

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

2 A: My name is Gary Goldstein.

3 **Q: Have you reviewed the direct testimony PacifiCorp submitted in connection with**
4 **Docket No. 03-035-28?**

5 A: Yes.

6 **Q: In that testimony, Cory Fitz Gerald testified that PacifiCorp conducted an audit of**
7 **its facilities in 1997 and 1998. Was Comcast given notice of that audit prior to the**
8 **completion of the audit?**

9 A: No. I was not aware that this audit had taken place prior to this case. The only
10 information I have about this audit is from what PacifiCorp employees have testified to
11 in connection with this case.

12 **Q: Did PacifiCorp produce any results from the 1997/1998 Audit to Comcast?**

13 A: No, I personally did not receive any results and I am not aware that anyone else at
14 Comcast received these results either.

15 **Q: Are you familiar with Ms. Fitz Gerald's claim that the "unauthorized"**
16 **attachments at issue in this action were identified by comparing the results of the**
17 **2002/2003 Audit to those of the 1997/1998 Audit?**

18 A: Yes.

1 **Q: On page 31 of her testimony, Ms. Fitz Gerald testified that as a result of comparing**
2 **these audits, PacifiCorp identified 35,439 “unauthorized” attachments. Do you**
3 **think this comparison is accurate?**

4 A: Absolutely not. As I mentioned in my initial testimony, I would estimate that 99% of
5 Comcast’s attachments were already installed before Comcast began upgrading its
6 system in 1999. In fact, most of these attachments have been in place for 15-25 years.
7 If PacifiCorp accurately audited its plant in 1997 and 1998, it would have located almost
8 all of Comcast’s current attachments. A comparison of those results to the results of the
9 2002/2003 Audit would have identified very few new attachments, and even fewer
10 unpermitted attachments.

11 Comcast has not even put up 35,000 new attachments in the last seven years, let alone
12 35,000 *unpermitted* attachments between 1997 and 2002. Currently, Comcast is being
13 billed for just over 100,000 attachments per year. According to PacifiCorp’s count of
14 “unauthorized” attachments, that would mean that Comcast put up more than one-third
15 of its network in the five years from 1997-2002. This is not the case.

16 **Q: How do you know?**

17 A: I work in the design department designing new systems and the upgrade of old systems.
18 My department has not designed 35,000 poles worth of new network in the last seven
19 years. As I indicated before, we have put up very few new attachments since 1997.
20 Since 1997, Comcast’s efforts have been dedicated to upgrading its system, which is

1 done primarily by overashing new fiber optic cables to existing attachments—*i.e.*, those
2 same attachments that have been there since the 1980’s when initial construction was
3 completed. We have not been building entirely new systems or constructing massive
4 new additions to existing systems. New attachments have been restricted essentially to
5 line extensions for a few new subdivisions and/or houses. In those cases, we put up new
6 attachments only when necessary to serve new customers in areas where no systems
7 existed previously. These kinds of line extension projects account for very little
8 additional aerial plant construction. In fact, much of the line extension work that we do
9 in Utah goes underground in the new subdivisions.

10 **Q: If Comcast has not put up more than 35,000 new pole attachments since**
11 **PacifiCorp’s 1997/1998 Audit, how do you think PacifiCorp came up with 35,439**
12 **as the number of “unauthorized” attachments?**

13 A: I have no idea. It is impossible for Comcast to compare the results of PacifiCorp’s
14 2002/2003 Audit to the results of the 1997/1998 Audit.

15 **Q: Why is that?**

16 A: Although PacifiCorp claims that the results of the 1997/1998 Audit are the baseline for
17 the current audit, PacifiCorp also claims it is unable to produce the results of its
18 1997/1998 Audit.

19 **Q: In your opinion, is PacifiCorp’s 2002/2003 Audit accurate.**

1 A: No.

2 **Q: On what do you base that opinion?**

3 A: I checked out Comcast's permitting records and compared those records to PacifiCorp's
4 invoices and found that Comcast actually *is* permitted for many of the so-called
5 "unauthorized" attachments that PacifiCorp has fined us for.

