

FORMAL COMPLAINT FORM  
PUBLIC SERVICE COMMISSION  
Heber M. Wells State Office Building  
160 East 300 South, Fourth Floor  
P.O. Box 45585  
Salt Lake City, Utah 84114

1. **Name of Complainant:** Blyncsy, Inc.

**Address:** 224 S. 200 W., Suite 110, Salt Lake City, Utah 84101

**Telephone No.:** (801) 529-7432

Founded in 2014, Blyncsy™ is a Utah based information services company. Through proprietary Blyncs™ devices, the company captures the movement of people through their connected devices almost anywhere, anonymously to protect privacy. The data retrieved enables Blyncsy™ to perform virtual traffic studies every second of every day, making it possible to understand trends and provide insights into the movement of individuals and vehicles. Blyncsy's near real time data provides transportation managers, traffic engineers and elected officials greater insight into the performance of existing traffic grids leading to greater utilization of road-ways, improved traffic planning and new policy initiatives and improved traffic light timing. Further, Blyncsy data will assist all levels of transportation agencies (Utah Department of Utah, Utah Transit Authority, Metropolitan Planning Organizations, County and municipalities) in their planning and implementation activities. Reducing congestion, promoting greater use of mass transit, decreasing pollution are priorities these organizations pursue. The information to be provided by Blyncsy will be instrumental in fulfilling this public interest.

In addition, Blyncsy™ promotes public safety by providing fire departments, ambulance and public safety officials with information regarding travel time, congestion levels and alternative travel routes shaving critical minutes off of their response time.

Please see the attached letters from Wasatch Regional Council and the Utah League of Cities and Towns.

Blyncs™ devices employ unique traffic sensors that picks up electronic signals from vehicles, cell phones and other Bluetooth or Wi-Fi enabled devices as individuals and vehicles pass regularly throughout the day. These devices can be deployed indoor and outdoor – in locations as remote as ski resorts or as intimate as college campuses. The devices are housed in small, discrete boxes that are mounted adjacent to transportation corridors on distribution and/or light poles.



The devices operate on standard 110-volt, 220-volt or on a Blynco<sup>TM</sup> proprietary solar/battery system.

2. **The utility being complained against is:** Rocky Mountain Power
3. **What did the utility do which you (the Complainant) think is illegal, unjust, or improper? Include exact dates, times, locations and persons involved, as closely as you can.**

On September 16, 2015 Blynco<sup>TM</sup> contacted Diana Winchester in Rocky Mountain Power's Joint Use Administration department. Blynco<sup>TM</sup> completed and filed, Rocky Mountain Power's standard application to attach its sensors to poles. On September 22, 2015 Blynco<sup>TM</sup> received the following email response from Rocky Mountain Power to its request "I had a chance to review your application. We do not allow the type of attachments you are looking to install on PacifiCorp owned poles" without any additional explanation. Early in December 2015, Blynco<sup>TM</sup> requested reconsideration and on January 11, 2016 representatives from Blynco<sup>TM</sup> and its clients met with Jeff Larsen at the Rocky Mountain Power's North Temple Office. In response to Blynco's request Jeff Larsen arranged for Jeff Kent, Director of Distribution Support to meet with Blynco<sup>TM</sup> representatives via a conference call on February 2, 2016. In attendance were Jeff Kent and Alene Bentley from Rocky Mountain Power and Mark Pittman and Carol Hunter (consultant) from Blynco. During the call Jeff Kent indicated that Electric Service Schedule No. 4 – Pole Attachments was designed to accommodate telecommunication and data transmission. The Company rejected Blynco's request stating Blynco<sup>TM</sup> did not qualify as an "attaching entity" as defined in Utah Administrative Code § R746-345-2.

In an effort to resolve the issues Blynco<sup>TM</sup> and Rocky Mountain Power representatives met again on June 7 and July 1, 2016. Frank Pignanelli and Carol Hunter represented Blynco<sup>TM</sup> and Gary Hoogeveen, Jeff Larsen, Paul Radakovich, Lucky Morse and Jeff Kent represented Rocky Mountain Power. The discussions focused on legal and technical issues related to Blynco<sup>TM</sup> request. Specifically, whether 1) attaching Blynco's devices would create an overarching technical issue limiting Rocky Mountain's ability to accommodate the devices, 2) service could technically be provided to Blynco<sup>TM</sup> at 110 or 220-volts, 3) Blynco<sup>TM</sup> qualifies as an attaching entity under Electric Service Schedule No. 4 and Utah Admin. Code § R746-345-2, and 4) Rocky Mountain Power has an obligation to allow attaching entities access to secondary and street light poles.

After discussions regarding potential technical issues associated with attachment of the devices and electrical service it appears there are no overarching technical issues that would prohibit Blynco<sup>TM</sup> devices from being connected to the poles or to receive service. Any remaining issues would be site specific and would be addressed during the make-ready.



