

February 2, 2006

To the Parties in Docket No. 04-999-03

**Re: In the Matter of an Investigation into Pole Attachments;
Commission Direction Concerning Contract Issues and Rule
Language**

The Commission provides the Parties to this Docket with the following determinations regarding the comments submitted on the Division's draft contract. The Commission believes that the following resolutions or responses to comments are reasonable. While the Commission will still permit parties to negotiate unique terms that could differ from what is provided herein, these are in the nature of "safe harbors." Agreements which contain these provisions would be approved by the Commission (if other terms are reasonable); they will be the default provisions for the generic agreements or where parties do not, or cannot, propose alternative mutually agreed upon terms.

1. Drop Section 10.4

It is not needed. Substantial prepayment of most obligations, and the ability to request the Commission require a bond if a pole owner can show that a potential attacher has an unusual financial risk profile, negate the need for this section.

2. Drop the "Bona Fide" Plan Requirement

If a potential attacher feels the pole owner is reserving space unreasonably, the attacher is free to file a complaint before the Commission for determination.

3. Fix Section 3.02 so that Pole Owners must be notified.

An obligation needs to be present for the attacher to check back with the pole owner if they fail to receive notice from the pole owner. The problem needs to be resolved before the attachment takes place. Add language requiring the attacher to contact the pole owner if the attacher has not received approval for the attachment.

4. Service Drops

Add language that prior notification is not required for the attachment of service drops where the attacher has an existing pole attachment.

5. Rights of Way

All attachers must have proper permits, rights of access, or permission where required.

6. Non-Conforming Attachments

The Commission believes the language addressing non-conforming attachments and the remedies available to the pole owner should be in the contract, not the Rule. In cases where the non-conformance of an attachment results in a violation of code or FCC rule, and as a result an unsafe condition exists, the pole owner may immediately address the problem and bill the attacher a reasonable amount for the resources used to remedy the situation.

7. Frequency Radiation

All applicable electrical codes and all applicable FCC rules must be adhered to by all attachers and the pole owner. The references to each applicable code and rule should be listed in the contract.

8. Approval of Make Ready Work Plans

For non-electrical facilities self-build make ready work, the attacher must submit detailed plans for prior approval. The pole owner will have a 14 day turn-around time to approve or disapprove the plans.

9. Pacificorp's Miscellaneous Comments

In its December 23, 2005 comments, Pacificorp provides corrections for sentence structure and a Rule reference (R746-345-5.B) under the title Miscellaneous Comments. These should be corrected in the contract.

Regarding the proposed Rule R746-345 the Commission has determined that it will make the Rule effective, but it will open a new Rule Making proceeding to address the following limited issues. The Commission will also grant pole owners exemptions to the Rule for these issues while the new Rule Making proceeding is open.

1. The self-build option for make ready work will apply only to non electrical facilities; meaning that if the electrical conductors, or the pole, need to be moved or worked on as part of the make ready work, then that portion of the make ready work does not automatically qualify for a self-build approach. However, if a pole owner and the attacher reach a mutually agreeable understanding for a contractor, or the attacher, to do the required make ready work, nothing in the Rule will prevent a self-build option for all of the required make ready work. For any electrical facilities self-build make ready work the turn around time for plan approval shall be negotiated between the attacher and the pole owner.

2. In the event an attacher decides to utilize the self-build option, the attacher must pay for all of the coordination costs of the pole owner and other attachers, any electrical facilities work required, and all required inspections.

3. The Commission will adopt URTA's comments regarding changing the "Any" to "A", and the comma and sentence structure suggestions.

DATED at Salt Lake City, Utah, this 2nd day of February, 2006.

/s/ Ric Campbell, Chairman

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/s/ Ted Boyer, Commissioner

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February 2

/s/ Ron Allen, Commissioner