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# JOINT WIRE AND POLE USAGE

Best Practices to Maximize Revenue Opportunities  
and Minimize Attachment Costs

DECEMBER 8-9, 2003 ■ DOUBLETREE LA POSADA RESORT ■ SCOTTSDALE, AZ

## Keynote Address by:

*Paul Brown,*  
Managing Director of Distribution Support,  
**PacifiCorp**

**"Maximize Joint Use Revenue  
and Cost Recovery Potential"**

## Conference Co-Chairs:

*Shirley S. Fujimoto, Partner*  
**McDermott, Will & Emery**

*Christine Gill, Partner*  
**McDermott, Will & Emery**

## Benefit from the Expertise of Other Joint Use Authorities

Current Communication Services  
Joint Use Solutions, LLC

Main.net —  
Power Line Communications, Inc.

United Powerline Council

United Telecom Council

VentureSum Corporation

Organized By:



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## Hear Dynamic Presentations and Case Studies:

- **American Electric Power**  
Negotiates joint use contracts to protect power pole ownership
- **Portland General Electric**  
Utilizes forecast models to minimize the expense of future attachments
- **PacifiCorp**  
Minimizes preparation costs for attachments while maintaining infrastructure integrity
- **Nevada Power**  
Partners with telecom providers to maximize revenue by developing wireless co-location sites
- **Tucson Electric Power**  
Designs an innovative infrastructure that adapts to wireless technology
- **Salt River Project**  
Engineers the "joint use trench" — Requirements for underground joint use

AND!

## Federal Communications Commission

Employs mediation to resolve pole attachment disputes

**PLUS!**

Choose From Two In-depth Pre-Conference Workshops —  
Monday, December 8, 2003

**A. Recover from  
Unauthorized Pole  
Attachments and  
Prevent Aerial Theft**

**B. Assess New  
Broadband Power  
Line Technology  
for Utility Usage**

The Center for Business Intelligence  
Joint Wire and Pole Usage  
Scottsdale, Arizona

## Unlocking the Overlooked Value in Utility Pole Assets

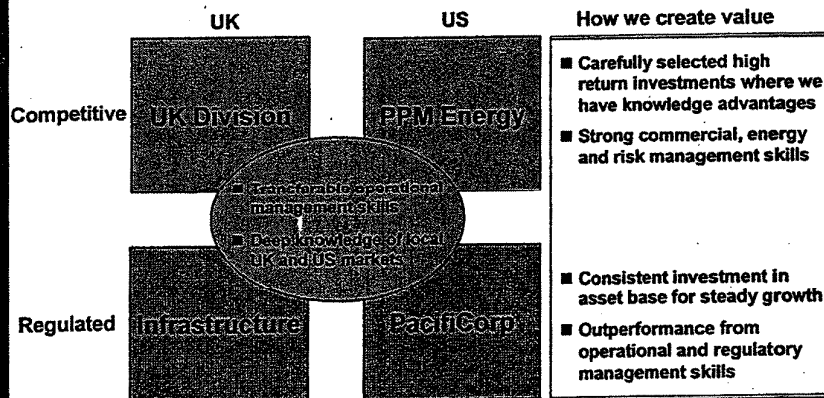
*Paul Brown*

*Managing Director,  
Distribution Support  
PacifiCorp*

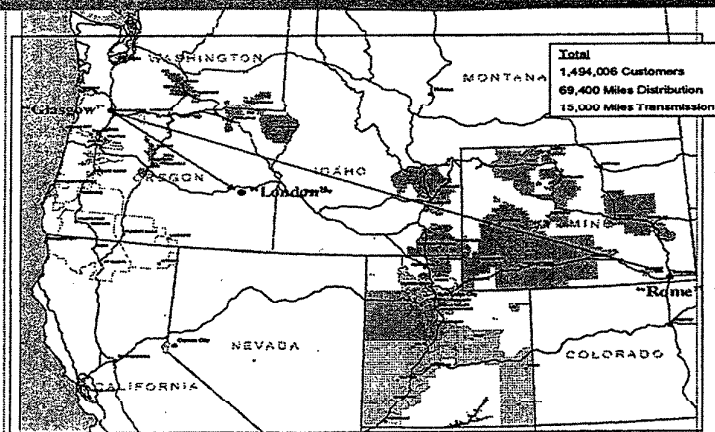
*December 8, 2003*



## ScottishPower Strategic Overview



## PacifiCorp Service Area



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3

## The Roadmap for Today's Remarks

- ▶ We will look at the industries that attach to utility poles
- ▶ We will examine conditions that changed almost without notice
- ▶ We will see how PacifiCorp and other utilities have failed to extract the full value of our poles from attaching industries
- ▶ We will outline PacifiCorp's program to unlock the full value of its poles and the results so far

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4

## Unlocking the Value: Our Premise...

▶ Pole-owning electric utilities are failing to recover the value in their pole assets.