With respect to the legal issues Rocky Mountain maintained their position that Blyncsy™ does not qualify as an “attaching entity” and therefore is not entitled to service under Electric Service Schedule No. 4. Rocky Mountain Power has also taken the position that under Utah Admin. Code § R746-345-2 they are not obligated to allow attaching entities access to street light poles.

Mr. Hoogeveen indicated that an order from the Public Service Commission of Utah (“PSC”) identifying Blyncsy™ as a “attaching entity” and thereby qualified to receive service under Electric Service Schedule No. 4 was needed. Mr. Hoogeveen also indicated that the PSC would need to direct Rocky Mountain Power to provide Blyncsy™ access to the company’s secondary and street light poles.

According to Utah Administrative Code § R746-345-3(C)-5 “if a pole owner rejects any application, the pole owner must state the specific reasons for doing so. Applicants may appeal to the PSC if they do not agree that the pole owner’s stated reasons are sufficient grounds for rejection.” At this time Blyncsy™ is appealing to the Commission for relief.

**4. Why do you (the Complainant) think these activities are illegal, unjust or improper?**

We strongly believe Blyncsy™ is an information services company.

The PSC’s pole attachment rules provide that an “attaching entity” shall have nondiscriminatory access to a utility’s poles. The PSC’s rules define an “attaching entity” as a “public utility, wireless provider, cable television company, communication company *or other entity* that provides *information* or telecommunications *services* that attaches to a pole owned or controlled by a public utility.” Utah Administrative Code § R746-345-2(A) (emphasis added). Although the PSC’s rules do not define the term “information services,” this rule does invoke the familiar distinction between “telecommunication services” and “information services” under the federal telecommunications law. Accordingly we would ask that the PSC look to federal law for guidance in determining whether Blyncsy™ has the right to attach its devices to Rocky Mountain Power’s utility poles.

In enacting the Telecommunications Act of 1996, Congress defined “information service” in relevant part as “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing or making available information via telecommunications...” Under the Act and longstanding FCC precedent, Blyncsy’s service offering is a quintessential information service. Blyncsy™ combines information collection, data storage, data transmission via wireless communication and data processing functionalities to develop analytics provided to state and local governments and businesses over online dashboards. Therefore Blyncsy™ satisfies each element of the Act’s “information service”



definition and therefore should have the right to attach to Rocky Mountain Power's poles in Utah as provided in the PSC's pole attachment rules.

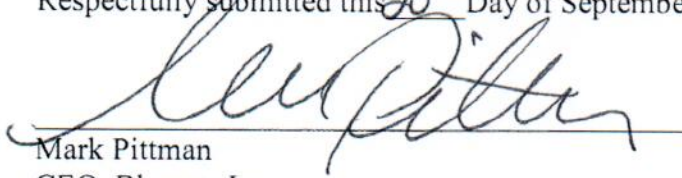
With respect to Blynscy™ right to attach to Rocky Mountain Power's secondary and street lighting poles. Pursuant to Utah Administrative Code § R746-345-1(B)(2), "a public utility must allow any attaching entity nondiscriminatory access to *utility poles* at rates, terms and conditions that are just and reasonable." (emphasis added). Although the term "utility poles" is not defined, the General Definitions in R746-345-2 clearly includes both "Distribution Poles" and "Secondary Poles." Logically then "utility poles" to which attachment rights apply must include both "Distribution Poles and Secondary Poles." In addition, R746-345-2 defines not just "Secondary Poles" but "Secondary Pole Attachment." The Administrative Code would not define a "Secondary Pole Attachment" if such were not permitted. It is therefore reasonable that Blynscy™ have the right to attach to Rocky Mountain Power's secondary poles.

Utah Administrative Code § R746-345 is silent with respect to an attaching entities ability to attach to street light poles. Once again we would ask that the PSC look to federal law for guidance in determining whether Blynscy™ has the right to attach its devices to Rocky Mountain Power's street light poles. Section 224 defines "pole attachment" to include "any attachment" to a "pole, duct, conduit, or right-of-way owned or controlled by a utility." This includes the right to attach on all manner of utility poles. Rocky Mountain Power may argue that Section 224's reverse preemption scheme does not require Utah to provide attachment rights as broad as under the federal scheme. The PSC does have the authority to consider the respective interest of customers of the attaching entity, in this case state and local government, and the utility pole owner in making such a determination. Given the ultimate goal of Blynscy™ to make the traffic grid a more efficient place, reduce carbon emissions, improve the flow of traffic, optimize transportation investment, support economic development, and so much more, we believe it is the interest of Blynscy's customers but of all Utah's that the PSC support Blynscy's request to attach to Rocky Mountain Power's secondary and street light poles.

