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*Attorneys for PacifiCorp, dba Utah Power*

Submitted May 27, 2004

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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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COMCAST CABLE COMMUNICATIONS,  
INC., a Pennsylvania Corporation,

Claimant,

vs.

PACIFICORP, dba UTAH POWER , an Oregon  
Corporation,

Respondent.

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**Docket No. 03-035-28**

**NOTICE OF SUBPOENA FOR THIRD-  
PARTY BUSINESS RECORDS**

**NOTICE OF SUBPEOENA FOR THRID-PARTY BUSINESS RECORDS**

TO EACH PARTY AND TO EACH ATTORNEY OF RECORD IN THIS ACTION:

PLEASE TAKE NOTICE, pursuant to Utah Administrative Code § R746-100-8.B and Utah Rules of Civil Procedure §§ 34(c) and 45(a)(1)(C), Defendant PacifiCorp has issued a subpoena commanding the production or inspection and copying of certain MasTec business records on June 10, 2004, at the offices of Jones, Waldo, Holbrook & McDonough, PC located at 170 South Main, #1500, Salt Lake City, Utah 84101, commencing at 5:00 pm. By service of subpoena, MasTec has been advised of its duty to produce or permit inspection and copying of the documents identified in the subpoena.

DATED: this 27<sup>th</sup> day of May, 2004.

PACIFICORP

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COMCAST CABLE COMMUNICATIONS,  
INC., a Pennsylvania Corporation,

Claimant,

vs.

PACIFICORP, dba UTAH POWER , an Oregon  
Corporation,

Respondent.

**Docket No. 03-035-28**

**SUBPOENA FOR THIRD-PARTY  
BUSINESS RECORDS**

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TO: MasTec Services Company  
800 Douglas Rd., Penthouse  
Coral Gables, FL 33134

Corporations Service Company  
Gateway Tower East Suite 900  
10 East South Temple  
Salt Lake City, Utah 84111

Pursuant to Utah Administrative Code § R746-100-8.B and Utah Rules of Civil  
Procedure §§ 34(c) and 45(a)(1)(C),

**YOU ARE COMMANDED:**

To produce or permit inspection and copying of the following documents or objects at  
the place, date and time specified below (list documents or objects):

**Date:** June 10, 2004

**Time:** 5:00 p.m. Mountain Daylight Time

**Location:** Jones, Waldo, Holbrook & McDonough, PC  
170 So. Main Street, Suite 1500  
Salt Lake City, UT 84101-1644

**DEFINITIONS**

The following definitions shall apply to this subpoena:

1. The single form shall include the plural and vice versa so as to make your  
response inclusive rather than exclusive.
2. All requests phrased in either the disjunctive (“or”), conjunctive (“and”), or both  
should be responded to in the manner that makes your response inclusive rather than exclusive.

3. The pronouns “you” and “your” refer to MasTec and its agents, members, representatives, employees, participants, supporters, contractors, subcontractors, attorneys, or any other person or entity under its control.

4. The term “person” means both natural persons and entities, including, but not limited to, corporations, partnerships, joint ventures, any other kind of business operated as a sole proprietorship or otherwise, unincorporated associations, trusts, estates, public agencies, departments, bureaus and boards.

5. The term “action” refers to the above-captioned matter.

6. “Communication” or “conversation” and other forms of those words are used in the broadest possible sense and means every manner or means of disclosure, transfer or exchange of information, and every disclosure, transfer or exchange, whether face-to-face, by telephone, in writing, whether in hard copy or electronically, by email, by mail, personal delivery or otherwise.

7. “Document” is used in the broadest possible sense and means any tangible object capable of presenting any expressive, verbal, oral, aural or visual content, whether printed, recorded, reproduced by any mechanical or electronic process, written or produced by hand, maintained or stored in any electronic media, including without limitation: papers, books, records, correspondence, memoranda, diaries, reports, notes, notations, financial records, communications, summaries or records of conversations, interviews, meetings and conferences, statistical statements, graphs, charts, accounts, analytical records, reports or summaries of investigations, opinions or reports of consultants, video or audio tapes, disks, photographs, tape recordings, digital media, telexes, telecopies, envelopes or other record of mailing, work papers, drafts of any of the above documents, as well as any other materials not described above, but

which are encompassed by the Utah Administrative Code §§ R746-100-1 *et seq.* and the Utah Rules of Civil Procedure.

8. The terms “all documents” or “each document” calls for each and all documents that constitute, pertain, refer or relate to, discuss, mention or otherwise reflect upon the described subject matter.

9. “Relate to” and “relating to” mean, without limitation, to make a statement about, refer to, discuss, describe, reflect, contain, identify or in any way pertain to, in whole or in part, or being logically, legally or factually related.

10. The term “PacifiCorp” or “Respondent” refers to the respondent in this action, PacifiCorp, dba Utah Power.

11. The term “Comcast” or “Claimant” refers to the claimant in his action, Comcast Cable Communications, Inc.

12. The term “attachment” or “pole attachment” means a bolt, clamp, wire, strand, piece of equipment, fixture or any related or similar item affixed to a support structure owned by PacifiCorp.

13. The term “audit” means any examination, analysis, inspection, investigation or review relating to attachments and facilities attached to PacifiCorp’s poles.

15. The term “2003 Audit” refers to the audit of PacifiCorp’s pole plant in Utah begun in 2003.

16. The term “facility” means any object attached directly or indirectly to a PacifiCorp support structure.

17. The term “support structure” means any pole or conduit system used for the attachment of communications wires.

18. “Unauthorized pole attachments” or “unauthorized attachments” means pole attachments inventoried by PacifiCorp for which PacifiCorp has no record of a preexisting installation permit granted to Comcast, AT&T or any of their predecessors.

