



State of Utah  
Department of Commerce  
Division of Public Utilities

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## ACTION REQUEST RESPONSE

**To:** Public Service Commission

**From:** Chris Parker, Director  
Artie Powell, Energy Section Manager  
Joni Zenger, Technical Consultant  
Hsien-Ming Liu, Utility Analyst

**Date:** March 10, 2011

**Re:** Docket No. 11-035-05, Pole Attachment Agreement between PacifiCorp and  
CentraCom Interactive

## RECOMMENDATION

Approve the Agreement between PacifiCorp (the Company) and CentraCom Interactive

## ISSUE

On January 7, 2011, PacifiCorp (dba "Rocky Mountain Power") filed an Application with the Commission for Approval of a Pole Attachment Agreement (Agreement) between PacifiCorp and Central Utah Telephone, Inc., Skyline Telecom, Bear Lake Communications, Inc., and Central Telecom Services LLC (collectively dba "CentraCom Interactive"). CentraCom Interactive and PacifiCorp are together referred to as the "Parties." Along with the Application, the Company submitted a copy of the Agreement that was negotiated and agreed to by the Parties as well as a copy of the Company's Joint Use Distribution Construction Standards and its Electric Service Schedule No. 4. Utah Admin. R746-345-1(B)(2) requires parties to have Commission approval in the event that a negotiated agreement is used. Inasmuch as the

Agreement differs from the Commission-approved “safe harbor” pole attachment agreement in Docket No. 04-999-03, the Company requests that the Commission issue an order approving the Agreement and finding the terms and conditions of the Agreement to be just and reasonable and in the public interest.

## **DISCUSSION**

The Division reviewed the Company’s Application, the negotiated Agreement, and the Commission rules as they pertain to attachments. Rule R746-345-1 (B) 2 requires the pole owner to submit a tariff and standard contract for Commission approval. The Company submitted with the Application, its Electric Service Schedule No. 4 Pole Attachments. The Division notes that the CentraCom Interactive Agreement differs from the safe harbor pole attachment agreement in both substantive and nonsubstantive ways. The minor changes consist of adding a table of contents, consolidation of sections, and clarification of the Company’s administrative processes that were agreed to mutually by the Parties.

The CentraCom Interactive Agreement differs from the Safe Harbor in that it is a non-reciprocal agreement as opposed to the reciprocal relationship contemplated in the Safe Harbor. The contract rental rate was calculated using the Company’s approved Electric Service Schedule No. 4.

The substantive changes in the CentraCom Interactive Agreement include updated and more stringent insurance provisions, modified sections regarding the application process, changes to the number of days before rent begins to accrue, an increase in the length of time for CentraCom Interactive to pay outstanding invoices, an increase in the number of days for CentraCom Interactive to complete installation of attachments (180 days instead of 90 days), and modified relocation and termination provisions that differ from the Safe Harbor. The modified terms and conditions in the CentraCom Interactive Agreement are similar to the terms and conditions of the contract previously approved by the Commission in Docket No. 10-035-61 between PacifiCorp and Break Away Wireless (aka Manti).

All of the terms described above are reasonable and have been mutually agreed to by both Parties. Finally, the Company's Application and request for Commission approval includes the computation of the annual pole attachment rental rate and the Company's Distribution Construction Standards (EU), which provide engineering drawings covering joint use of poles. The Division reviewed both documents. First, it appears that the Company's Distribution Construction Standards (EU) is in conformance with the National Electrical Safety Code requirements. Second, the annual rental rate of \$7.02 per foot of space used is taken directly from Rocky Mountain Power's Electric Service Schedule No. 4 on file with the Commission.

### **TIMELINESS OF FILING**

As previously mentioned, the Parties jointly negotiated the terms and conditions of the proposed Agreement. The Agreement was signed by CentraCom Interactive on July 14, 2010, and by PacifiCorp on August 9, 2010. The Division notes that the Application was not filed with the Commission in a timely manner, as it was submitted on January 7, 2011, approximately six months after CentraCom Interactive had signed the agreement and five months after the Company finalized the agreement. Although the Company apologizes for the delay, it states in its attached cover letter that "the task was inadvertently delayed" as the Company was focusing on meeting the dates set forth in the Commission's Scheduling Order in the generic pole attachment docket (now consolidated to Docket No. 10-035-97).

In the Division's review of the TCG Utah pole attachment agreement, (filed eight months after the signing of the contract), the Division recommended that the Company file the contracts in a timely manner and before any pole attachments are installed.<sup>1</sup> The Division also recommended that the Company implement some type of internal control processes to avoid late filings. In the Commission's Report and Order in the TCG Utah docket, the Commission ordered the following:

the Company shall ensure that any future negotiated attachment agreements shall be submitted to the Commission in a timely manner and before any pole attachments are installed.<sup>2</sup>

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<sup>1</sup> Docket No. 09-035-52, Memo to the Commission, July 29, 2009, pp. 6-7.

<sup>2</sup> Report and Order, Docket No. 09-035-52, August 11, 2009, p. 4.

## **CONCLUSION**

After reviewing the Company's filing and accompanying documents, the Division finds that the Agreement among the Parties is reasonable and should be approved. The terms and conditions of the Agreement are for the most part consistent with the Commission-approved Standard Agreement. Where differences occur, they have been mutually agreed to by the Parties and are similar to the changes approved by the Commission in Docket No. 10-035-61. The proposed Agreement is clear, understandable, and allows for nondiscriminatory access of CentraCom Interactive to attach to the Company's poles.

The mutually negotiated terms and conditions of the Agreement are reasonable and in the public interest. The Division recommends the Commission approve the Application of Rocky Mountain Power and the accompanying Agreement with CentraCom Interactive with a warning on the timeliness of future filings. The Division respectfully requests that this Action Request be closed.

CC Dave Taylor, Rocky Mountain Power  
Michele Beck, Office of Consumer Services  
Barbara Ishimatsu, PacifiCorp