▶▶ Result: Pole-owning electric utilities are subsidizing the cable and telecommunications industries.



5

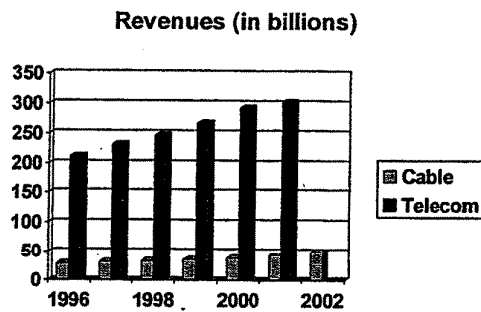
## Our Argument...

▶ Unless pole-owning utilities unlock the value in these assets, management is failing in its obligations to shareholders, jurisdictional rate payers and public utility regulatory authorities.



6

## The revenues of cable and telecommunications companies are enormous and increasing



Sources: IAD, WCB, FCC, Telecommunications Industry Revenue: 2001 (rel. March 20, 2002); FCC, Seventh Annual Report on Competition in Video Markets, 16 FCC Rod 6002 (rel. January 3, 2001); FCC, Eighth Annual Report on Competition in Video Markets, 17 FCC Rod 1244 (rel. January 14, 2002); and FCC, Ninth Annual Report on Competition in Video Markets, 17 FCC Rod 25901 (rel. December 31, 2002).

7

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## Let's Take A Look



8

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## Consider...

- ▶ Utility poles provide the essential infrastructure for the creation of the cable and telecommunications wireline (and sometimes wireless) networks.
- ▶ Cable and telecommunications companies are required to compensate utilities for all out-of-pocket expenses associated with their presence on poles as well as a just and reasonable compensation for the space they occupy.
- ▶ Regulations permit financial penalties to encourage compliance with pole attachment obligations.

9



## 1996 Seems to Have Been the Start of a New Environment

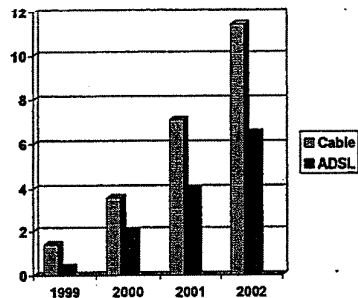
- ▶ The *Telecommunications Act of 1996* made access to utility poles mandatory at the request of cable and telecommunications companies; also gave rise to CLECs
- ▶ Homes and businesses began increasing their use of the Internet
- ▶ Migration from dial-up to DSL and cable modem technology gained momentum
- ▶ Cable and telephone companies increased offerings of their traditional services bundled with Internet access
- ▶ Wireless attachments for cellular and wi-fi began to appear
- ▶ Market demand drove expansion by attachers, first-to-market concerns and *unauthorized attachments*

10

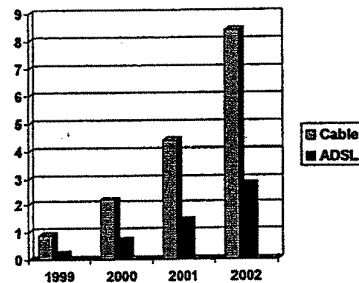


## Broadband on the Rise...

High-Speed Lines Over 200 kbps in  
at Least One Direction (in millions)



Advanced Services Lines Over 200  
kbps in Both Directions (in  
millions)



Source: IAD, WCB, FCC, High-Speed Services for Internet Access:  
Status as of December 31, 2002 (vol. June, 2003).

11

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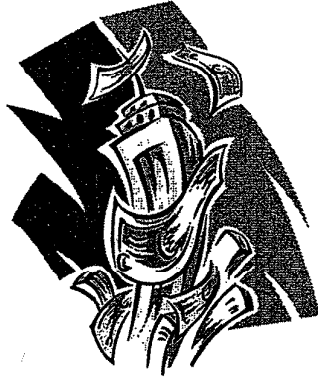
## The Changed Telecommunications Environment Went Unnoticed...

- ▶ Although utilities in 1996 had sought easier entry into the telecommunications business, most remained focused on their own industry
- ▶ Other electric utility developments were more pressing
  - ▶ Electric restructuring
- ▶ Existing pole attachment agreements were decades old and outdated
- ▶ Few utilities had dedicated joint use staffs; most approached joint use as a nuisance and afterthought
- ▶ Pole attachment audit procedures were poor, neglected or non-existent
- ▶ Regulators failed to address the transition from fostering a fledgling industry to subsidizing a thriving industry

12

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## Results of the Failure to Perceive the Changed Circumstances...



