

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

COMCAST CABLE)
 COMMUNICATIONS, INC., a)
 Pennsylvania Corporation)
 Claimant,)
 vs.)
))
 PACIFICORP, dba UTAH POWER, an)
 Oregon Corporation,)
 Respondent.)

DOCKET NO. 03-035-28

ORDER GRANTING MOTION FOR
LEAVE TO LATE-FILE REBUTTAL
TESTIMONY OF TOM JACKSON

ISSUED: July 20, 2004

By The Commission:

On July 15, 2004, Respondent PacifiCorp filed a Motion for leave to late-file rebuttal testimony of its expert witness, Tom Jackson. Respondent argues that it was unable to file the subject rebuttal testimony on time because Claimant Comcast did not identify its expert witness, Michael T. Harrelson, until late in the procedural schedule such that, although it deposed Mr. Harrelson on June 23, 2004, the impending filing deadlines and the intervening July 4 weekend made it infeasible to obtain PacifiCorp's own expert witness and prepare rebuttal testimony by the July 14, 2004, deadline. PacifiCorp requests leave to late-file Mr. Jackson's testimony on or before July 22, 2004 (the date set for filing of surrebuttal), giving Comcast until July 30, 2004, to file surrebuttal to Mr. Jackson's testimony. PacifiCorp proposes that the remainder of the established procedural schedule remain intact.

Comcast, by Memorandum submitted on July 16, 2004, opposes PacifiCorp's Motion, claiming that the Motion was made in bad faith, would unduly prejudice Comcast, is without justification and would negatively effect the scheduling of this proceeding. However, not only is there no evidence of bad faith in PacifiCorp's actions, but, given the modified schedule set forth below, we do not believe that granting the Motion would prejudice Comcast's case, nor would it delay a final resolution of this matter.

Upon consideration of the documents filed by the parties, we grant PacifiCorp's Motion. While we require parties to abide by the schedules ordered by this Commission, the interests of developing a complete record and of providing all parties adequate opportunity to be heard and present their case outweigh any interest in rigid adherence to a schedule that has already been amended several times. Comcast notes in its Memorandum in opposition that the communications industry throughout Utah is awaiting the outcome of this proceeding. Given the import which the parties attach to this matter, we believe it would be unreasonable to proceed without first ensuring all parties as much latitude as possible in presenting a complete record for adjudication. The schedule adjustments below move this docket forward to hearing as previously scheduled while permitting complete case preparation and presentation by all parties.

However, just as we see merit in providing additional rebuttal time to PacifiCorp, so too do PacifiCorp's slowness to request such leave and the intervening July 23, 2004, holiday weigh in favor of granting additional time to Comcast in surrebuttal. Therefore, rather than the July 30, 2004, deadline proposed by PacifiCorp, we will permit Comcast to file surrebuttal testimony to Mr. Jackson's testimony on or before August 2, 2004. In addition, the August 6, 2004, deadline for submission of pre-hearing briefs, will be extended to August 10, 2004, to ensure the parties have ample time to address all testimony of witnesses filed in this matter.

Wherefore, we enter this ORDER granting PacifiCorp's Motion for Leave to Late-File Rebuttal Testimony of Tom Jackson. Comcast may file surrebuttal to Mr. Jackson's testimony on or before August 2, 2004. Pre-hearing briefs shall be submitted on or before August 10, 2004. All other deadlines in this docket remain unchanged.

DATED at Salt Lake City, Utah, this 20th day of July, 2004.

/s/ Steven F. Goodwill
Administrative Law Judge

Attest:

/s/ Julie Orchard
Commission Secretary

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