
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
RODNEY BELL
COMCAST CABLE COMMUNICATIONS, LLC

July 2, 2004

1 **Q: Could you please state your name and occupation?**

2 A: My name is Rodney Bell and I work for Comcast as an Upgrade Project Manager. My
3 geographic area of responsibility includes the area between Rose Park and Nephi, from
4 Park City to Tooele. I am based in Sandy, Utah.

5 **Q: What is your employment history?**

6 A: In 1985, I enlisted in the Air Force and served four years active duty. In 1989, I joined
7 the Air National Guard as a Traditional Guardsman. I have continued to serve in the Air
8 National Guard for the past 13 years. My work for the military is, and was always, in
9 the communications field. I install twisted pair, LAN and fiber optic systems.

10 I began working for Comcast's predecessor, TCI, in 1989 when I left active duty. I
11 started as a cable television installer/technician and continued in that position for
12 approximately four years. In 1993, I became a Construction Technician. I was a
13 Construction Technician for approximately two years when, in 1996, I became a
14 Technical Supervisor for Salt Lake County. Then, in 1999, I became an Upgrade
15 Project Manager, which is my current position.

16 **Q: Please describe your responsibilities as an Upgrade Project Manager.**

17 A: I oversee the allocation and organization of work related to Comcast's upgrade project.
18 The upgrade project involves installing additional facilities, usually by lashing new
19 fiber-optic cables to existing coaxial facilities, which allows Comcast to provide new

1 services such as high-speed Internet access and digital cable, among other things. Most
2 of Comcast's current construction activities are in connection with this upgrade project
3 and I oversee that construction in my geographic area. Although I do not usually work
4 out in the field, I have two Broadband Technicians working in the field that report
5 directly to me. Marty Pollock, who coordinates permits, also reports to me. In addition,
6 I oversee and coordinate independent contractors working in the field. I also coordinate
7 with Gary Goldstein, who oversees the engineering and design aspects of Comcast's
8 system.

9 **Q: Prior to becoming an Upgrade Project Manager in 1999, what was your**
10 **understanding of PacifiCorp's permitting process?**

11 A: When I worked as a Construction Technician, it was my understanding that PacifiCorp
12 did not require individual pole-by-pole permits. By that, I mean that I never saw any
13 permits or heard anyone talk about Utah Power requesting permit applications. I
14 understood the process to be that Utah Power would give blanket permits to construct
15 facilities.

16 **Q: What do you mean by blanket permits?**

17 A: My understanding was that TCI (and then AT&T) would request permission from Utah
18 Power to attach to a bunch of poles in a specific area by submitting marked-up copies of
19 PacifiCorp's plant maps. TCI would apply to attach to all marked poles and PacifiCorp

1 would grant permission for the entire map. On a few occasions I saw these maps, but I
2 never saw any paperwork authorizing TCI to attach to individually identified poles.

3 **Q: What permitting process was in place when you began working as an Upgrade**
4 **Project Manager?**

5 A: When I first began working on the upgrade, there wasn't any formal permitting process.
6 As I said, I understood that Utah Power had granted blanket authorizations to TCI to
7 attach. If I needed to make new attachments that were not included in the blanket
8 authorizations, I would just ask Utah Power. Since I enjoyed a good working
9 relationship with Utah Power employees, the process was fairly casual.

10 **Q: Did you make these type of informal permit requests very often?**

11 A: No. In order to upgrade a system, you generally don't make very many new
12 attachments. Most of the work Comcast is doing involves lashing additional cable,
13 usually fiber optic cables, to the existing attachments. Based on my understanding,
14 many of these attachments had been in place since the original construction of the
15 network—some dating back to the late 1970s. To the best of my knowledge, Comcast
16 has not engaged in any significant new construction since I came to work for TCI in
17 1989. All new areas of construction that I'm aware of involve new subdivisions or other
18 discrete areas.

1 Also, Comcast's upgrade project only involves adding or modifying the facilities so that
2 they can be used to provide additional services. Generally, we don't build new plant or
3 wreck out and replace old plant. Although sometimes it is necessary to do these things,
4 usually we are just lashing additional cable to the existing attachments. Because of that,
5 the issue of new attachments didn't come up that often.