### **DOCUMENTS TO PRODUCE**

1. All documents that evidence, reflect, or refer to communications between and among any agents, representatives or employees of MasTec and any agents, representatives or employees of Comcast with respect to the audit that was initiated by Comcast to verify the results of PacifiCorp’s 2003 Audit in Utah. The responsive documents should include but are not limited to the following: (a) instructions given to MasTec; (b) maps, facilities inspected, surveyed, and tabulated by MasTec; and (c) all data collected with respect to each support structure and each facility surveyed by MasTec.

2. All documents that evidence, reflect, or refer to communications between and among any agents, representatives or employees of MasTec with respect to the field processes and procedures used by MasTec or its agents to verify the results of the 2003 Audit. The responsive documents should include but are not limited to the following: (a) instructions given to persons conducting the actual field inspections; (b) maps, facilities inspected, surveyed, and tabulated; and (c) all data collected with respect to each support structure and each facility surveyed.

3. All documents that evidence, reflect, or refer to communications between and among any agents, representatives or employees of MasTec with respect to the results of PacifiCorp’s 2003 Audit.

4. All documents that evidence, reflect, or refer to communications between and among any agents, representatives or employees of MasTec with respect to the attachments that PacifiCorp identified as unauthorized attachments belonging to Comcast in Utah.

5. Any and all project results MasTec submitted to Comcast since the commencement of the audit that was initiated by Comcast to verify the results of PacifiCorp's 2003 Audit in Utah.

6. Any and all documents defining the scope of MasTec's contract with Comcast in connection with the audit that was initiated by Comcast to verify the results of PacifiCorp's 2003 Audit in Utah. For the purposes of this request "scope" means the precise categories of data to be collected on each pole and how that information is compiled and communicated to Comcast.

7. All documents that evidence, reflect or refer to communications between and among any agents, representatives or employees of MasTec and any agents, representatives or employees of PacifiCorp with respect to the audit that was initiated by Comcast to verify the results of PacifiCorp's 2003 Audit in Utah.

8. All documents that evidence, reflect or refer to communications between and among any agents, representatives or employees of MasTec and any agents, representatives or employees of PacifiCorp with respect to PacifiCorp's joint use pole network in Utah.

9. All documents that evidence, reflect or refer to communications between and among any agents, representatives or employees of MasTec and any agents, representatives or employees of PacifiCorp with respect to the results of PacifiCorp's 2003 Audit.



Dated: May 27, 2004.

PACIFICORP

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Gary G. Sackett  
JONES WALDO HOLBROOK & McDONOUGH, PC

Charles A. Zdebski  
Raymond A. Kowalski  
Allison D. Rule  
TROUTMAN SANDERS LLP

Gerit Hull, Counsel  
PACIFICORP

*Attorneys for PacifiCorp, dba Utah Power*

## **NOTICE TO PERSONS SERVED WITH A SUBPOENA**

### **Subpoena to produce or to permit inspection and copying of documents or tangible things.**

1. You must produce documents as you keep them in the ordinary course of business or organize and label them to correspond with the categories demanded in the subpoena; and you need not make any copies or advance any costs for production, inspection or copying. If you agree to make copies, the party who has served the subpoena upon you must pay the reasonable costs of production and copying.

2. You have the right to object if the subpoena: a. imposes an undue burden or expense upon you; b. does not allow you at least 14 days to comply, unless the party serving the subpoena has obtained a court order requiring an earlier response; c. requires you to disclose a trade secret or other confidential research, development or commercial information; d. requires you to disclose privileged communication with your attorney or privileged trial preparation materials; or e. requires you to disclose an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from expert's study made not at the request of any party.

3. To object to a subpoena for one of the reasons stated in paragraph 2, you must provide notice in writing of your objection to the party or attorney serving the subpoena before the date specified in the subpoena for you to respond. If your objection is based on either paragraph 2(c), 2(d), or 2(e), your written objection must describe the nature of the documents, communications or things that you object to producing with sufficient specificity to enable the party or attorney serving the subpoena to contest your objection. You must also comply with the subpoena to the extent that it commands production or inspection of materials to which you do not object.

4. After you make timely written objection, the party who has served the subpoena upon you must obtain a Public Service Commission (“Commission”) order to compel you to comply with the subpoena. The party must give you a copy of its motion for a Commission order and notice of any hearing. You have the right to file a response to the motion with the Commission and a right to attend any hearing. After you make a timely written objection, you have no obligation to comply with the subpoena until the party serving the subpoena has served you with a Commission order that compels you to comply.

5. If this subpoena commands you to produce or to permit inspection and copying of documents or tangible things, you may object to the production or inspection of documents or tangible things by following the procedure identified in paragraph 3. Even though you object to production or inspection of documents or tangible things, you must appear in person at the hearing unless you obtain an order of the Commission by following the procedures identified in paragraph 4.

## CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of May 2004, a true and correct copy of the enclosed SUBPOENA FOR THIRD-PARTY BUSINESS RECORDS and associated NOTICE was hand-delivered or mailed via overnight courier service, to:

MasTec Services Company  
800 Douglas Rd., Penthouse  
Coral Gables, FL 33134

Corporations Service Company  
Gateway Tower East, Suite 900  
10 East South Temple  
Salt Lake City, Utah 84111

A true and correct copy was mailed via electronic mail, first-class mail or overnight courier service to:

Jerold G. Oldroyd  
Angela W. Adams  
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[lmathie@utah.gov](mailto:lmathie@utah.gov)

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Carolyn Christensen