

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Rocky Mountain Power for Approval of the Pole Attachment Agreement for Small Cell and Wi-Fi Antennas between Rocky Mountain Power and New Cingular Wireless PCS, LLC	<p style="text-align: center;"><u>DOCKET NO. 19-035-04</u></p> <p style="text-align: center;"><u>ORDER</u></p>
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ISSUED: April 11, 2019

On February 19, 2019, PacifiCorp submitted an application (“Application”) seeking approval of a pole attachment agreement (“Agreement”) with New Cingular Wireless PCS, LLC (“NCW”). On February 20, 2019, the Public Service Commission (“PSC”) issued a Notice of Filing and Comment Period, allowing interested parties to submit comments on or before March 21, 2019 and reply comments on or before April 5, 2019. On March 19, 2019, the Division of Public Utilities (“DPU”) submitted comments on the Agreement. No party filed reply comments.

The Application between PacifiCorp and NCW 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.

In its comments, the DPU identifies substantive deviations in the Agreement as compared to the approved Safe Harbor Agreement. The DPU believes the Agreement is the result of voluntary negotiations between PacifiCorp and NCW. The DPU represents the Agreement will allow NCW to attach equipment (such as antennas and small cells as detailed in the Agreement) to PacifiCorp’s poles in Utah and thereby conduct its business in a number of areas within the

¹ See *In the Matter of the 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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state. The DPU explains that the parties made the changes to the Safe Harbor Agreement in order to add, expand, or specify negotiated terms and conditions between PacifiCorp and NCW. The DPU concludes the terms and conditions in the Agreement are reasonable and conform to R746-345-3(A). The DPU recommends the PSC approve the Agreement.

ORDER

Having reviewed PacifiCorp's Application, the Agreement, and 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, April 11, 2019.

/s/ Michael J. Hammer
Presiding Officer

Approved and Confirmed April 11, 2019, 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#307574

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 April 11, 2019, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By USPS:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
RE: Cell Site: Rocky Mountain Power MLA (UT)
575 Morosgo Drive
Atlanta, GA 30324

AT&T Legal Department-Network
Attn: Network Counsel
RE: Cell Site: Rocky Mountain Power MLA (UT)
208 S. Akard Street
Dallas, TX 75202-4206

By Electronic-Mail:

Data Request Response Center (datarequest@pacificorp.com, utahdockets@pacificorp.com)
PacifiCorp

Jana Saba (jana.saba@pacificorp.com)
Daniel Solander (daniel.solander@pacificorp.com)
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By Hand-Delivery:

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