

Jerold G. Oldroyd, Esq. (#2453)
Angela W. Adams, Esq. (#9081)
Ballard Spahr Andrews & Ingersoll, LLP
One Utah Center, Suite 600
201 South Main Street
Salt Lake City, Utah 84111-2221
Telephone: (801) 531-3000
Facsimile: (801) 531-3001

Martin Arias, Esq.
Comcast Cable Communications, LLC
1500 Market Street
Philadelphia, PA 19102

J. Davidson Thomas, Esq.
Genevieve D. Sapir, Esq.
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Ave., N.W.,
Second Floor
Washington, D.C. 20006
Telephone: (202) 828-9873

Attorneys for Comcast Cable Communications, LLC

Submitted March 21, 2005

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

COMCAST CABLE COMMUNICATIONS,)	
INC., a Pennsylvania Corporation,)	
)	Docket No. 03 035 28
Claimant,)	
vs.)	
)	COMCAST’S PROOF OF POLE
PACIFICORP, dba UTAH POWER , an)	ATTACHMENT AUTHORIZATION
Oregon Corporation,)	
)	
Respondent.)	

Pursuant to the Utah Public Service Commission's ("Commission") December 21, 2004 Report and Order, Comcast Cable Communications, LLC, formerly Comcast Cable Communications, Inc. ("Comcast"), by and through its attorneys, Ballard Spahr Andrews & Ingersoll, LLP, hereby submits this Proof of Pole Attachment Authorization.

I. INTRODUCTION

During discovery in this docket, Comcast produced original permitting maps and Exhibit A's¹ from the Salt Lake area to PacifiCorp.² These maps document the permission PacifiCorp's predecessor, Utah Power (hereinafter "PacifiCorp"), granted to Comcast's predecessor (hereinafter "Comcast") to attach to many of the poles that PacifiCorp claims have "unauthorized" attachments as a result of the 2002/2003 Audit.³

During the August 23-26 Hearing in this matter, Comcast offered testimony regarding these original permitting maps. Specifically, Gary Goldstein testified as follows: "Looking at a random sample of 39 poles which PacifiCorp identified as unauthorized in the 2002/2003 audit, I found that TCI had obtained permits for at least 35 back in the 1970's and 1980's."⁴ With his testimony, Mr. Goldstein provided Comcast Exhibit 3.3, which details the mapstring numbers, pole numbers, original permitting map numbers and Exhibit A numbers of the poles for which

¹ During the initial cable build in Utah in the late 1970's and 1980's, Comcast's predecessor, TCI, 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. *See* H. Tr., pp. 114-15. *See also* Initial Testimony of G. Goldstein, pp. 2-6. The representatives for each of the companies made notations for make-ready and other instructions on permitting maps that were submitted to Utah Power & Light and Mountain Bell, respectively, with an Exhibit A sheet, which the pole owners signed to indicate authorization for TCI to attach to the poles. *See* Initial Testimony of G. Goldstein, pp. 2-6.

² These documents were produced to PacifiCorp in May 2004 and bates labeled CCC18952-CCC20640.

³ *See* Rebuttal Testimony of G. Goldstein, p. 5. During discovery, Comcast's Gary Goldstein undertook 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 were used in the 1970's and 1980's. Mr. Goldstein randomly selected a sample of 39 poles that PacifiCorp identified as having "unauthorized" attachments as a result of the 2002/2003 Audit. In comparing that selection of poles to permitting maps, he discovered that Comcast had original permitting to prove authorization for attachment for 35 of the 39 poles. *Id.* *See also* H. Tr., p. 71.

⁴ H. Tr., p. 71.

PacifiCorp had granted Comcast permission to attach, but for which PacifiCorp had, nonetheless, charged “unauthorized” attachment fees in connection with the 2002/2003 Audit.⁵

The Commission found this information credible and accurate, determining that Comcast was not required to pay unauthorized attachment charges for the 35 poles identified in Mr. Goldstein’s survey as “previously authorized.”⁶ The Commission then ordered Comcast to provide additional information regarding attachments which PacifiCorp had previously authorized. Specifically, the Commission’s December 21, 2004 Report and Order (“Order”) provides as follows:

Within ninety (90) days of the date of this Order, Comcast to present to Pacificorp **any additional information or analysis it possesses to prove that Comcast attachments on Pacificorp poles in Utah identified by the 2002/2003 Audit as unauthorized are in fact authorized** or are not owned by Comcast.⁷

Pursuant to that Order, attached as Exhibit 1 is a spreadsheet containing “additional information or analysis” demonstrating that PacifiCorp granted Comcast permission to attach to 7,596 poles for which PacifiCorp has assessed unauthorized attachment charges.