6 **Q: Did you apply for permits to overlash at that time?**

7 A: No. PacifiCorp did not ask for any information prior to overlashing. Based on my
8 experiences with PacifiCorp in the field, my understanding of its position was that if an
9 attachment already existed, we were free to overlash so long as it did not overload the
10 pole. Basically, this issue had not really been addressed by PacifiCorp because, prior to
11 the current upgrade, Comcast and its predecessors had never done any kind of large
12 scale overlashing project.

13 **Q: Are you saying that you never applied for permits?**

14 A: No, I'm not saying that at all. We applied for lots of permits in connection with the
15 upgrade. For example, the state requires that we submit T-600 forms to the Utah
16 Department of Transportation prior to working on any state roads. Also, anytime we do
17 any underground work, we generally need to get excavation permits from the county or
18 city. Other permits may be required if our aerial work causes a disruption to traffic,
19 such as a lane closure. We applied for and received permits for all of this work.
20 However, we did not formally apply for permits from PacifiCorp because PacifiCorp's

1 policies didn't require us to get permits *from PacifiCorp* in connection with the
2 upgrade.

3 **Q: Did PacifiCorp ever approach you about changing its pole attachment policies?**

4 A: Yes. In 2000, I met with Stanley Spencer, who worked for Utah Power, at my office in
5 Sandy to talk about some work we were coordinating. At that meeting, he told me that
6 Utah Power was going to start requiring Comcast to submit written applications for new
7 attachments, but not for overlashed attachments. However, he said that Utah Power
8 would begin requiring overlash permits at some point in the future.

9 **Q: Did Mr. Spencer tell you what PacifiCorp's new application process was?**

10 A: He told me that a written application would be required. He also provided me with a
11 form to use for submitting applications.

12 **Q: Had you seen the application form previously?**

13 A: No. Until Mr. Spencer provided me with it, I had no idea PacifiCorp even had an
14 application form.

15 **Q: What did you do with this form?**

16 A: I gave it to Marty Pollock and Sheryl Pehrson, Comcast's permit coordinators. Mr.
17 Pollock and Ms. Pehrson were responsible for coordinating all of the permitting I
18 mentioned above, such as UDOT forms and excavation permits.

1 **Q: How did the new written application process work?**

2 A: When the process began, all permit applications had to go to Corey Fitz Gerald, who
3 worked for PacifiCorp in Portland. Generally, I had a good working relationship with
4 Ms. Fitz Gerald and it seemed to me that the process was working to PacifiCorp's
5 expectations.

6 **Q: What do you mean by that?**

7 A: I mean that it seemed that the process was changing and evolving under Ms. Fitz
8 Gerald's direction and I had no reason to believe that she was dissatisfied with
9 Comcast's attempts to fulfill the changing requirements. PacifiCorp made it clear to me
10 that it expected to receive applications for any poles Comcast had not previously
11 attached to and we complied.

12 **Q: Did Ms. Fitz Gerald process the applications and return them to you?**

13 A: No. Once we submitted the applications, we did not hear back from her. I assumed that
14 since Ms. Fitz Gerald was in Portland, that PacifiCorp wanted this information for
15 billing purposes. It was unclear whether the information ever went to local Utah Power
16 personnel.

17 **Q: Was this a change from prior practice?**

18 A: It was a change to have requests sent to Portland. As I mentioned previously, all
19 attachment coordination in the 1990s, was done locally and informally.

1 **Q: Did Ms. Fitz Gerald continue to process applications?**

2 A: I'm not sure to what extent she is still involved. In 2002, John Cordova held a joint use
3 meeting and announced that he would be taking over as the local area manager for
4 PacifiCorp. He said that some of his priorities would be working toward cleaning up
5 Utah Power's plant and putting together a Transmission & Distribution infrastructure
6 database. He also indicated that that he would be changing the way the permitting
7 process was managed. For example, he pledged to find a way to make the process move
8 faster.

9 **Q: Did the permitting process change after the 2002 meeting?**

10 A: Not really. We continued to submit permit applications. Although the information that
11 PacifiCorp currently wants in the applications has changed a little, the basic process
12 remains the same: we submit applications, wait 24 hours and then attach.

