

Gary G. Sackett
JONES WALDO HOLBROOK & MCDONOUGH, PC
170 So. Main Street, Suite 1500
Salt Lake City, UT 84101-1644
Telephone: (801) 534-7336

Gerit Hull, Counsel
PACIFICORP
825 NE Multnomah, Suite 1700
Portland, OR 97232
Telephone: (503) 813-6559

Charles A. Zdebski
Allison D. Rule
TROUTMAN SANDERS LLP
401 9th Street, N.W., Suite 1000
Washington, D.C. 20004-2134
Telephone: (202) 274-2950

Attorneys for PacifiCorp, dba Utah Power

Submitted September 17, 2004

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

COMCAST CABLE COMMUNICATIONS,)	
INC., a Pennsylvania Corporation,)	
)	Docket No. 03-035-28
Claimant,)	
vs.)	MOTION TO SUBMIT
)	LATE-FILED EXHIBITS
PACIFICORP, dba UTAH POWER, an)	
Oregon Corporation,)	
)	
Respondent.)	

PacifiCorp respectfully submits for the Commission's consideration in the captioned proceeding three late-filed exhibits and a supporting affidavit, as explained below, and moves for their admission into the record in this matter.

PacifiCorp submits the attached Affidavit of Corey Fitz Gerald, marked as Exhibit PC 1.25, with accompanying exhibits marked as PC 1.26, 1.27 and 1.28. In support of this motion PacifiCorp states:

1. During the course of the hearings, counsel for Comcast Cable Communications inquired of Corey Fitz Gerald concerning a letter that Ms. Fitz Gerald had testified she had sent to pole-attaching cable companies to inform them of an increase in the rental rate for PacifiCorp poles that those parties were attached to. (Tr. 712-14.)

2. Ms. Fitz Gerald indicated she had a copy of the letter at her office. (Tr. 713, lines 17-20.) It is attached to her Affidavit as Exhibit PC 1.26.

3. Ms. Fitz Gerald's Affidavit also explains that the letter and list of parties to whom it was sent was filed with the Public Service Commission on October 2, 2003. That filing is attached as Exhibit 1.27.

4. On the last day of the proceedings, Judge Steven Goodwill asked Ms. Fitz Gerald about notice to parties that PacifiCorp would begin charging them pole-attachment application and inspection fees. (Tr. 909-10.)

5. Ms. Fitz Gerald indicated that she had sent notices to all pole-attaching parties by letters dated April 17, 2002, and November 1, 2002. Copies of these notices are include with her Affidavit as Exhibit 1.28.

6. These submissions complement the oral testimony of Ms. Fitz Gerald with the actual documents to which she referred during her appearance as a witness.

7. PacifiCorp believes these submissions provide a more complete record for the Commission on the points raised by Comcast and by the Judge and should, accordingly, be made a part of the record.

8. The Commission has often accepted late-filed exhibits under circumstances where a witness, near the end of a hearing, has been asked about an issue that can be supported by documentary evidence that is not immediately at hand.

9. Such a situation arose near the end of the hearing in this case, and the attached exhibits confirm with documentary evidence the matters to which Ms. Fitz Gerald testified.

10. Comcast is not prejudiced by the submission of these materials, as it has an opportunity to comment on them (or even offer responsive evidence on the narrow points these exhibits may raise) in connection with the post-hearing briefs that are to be filed with the Commission by September 30, 2004.

WHEREFORE, PacifiCorp respectfully moves the Commission to accept as a part of the record in this case the attached:

Affidavit of Corey Fitz Gerald (marked Exhibit PC 1.25)

May 27, 2003, letter to cable-operator pole attachers (marked Exhibit PC 1.26)

October 2, 2003, filing of PacifiCorp with the Public Service Commission

(marked Exhibit PC 1.27)¹

April 17, 2003, and November 1, 2003, notice to pole attachers of intent to charge application and inspection fees (marked Exhibit PC 1.28).

¹ The Commission may take administrative notice of this filing, rather than admit it as evidence in the case.

Respectfully submitted this 17th day of September 2004.

PACIFICORP

Gary G. Sackett
JONES WALDO HOLBROOK & McDONOUGH, PC

Gerit Hull, Counsel
PACIFICORP

Charles A. Zdebski
Allison D. Rule
TROUTMAN SANDERS LLP

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of September 2004, a true and correct copy of the enclosed was mailed via electronic mail, first-class mail or overnight courier service to:

Jerold G. Oldroyd
Angela W. Adams
BALLARD SPAHR ANDREWS & INGERSOLL,
LLP
One Utah Center, Suite 600
201 South Main Street
Salt Lake City, Utah 84111-2221
oldroydj@ballardspahr.com
adamsaw@ballardspahr.com

Michael D. Woods
COMCAST CABLE COMMUNICATIONS, LLC
183 Inverness Drive West, Suite 200
Englewood, Colorado 80112
michael_woods@cable.comcast.com

J. Davidson Thomas
Genevieve D. Sapir
COLE, RAYWID & BRAVERMAN, LLP
1919 Pennsylvania Ave., N.W., 2nd
Floor
Washington, D.C. 20006
dthomas@crblaw.com
gsapir@crblaw.com

Patricia E. Schmid
PUBLIC SERVICE COMMISSION
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, Utah 84114
pschmid@utah.gov

Carolyn Christensen