
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

COMCAST CABLE COMMUNICATIONS,)	
INC.,)	
)	
Claimant,)	Docket No. 03-035-28
v.)	
)	
PACIFICORP, dba UTAH POWER,)	PREPARED DIRECT TESTIMONY
)	OF BRIAN M. LUND
)	FOR PACIFICORP
Respondent.)	
)	July 2, 2004

1 **Q. Please state your name and business address.**

2 A. My name is Brian M. Lund. My business address is 2840 East Yellow Stone,
3 Casper, Wyoming 82609.

4 **Q. By whom are you employed and what is your position?**

5 A. I am employed by PacifiCorp as the Northeast Supervisor within T&D
6 Infrastructure Management (“T & D Infrastructure”). My job responsibilities include
7 oversight of inspections related to application and permit processing for work
8 performed by third parties on PacifiCorp’s poles. In my position, I report directly to
9 James Coppedge. As part of my job duties, I deal directly with communications
10 companies and PacifiCorp personnel to address compliance issues regarding safety and
11 construction standards.

12 As the Northeast Supervisor, I am responsible for the following PacifiCorp
13 service areas: Northern Utah, Idaho, and Wyoming. The Layton and Ogden districts
14 are included within my territory in the Northern Utah service area.

1 In addition, my Northern Utah territory includes the Smithfield, Laketown, and
2 Bear River districts.

3 **Q. Attached to your written testimony are Exhibits PC 4.1 through 4.4. Were these**
4 **prepared by you or under your direction?**

5 A. Yes.

6 **Q. What are your qualifications to testify in this proceeding?**

7 A. I have been employed by PacifiCorp for twenty years. I have held my current
8 position for two years. Prior to that, I provided field support, acting as a liaison
9 between people working in the field using a computer application called Retail
10 Construction Management System (“RCMS”) and information-technology staff
11 needing to make adjustments to the application. I served PacifiCorp in that capacity
12 for two years. Prior to offering field support, I worked in customer accounting,
13 handling large customer billing and accounting issues involved with the billing of large
14 customers. In addition to the experience I cited above, I have gained experience in a
15 number of field offices supervising meter readers, office personnel, and directing the
16 work of servicemen during my employment with PacifiCorp.

17 In my current position as Northeast Supervisor, I have daily contact with third
18 parties, including Comcast, seeking to attach facilities to PacifiCorp’s infrastructure. I
19 am familiar with the construction and safety requirements for attachments made by
20 third parties, as well as PacifiCorp’s permitting requirements. I have direct contact

1 with PacifiCorp personnel in the field and field contractors hired by third parties,
2 including Comcast.

3 **Q. What areas will your testimony address?**

4 A. My testimony will address Comcast's and its predecessors' repeated failure to
5 follow applicable safety and construction requirements and PacifiCorp's permitting
6 processes. Specifically, I will discuss the consistent pattern in the Utah areas that I
7 oversee of Comcast's neglecting to request or perform needed make-ready work,
8 Comcast's failure to correct safety violations, and its failure to follow the appropriate
9 permitting procedures prior to commencing work on PacifiCorp's poles.

10 **Q. Please describe the nature and frequency of your conversations with Comcast**
11 **personnel.**

12 A. My communications with Comcast personnel typically involve responding to
13 questions related to pole attachment applications pending approval and responding to
14 questions regarding the status of a situation on a particular pole. Most questions I
15 receive from Comcast relate to the status of PacifiCorp inspections for the Utah
16 Department of Transportation ("UDOT") T-600 forms. The UDOT maintains higher
17 safety standards than the NESC, and the State requires PacifiCorp to sign off on T-600
18 forms when Comcast wants to make attachments or overlashes to PacifiCorp poles
19 spanning state-owned rights-of-way. I will not sign off on a T-600 until all necessary
20 make-ready work is completed for a particular attachment or overlash, nor will I
21 approve a T-600 form when there is an existing violation on a pole.

1 PacifiCorp personnel have identified numerous and frequent safety violations
2 by Comcast crews. Because of this, there is an increased need for thorough inspections
3 by PacifiCorp to ensure the applicable standards are being met. As a result, inspections
4 related to T-600 forms are taking a greater amount of time to perform and complete.

5 In addition to the communications described above, I frequently report to
6 Comcast personnel my concerns regarding unauthorized work, unsafe work, and work
7 violating safety standards that has been discovered by PacifiCorp.

8 I communicate with Comcast personnel at least several times a month, but often
9 on a daily or weekly basis. I usually communicate with Marty Pollock and Tim
10 Jackson, either by phone or by e-mail.

11 **Q. As part of your job duties, do you inspect the attachments made to PacifiCorp's**
12 **infrastructure by Comcast?**

13 A. I have a team of four inspectors. Two inspectors operate in Utah. These
14 inspectors have the primary responsibility for surveying attachments made by third
15 parties to PacifiCorp poles.

16 From time to time, I also personally visit inspection sites. Typically, I will
17 personally inspect an area when I am informed by a PacifiCorp lineman, serviceman or
18 that lineman's or serviceman's supervisor that work is being performed by third parties
19 on PacifiCorp poles in violation of the NESC or in an otherwise unsafe manner. Work
20 being performed in an unsafe manner might include contractors for third-party
21 attachers violating the applicable safety space with their bodies, contractors not

1 wearing protective gear, or contractors leaving a vehicle in the road obstructing traffic.
2 From time to time, I will also visit a site where it has been reported that unauthorized
3 work is being performed. Attached as Exhibit PC 4.1 is a representative example of an
4 incident report I create after discovering a cable crew performing work for Comcast in
5 an unsafe manner and without authorization. In this example, I included pictures of the
6 crew violating the applicable safety space.

