



1 **Q: Could you please state your name and occupation?**

2 A: My name is Mark A. Deffendall. My title is Construction Supervisor for Comcast. I  
3 work as the Network Power Supervisor. I supervise a crew that does the maintenance  
4 on the power supplies supporting Comcast's network. My geographic area of  
5 responsibility stretches from the Idaho border to Nephi, and from Park City to Tooele. I  
6 am based in Sandy, Utah.

7 **Q: What is your employment history?**

8 A: After completing high school in 1976, I enlisted in the military and served in the United  
9 States Air Force as a law enforcement specialist. After I was honorably discharged in  
10 1981, I worked as a security guard. In 1983, I began my career in the cable television  
11 industry by working for Long Beach Cablevision as an Installer. I stayed in that  
12 position for approximately one and half years. After that, I began working as a  
13 Construction Technician for that same company in San Diego, California. I stayed in  
14 that position for approximately another year and a half.

15 In 1987, I went to work for Falcon Cable as a Construction Foreman in Riverside,  
16 California. In that position, I oversaw cable plant construction, which included various  
17 aspects of construction, including new construction and repair of existing plant. During  
18 the time I worked at Falcon Cable, I was promoted from Foreman to Supervisor to  
19 Manager.

1 In 1994, I moved to Utah to accept a position with Insight Cablevision as a Construction  
2 Manager. Then, in 1995, I began working for Provo Cable, also known as NorthStar.  
3 Provo Cable was a start-up company that hired me to assist with the make-ready,  
4 engineering and permitting associated with construction of a new fiber interconnect  
5 between schools. In 1996, I went to work for TCI, Comcast's predecessor, as a  
6 Contractor Coordinator. The following year, I moved to TCI's construction department.  
7 In 1998, I began doing power supply maintenance. Since 1998, I have been working  
8 with power supply maintenance first with TCI, then with AT&T Broadband, and now  
9 with Comcast. Although the company has changed hands, my job has generally  
10 remained the same since 1998.

11 **Q: Turning back to your time working for cable operators in California, what, if any,**  
12 **interaction did you have with pole owners?**

13 A: Interacting with pole owners was a significant part of my job. From approximately  
14 1990-1992, my job consisted largely of securing pole attachment permits. The  
15 California pole owners I worked with primarily, Southern California Edison and the  
16 City of Riverside, required cable companies to file extremely detailed permitting  
17 applications in order to gain access to any single pole.

18 **Q: What did that process involve?**

19 A: I would submit applications containing pole identification numbers, map numbers, site  
20 identifications numbers, and make-ready worksheets describing the details of the poles

1 including the height of attachments and load information. If the pole needed make-  
2 ready work, I would submit engineering or make-ready drawings (done by outside  
3 contractors) identifying what work needed to be done in order for the cable company to  
4 attach.

5 After I submitted these applications, the pole owners had a limited amount of time to  
6 respond with approval, denial or requests for make-ready. If I was required to do make-  
7 ready, I had a limited amount of time to get that done. Overall, the parties' relationship  
8 was highly structured. Both the cable operator and the pole owner had a burden to make  
9 sure that all "T's" were crossed and "I's" were dotted.

10 **Q: Did the pole owners create this process?**

11 A: It was my understanding that the attachment requirements were set by the state (General  
12 Order 95) but that the pole application process was established by the pole owners  
13 themselves.

14 **Q: When you arrived here in Utah, how did the pole attachment processes compare  
15 with what you were accustomed to in California?**

16 A: It was very different. First off, Mark Dickenson, my plant manager at Insight, told me  
17 that the process in Utah was not structured like it was in California.

1 **Q: So, what was the process?**

2 A: To be honest, when I got to Utah, I was a little surprised. Mr. Dickenson told me  
3 applications were usually made by calling Utah Power and just asking for permission to  
4 attach. At Insight, the general understanding was that pole attachment approval could  
5 be, and always was, obtained by simply calling Utah Power and asking if it was all right  
6 to attach.

7 **Q: How did that work?**

8 A: The process was not formalized in any way that I could tell. It seemed like the process  
9 often took place between family members or friends. The attaching companies just  
10 contacted someone they knew at Utah Power and got permission to attach from that  
11 person. These people acted like and stated that they had authority from Utah Power to  
12 authorize attachments. For example, I had a guy working for me whose last name was  
13 Walker. I think his first name was Scott. His brother Lance worked for Utah Power.  
14 Scott Walker and I obtained approval for Insight's pole attachments and hooking up  
15 power to power supplies by just calling Lance Walker at Utah Power and asking for it.  
16 Based on my interaction with Lance, I understood Utah Power's position to be that if  
17 there was room on the poles, Insight could attach. In fact, Lance told me just that. I  
18 further understood from my conversations with him, that Lance did not want me to  
19 contact him each time Insight needed to put up attachments. Instead, I understood that I  
20 had permission to attach as long as there was room on the pole.

1 **Q: Did Lance Walker or anyone else at Utah Power confirm the approval to attach in**  
2 **writing?**

3 A: No. Pole owners here in Utah, at least when I arrived in the mid-1990s, did not seem  
4 particularly concerned with pole attachment application procedures. Specifically with  
5 respect to Utah Power & Light, the procedures were almost non-existent. It was my  
6 observation that a lot of work was done with a telephone call and a handshake. I know  
7 this has changed over the last few years, but in the mid-1990s when I arrived in Utah,  
8 that is how permitting was done.

9 **Q: Why do you think there was such a difference in the process in Utah compared to**  
10 **your experience in California?**

11 A: First, Utah power was a local company and seem to do things the “small town way.”  
12 Large parts of the state were—and still are—very rural. Since the poles were not  
13 particularly crowded, there was little for the pole owners to oversee. Generally, there  
14 was plenty of room to attach. Because there was usually plenty of room to attach, to  
15 some extent, Utah Power may have considered it a waste of their time to process and  
16 manage attachment applications.

