

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

2 A: JoAnne A. Nadalin.

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

5 A: Yes.

6 **Q: On page 17 of her rebuttal testimony, Corey Fitz Gerald discusses the materials**
7 **PacifiCorp provided to you in response to your request for documents reflecting**
8 **the “unauthorized” attachments? Can you explain why you stated in your direct**
9 **testimony that the documentation PacifiCorp provided was not helpful to you?**

10 A: Yes, but first, I'd like to address Ms. Fitz Gerald's statement that Comcast didn't
11 have any records to compare or cross-check against PacifiCorp's records. I don't
12 think that Ms. Fitz Gerald was correct in jumping to that conclusion. I asked
13 PacifiCorp to provide me the details regarding the poles for which we were being
14 billed *rent*, so that we could try to determine whether PacifiCorp was trying to bill
15 Comcast for unauthorized attachments for which it was already collecting rent. I do
16 not believe that it would be appropriate for Comcast to pay unauthorized attachment
17 fees on poles for which it is paying rent. So, I asked for an itemization of the rental
18 records so that I could cross-check them against the unauthorized attachment
19 invoices. I did not request that PacifiCorp provide them in a specific format—I just

1 wanted a list of the poles PacifiCorp was billing us rent for so that we could compare
2 it with the list of attachments that it identified as “unauthorized.”

3 The information Ms. Fitz Gerald and Ms. Raypush provided to me was not helpful
4 because it did not identify rental billings on a pole-by-pole basis. Based on what I
5 read in Ms. Fitz Gerald’s testimony, I realize now that the information she sent me
6 was not what I needed. However, since no cover letter came with the box, I had no
7 way of knowing that back then.

8 **Q: On page 18 of her testimony, Ms. Fitz Gerald disagrees with your statement that**
9 **Comcast knew relatively little about PacifiCorp’s attachment audit. Can you**
10 **elaborate on your prior statement?**

11 A: Yes. Regarding notice of the audit, to the best of my knowledge, no one responsible
12 for the Utah market knew about the audit. I am aware that PacifiCorp *claims* that it
13 sent notices to Mike Sloan, who worked for AT&T Broadband in Denver, Colorado.
14 However, it is my understanding that Mr. Sloan left AT&T before the end of 2002.
15 In any event, I am not aware that any of these notices actually reached anyone at
16 Comcast.

17 That aside, from reading Ms. Fitz Gerald’s rebuttal testimony, I think she may have
18 misunderstood my testimony. What I was talking about in my direct testimony (on
19 pages 4-5), was that until PacifiCorp produced documents in connection with this

1 case, no one at Comcast (that I am aware of) knew exactly what data PacifiCorp was
2 collecting or how PacifiCorp intended to use that data.

3 I'd also like to add that even if Comcast had been given the opportunity to participate
4 in the design or administration of the audit, we still would have had questions about
5 how PacifiCorp used the audit data. Although I still don't understand some aspects of
6 PacifiCorp's methodology for determining what constitutes an "unauthorized"
7 attachment, at least now I understand PacifiCorp's general approach, which is to
8 compare the current audit results against results from the previous audit.

9 **Q: Can you give an example of an aspect you do not understand?**

10 A: Basically, my question is: in comparing the results of the 2002/2003 Audit to the
11 results of the 1997/1998 audit, are unauthorized attachment fees being charged to
12 Comcast only for attachments that did not exist at all in 1997/1998 or is PacifiCorp
13 invoicing Comcast for any attachment now belonging to Comcast that did not belong
14 to TCI at that time? For example, if a particular attachment was installed by Insight,
15 not TCI, prior to Comcast's acquisition of Insight, does PacifiCorp's 2002/2003 Audit
16 assume that such an attachment is "unauthorized" merely because neither TCI nor
17 Comcast received authorization to attach it? If so, is PacifiCorp labeling an
18 attachment "unauthorized" merely because it didn't belong to TCI in 1997/1998, but
19 belongs to Comcast now?

1 This question concerns me because, as a result of various transactions, Comcast does
2 not own the same attachments now in 2004, that TCI owned in 1997/1998.

3 **Q: Anything else?**

4 A: The final thing I have to say is that Ms. Fitz Gerald's testimony suggests that we at
5 Comcast have been intentionally difficult or obtuse during this process and that our
6 lack of knowledge about the audit and penalty program is Comcast's own fault. I'd
7 like to address that briefly.

8 I think is very important to keep everything in context. Regardless of whatever was
9 going on in Oregon, we in the Utah market were completely unaware that PacifiCorp
10 would begin charging us \$250 unauthorized attachment penalties. Even if we had
11 known about the \$250 penalty, we would not have expected charges in the \$10
12 million range. More importantly, PacifiCorp's penalty program represents a
13 significant departure from PacifiCorp's past practices. I think that PacifiCorp should
14 have reasonably anticipated that Comcast would question the legitimacy of the
15 charges.

16 Consequently, I think that PacifiCorp should have actively sought our involvement
17 *before* the audit began. Considering the magnitude of PacifiCorp's project here in
18 Utah, I don't think it was enough for PacifiCorp to tell Comcast's Oregon staff about
19 the audit and to send "30 day" notices.

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

2 A: Yes.