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DATE: June 3, 2004

TO: Parties to Pole Attachment Rulemaking

FROM: DIVISION OF PUBLIC UTILITIES
Irene Rees, Director
Judith Johnson, Manager, Energy Section
Ingo Henningsen, Manager, Telecommunications Section
Marlin Barrow, Utility Analyst
Krystal Fishlock, Technical Consultant

SUBJECT: Docket No. 04-999-04, In the Matter of an Investigation into Pole Attachments

The Division thanks all the parties who have submitted comments and information concerning pole attachments thus far. We have developed the draft rule that accompanies this memorandum, and we submit it to you for comment. The Division is also submitting a draft of two Standard Contracts for your review and comment. As a courtesy, PacifiCorp provided these contracts and the Division has received permission to use them as examples of possible contract formats. One (Joint Use) is for parties who both own poles, the other one (pole attachment) is for parties where only one owns poles. Please be advised that the drafts of these Standard Contracts have not been reviewed by the Division and will not fully match the provisions contemplated in the proposed rule.

As you can see from the draft rule, the Division advocates a statewide average rate for pole attachments. For purposes of the draft rule, we relied on financial data from the largest pole owner, PacifiCorp. That unaudited financial data accompanies this memorandum. The Division is investigating this calculation further, and your input on this issue is important. For example, an average using a combination of various poles owners financial data could be incorporated in the calculation.

The draft rule uses the FCC's basic CATV formula as the framework for calculating standard pole attachment rates. This formula uses presumptive space allocation averages to calculate a

per pole rate (not a per attachment rate.) The resulting rate is a percentage of total pole costs based on the proportion of space used by an attaching entity to the total usable space. The Division anticipates that the rule will set the framework for calculating the rate and the remainder of this docket will be utilized to set the statewide average and give parties an opportunity to negotiate general terms and conditions in the Standard Contract.

The Division and Commission would appreciate your input on the rule, the formula, the space allocation presumptions, and general terms and conditions. Please include any documentation that supports your position. According to the procedural schedule for this case, the parties are to respond to the proposed rule by June 21st. We are requesting the parties also respond to the standard contract attached hereto.

If you have any questions please call Marlin Barrow at 801-530-6675 or Krystal Fishlock at 801-530-6776.

Cc: Utah Public Service Commission
Klare Bachman, Department of Commerce