17 Second, the bulk of the poles didn’t have pole numbers to identify them individually or  
18 markers to identify the owner of the poles. Many of the poles that did not have numbers  
19 did not have addresses either because they were in the rural areas of the state. With no  
20 number and no address, it was impossible to identify the poles accurately.

1 Third, in the mid-1990s, I observed a massive construction boom in Utah. I recall that  
2 Utah Power seemed overwhelmed just trying to get new customers connected to power.  
3 I cannot speak as to whether Utah Power was uninterested in managing its poles, but it  
4 appeared to me that they simply did not have the time or the resources to deal with pole  
5 attachment applications. As a result, Utah Power's policy, as conveyed to me was that  
6 if there is room on the poles, then we should just go ahead and attach.

7 Additionally, in the late 1990's, when Utah power was bought by a larger company, that  
8 company brought in new procedures. For example, they started demanding pole  
9 applications and began placing numbers on poles to identify them. Prior to that, I think  
10 the general field relations between various pole owners and occupants were more  
11 relaxed because Utah Power did not enforce or adhere to, or even have, strict regulations  
12 like we had in California. When I arrived in Utah, I observed a cooperative attitude that  
13 facilitated construction with a minimum of utility oversight. The system seemed to  
14 work well for both the cable operators and the pole owners.

15 **Q: Did you have the same experience with Provo Cable?**

16 A: Yes. Despite my experiences with Insight, when I first started at Provo Cable, I filled  
17 out applications for all of the new poles to which Provo Cable wanted to attach.

18 **Q: But didn't you just say that the process with Utah Power was informal?**

19 A: Yes, but Provo Cable was a start up company and they were trying to do the process  
20 right the first time. I wanted to make sure I had all my bases covered. I did not want to

1 risk complicating Provo Cable's project by providing Utah Power with inadequate  
2 attachment requests.

3 **Q: What type of applications did you submit?**

4 A: I don't remember Utah Power having an application form. I believe I used a format that  
5 just mirrored the one used in California. In addition, I attached a walk-out sheet and  
6 maps to these detailed applications showing the location, the current condition, and load  
7 information of each of the poles.

8 **Q: What did you do with this information?**

9 A: I submitted it to Utah Power. I took the applications to a Utah Power joint use  
10 supervisor whose first name was Clyde. I do not recall his last name. I went to see him  
11 in his office. I had originally asked to take him to lunch to explain what Provo Cable  
12 was seeking to do and to establish a good working plan. Clyde declined the lunch  
13 invitation, so I brought the applications to him at his office. When I arrived with the  
14 completed applications, Clyde met me in his office and took the stack of applications  
15 from me. He just set the stack aside on his desk. He then told me that as long as there  
16 was room on the poles, Provo Cable could put up attachments. He said that I should just  
17 look up at the pole and if there was room, attach. That was the full extent of my  
18 permitting process experience with Utah Power when I worked at Provo Cable.

1 **Q: After this meeting, did Clyde or anyone else Utah Power contact you about the**  
2 **applications?**

3 A: No. It did not appear to me that Utah Power ever did anything with the applications. I  
4 did not get anything back approving, denying or requesting modifications to the  
5 attachments.

6 **Q: Are you familiar, generally speaking, with what is in dispute in this proceeding?**

7 A: Yes, I am. My understanding is that there is a dispute between Comcast and PacifiCorp  
8 regarding what PacifiCorp claims are unauthorized attachments that belong to Comcast.  
9 I understand that PacifiCorp claims it has no records for many of Comcast's  
10 attachments.

11 **Q: Is this surprising to you?**

12 A: That there is a dispute? Or that PacifiCorp claims that there are no records for these  
13 attachments?

14 **Q: Either.**

15 A: Well, I'm a little surprised that there is a dispute because while the process was not  
16 formalized when I participated in making pole attachments, we got along well with Utah  
17 Power and things seemed to work fairly smoothly. However, I'm not at all surprised  
18 that Utah Power and PacifiCorp have no records for so many of the cable attachments.

1 **Q: Why is that?**

2 A: Because it was my impression that Utah Power wasn't very concerned with keeping  
3 records. As I said, the attachment process was very informal. It was my experience that  
4 Utah Power required, at most, a phone call before granting approval. As I said before,  
5 in some cases, it didn't even require that much. We just looked to see if there was room,  
6 and then put up the attachments according to Clyde's directions. Although I attempted  
7 to submit pole-by-pole permit applications, I am not aware that Utah Power ever  
8 actually accepted written applications, during the time I was applying for permits.

9 **Q: To your knowledge, besides the problems with PacifiCorp records you described**  
10 **above, does PacifiCorp have other problems with record keeping and retention?**

11 A: Yes. As I mentioned, my current job duties include monitoring power supplies for  
12 Comcast's network. One of my responsibilities is reviewing the invoices PacifiCorp  
13 submits to Comcast for metered or flat-rate power services to the power supplies. Over  
14 the last few months, I have looked at the accounting records showing the invoices sent  
15 to Comcast from PacifiCorp for metered power. In looking at these, and examining the  
16 charges in the field, I have found that power for many power supplies has been  
17 disconnected or removed but that PacifiCorp continues to bill Comcast for it. In some  
18 cases, I have requested that PacifiCorp remove the power supplies where Comcast no  
19 longer has facilities. PacifiCorp not only fails to cut the power, but it continues to bill  
20 Comcast for the unused power supply.

1 **Q: Does that conclude your testimony?**

2 A: Yes it does.