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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of an Investigation into Pole)
Attachments)
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DOCKET NO. 04-999-03
Supplemental Comments of Qwest
Corporation on the Public Service
Commission's
Published Proposed Pole Attachment Rules

Pursuant to the Utah Public Service Commission's ("Commission") distribution of its Amended Proposed Rules governing Pole Attachments of Public Utility Companies on March 01, 2005, Qwest Corporation ("Qwest") submits the following supplemental comments with respect to these draft rules:

1. Qwest's supplemental comments, like those it filed on April 14, 2005, are directed toward an attaching entity's obligations to place its attachments in accordance with good

and accepted safety, engineering, construction and Utah industry standard practices. Qwest contends that it has been standard practice in Utah for nearly a century to require that twisted-pair copper facilities be placed as the lowest attachment on a utility pole. While the safety requirements and the engineering practices may have been upgraded over the years, the basic order of attachment has not changed. That order of attachment has included twisted-pair copper telecommunication facilities as the lowest attachment and power facilities as the highest attachment on a utility pole. In between those two attachments, the utility industry has made room for additional attachments, including coaxial cable and fiber optic cable. In doing so, the utility industry, and the new attaching entities, have followed the time-honored rule that the new attaching entity, as the cost causer, pays for any and all make ready work necessary to create additional space on the utility pole that is necessary to accommodate the new attachments. Changing these basic and fundamental rules now, after they have been in place for many decades, will cause chaos in the industry and will violate both the National Electrical Safety Code (“NESC”) and Bellcore rules that all attaching entities have been required to follow.

More specifically, with respect to pole attachments for communication and supply lines the NESC requires that “construction and maintenance should be done in accordance with accepted good practice for the local conditions known at the time” and that “all conductors of electric supply and communication lines should, as far as is practical, be arranged to occupy uniform positions throughout . . .” See, NESC 012 and 220.(d). These NESC obligations are consistent with additional Bellcore rules that have been in place in Utah, and throughout the country, since at least the 1980’s. Those Bellcore rules, while authorizing new attachments, have required new attaching entities to place their attachment above those of the telephone company. More specifically, the Bellcore rules have required that “All AL (authorized licensee) facilities

shall be attached above telephone facilities except where the telephone company specifically authorizes them to be attached below.” See, Bellcore Rule 18.02. These NESC and Bellcore rules were established to promote good and safe engineering and construction practices. They are also based on good common sense, in that it makes good sense to require heavier twisted-pair copper facilities be placed below the lighter coaxial and fiber optic facilities. To allow the order of attachments to be otherwise would result in inefficient use of space on a utility pole and/or an increased risk that the facilities of two or more companies interfere with each other on the pole thereby causing safety hazards for utility repairmen and the public, and causing inevitable service outages for utility customers.

Until recently, this has not been an issue in Utah. All attaching entities in Utah have consistently followed these NESC and Bellcore rules. This, of course, includes both telecommunications and cable companies who have added their own attachments to utility poles in Utah over the years. For example, in the 1970’s and 1980’s when cable television companies began to proliferate, they placed their coaxial (and later fiber-optic) facilities on utility poles in Utah in accordance with these NESC and Bellcore rules. As the cost-causer, they also paid any necessary make-ready work to move the facilities of the existing attaching entities in order to make room on the pole for their new facilities. Any change in this practice now would likely have a discriminatory impact on existing cable and telecommunications companies.

Now, new attaching entities are once again beginning to proliferate in Utah, and elsewhere. However, these new attaching entities have apparently not felt constrained by the NESC and Bellcore rules that all existing attaching entities have been required to follow in the past. While it is hard to specifically classify these new entrants, entities like UTOPIA, here in Utah, are neither telecommunication companies, nor cable companies. They are, in essence,

wholesalers who are willing to construct and lease their facilities to others who will provide service to end-user customers in Utah. As a result, there has been some question as to whether the Commission has any jurisdiction over their facilities, or the manner in which they attach to utility poles in Utah. Qwest believes the Commission does have jurisdiction over their pole attachments, and that the Commission has the authority to enforce the NESC and Bellcore rules regarding order of attachments to ensure that all pole attachments in Utah are constructed and maintained in accordance with good and accepted safety, engineering, construction and Utah industry standard practices. To ensure that the Commission is not repeatedly entangled in disputes over such attachments, however, Qwest believes the Commission would be well served by establishing language in its published rules to clarify these obligations. The Commission could easily do so by adding language to R746-345-3.A.2 of its published rules as follows:

2. The tariff, standard contract or SGAT shall The tariff, standard contract, and SGAT shall require compliance with all applicable laws, rules, the National Electrical Safety Code (“NESC”) and the Bellcore rules, including but not limited to the order of attachment rules consistent with NESC 012, NESC 220(d) and Bellcore 18.02, and generally accepted industry practice. The tariff, standard contract, and SGAT shall also include but not be limited to:
 - a. permitting process.....

Qwest believes this language is necessary to ensure the same good and safe practices relating to pole attachments in Utah that have been required by all attaching for many decades. Qwest respectfully requests the Commission to adopt this proposed language, and to issue its pole attachment rules as soon as possible so that all attaching entities in Utah are aware of their obligations.

Respectfully submitted this 6th day of July, 2005.

Qwest Corporation

/s/ Robert Brown

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Certificate of Service

I hereby certify that on July 6, 2005, I emailed or mailed, postage prepaid, a true and correct copy of Qwest's Supplemental Comments on the Commission's Published Pole Attachment Rules in Docket No. 04-999-03 to the following:

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