II. METHODOLOGY

Comcast used the same methodology in creating Exhibit 1 as was used by Mr. Goldstein in creating his original random sample of 35 poles.⁸ Comcast plotted the latitude and longitude coordinates provided by PacifiCorp on its permitting maps. Comcast then compared these records to Comcast’s permitting maps and Exhibit A’s from the 1970’s and 1980’s. In this

⁵ Rebuttal Testimony of G. Goldstein, Exhibit 1.

⁶ Order, pp. 16, 28, 30, and 33.

⁷ Order, p. 51, ¶ 4 (emphasis added).

⁸ Since Comcast has already been credited for the 35 poles which Mr. Goldstein’s initial survey determined were authorized, those 35 poles have been omitted from Exhibit 1.

fashion, Comcast located the original permits for many of the poles in Salt Lake County that PacifiCorp alleges have “unauthorized” attachments. In the instances where the permitting maps and Exhibit A’s did not definitively show authorization—because the poles on the map did not correspond exactly to PacifiCorp’s latitude and longitude measurements—or where Comcast does not have back-up data reflecting original permitting authorization, Comcast excluded these poles from Exhibit 1.

The spreadsheet attached as Exhibit 1 identifies mapstring numbers and pole numbers as provided by PacifiCorp’s invoices. The third column specifies the number of the original Exhibit A that was signed to permit attachment to a specific pole. The fourth column identifies the permitting map number upon which the original permitting for these attachments can be found. The fifth column delineates between poles that are specifically on the permitting map and those that did not require a permit because they are drop poles.⁹ The final column identifies the Bates number range of documentation supporting Comcast’s analysis.

III. RESULTS

Pursuant to the terms of the Order, Comcast was obligated to pay PacifiCorp penalties for unauthorized attachment to 38,919 poles. Exhibit 1 demonstrates that 6,548 of those poles were properly permitted by Comcast’s predecessor. Another 1,048 poles are drop poles that are located in the same geographic area. Although these poles do not appear on the original permitting maps, Comcast is entitled to reimbursement of the unauthorized attachment fees paid for these poles based on the fact that PacifiCorp did not require permit authorization for drop poles at that time. Accordingly, under the terms of the Commission’s Order, Comcast is entitled to be reimbursed for the 7,596 poles appearing on Exhibit 1.

⁹ Until recently, PacifiCorp did not require permits for drop poles.

IV. CONCLUSION

Based on the enclosed data, Comcast is entitled to be reimbursed at a rate of \$60.00 per pole for the 7,596 poles identified in Exhibit 1. Comcast is, therefore, entitled to payment of four hundred fifty-five thousand seven hundred and sixty dollars (\$455,760.00).

RESPECTFULLY SUBMITTED this 21st day of March, 2005.

COMCAST CABLE COMMUNICATIONS, LLC

Jerold G. Oldroyd, Esq.
Angela W. Adams, Esq.
Ballard Spahr Andrews & Ingersoll, LLP
201 South Main Street, Suite 600
Salt Lake City, Utah 84111-2221

Martin Arias, Esq.
Comcast Cable Communications, LLC
1500 Market Street
Philadelphia, PA 19102

J. Davidson Thomas, Esq.
Genevieve D. Sapir, Esq.
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, NW, Second Floor
Washington, D.C. 20006

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of March, 2005, an original, five (5) true and correct copies, and an electronic copy of the foregoing **COMCAST'S PROOF OF POLE ATTACHMENT AUTHORIZATION** 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 was sent via either U.S. Mail, postage prepaid, or electronic mail, to:

Gerit Hull
PacifiCorp
825 N.E. Multnomah, Suite 1700
Portland, Oregon 97232

Charles A. Zdebski
Alison Rule
Troutman Sanders, LLP
401 9th Street, NW, Suite 1000
Washington, DC 20004

Gary G. Sackett, Esq.
Jones Waldo Holbrook & McDonough
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101

Michael L. Ginsberg, Esq.
Patricia E. Schmid, Esq.
Heber M. Wells Building, Fifth Floor
160 East 300 South
Salt Lake City, Utah 84114
