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June 23, 2004

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

Allison Rule
Troutman Sanders LLP
401 9th Street, NW
Suite 1000
Washington, DC 20004-2134

Re: Supplement to Comcast's Discovery Responses

Dear Allison:

This letter confirms the substance of our conversations regarding your May 28, 2004 letter and constitutes a supplement to Comcast's Responses to PacifiCorp's Interrogatories and Document Requests.

Regarding the first issue you raised in your letter, Comcast provides to you below, all of the information it has on the conversation you reference. In addition to the information provided in Comcast's response to PacifiCorp's Interrogatory No. 4 and at the April 6, 2004 hearing, I provided the following additional information to you by telephone and/or email:

- The conversation described in the April 6, 2004 hearing is one of the same conversations Comcast identified in its Response to Interrogatory No. 4 as between Mark Deffendall and unknown PacifiCorp employees.
- Mr. Deffendall recalls that these statements referenced in Interrogatory No. 4 were made between February 1994 and May 1995 when he worked for Insight Cablevision in Utah.
- Mr. Deffendall recalls that the conversations took place shortly after he began working in Utah. He recalls that he prepared pole attachment applications that would have complied with the requirements of the California utilities he previously worked with and that PacifiCorp did not require the same level of detail and documentation that he had been accustomed to providing.

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- Mr. Deffendall's job title is currently Maintenance Supervisor. Previously, Mr. Deffendall's job title was Construction Supervisor.

Additionally, Comcast has learned that one of the PacifiCorp employees with whom Mr. Deffendall had the conversations described above may have been named Clyde Latta.

Regarding the second issue you raise in your letter, we have provided you with all of the information we have regarding permit responsibilities. In addition to the information Comcast provided in its response to Interrogatory No. 8(a), I provided the following additional information to you by telephone:

- As clarification of Comcast's response, Marty Pollock and Sheryl Pehrson have only been responsible for obtaining permits since approximately 2001-2002.
- Comcast is currently unaware of any other people designated as being responsible for permits.
- To the best of Comcast's knowledge, during this time period, permits were obtained on an ad hoc basis by whomever was responsible for the new installations.
- Gary Goldstein prepared permit applications where necessary during the 1980s in connection with new builds. He made applications for new attachments when necessary using the same form that was used by Stuart Smythe and that has been provided to PacifiCorp in Comcast's document production. Mr. Goldstein's responsibility was for the Salt Lake System and is unaware of who may have been responsible for permitting in other areas.

Further, I advised you that Gary Goldstein is the one Comcast employee with the most institutional knowledge of the system and that he would be able to provide additional information at deposition.

Regarding the third issue you raised in your letter, Comcast objected to providing this information in its response to Document Request No. 9, Interrogatory No. 13 and PacifiCorp's Rule 30(b)(6) deposition notice. That being said, I informed you that the only policies and timetables driving Comcast's upgrade permitting schedule were those established by PacifiCorp. I further stated that Comcast provided documentary evidence of PacifiCorp's procedures, policies and timetables in its document production.

In addition, we do not agree with PacifiCorp's contention that Comcast waived these objections at deposition. Any party has the right to refuse to produce documents or answer other discovery requests, such as interrogatories, on the grounds that the requested information is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. *See* Utah R.Civ.P. 26(b)(1). However, no party has the authority to instruct a witness not to answer a deposition question based on those grounds. *See* Utah R. Civ. P. 30(d)(1). Thus, although these rules do not permit Comcast to prevent a witness from answering such questions at deposition, they certainly provide Comcast with the right to refuse to answer discovery requests on the grounds of relevance. Finally, under Utah state law, a party does not waive relevance objections

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by failing to make them at deposition. *See* Utah R. Civ. P. 32(c)(3)(A) ("Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition...").

Finally, regarding the last issue you raised in your letter, Comcast provided the maps you requested by hand delivery to Gary Sackett on approximately June 7.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Genevieve D. Sapir". The signature is written in black ink and is positioned above the typed name.

Genevieve D. Sapir

cc: Charles A. Zdebski, Esq.
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