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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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COMCAST CABLE COMMUNICATIONS,	)	
INC., a Pennsylvania Corporation,	)	
	)	
Claimant,	)	
vs.	)	<b>Docket No. 03-035-28</b>
	)	
PACIFICORP, dba UTAH POWER , an	)	
Oregon Corporation,	)	
	)	
Respondent.	)	

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**REBUTTAL TESTIMONY**

**OF**

**JoANNE A. NADALIN**

**COMCAST CABLE COMMUNICATIONS, LLC**

**July 14, 2004**

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

2 A: JoAnne A. Nadalin.

3 **Q: Have you reviewed the direct testimony PacifiCorp submitted in connection with**  
4 **Docket No. 03-035-28?**

5 A: Yes.

6 **Q: On page 7 of her testimony, Corey Fitz Gerald alleges that neither Comcast nor**  
7 **its predecessors ever provided any records documenting which attachments**  
8 **changed hands as a result of changes in ownership of individual cable systems.**  
9 **Is this statement correct?**

10 A: No, not to the best of my knowledge. Attached as Exhibit 1 to this testimony is a  
11 sample of the type of letter Comcast or its predecessors typically would have  
12 provided in connection with the sale, trade or acquisition of a cable system. This  
13 letter, sent from Comcast's predecessor's attorney Dallas Lain to PacifiCorp's Joint  
14 Use Department identifies a number of cable systems involved in a change of  
15 ownership transaction.

16 **Q: Was Comcast responsible to notify PacifiCorp of each individual attachment in a**  
17 **cable system that changes hands?**

18 A: No, requiring additional notice of the transfer of individual attachments is  
19 unnecessary. It is obvious that if ownership of a cable system changes hands, the

1 ownership of the hardware components of that system must also change hands. From  
2 an accounting perspective, it seems to me that once PacifiCorp receives notice that a  
3 cable system is changing hands, it should update its records to reflect the new  
4 ownership.

5 **Q: Did Comcast engage in due diligence to ensure that its predecessors'**  
6 **attachments were properly permitted and authorized?**

7 A: I cannot say for sure, but to the best of my knowledge normal due diligence would  
8 include verifying the existence of a pole attachment agreement and determining  
9 whether any disputes over pole attachments existed at that time. Based upon my  
10 understanding, it is rare for anyone to go out into the field to examine each individual  
11 attachment. Such a project is not feasible. That aside, a number of Comcast's  
12 employees, including Rodney Bell and Gary Goldstein, have been with the system as  
13 employees of Comcast's predecessors TCI and AT&T Broadband for many years. It  
14 is my understanding that the testimony they have filed in this case confirms that  
15 Comcast and its predecessors followed whatever requirements PacifiCorp had at any  
16 given time.

17 **Q: On page 12 of her testimony, Corey Fitz Gerald alleges that Comcast is past due**  
18 **on various fees. Is this correct?**

19 A: Although Comcast is not paying the \$250 unauthorized attachment penalty or the  
20 charges associated with PacifiCorp's audit in accordance with the Public Service

1 Commission's April 2004 Order, no similar hold has been placed on rental fees or  
2 application and permit inspection fees.

3 It is my understanding that Comcast is current on its rental fees and therefore I do not  
4 know why there would be a past due amount of \$10,359.65. My best guess is that  
5 either Comcast or PacifiCorp have not processed the appropriate paperwork. In other  
6 words, either PacifiCorp has invoiced the amount but Comcast has not yet had the  
7 chance to pay it in the regular course of business or Comcast has already paid it and  
8 PacifiCorp's records have not yet been updated to reflect such payment. I have  
9 instructed Becky Hardy, of Comcast's accounts payables department, to investigate  
10 and I expect any discrepancy to be resolved shortly.

11 Similarly, I am attempting to confirm whether the \$28,756.61 in application and  
12 permit inspection fees Ms. Fitz Gerald alleges is indeed past due. Generally, it takes  
13 us a little longer to process payments for application and permit inspection fees  
14 because we must first verify them against our application records. It is possible that  
15 the past due amount merely reflects an amount that is being processed for payment.  
16 Again, I am looking into this discrepancy and expect it to be resolved shortly.

17 Finally, no one has brought these past due amounts to my attention in the normal  
18 course of business and I only learned of them as a result of this litigation.