13 PacifiCorp currently requires Comcast to submit written applications for both new
14 attachments and overlashing. But I would estimate that about 98% of the applications
15 we submit are for overlashing. As I mentioned previously, the majority of the upgrade
16 is accomplished by overlashing additional cable to the existing attachments. In either
17 case, PacifiCorp has instructed us that we can attach within 24 hours of submitting the
18 applications.

1 **Q: Do you submit the applications personally?**

2 A: No. The contractors and Broadband Technicians that report to me compile data in the
3 field identifying the poles Comcast would like to attach to and collecting the field
4 information PacifiCorp requests. They submit that information to Marty Pollock and
5 Sheryl Pehrson, who, in turn, submit the applications to PacifiCorp.

6 **Q: Prior to this litigation, has anyone at PacifiCorp ever asked you to provide**
7 **documentation of Comcast's right to be on the poles?**

8 A: There is only one occasion that I can recall when I was asked to provide proof of
9 Comcast's right to be on the poles. On one occasion, Bruce Jensen of PacifiCorp
10 identified a number of transmission poles on which he did not believe Comcast was
11 permitted to attach. Gary Goldstein and I brought the blanket authorization/permitting
12 maps I mentioned previously out to the field to show Mr. Jensen that Comcast was
13 authorized. Once we showed him the maps, he appeared to be satisfied and did not
14 challenge Comcast's right to be on the poles again. Aside from that incident, I do not
15 recall any other PacifiCorp employee asking for permits. As I indicated previously,
16 prior to my meeting with Mr. Spencer in 2000, permits were rarely, if ever, an issue.

17 **Q: What, if any, response does PacifiCorp provide to the applications?**

18 A: PacifiCorp takes anywhere from a few months to over a year to respond to permit
19 applications. Eventually, PacifiCorp either sends approval or make-ready requests.

1 **Q: Under what circumstances would PacifiCorp require make-ready?**

2 A: PacifiCorp usually requires make-ready when NESC violations exist on the pole.

3 **Q: Who is responsible for these violations?**

4 A: Comcast does not typically create these violations. The violations exist prior to
5 Comcast's overlashing the attachments. Sometimes, subsequent attachers, including
6 PacifiCorp, create violations after Comcast has attached safely and according to the
7 applicable guidelines. For example, PacifiCorp creates a violation when it installs its
8 electrical facilities too close to the communications space. My understanding of
9 PacifiCorp's position is that it the right to reclaim space on its poles for electric
10 facilities. However, I cannot recall PacifiCorp ever providing notice that it was
11 reclaiming space. Comcast has little control over these circumstances because the
12 attachments are usually made without its knowledge.

13 **Q: Does PacifiCorp blame Comcast for these violations?**

14 A: Sometimes. Other times, PacifiCorp does not specifically state that Comcast created the
15 violation, but takes the position that Comcast is responsible for correcting it anyway.

16 **Q: How do you handle safety issues that are brought to your attention?**

17 A: If I am notified of a imminent safety issue or dangerous condition, I have it corrected or
18 brought to PacifiCorp's attention if it is something we cannot correct on our own. That

1 has always been our policy. The safety of the pole lines affects me and my crews
2 directly.

3 **Q: How does PacifiCorp coordinate post-installation make-ready requirements when**
4 **multiple attachers are involved?**

5 A: When I began working with TCI, I was unaware that PacifiCorp had any such
6 coordination policies. PacifiCorp's procedures appeared to me to be informal and only
7 addressed imminent safety issues on a case-by-case basis. However, in February 2004,
8 PacifiCorp held a meeting to discuss safety and make-ready issues.

9 **Q: What happened at the meeting?**

10 A: PacifiCorp produced stacks of paper identifying "safety violations" in its Layton, Ogden
11 and American Fork districts. PacifiCorp instructed the attaching parties, which included
12 Qwest, Comcast, Electric Lightwave, and XO Communications to develop a joint plan
13 for correcting existing violations. To the best of my recollection, this is the first meeting
14 PacifiCorp has had to resolve multilateral make-ready or safety issues. I left the
15 meeting with the understanding that PacifiCorp was leaving it up to the existing
16 attachers to coordinate with each other to make corrections.

