

STATE OF UTAH)
) ss.
County of Salt Lake)

I, Gary Goldstein, of lawful age and being first duly sworn, depose and state as follows:

1. I am over 18 years of age and am competent to testify regarding the matters in this Affidavit. All of the information contained in this Affidavit is my personal knowledge.

2. During the initial cable build in Utah in the 1970's and 1980's, TCI, Comcast's predecessor, permitted its pole attachments by engaging in a three-party walk-out with Mountain Bell, predecessor to Qwest, and Utah Power & Light, predecessor to PacifiCorp. Representatives for each of the respective companies made notations for make-ready work and other instructions on permitting maps that were then submitted to PacifiCorp and Qwest with an Exhibit A sheet, which the pole owners signed to indicate authorization for Comcast to attach to the poles.

3. In the spring of 2004, I produced copies of the original permitting maps and Exhibit A's from the Salt Lake area that were in my possession to Comcast's attorneys. In turn, Comcast's attorneys produced those documents to PacifiCorp. These maps reflect that Comcast's predecessor received permission from PacifiCorp to attach to many of the poles that PacifiCorp now claims have "unauthorized" attachments.

4. Prior to the August 23-26 Hearing ("Hearing"), I did a survey to verify the results of the 2002/2003 Audit by comparing PacifiCorp's "unauthorized" attachment invoices to the permitting maps and Exhibit A's that Comcast used in the 1970's and 1980's.

5. I randomly selected a sample of 39 poles that PacifiCorp identified as having “unauthorized” attachments as a result of the 2002/2003 Audit.

6. I then compared this information to the permitting maps and Exhibit A’s that Comcast produced to PacifiCorp. I discovered that Comcast had original permitting to prove authorization for attachment to 35 of the 39 poles that were audited.

7. I made a spreadsheet to show the results of this survey. It detailed the mapstring numbers, pole numbers, original permitting map numbers and Exhibit A numbers of the poles that I surveyed. That spreadsheet is attached as Exhibit 1 to this Affidavit.

8. After the Hearing, I surveyed a larger sample of poles because PacifiCorp complained that my first survey was too small to conclusively provide evidence of authorization.

9. I assigned a member of my design staff, Joseph Guice, to verify original attachment records for at least 500 of the poles invoiced by PacifiCorp as having “unauthorized” attachments.

10. Mr. Guice randomly selected 515 poles from PacifiCorp’s invoices containing so-called “unauthorized” attachments. He plotted the latitude and longitude coordinates provided by PacifiCorp on the permitting maps.

11. Subsequently, I compared those records to Comcast’s permitting maps and Exhibit A’s from the 1970’s and 1980’s. By doing this, I located the original permitting authorization for the majority of the 515 poles selected.

12. If I could not tell whether a particular pole had been permitted by looking at the permitting maps and Exhibit A’s, I verified whether the permitting existed by double checking the information in the field. Basically, I went and looked at those poles to determine whether they were the poles originally permitted.

13. The results of my second survey are attached to this affidavit as Exhibit 2.

14. Exhibit 2 identifies mapstring numbers and pole numbers as provided by PacifiCorp's invoices. Further, it identifies the nodes where these poles and attachments are located. The fourth and fifth columns identify the permitting map number and Exhibit A number upon which the original permitting for these attachments can be found. The final column specifies whether Comcast was permitted to attach to that specific pole in the original permitting paper work.

15. As shown in Exhibit 2, Comcast has the original permitting records for 412 of the 515 poles surveyed. This means that 80% of the poles randomly surveyed have back-up permitting records showing that PacifiCorp permitted these attachments in the 1970's and 1980's.

16. I could not locate any records for 60 of the poles, or 11.7% of those surveyed.

17. Another 39 poles, 7.6% of those surveyed, were drop poles for which Comcast does not have records because, until recently, it was not necessary to "permit" drop poles.

18. The remainder of the poles surveyed did not have Comcast attachments on them.

19. All total, out of 515 poles surveyed, Comcast can prove authorization for 80% of the alleged "unauthorized" attachments.

DATED: October 7, 2004.

Gary Goldstein

SUBSCRIBED AND SWORN to before me this 7th day of December, 2012.

Notary Public

My Commission Expires:

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of October, 2004, an original, five (5) true and correct copies, and an electronic copy of the foregoing **AFFIDAVIT OF GARY GOLDSTEIN** were hand-delivered to:

Ms. Julie Orchard
Commission Secretary
Public Service Commission of Utah
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84114
lmathie@utah.gov

and a true and correct copy mailed, postage prepaid thereon, to:

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