

- 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 PACIFICORP'S MOTION TO
SUBMIT LATE-FILED EXHIBITS

ISSUED: November 9, 2004

By The Commission:

On September 17, 2004, PacifiCorp filed a Motion to Submit Late-Filed Exhibits seeking to file three exhibits and a supporting Affidavit of Corey Fitz Gerald who had testified on behalf of Pacificorp at the evidentiary hearing held 23-36 August, 2004. Pacificorp's Request states its belief that these late-filed exhibits provide the Commission a more complete record concerning issues raised during questioning of Ms. Fitz Gerald by counsel for Comcast as well as the Administrative Law Judge. Specifically, the late-filed Fitz Gerald Affidavit, marked PC 1.25, refers to and supports the three exhibits attached thereto: a letter, marked PC 1.26 and dated May 27, 2003, from Ms. Fitz Gerald notifying cable operators who maintain attachments on Pacificorp poles that Pacificorp intended to file a change to Electric Service Schedule No. 4 of its tariff which would increase its annual pole attachment fee from \$4.65 per pole to \$9.20 per attachment effective January 1, 2004; a letter, marked PC 1.27 and dated October 2, 2003, with supporting exhibits, from Pacificorp to the Commission submitting said tariff change for filing with the Commission; and a facsimile transmittal page, marked PC 1.28 and dated July 15, 2002, from Pacificorp to Marty Pollock (who testified at the evidentiary hearing on behalf of Comcast) indicating that a copy of the letter attached thereto, dated April 17, 2002, notifying third-party attachers that Pacificorp intended to begin charging application processing and inspection fees, had been sent to all of Pacificorp's pole attachment licensees in April 2002. Pacificorp's Request moved for admission of these documents as marked into the record.

During her oral testimony at hearing, Ms. Fitz Gerald, in response to questioning from Comcast and the ALJ, provided information regarding these documents and stated that copies of some of these documents were available in her office files. As such, admission of these documents into the record at this late date does not result in the admission of new or surprise evidence to the prejudice of either party, but merely supplements the record by providing documents referred to in oral testimony which the parties

did not have available for submission during the hearing. Ms. Fitz Gerald's testimony regarding these documents and the information contained therein was subject to challenge and was in fact elicited during cross-examination and ALJ questioning. Therefore, upon consideration of this Request, there being no opposition and for good cause appearing, we grant PacifiCorp's Motion.

Wherefore, we enter this ORDER granting PacifiCorp's Motion to Submit Late-Filed Exhibits and admitting these exhibits into the record as marked.

DATED at Salt Lake City, Utah, this 9th day of November, 2004.

/s/ Steven F. Goodwill
Administrative Law Judge

Attest:

/s/ Julie Orchard
Commission Secretary

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