

Mark C. Moench (2284)
Daniel E. Solander (11467)
Barbara Ishimatsu (10945)
Rocky Mountain Power
201 South Main Street, Suite 2300
Salt Lake City, Utah 84111
Telephone No. (801) 220-4640
Facsimile No. (801) 220-3299
barbara.ishimatsu@pacificorp.com

Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of
ROCKY MOUNTAIN POWER for Approval
of Pole Attachment
Agreement between PacifiCorp
and Leavitt Group Enterprises, Inc.

DOCKET No. 10-035-___

**APPLICATION OF ROCKY
MOUNTAIN POWER**

PacifiCorp, doing business in Utah as Rocky Mountain Power (“Rocky Mountain Power” or “Company”) respectfully requests an order under Utah Admin. Code R746-345-3 approving a Pole Attachment Agreement (the “Agreement”) between PacifiCorp and Leavitt Group Enterprises, Inc. (“Leavitt”) dated December 10, 2009. Each of Rocky Mountain Power and Leavitt are referred to as a “Party” and together referred to as the “Parties.”

In support of its Application, Rocky Mountain Power states as follows:

1. Rocky Mountain Power is a public utility in the state of Utah and is subject to the jurisdiction of the Commission with regard to its rates and service. As a public utility that permits attachments to its poles by an attaching entity, Rocky Mountain Power is obligated to provide that service pursuant to the requirements in Utah Admin. Rules, R.746-345 governing pole attachments.

2. Communications regarding this Application should be addressed to:

By e-mail (preferred): datarequest@pacificorp.com

By fax: (503) 813-6060

By mail: Data Request Response Center
Rocky Mountain Power
825 NE Multnomah St., Suite 800
Portland, OR 97232

Dave Taylor
Rocky Mountain Power
201 South Main, Suite 2300
Salt Lake City, UT 84111
Telephone: (801) 220-2923
Facsimile: (801) 220-2798

Barbara Ishimatsu
201 South Main Street, Suite 2300
Salt Lake City, UT 84111
Telephone: (801) 220-4640
Facsimile: (801) 220-3299
Email: Barbara.ishimatsu@pacificorp.com

3. Under R.746-345-3(B)(1), the parties to pole attachment contracts which differ from the terms in a Commission-approved contract “shall submit the negotiated contract to the Commission for approval.” The Agreement negotiated between Rocky Mountain Power and Leavitt contains terms which differ from the safe harbor agreement approved by the Commission in Docket 04-999-03. There are both stylistic and substantive changes which are discussed below.

a. Minor changes from the “Safe Harbor” agreement reflect clarifications of Rocky Mountain Power’s administrative processes, or are simply non-substantive wording changes. Some provisions of the Safe Harbor have been relocated to another place in the agreement, consolidated or otherwise clarified for stylistic purposes or to represent a mutually acceptable compromise between the Parties. The Agreement reflects the non-reciprocal relationship

between the Parties in contrast to the reciprocal relationship contemplated by the Safe Harbor agreement.

4. The substantive provisions of the Agreement are the same as those contained in the agreement between Rocky Mountain Power and TCG Utah in Docket No. 09-035-52. The Agreement was jointly negotiated between the Parties and represents the agreed-to terms and conditions for Leavitt's attachments to Rocky Mountain Power's poles. The substantive differences between the Safe Harbor and the Agreement are noted below.

5. Several provisions were modified to reflect regulatory requirements, or National Electric Safety code requirements.

a. The contact rental set forth in the Agreement was calculated using Rocky Mountain Power's Tariff approved as Electric Service Schedule No. 4.

b. Leavitt is required to mark its attachments with suitable identification as required by R746-345-5.

c. Reference to unused equipment is removed since the NESC standards adequately address the treatment of such equipment and the Agreement requires compliance with NESC standards.

d. Leavitt is required to have an acceptable facility inspection program in place, which is a standard industry practice.

6. Several provisions were changed to accommodate standardized management of the joint use administrative functions from one office for the six states served by Rocky Mountain Power and Pacific Power.

a. The application procedure to install attachments is consolidated and summarized. This change benefits Leavitt in that it allows Leavitt to receive either an approval or denial in writing within 45 days of Rocky Mountain Power's receipt of the application.

b. Rocky Mountain Power may reject an application for attachment under limited circumstances to protect its infrastructure and for the safety of both Rocky Mountain Power and other attachers.

c. Rent begins to accrue sooner than under the Safe Harbor. However, Leavitt is allowed a longer period of time to pay outstanding invoices, from 30 days, per the Safe Harbor, to 45 days. Furthermore, Leavitt is granted a much longer time to complete installation of Attachments – 180 days instead of 90 days -- and may extend this time frame.

d. Leavitt must maintain commercial general liability insurance at a higher limit than provided in the Safe Harbor, maintain umbrella liability insurance to cover any shortfalls in other coverage, and maintain business interruption insurance.

e. If Leavitt does not accept the cost to accommodate its continued attachment, Leavitt must remove the attachment 10 days sooner than provided in the Safe Harbor.

7. The Agreement contains mutually agreeable terms regarding indemnification, limitations of liability and warranties, which terms are reflected throughout the Agreement.

8. The Agreement contains modified Termination requirements, allowing each Party to terminate the Agreement upon ninety (90) days written notice to the other, within which time Licensee must remove its attachments. The Agreement adds specific events of default, including the insolvency of Licensee.

9. The Agreement allows Leavitt to assign its contract without the consent of Rocky Mountain Power, within certain parameters.

10. The Agreement removes the express prohibition on Leavitt as to easements and rights of way, but provides that Rocky Mountain Power may require Leavitt to provide written documentation of compliance with third party consents, permits, licenses or grants.

11. The Agreement contains a mutual confidentiality provision.

WHEREFORE, Rocky Mountain Power respectfully request that the Commission issue an order approving the Agreement submitted herewith and finding the terms and conditions of the Agreement to be just and reasonable and in the public interest.

DATED this ____th day of January, 2010.

Respectfully submitted,

Mark Moench
Barbara Ishimatsu
Rocky Mountain Power

Attorneys for Rocky Mountain Power

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **APPLICATION FOR APPROVAL OF POLE ATTACHMENT AGREEMENT BETWEEN PACIFICORP AND LEAVITT GROUP ENTERPRISES, INC.** to be served upon the following by electronic mail or U.S. postage to the addresses shown below on January 7, 2010:

<p>Leavitt Group Enterprises, Inc.</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>Cheryl Murray Dan Gimble Michele Beck Office of Consumer Services 160 East 300 South, 2nd Floor Salt Lake City, UT 84111 cmurray@utah.gov dgimble@utah.gov mbeck@utah.gov</p>	<p>Paul Proctor Office of Consumer Services Heber M. Wells Bldg., Fifth Floor 160 East 300 South Salt Lake City, UT 84111 pproctor@utah.gov</p>
<p>Michael Ginsberg Patricia Schmid Assistant Attorney General Utah Division of Public Utilities Heber M. Wells Bldg., Fifth Floor 160 East 300 South Salt Lake City, UT 84111 mginsberg@utah.gov pschmid@utah.gov</p>	<p>Dennis Miller William Powell Philip Powlick Division of Public Utilities Heber M. Wells Building 160 East 300 South, 4th Floor Salt Lake City, UT 84111 dennismiller@utah.gov wpowell@utah.gov philippowlick@utah.gov</p>
