understanding that a set of copies was

1 provided to Utah Power, but I cannot say what PacifiCorp did with those copies or
2 whether they kept them. Depending on whether other parties needed to be involved
3 with the make-ready, additional sets may have been provided to third parties.

4 **Q: Now, you said that Stuart Smythe was responsible for this process during the**
5 **initial build of the system. Were you ever responsible for permitting?**

6 A: Although I was never solely responsible for permitting, sometimes I would stand in for
7 Stuart and do the three-party walk-outs when he was unavailable. Additionally, during
8 the 1980s, after he left the company, I was involved with some construction work and
9 sometimes had to apply for permits necessary to complete the construction. Although it
10 was not my specific responsibility, it was something that needed to be done, so I often
11 did it.

12 **Q: What permitting process did you follow?**

13 A: I submitted Exhibit A forms with maps similar to those Mr. Smythe submitted. This
14 didn't happen very often though, because most of the poles were permitted during the
15 initial build.

16 **Q: Did you submit any applications during the 1990s?**

17 A: No. By 1989, I stopped working on construction projects and went back to doing design
18 work only.

1 **Q: PacifiCorp has stated that the reason that it has discovered so many unauthorized**
2 **attachments is because Comcast has raced through its upgrade without securing**
3 **the necessary authorizations. Are you familiar with these claims?**

4 A: Yes I am.

5 **Q: Are they accurate?**

6 A: I don't think so. In my opinion, PacifiCorp isn't considering the permitting system that
7 existed in the 1970s and 1980s. Individual permits were not granted for each pole.
8 Instead, the system was based on maps that authorized attachments based on entire
9 geographic areas. Besides, I would say approximately 99% of the attachments in
10 Comcast's service areas were installed before the current upgrade even began.

11 **Q: Why does that matter?**

12 A: Because we have not made a significant number of new attachments in the last ten
13 years. We are just adding additional cable to existing attachments. I would estimate
14 that the majority of Comcast's attachments have been in place for 15-25 years. An
15 upgrade doesn't generate the amount of new attachments PacifiCorp appears to think
16 Comcast is making. Therefore, at least some portion of the "unauthorized attachments"
17 that PacifiCorp is trying to charge Comcast for would necessarily have been permitted
18 15-25 years ago.

1 **Q: PacifiCorp has stated, in connection with this law suit, that it conducted a pole**
2 **audit in 1997 or 1998. Are you aware of this?**

3 A: I was at a hearing at the Public Service Commission in April 2004 where I heard
4 PacifiCorp representatives say that an audit was conducted during that time frame. I
5 also heard them say that this audit was a “baseline” for the current audit Osmose is
6 conducting. Since most of the attachments in place now were placed before 1997, I
7 don’t understand why they wouldn’t have raised the unauthorized attachment issue back
8 then, if it actually is an issue.

9 **Q: Did you participate in that audit?**

10 A: No. I’m not familiar with the audit at all. If it was done, I don’t recall ever receiving
11 notice of it, or receiving any results from it. The only audit I recall was done during the
12 1980s. As far as I am aware, the only purpose of the audit in the 1980s was to count up
13 all attachments for billing purposes.

14 **Q: Does this conclude your testimony?**

15 A: Yes.