- ▶ Rent not collected for all poles contacted
- ▶ Rent not collected for unauthorized attachments
- ▶ Penalties not collected for unauthorized attachments
- ▶ Make-ready or repair expense not reimbursed for attachments
- ▶ Missed marketing opportunities

13

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## A true life example...

- ▶ Excerpts from *Public Service Company of Colorado v. FCC and Mile Hi Cable Partners, L.P.*, decided by the U.S. Court of Appeals for the District of Columbia Circuit in May, 2003:

- ▶▶ "The original agreements...were signed between 1983 and 1995."
- ▶▶ "...PSCo conducted an audit. The survey disclosed...more than 25,000 unauthorized attachments."
- ▶▶ "PSCo...sent invoices...The charges, totaling almost \$6 million, included (1) the unauthorized attachment charge of \$250 per pole, (2) pole attachment rental fees of \$1.72 per pole for a six-month period for the unauthorized attachments and (3) a charge of \$3.50 for each unauthorized attachment for (the cable company's) share of the survey cost, pursuant to their agreement."

14

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## PacifiCorp's Decision...

### To Embark on a Program to Recover the Full Value of its Poles

- ▶ Collecting all penalties allowed
- ▶ Collecting full compensation allowed (not necessarily a "market rate")
- ▶ An aggressive approach, but only from the point of view of companies that have grown accustomed to the free ride

15



## The Keys to Unlocking the Value

- ▶▶ Detailed inventories and maps of poles
- ▶▶ Identify owner and type of each attachment
- ▶▶ Identify number of attachments each attaching entity has on the utility's poles
- ▶▶ Do not overlook other pole-owning joint users, e.g. ILECs
- ▶▶ Initiate or participate in state pole attachment legislation



16



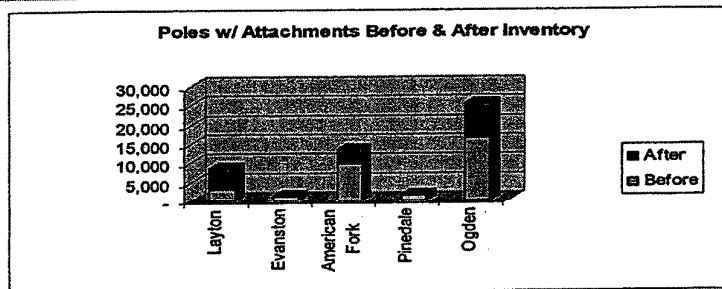
## Other important considerations

- » As it relates to pole attachments and rights-of-way only, are the states you service FCC regulated? Or state regulated?
- » Are your pole attachment agreements current and active?
- » When did your company perform its most recent pole attachment inventory? How reliable is the data?
- » Do you have a subject matter expert?
- » Will your company be filing any rate cases in the near future?
- » What is your company's culture: are pole attachers unwelcome interlopers or potential customers for pole-related services?



17

## Inventory Results

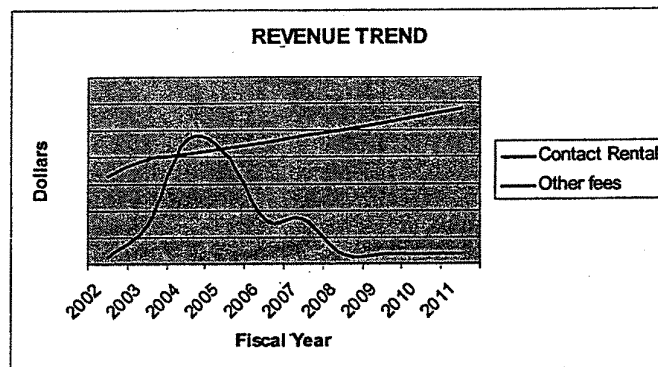


- Finding 6% - 53% unauthorized attachments
- Overall average increase in total number of attachments of 24%



18

## Results to date...



19

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## Future Projects: The Value in Other Assets

- » Updated rental rates
- » Ducts
- » Rights of way
- » Transmission towers
- » Communications towers
- » Rooftops
- » Substations
- » Use of crews for installation and repair of telecom lines
- » Wireless attachments (eases zoning issues)
- » Sale of excess communications capacity
- » Broadband Over Power Lines (BPL)

20

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## No More Free Ride



21

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## Summary & Conclusion

- ▶ For too long, the attachers have had a free ride at the expense of utility rate payers and shareholders
- ▶ PUC's are beginning to penalize utilities for failing to recover the value of their poles
- ▶ The problem is rampant
- ▶ The value is out there and now is the time to unlock it

22

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## The Takeaway...

► Are you ready  
to unlock the  
hidden value in  
your poles?



23

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