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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of an Investigation into Pole)
Attachments)

DOCKET NO. 04-999-03

)
) Comments of Qwest Corporation on the
) Public Service Commission's
) Published Proposed Pole Attachment Rules

Pursuant to the Public Service Commission's ("Commission") distribution of its Amended Proposed Rules governing Pole Attachments of Public Utility Companies on January 24, 2005, Qwest Corporation ("Qwest") submits the following comments with respect to these draft rules:

1. Generally, Qwest supports the Commission's proposed rules for pole attachments.

As one of the primary pole owners in Utah, Qwest appreciates the Commission's approach and

its intent to simplify the attachment process while simultaneously minimizing the disagreements between pole owners and attaching entities. However, Qwest does have serious concerns with two of the revisions set forth in the Commission's currently proposed rules.

2. First, in **R746-345-2 A.**, the definition of "attaching entity" has been altered in such a way as to exclude PacifiCorp, and every other electric utility, from being considered as an attaching entity. In fact, based on the current draft of the rule an attaching entity is determined according to the type of service provided by that entity through its attachment rather than by whether the attaching entity's attachment places a burden on the pole itself. This type of arbitrary classification is unfair at best and discriminatory at worst. Qwest does not believe the Commission intended such a result, and urges the Commission to delete the phrase "for the purposes of providing cable television service or telecommunications service to the public"

from the proposed rule. As the Commission knows, Qwest is one of the largest pole owners in Utah. As the Commission is also aware, PacifiCorp maintains thousands of attachments on Qwest owned poles in Utah. As a result, PacifiCorp, and every other public utility or attaching entity, should be deemed to be an "attaching entity" under this rule to the extent they place attachments on any utility pole in Utah no matter what type of service they provide. Qwest believes this rule should be revised to read as follows:

"Attaching Entity" -- A public utility, wireless provider, cable television company or other entity that attaches to a pole owned or controlled by a public utility.

3. Second, in **R746-345-5.A**, Qwest is concerned that the Commission needs to clarify this rule to ensure that a pole owner does not double recover amounts that are also

contained in its rental rate formula. As revised, the Commission's rules state, "The rental rate for ~~any~~ pole attachment[s] must be sufficient to cover any additional cost incurred by the pole owner as a result of the attachments."

While Qwest agrees that the rental rate formula needs to be sufficient to cover the costs caused by attachments, Qwest does not believe that a pole owner should double recover its costs by including them in the rental rate, and then charging for a portion of these costs separately. Qwest recommends that the quoted language above be modified as follows, "The rental rate for ~~any~~ pole attachment[s] must be sufficient to cover any additional cost incurred by the pole owner as a result of the attachments *that are not recovered elsewhere.*"

Respectfully submitted this 11th day of February, 2005.

Qwest Corporation

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Certificate of Service

I hereby certify that on February 11, 2005, I emailed or mailed, postage prepaid, a true and correct copy of Qwest's Comments on the Commission's Published Pole Attachment Rules in Docket No. 04-999-03 to the following:

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