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Submitted: February 24, 2005

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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**In the Matter of an Investigation into**      )))))  
**Pole Attachments**                            )  
  )

**DOCKET NO. 04-999-03**

**SUPPLEMENTAL COMMENTS  
OF PACIFICORP**

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PacifiCorp, dba Utah Power, respectfully submits the following brief supplemental comments in the captioned rule-making proceeding. Having considered the various comments submitted by other participants in this matter, PacifiCorp believes that many of the concerns raised about the definition of “attaching entity” and “pole attachment” in Rule R746-345-2 can be addressed by making the following minor changes to the definitions. These modifications will make it clear that legitimate pole attachments must be for transmission and distribution of electric power or for the provision of wireless, cable or telecommunications service.

PacifiCorp also suggests eliminating references to “other attach attaching entities” in R746-345-1 by referring only to the term “Attaching entity,” as that term is defined in R-746-345-2.A.

The following shows the suggested changes, with redline markings relative to the version of the rule set forth by the Commission on January 24, 2005:

**R746-345-1. Authorization.**

A. Authorization of Rules -- Consistent with the Pole Attachment Act, 47 U.S.C. 224(c), and Utah Code Annotated 54-3-1, 54-4-1, 54-4-4 and 54-4-13, the Public Service Commission shall have the power to regulate the rates, terms, and conditions by which a public utility, as defined in Utah Code Annotated 54-2-1(15)(a) including telephone corporations as defined in 54-2-23(a), can permit attachments to its poles by ~~any other public utility, wireless provider, cable television company, or other~~ an attaching entity.

B. Application of Rules -- These rules shall apply to each public utility that permits attachments to its poles by ~~any other public utility, wireless provider, cable television company or other~~ an attaching entity.

1. Although specifically excluded from regulation by the Commission in Utah Code Annotated 54-2-1(23)(b), solely for the purpose of any pole attachment, these rules apply to any wireless provider.

2. Pursuant to these rules, a public utility must allow ~~any~~ an attaching entity nondiscriminatory access to utility poles at rates, terms and conditions that are just and reasonable.

C. Application of Rate Methodology -- The rate methodology described in Section R746-345-5 shall be used to determine rates that a public utility may charge ~~any other public utility, wireless provider, cable television company, or other~~ an attaching entity to attach to its poles for compensation.

**R746-345-2. General Definitions.**

A. “Attaching Entity” -- A public utility, ~~wireless provider,~~ cable television company ~~or other entity that, for the purposes of providing cable television service or telecommunications service,~~ telecommunications company, or company providing other wireline or wireless communications services to the public, attaches to that places a pole attachment on a pole owned or controlled by a public utility.

B. “Distribution Pole” -- A utility pole, excluding towers, used by a pole owner to support mainly overhead distribution wires or cables.

C. “Pole Attachment” -- All of an attaching entity’s equipment ~~,~~ and the devices used to attach such equipment ~~, of an attaching entity~~ that are attached within that attaching entity’s allocated attachment space on a pole and used for transmitting or distributing electric power or providing cable television or telecommunications service or other wireline or wireless communications services to the public. A new or existing service wire drop pole attachment that is attached to the same pole as an existing attachment of the attaching entity is considered a component of the existing attachment for purposes of this rule. Additional equipment that meets all applicable code and contractual requirements that is placed within an attaching entity’s existing attachment space is not an additional attachment.

Submitted this 24th day of February 2005.

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### **Certificate of Service**

I certify that I have served a copy of the foregoing **SUPPLEMENTAL COMMENTS OF PACIFICORP** by first-class mail or by e-mail attachment the following participants in the captioned proceeding, on February \_\_, 2005.

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