17 **Q: Please explain.**

18 A: PacifiCorp requested that each party develop an individual plan within 30 days.

1 **Q: Were you able to do that?**

2 A: No. Both the representative from Qwest and I told PacifiCorp that its plan would be a
3 massive project and that we would need to secure funds. I made it very clear that
4 although it benefits everyone to bring the poles into compliance with the NESC,
5 realistically, such a plan cannot happen over night. Joe Clifton, who represented
6 PacifiCorp at the meeting, was not sympathetic. He said that the budget shouldn't be an
7 issue because Comcast has "deep pockets."

8 However, it is not that simple. PacifiCorp's request raises a large number of practical
9 issues. Although Comcast is working to correct violations, a great number of the
10 violations PacifiCorp identified require multiple parties to work together. For example,
11 some of the violations identify facilities from different companies that are too close to
12 each other, either at the pole or mid-span. In order to correct those problems, all
13 companies have to coordinate efforts. Further, sometimes correcting these problems
14 creates other problems, which means that other parties, such as Qwest or even
15 PacifiCorp have to be involved in order to correct the problems. It is not realistic to
16 assume that Comcast can simply fix the problems on its own.

17 As I've mentioned already, some of the problems were created by subsequent attachers,
18 including PacifiCorp, installing their facilities well after Comcast's facilities were
19 already installed. I did not believe that Comcast should be responsible for correcting
20 these problems.

1 **Q: But if there are safety problems, didn't you just say it was your policy to correct**
2 **them immediately?**

3 A: Yes, but there are different kinds of violations. Some problems, such as extremely low
4 hanging wires, or communications facilities touching electric supply lines might present
5 imminent, hazardous conditions. Other violations are just technical and do not present
6 an imminent risk to safety. For example, at-pole clearances that are within an inch or
7 two of the guidelines given by the NESC do not present any risk to safety. My
8 understanding is that PacifiCorp has lumped all of these things together as "safety
9 issues." I do not necessarily agree with that characterization.

10 **Q: Regarding the stack of violations PacifiCorp produced at this meeting, had you**
11 **received notice of these, or other, violations before?**

12 A: No. To my knowledge, PacifiCorp had not submitted these notices to Comcast in the
13 normal course of business previously. Essentially, PacifiCorp presented Comcast years
14 worth of safety notices all at once. It simply wasn't realistic to expect us to come up
15 with a plan for addressing years of accumulated problems at a moment's notice. I'd like
16 to stress that we are willing to work with PacifiCorp, but we need some structure and
17 guidance on how PacifiCorp intends to manage the plant clean-up and allocate costs
18 fairly. I would also point out that we have only received notices for the Layton, Ogden
19 and American Fork districts. Depending on what else PacifiCorp comes up with, the
20 scope of the project could be even larger than I imagined.

1 **Q: Do you coordinate any of your permitting activities with Osmose?**

2 A: No. I do not have any interaction with Osmose. I do not know whether or to what
3 extent PacifiCorp shares the information submitted on permit applications with Osmose.

4 **Q: Are you aware of any damage that Comcast has suffered as a result of PacifiCorp's**
5 **pole attachment permitting practices?**

6 A: Yes. In July 2003, PacifiCorp stopped processing all permits and refused to allow
7 Comcast to continue to make attachments to PacifiCorp poles. This shutdown included
8 all overlanding activities and work did not resume until September 2003, when, as I
9 understand it, Comcast and PacifiCorp came to an agreement that would permit
10 Comcast to continue upgrading its network. I estimate that during that period,
11 approximately 400 miles of plant could have been built, but was not. This slowed the
12 construction, which slowed the upgrade, which slowed Comcast's release of advanced
13 services to different communities.

14 Another way in which PacifiCorp's permitting practices cause Comcast damage relates
15 to the construction of facilities along state roads. When we need to do work along state
16 roads, the Utah Department of Transportation requires us to get advance approval from
17 PacifiCorp to work on the poles. Sometimes it takes months for PacifiCorp to process
18 the approvals. Often, we just can't hold up the build for that long. Our only alternative
19 is to avoid the poles by re-routing our facilities underground, at a significantly higher
20 cost.

1 **Q: How much higher?**

2 A: Overlashing 500 feet of cable costs about \$325. Placing that same 500 feet
3 underground, costs about \$4,000.

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

5 A: Yes, it does.