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Submitted June 21, 2005

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

COMCAST CABLE)	
COMMUNICATIONS, INC., a)	
Pennsylvania Corp.,)	Docket No. 03-035-28
)	
Claimant,)	
v.)	JOINT MOTION to
)	APPROVE SETTLEMENT
PACIFICORP, dba UTAH POWER,)	and
an Oregon Corporation,)	TERMINATE PROCEEDINGS
)	
Respondent.)	
)	

Pursuant to Utah Admin. Code § R746-100-10.F.5, PacifiCorp, dba Utah Power, and Comcast Cable Communications, LLC, formerly Comcast Cable Communications, Inc.

(“Comcast”) submit this Joint Motion to Approve Settlement and Terminate Proceedings in the above captioned docket.

BACKGROUND

A. On October 31, 2003, Comcast filed a Request for Agency Action with the Public Service Commission of Utah (“Commission”) in the captioned docket requesting, *inter alia*, that the Commission order PacifiCorp to refund \$3,828,000 paid to PacifiCorp for pole attachments that PacifiCorp claimed were unauthorized and declare that Comcast owed no amounts for the cost of the 2002/2003 Audit or any subsequently assessed unauthorized attachment charges.

B. PacifiCorp’s December 1, 2003, Response disputed Comcast’s right to the requested relief.

C. By Order issued on December 21, 2004 (“Order”), the Commission ordered, *inter alia*, that PacifiCorp refund to Comcast amounts over \$3,773,330.47 that Comcast previously had paid to PacifiCorp in unauthorized-attachment, back-rent and 2002/2003 audit charges. PacifiCorp satisfied this directive by issuing Comcast a check for \$1,599,868.53 on January 14, 2005.

D. The Order also permitted Comcast to present to PacifiCorp additional information or analysis demonstrating that Comcast’s attachments on PacifiCorp’s poles in Utah identified by the 2002/2003 Audit as unauthorized were in fact authorized. Within 30 days of receipt of such evidence, PacifiCorp would refund to Comcast all unauthorized attachment charges paid by Comcast for poles identified by the 2002/2003 Audit as supporting an unauthorized attachment but which were shown by Comcast evidence to have been authorized.

E. On February 10, 2005, the Commission issued its Order of Clarification (“Clarification”), specifying that PacifiCorp could either accept the information provided by

Comcast and take further action in accordance with the Commission's Order or reject the information and petition the Commission for resolution.

F. On March 21, 2005, Comcast submitted its Proof of Pole Attachment Authorization in which it requested a refund of an additional \$455,760 for unauthorized attachments associated with 7,596 poles.

G. In response, PacifiCorp filed a Petition for Certification of Refund on April 20, 2005, asserting that Comcast had only demonstrated authorization for 5,301 poles and that the appropriate refund was \$318,060.

G. Subsequent to PacifiCorp's submission of its Petition, the Parties have engaged in negotiations regarding a final settlement of the refund amount owed to Comcast and have executed a Settlement Agreement (the Settlement), which is attached to this Motion as Exhibit I.

SUMMARY OF THE SETTLEMENT AGREEMENT¹

The primary terms of the Settlement are:

- ▶ The amount to be refunded by PacifiCorp to Comcast is **\$386,910**.
- ▶ Payment of \$386,910 will resolve the dispute between the Parties over the appropriate refund amount, and neither Party will seek or take further action for any further recovery or relief in connection with the pole-attachment payment and refund issues raised in this docket.
- ▶ In entering into the Settlement, neither Party has adopted or conceded to the positions of the other in connection with the issues resolved by the Settlement.
- ▶ The Settlement will not be construed by the Parties to be an admission of any liability, wrongdoing or responsibility on the part of either Party.

¹To the extent there is any inconsistency between this summary discussion and the terms of the Settlement, the Settlement shall control.

▶ Nothing contained in these proceedings after the issuance of the Clarification will be used or offered as evidence in any forum or medium by either Party to suggest any liability, wrongdoing, breach or responsibility on the part of the other Party.

WHEREFORE, PacifiCorp and Comcast respectfully request that the Commission approve the Settlement Agreement as executed by the Parties and terminate the proceedings in the above captioned docket.

RESPECTFULLY SUBMITTED this _____ day of June 2005.

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CERTIFICATE OF SERVICE

I certify that on the _____ day of June 2005, a true and correct copy of the foregoing **JOINT MOTION TO APPROVE SETTLEMENT AND TERMINATE PROCEEDINGS** was sent via e-mail and by U.S. mail to:

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EXHIBIT I