**5. What relief does the Complainant request?**

Blynscy™ requests the Commission find in Blynscy's favor and in doing so direct Rocky Mountain Power to provide Blynscy™ service under the terms set forth in Electric Service Schedule No. 4 – Pole Attachments to attach to utility poles including secondary and street light poles. Further Blynscy™ would also request that Rocky Mountain Power be encouraged to engage in discussions with Blynscy™ regarding an electric service agreement designed to provide service to individual devices under a fixed rate.

Respectfully submitted this 20<sup>th</sup> Day of September, 2016

A handwritten signature in black ink, appearing to read 'Mark Pittman', written over a horizontal line.

Mark Pittman  
CEO, Blyncsy Inc.





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September 2, 2016

Utah Public Service Commission  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84114

Re: Request for pole attachment by information service companies

Dear Commissioners:

The Utah League of Cities and Towns (ULCT) writes the Utah Public Service Commission (PSC) in support of the request to access Rocky Mountain Power (RMP) utility poles by a information services company.

ULCT is a non-partisan, interlocal, government cooperative, working to strengthen the quality of municipal government and administration. ULCT represents municipal government interests with a strong, unified voice at the state and federal levels and provides information, training and technical assistance to local officials on municipal issues in order to create a greater public awareness and understanding of municipal responsibilities, governance and administration.

ULCT members are committed to using information in ways that help allocate taxpayer resources most efficiently across our cities and towns. The technology deployed by some information service companies plays a critical role in this effort. For example, the traffic analytics helps determine where to locate public safety resources and where investments should be made to improve transportation conditions (including investments in bike lanes, trails and other pollution-reducing infrastructure). Use of parks and outdoor recreation amenities can be measured. City planners and economic development officers can see our intraday population movements and trends. Our cities and towns are just beginning to scratch the surface on the possibilities such technology can provide. Having a fully deployed network of sensors will be an essential part of how we make use of such information.

UDOT, Utah's counties and cities can are now providing access to information companies within the areas they control. However, access to electric poles, lights, and other fixtures controlled by RMP is necessary for to obtain a full and complete picture of the traffic patterns in our cities. Because of this, ULCT enthusiastically supports requests by information service companies to attach their sensors to RMP poles and would like to emphasize to the commission the public service that this data provides.

The potential of new technologies to assist communities in their important goals to deliver high quality services at lower costs to their residents is boundless. We know that RMP shares these same objectives and should be partners with our members and other local government entities on this exciting endeavor. The public good and interest is served by RMP and other such organizations with a broad reach to provide reasonable and safe access to poles for information service companies in the collection of data. We appreciate the understanding of the PSC on this matter.

Should you have any further questions about cities' and towns' need to access this information, please do not hesitate to contact me.

Sincerely,

Kenneth H. Bullock  
Executive Director  
Utah League of Cities and Towns

MAKING Life  
BETTER

50 SOUTH 600 EAST SUITE 150 SALT LAKE CITY, UTAH 84102

Utah's Cities and Towns



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Utah Department of Transportation

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Utah League of Cities & Towns

Adam Trupp  
Utah Association of Counties

Robert Grow  
Envision Utah

Evan Curtis  
State Planning Coordinator

Andrew Gruber  
Executive Director



## WASATCH FRONT REGIONAL COUNCIL

Utah Public Service Commission  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84114

September 12, 2016

Re: Pole attachment by information service companies

To whom it may concern:

The Wasatch Front Regional Council (WFRC) is an Association of Governments organized under the Interlocal Cooperation Act of Utah State Law. The Council consists of 25 members, 19 of which are elected officials representing local governments from Box Elder, Davis, Morgan, Salt Lake, Tooele, and Weber counties, in addition to other state and local stakeholders. In addition, WFRC serves as the Metropolitan Planning Organization (MPO) responsible for coordinating transportation planning in the Salt Lake City-West Valley City and Ogden-Layton urbanized areas.

WFRC facilitates cooperation among elected representatives of local jurisdictions and agencies concerning region-wide problems, primarily transportation and growth planning. As part of this effort, WFRC develops short and long range transportation plans and participates in a variety of studies.

Good information is fundamental to the success of WFRC in completing its objectives. New technologies that capture the travel and lifestyle patterns of residents ensure that our planning and engineering activities maximize the potential benefit to the jurisdictions we serve. Better data translates into better planning to effectively promote public safety, cost efficiency in infrastructure development, access to jobs and educational institutions, traffic flow, economic development, etc.

Our ability to access relevant, anonymized data for our public purposes that is available through advanced technology is dependent upon cooperation and communication between many jurisdictions and entities.

We believe it is in the public interest that qualified information service companies be allowed reasonable access to infrastructure, such as utility poles, especially when local jurisdictions do not have such access or structures available. WFRC supports allowing information service and gathering companies to attach sensors and other equipment to utility poles because such access can advance the public interest.

Should you have any further questions about the value of our accessing this information, please do not hesitate to contact me.

Sincerely,

Andrew Gruber  
Executive Director  
Wasatch Front Regional Council