1 **Q: Ms. Fitz Gerald alleges, at page 20 of her testimony, that Comcast was “well**  
2 **aware of PacifiCorp’s intent” to conduct an audit. Can you confirm this?**

3 A: No. It sounds to me like Ms. Fitz Gerald may have discussed an audit in *general*  
4 terms with my counterpart or other Comcast employees in Portland, Oregon. But I  
5 cannot confirm that. Regarding the Utah market, I am not aware that PacifiCorp  
6 informed anyone responsible for Comcast in Utah that PacifiCorp *intended* to conduct  
7 an audit. More importantly, I am not aware that PacifiCorp ever informed anyone  
8 responsible for the Utah market that was *actually* conducting an audit with a specific  
9 objective and defined parameters.

10 **Q: What about Mike Sloan?**

11 A: Mike Sloan was a legal assistant for AT&T Broadband, and not an in-house attorney  
12 as Ms. Fitz Gerald states. Mr. Sloan left the company in the fall of 2002, either  
13 before or about the time that PacifiCorp claims to have sent these notices to AT&T  
14 Broadband.

15 **Q: Did Comcast receive these notices?**

16 A: I cannot confirm that Comcast actually received any of those notices. Also, although  
17 Ms. Fitz Gerald states that the notices were sent 30 days prior to the date PacifiCorp  
18 commenced the audit, from what I can tell, at least some of the “30-day” notices were  
19 sent after the audit was already underway.

1 **Q: How can you tell?**

2 A: Below I establish a chart comparing the date the “30-day” notice for each district was  
3 sent and the date Comcast began receiving invoices for those districts. As you can  
4 see, some of the invoices came *long before* the notices had even sent. In other cases,  
5 some invoices started coming within about 36 days of receiving the “30-day” notices.  
6 It just doesn’t seem possible that PacifiCorp was able to audit, process and bill for  
7 unauthorized attachments with a 6 day turn around time.

District	Date of “30-day” notice	Date of invoice
Ogden	February 3, 2003	March 11, 2003
American Fork	December 30, 2003	February 26, 2003
Layton	December 30, 2003	February 5, 2003
Jordan Valley	February 24, 2003	January 29, 2003
Salt Lake City metro	March 31, 2003	July 17, 2003
Tooele	October 8, 2003	March 17, 2004
Park City	October 8, 2003	December 19, 2003

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9 **Q: On page 33 of her testimony, Ms. Fitz Gerald states that Comcast agreed to the**  
10 **\$250 unauthorized attachment penalty in Oregon. Is this correct?**

11 A: I cannot testify to what Comcast agreed to in Oregon, but I can say that no one at  
12 Comcast agreed to apply the \$250 attachment penalty in Utah.

13 **Q: At page 33 of her testimony, Ms. Fitz Gerald states that Comcast did not refute**  
14 **the “unauthorized” attachment charges. Is this correct?**

1 A: That statement is very misleading. We were unable to refute the charges because we  
2 could not compare the information PacifiCorp provided with the invoices to our own  
3 records. As I explained in my direct testimony, I asked Ms. Fitz Gerald for  
4 documentation, but the documentation we received was insufficient. Although we  
5 were unable to refute each specific charge, we did indeed dispute payment. That  
6 being said, I understand that Gary Goldstein has now figured out a way to refute the  
7 charges for the Salt Lake Metro area.

8 **Q: On page 34 of her testimony, Ms. Fitz Gerald states that “Comcast” told her a**  
9 **“desk-top audit” would be a good idea. What do you know about this?**

10 A: I am aware that someone from PacifiCorp discussed a “desk-top audit” with  
11 Comcast’s Patrick O’Hare, but I am not aware that anyone at Comcast thought this  
12 was a “good” idea. Because Ms. Fitz Gerald does not identify the person who she  
13 claims made this representation, I cannot elaborate further.

14 **Q: Do you think a “desk-top audit” would be a good idea?**

15 A: Well, I’m not sure what exactly a “desk-top audit” is. If Ms. Fitz Gerald is  
16 suggesting that I, or someone else from Comcast, should have traveled to Portland to  
17 review the information in PacifiCorp’s database, then no, I don’t think it would be a  
18 good idea.

19 **Q: Why not?**

1 A: First, it would mean sending a Comcast employee to Portland to look at the computer.  
2 Without simultaneous access to Comcast's records or personnel in the field, it doesn't  
3 seem to me that there would be anything to compare PacifiCorp's database records to.  
4 Basically, we would have to take printouts back to our own records or out into the  
5 field to make a comparison. It doesn't make sense to me that we would have to go to  
6 Portland to get documents that PacifiCorp could just as easily print out and mail to us  
7 or send to us in electronic form.

8 Second, Ms. Fitz Gerald had already forwarded us paper documents that she believed  
9 supported the unauthorized charges. I don't see what we would have gained by going  
10 to Portland to look at the computer directly.

