

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Rocky Mountain Power for Approval of the Pole Attachment Agreement between Rocky Mountain Power and XO Communications Services, LLC	<u>DOCKET NO. 17-035-58</u> <u>ORDER</u>
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ISSUED: December 7, 2017

On October 24, 2017, PacifiCorp, doing business as Rocky Mountain Power (“RMP”) submitted an application (“Application”) seeking approval of a pole attachment agreement (“Agreement”) with XO Communications Services, LLC (“XO”). On October 26, 2017, the Public Service Commission (“PSC”) issued a Notice of Filing and Comment Period, allowing interested parties to submit comments on or before November 24, 2017 and reply comments on or before December 4, 2017. On November 22, 2017, the Division of Public Utilities (“DPU”) submitted comments on the Agreement. No party filed reply comments.

The Application explains the Agreement, dated October 5, 2017, between RMP and XO is non-reciprocal and deviates in some respects from the standard contract the PSC approved on November 21, 2012, commonly referred to as the “Safe Harbor Agreement.”¹ The Application notes Utah Admin. Code R746-345-3(B)(1) allows parties to voluntarily negotiate alternative terms, subject to PSC approval. The Application states the agreement with XO is substantially similar to the pole attachment agreement between PacifiCorp and MCI Metro Transmission

¹ See *Consolidated Applications of Rocky Mountain Power for Approval of Standard Reciprocal and Non-Reciprocal Pole Attachment Agreements* (Report and Order, issued November 21, 2012), Docket No. 10-035-97.

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Access Services (“MCI”), approved by the Commission in Docket No. 17-035-33,² and that both XO and MCI are owned by Verizon Business.

In its comments, the DPU enumerates deviations in the Agreement as compared to the approved Safe Harbor Agreement. The DPU states the Agreement is the result of voluntary negotiations between PacifiCorp and XO, and represents the parties’ agreed-to terms and conditions will allow XO to attach telecommunications equipment to RMP’s poles in Utah. The DPU concludes the differences with the Safe Harbor Agreement are designed to allow RMP to manage pole attachments more efficiently and to provide more certainty to XO. The DPU concludes the terms and conditions of the Agreement are reasonable and balanced. Accordingly, the DPU recommends approval of the Agreement.

ORDER

Having reviewed RMP's Application, the Agreement at issue, the DPU’s comments, and there being no opposition to the Application, the PSC finds approval of the Application to be just, reasonable, and in the public interest. Therefore, we approve the Application.

DATED at Salt Lake City, Utah, December 7, 2017.

/s/ Michael J. Hammer
Presiding Officer

² See *Application of Rocky Mountain Power for Approval of the Pole Attachment Agreement between Rocky Mountain Power and MCI Metro Transmission Access Services Corporation* (Order issued July 11, 2017), Docket No. 17-035-33.

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Approved and Confirmed December 7, 2017, as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#298350

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of this written order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on December 7, 2017, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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