6 **Q: Can you describe the verification process you followed?**

7 A: Yes. As I stated in my initial testimony, I have the permitting records for the Salt Lake
8 area. These records consist of maps identifying entire geographic areas where Comcast
9 has applied for pole attachment permits. Historically, PacifiCorp did not approve our
10 attachment requests on a pole-by-pole basis, but on a blanket, area-wide basis by signing
11 the form known as Exhibit A. I attached some examples of these authorizations to my
12 initial testimony as Exhibit 1. By signing the Exhibit A, PacifiCorp gave Comcast
13 permission to attach to every pole in the geographic area represented on the attached
14 map.

15 I compared those mapping and Exhibit A records that I have maintained all these years
16 to the invoice sent to Comcast by PacifiCorp for PacifiCorp's Salt Lake Metro district.
17 This invoice is essentially the same as the document attached to Ms. Fitz Gerald's initial
18 testimony as Exhibit 6.

1 **Q: How did you make the comparison between your maps and the PacifiCorp invoices**
2 **and what was the result?**

3 A: I randomly selected 39 poles from the back-up matrix that PacifiCorp provided with its
4 “unauthorized” attachment invoices (in the same form as the Fitz Gerald Ex. 6, but
5 representing the Salt Lake Metro area instead of Layton). Of those 39 poles, my maps
6 show that Comcast has authorization to attach to at least 35 of the poles. Attached to
7 this testimony as Exhibit 1 is a spreadsheet showing the results of my comparison.

8 **Q: What about the other 4 poles?**

9 A: It is difficult to determine definitively whether Comcast has specific authorization for
10 those attachments, simply because these four poles are located on the perimeter of the
11 maps. I would have to actually go into the field and check these in person, rather than
12 just comparing PacifiCorp’s latitude and longitude measurements to Comcast’s maps.
13 However, I believe very strongly that Comcast has authorization for these permits as
14 well.

15 **Q: Are you saying that PacifiCorp has billed Comcast for “unauthorized”**
16 **attachments to poles that you can prove Comcast has authorization to attach to?**

17 A: Yes.

18 **Q: What are the dates on these permits?**

19 A: These maps date back to 1978-1983.

1 **Q: Does that mean that PacifiCorp has billed Comcast for so-called “unauthorized”**
2 **attachments to poles that it expressly gave Comcast permission to attach to back in**
3 **1978-1983?**

4 A: Yes. If PacifiCorp adequately audited its network in 1997 and 1998 as it claims, it
5 would have discovered these attachments at that time and, therefore, would not have
6 discovered them for the first time in the 2002/2003 Audit. Further, if their records are
7 as all-inclusive as they suggest, they would have the records to show Comcast’s
8 authorization. If they had those records, they would not have made such significant
9 errors in the audit results.

10 As I said in my initial testimony, Utah Power/PacifiCorp received copies of all of these
11 permits at the time they signed them. If their records are complete, then they already
12 know that Comcast has permission to attach to these poles upon which they now claim
13 there are “unauthorized” attachments. Therefore, the only reasonable conclusion I can
14 draw is that the PacifiCorp records, despite their claims and despite their 1997/1998
15 Audit, are far from complete.

16 **Q: Ms. Fitz Gerald also claimed that the invoices show pole number and map string**
17 **numbers. She claimed that Comcast should be able to show authorization for each**
18 **pole by using those identifying numbers since those numbers are required on the**
19 **permitting application. Is that accurate?**

1 A: Not at all. As I said previously, the large majority of Comcast's network was built 15-
2 25 years ago. At that time, PacifiCorp did not require map string or pole numbers on
3 permitting applications. During this period the poles didn't have tags that identified that
4 information. Accordingly, Comcast permitted the poles by using a map showing the
5 geographic area where it would attach rather than by listing non-existent map string and
6 pole numbers.

7 **Q: Does this conclude your testimony?**

8 A: Yes.