7 In addition, I will personally visit sights prior to signing off on a T-600 UDOT
8 form. I also will perform periodic quality control (“QC”) oversight on the work of
9 inspectors working under me.

10 **Q. Are you familiar with Comcast’s recent and continuing upgrade/rebuild of its**
11 **system in Utah?**

12 A. Yes.

13 **Q. How did you become aware of this project?**

14 A. No Comcast employee ever contacted me prior to initiating its upgrade in Utah
15 to inform me of the increased activity that could be expected as a result of the upgrade
16 or to facilitate coordination between PacifiCorp and Comcast for the performance of
17 necessary safety inspections and make-ready work. Rather, I became aware of
18 Comcast’s plans in Utah from reading an article in the newspaper. My understanding
19 of the scope and scale of Comcast’s upgrade in Utah comes from my observations of
20 the increased amount of work taking place on PacifiCorp poles by Comcast crews.

1 **Q. In performing the upgrade in Utah, has Comcast adhered to PacifiCorp's**
2 **permitting requirements and applicable safety and construction standards?**

3 A. Based on my conversations with PacifiCorp personnel in the field, my
4 inspections of Comcast's attachments, and my conversations with Comcast field
5 contractors in the areas I oversee, I believe that Comcast performed a majority of its
6 attachment related upgrade without obtaining proper authorization from PacifiCorp.
7 Comcast contractors have repeatedly performed work without correcting existing
8 violations and performed work that has created new violations. I would estimate that
9 80-90% of the upgrade relating to overlashing was done without correcting existing
10 violations. I have personally witnessed crews overlashing cable for Comcast on
11 PacifiCorp's poles where NESC and UDOT violations already existed without
12 correcting the violations.

13 **Q. Why do you believe that Comcast is circumventing the permitting and safety**
14 **requirements?**

15 A. I believe it is in an effort to speed up the progress of its system upgrade.
16 Comcast's contractors have told me on at least three occasions that Comcast instructed
17 them to get Comcast attachments up in the air as fast as possible and in any way
18 possible, then to fix any violations sometime in the future. I have discovered Comcast
19 crews, presumably acting under this directive, not properly lashing attachments to
20 poles, but instead, using black tape or plastic ties. Yet, I have been pressured by

1 Comcast employees to speed up the safety inspection process on my end in order for
2 them to move forward with their upgrade.

3 **Q. Do you continue to discover situations in which Comcast has made unsafe or**
4 **unauthorized attachments to PacifiCorp's facilities?**

5 A. Yes. As recent as June 2, 2004, I observed Comcast crews performing work in
6 an unsafe manner and performing work on poles with existing NESC violations.
7 Moreover, at the time I interviewed the crew, Comcast had not submitted an
8 application to perform the work. See Ex. PC 4.1

9 **Q. What action have you taken in response to the discovery of unsafe or**
10 **unauthorized attachments made by Comcast?**

11 A. When I discover these situations, I stop and talk with the crews to confirm
12 whom they are working for and to ascertain more information. Prior to initiating a
13 conversation with the crews, I will call PacifiCorp's main offices in Portland to
14 determine whether Comcast has submitted an application to perform work on the poles
15 at issue, whether PacifiCorp has given authorization, and whether an inspection has
16 occurred. I then ask the crews questions to determine if they have a basic knowledge
17 of applicable safety requirements. I instruct them to fix deficiencies, to finish the work
18 to a point where it will not pose additional hazards, and to not report back to the work
19 site until written authorization is given by PacifiCorp and all necessary make-ready
20 work is completed.

1 I then take pictures and document the scene. Attached as Exhibit PC 4.2 is a
2 representative sample of Comcast safety violations that I or other inspectors have
3 documented. After I document the scene, I contact Comcast by phone and e-mail to let
4 them know of the issues I have found.

5 **Q. What types of responses have you received from Comcast crews in the field about**
6 **their knowledge of safety and permitting requirements?**

7 A. I have been informed by crews and their supervisors performing work on
8 behalf of Comcast that they are not authorized to perform appropriate make-ready
9 work prior to or at the time they are performing work on PacifiCorp's poles. I have
10 also been told that Comcast has not provided crews in the field with pole engineering
11 data and data relating to make-ready work for NESC and UDOT compliance.
12 Attached as Exhibit PC 4.3 is an e-mail I sent to Tim Jackson of Comcast expressing
13 my concern about this and other issues.

14 When asking Comcast contractors about their knowledge of basic safety
15 requirements, most contractors only have a marginal knowledge of NESC
16 requirements, and none are familiar with the UDOT requirements.

17 **Q. What has Comcast's response been to your concerns regarding its pattern of**
18 **making unsafe or unauthorized attachments to PacifiCorp's facilities?**

19 A. Typically, Comcast's response is vague. Often, its response does not answer
20 my questions or address my concerns. To the best of my memory, I have never
21 received a satisfactory written response from Comcast addressing my concerns.

1 Attached as Exhibit PC 4.4 is my documentation of one such situation where
2 PacifiCorp was unable to get a satisfactory response from Comcast, and a potentially
3 dangerous safety violation went uncorrected by Comcast.

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

5 A. Yes it does.