11 **Q: At page 36 of her testimony, Ms. Fitz Gerald alleges that Comcast has not**  
12 **provided PacifiCorp with any evidence demonstrating that attachments were**  
13 **authorized. Is this correct?**

14 A: No. Ms. Fitz Gerald's statement is, again, misleading. The overlash documentation  
15 Comcast provided to PacifiCorp during the discovery phase of this proceeding was  
16 precisely that: overlash documentation. It is my understanding that PacifiCorp  
17 requested quite a lot of documentation relating to overlashing. Accordingly, we  
18 provided it. These documents were not intended to document Comcast's original  
19 authority to attach.



1 That being said, Comcast did provide PacifiCorp with documentation of its original  
2 authority to attach. In connection with discovery, Comcast provided with several  
3 boxes of Tele-Communications, Inc.'s (Comcast's predecessor) original permitting  
4 documents for the Salt Lake Valley from the late 1970s and early 1980s.

5 **Q: At page 38 of Ms. Fitz Gerald's testimony, she alleges that MasTec's audit in**  
6 **2003 "confirmed" the results of PacifiCorp's 2002/2003 Audit. Is this correct?**

7 A: No. MasTec's audit only confirmed that the number of attachments Comcast had in  
8 the American Fork region roughly corresponded with the number of attachments  
9 PacifiCorp alleged that there were. MasTec did not make any determination  
10 regarding whether those attachments were "authorized" or "unauthorized."

11 **Q: Finally, Ms. Fitz Gerald references pole attachment agreement negotiations in**  
12 **her testimony. Do you have any information regarding that?**

13 A: Although I have not been involved in the negotiation of the parties' pole attachment  
14 agreement, it is my understanding that one of the reasons negotiations are taking so  
15 long is that there are terms on which the parties are unable to reach agreement.  
16 However, I am not familiar with what those specific terms are.

17 **Q: Have you been able to review both Ms. Fitz Gerald's and Mr. Coppedge's**  
18 **calculations of the rates PacifiCorp's charges Comcast for the audit?**

19 A: Yes.

1 **Q: Do you have any concerns about how these charges were calculated?**

2 A: Yes. However, I have no information on the categories of costs or raw data input into  
3 these calculations, so I can only speak to the methodology of the calculations. I  
4 cannot address whether the charges were properly allocated to Comcast or whether  
5 improper cost elements were included in the calculations except to state that it does  
6 appear from PacifiCorp's exhibits that they have allocated some of their internal costs  
7 to these calculations, contrary to Corey Fitz Gerald's testimony (on page 39 of 41).

8 **Q: What are your concerns with respect to methodology?**

9 A: First, Exhibit 5 to Mr. Coppedge's original testimony includes examples of how the  
10 audit fee per attachment is calculated. PacifiCorp's calculations are done by district.  
11 PacifiCorp's calculation of the audit charge per attachment for the Layton District is  
12 shown in the Exhibit as \$10.90. However, Comcast was invoiced at a rate of \$13.25  
13 for Layton and for all the other districts for which we received audit fee invoices.

14 In all of PacifiCorp's examples included in Exhibit 5 of Mr. Coppedge's testimony,  
15 the calculated rate per attachment for the areas where Comcast has attachments is  
16 under the \$13.25 which we were billed. For example, Mr. Coppedge's calculated rate  
17 per attachment is \$10.90 in Layton, \$9.96 in American Fork, and \$11.23 in Ogden.  
18 However, in calculating the \$13.25 "blended" rate, Mr. Coppedge must have included  
19 service areas in Wyoming (Kemmerer and Evanston) where Comcast does not have  
20 attachments. These Wyoming areas have significantly higher rates: \$16.33 in

1 Kemmerer and \$20.90 in Evanston. It appears that PacifiCorp has inflated Comcast's  
2 per attachment charge by including these higher cost districts into its blended rate.

3 Second, I am confused as to why PacifiCorp would calculate the individual districts'  
4 "Cost of Inventory per Attachment" in the first place. If PacifiCorp did not intend to  
5 assess the audit fee based on their district costs and instead intended to charge a flat  
6 rate, it seems to me that they could have done a system-wide calculation. However,  
7 since PacifiCorp went through the trouble of calculating rates on a district-by-district  
8 basis, I don't understand why it isn't charging those rates for each individual district.  
9 It just doesn't seem appropriate to me to charge costs incurred in connection with an  
10 audit in another state to Comcast in Utah.

11 **Q: Does this conclude your rebuttal testimony?**

12 A: Yes.