
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

COMCAST CABLE COMMUNICATIONS,)	
INC.,)	Docket No. 03-035-28
)	
Claimant,)	PREPARED SUR-REBUTTAL
v.)	TESTIMONY OF BRIAN M. LUND
)	FOR PACIFICORP
PACIFICORP, dba UTAH POWER,)	
)	
Respondent.)	July 22, 2004
)	

1 **Q. Please state your name and business address.**

2 A. My name is Brian M. Lund. My business address is 2840 East Yellow Stone,
3 Casper, Wyoming 82609.

4 **Q. Have you previously submitted testimony in this proceeding?**

5 A. Yes.

6 **Q. Attached to your written testimony is Exhibit PC 4.8. Was this prepared by you
7 or under your direction?**

8 A. Yes.

9 **Q. Have you read the rebuttal testimony offered by Rodney Bell, Gary Goldstein,
10 Michael Harrelson, Joanne Nadalin, and Martin Pollock on behalf of Comcast in
11 the above captioned proceeding?**

12 A. Yes. I have read their testimony.

13 **Q. Do you have an overall reaction to that testimony?**

14 A. Yes. At page 4 of his rebuttal testimony, Mr. Harrelson claims that
15 PacifiCorp's policies are designed to discourage third-party use. In fact, PacifiCorp's

1 policies are not designed to discourage joint use, but to encourage *responsible* joint
2 use. Rather than cooperate in this approach, Comcast, as highlighted by the testimony
3 of its witnesses, has engaged in finger pointing and blame shifting on numerous issues,
4 including safety.

5 Mr. Harrelson asserts that PacifiCorp is assuming that all problems are
6 Comcast's fault. This is not the case. PacifiCorp has invited Comcast many times to
7 provide evidence contradicting the results of the 2002/2003 Audit with regard to
8 unauthorized attachments and safety violations. Comcast still has provided no
9 specifics addressing these issues, but instead has offered only generalized objections
10 that allow for no meaningful progress.

11 Comcast has refused to take responsibility for the actions of its contractors
12 working on PacifiCorp's poles. This approach to managing its joint use activities is
13 unacceptable to PacifiCorp, which has an obligation to its customers, the general public
14 and its owners to maintain its system properly.

15 **Q. Is PacifiCorp holding Comcast responsible to every safety violation existing on**
16 **PacifiCorp's poles?**

17 A. No. PacifiCorp willingly has acknowledged that it is not infallible, and that
18 other third-party attachers using PacifiCorp's facilities are not immune from making
19 mistakes. Rather than lay blame on Comcast for every safety issue involving
20 PacifiCorp's poles, Joe Clifton and I explained to Comcast during the February 2004
21 meeting that if Comcast discovered that a particular safety issue is not its fault, it

1 should bring that fact to PacifiCorp's attention so that the two parties can work
2 together to resolve the matter. In fact, as communicated to Comcast, the plan of
3 correction requested by PacifiCorp presents an opportunity for Comcast to 1) identify
4 safety issues that it believes it can correct; 2) identify issues that it cannot correct; and
5 3) identify issues that it believes were not its fault. To my knowledge, Comcast has not
6 accepted this invitation; indeed, none of the testimony offered by Comcast has
7 acknowledged this aspect of PacifiCorp's operations.

8 **Q. Do you believe PacifiCorp's permitting and safety requirements have**
9 **generated hostility and mistrust between PacifiCorp and Comcast?**

10 A. No. Mr. Harrelson has stated that there must be trust in order for joint use
11 relationships to work. I do not disagree. However, Mr. Pollock's position with regard
12 to the new application form and the existence of permitting requirements requiring
13 PacifiCorp's prior approval does not promote the trust relationship that Mr. Harrelson
14 speaks about. Comcast's approach creates a classic "Catch 22" for PacifiCorp.
15 Comcast repeatedly fails to comply with its obligations, and then either blames
16 PacifiCorp for not sufficiently policing Comcast's conduct or cries foul when
17 PacifiCorp seeks to enforce Comcast's obligations.

18 **Q. In his rebuttal testimony, Mr. Bell denies that Comcast has instructed its**
19 **contractors in the field to install facilities as quickly as possible and disregard**
20 **safety concerns. Can you provide any additional detail regarding the**

1 **conversations with Comcast contractors that you identified in your initial**
2 **testimony?**

3 A. Yes. On February 24, 2004, I encountered Comcast contractors employed by
4 Fibertel making attachments to PacifiCorp poles requiring prior make-ready work.
5 When I approached one of the contractors about this matter, he informed me that
6 Comcast did not authorize them to perform make-ready work. He also told me that
7 Comcast had instructed the contractors to install the facilities as fast as possible and in
8 any way possible and told the crews that safety issues would be addressed at some
9 point in the future. I asked the contractor if Comcast had provided them with any
10 documentation of engineering plans or walk-out instructions. The contractor informed
11 me that Comcast only provided them with a map illustrating fiber routes. This
12 information was subsequently confirmed during a conversation I had with his
13 supervisor the same day.

14 On February 25, 2004, I was contacted by the manager for the Fibertel crew I
15 had encountered the day before. He confirmed that Comcast did not authorize his
16 crews to perform make-ready work, and he was quite agitated that Comcast apparently
17 was attempting to blame his crew for this issue. He told me that in the past year and a
18 half that he was employed by Fibertel as a Comcast contractor, Comcast has
19 consistently instructed crews to get attachments in the air “fast and cheap.”

20 I informed Tim Jackson of Comcast of my concerns and received a less-than-
21 satisfactory response. Attached as Ex. PC 4.8 is the e-mail I sent to Mr. Jackson

1 documenting my concerns and requesting more information from Comcast regarding
2 the information it provides to its contractors. Mr. Jackson's response did not address
3 any of the specific questions put to him in my e-mail.

4 **Q. Please respond to Mr. Pollock's contention that PacifiCorp's primary concern is**
5 **"catching Comcast in the act."**

6 A. Mr. Pollock's assertion is not true. PacifiCorp inspectors are simply working
7 existing applications in the field. However, if during this process, inspectors witness
8 unpermitted work or observe a safety concern, it is their responsibility to address the
9 situation and to protect the reliability, integrity, and safety of PacifiCorp's distribution
10 system, as well as to protect the safety of the general public and all individuals
11 performing work on PacifiCorp's poles.

12 **Q. Is PacifiCorp imposing "penalties" on Comcast for safety violations in Utah?**

13 A. No. Presently, in Utah, all that has been asked of Comcast is that it correct the
14 violations caused by its attachments to PacifiCorp's poles and that it present to
15 PacifiCorp any instances where Comcast discovers a safety issue which it believes is
16 not attributable to its activities on PacifiCorp's facilities. PacifiCorp's requirement that
17 Comcast perform work in a safe manner is in no way a "penalty."

18 **Q. Does this conclude your testimony?**

19 A. Yes.