



PacifiCorp generally agrees that the list of issues presented by the Division of Public Utilities (“Division”), as summarized by the Commission in the Notice, are significant and worthy of the Commission’s attention. As noted by the Division in its request that the Commission conduct an investigation into issues associated with pole attachments, PacifiCorp has been involved in negotiations with various parties over the permissible rates, terms and conditions applicable to pole attachments. Notably, these parties have included members of the Utah Rural Telephone Association and Comcast. While helpful in terms of identifying material issues, the negotiations have not, however, produced agreement.

Additionally, PacifiCorp participated in a Technical Conference convened by the Division on February 13, 2004. The large number of attendees at this Conference was, in itself, a manifestation of the substantial interest that exists in the regulatory regime governing pole attachments.

PacifiCorp recommends that the Commission should take care to separate the consideration of pole attachment rental rates from consideration of the terms and conditions of attachment. Rate design easily be compartmentalized from development of applicable terms and conditions. Moreover, rates may be more easily codified than terms and conditions covering the myriad of potential pole attachment circumstances.

For investor-owned electric utilities like PacifiCorp, rates must justly and reasonably compensate the pole owner for the attacher’s use of space on the pole, plus dollar-for-dollar reimbursement of the utility’s make-ready costs. Revenues from pole attachment rentals are a credit against an electric utility’s rate base. For this reason, the utility itself does not stand to gain from an increase in rates. Yet a determination of the proper rental level and methodology is important to make sure that electric rate payers are not subsidizing cable television or

telecommunications customers. The Commission has jurisdiction over both electric and cable/telecommunications utilities. The proper rate level will enable the Commission to achieve the proper allocation of costs between these industries. Accordingly, PacifiCorp supports the investigation into pole attachment rate methodology.

Terms and conditions of pole attachments are much more difficult to codify. For example, the Federal Communications Commission, in over 25 years of pole attachment regulation, has not attempted to codify the permissible terms and conditions of attachment. For this reason, PacifiCorp supports limited inquiry into terms and conditions but urges caution with respect to broadening this area beyond what has been proposed by the Division.

Certainly the question of deterring unauthorized attachments should be within the scope of the investigation. The permitting process that is established in every pole attachment agreement is the only means by which a utility can determine whether proposed attachments can safely be made to its poles without jeopardizing the poles' capability to reliably support the electric distribution infrastructure. It is also the only means by which the utility can track attachments and invoice their owners for annual rent.

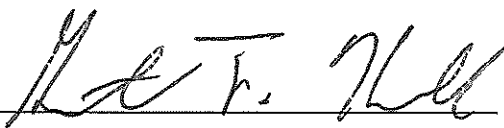
In the course of the investigation, PacifiCorp will make available evidence demonstrating that attachers consistently attempt to circumvent the permitting process, resulting in unsafe conditions and lost rental revenue credits in the retail electric rate making process. Therefore, there must be powerful and meaningful sanctions in order to deter such conduct. This Commission has a responsibility to safeguard the safety and reliability of the electric infrastructure and the permitting process is the primary means by which this is accomplished. This Commission also has a responsibility to assure that costs are properly matched to the

customers who use the services. Sanctions for unauthorized attachments are essential if the Commission is to meet these responsibilities.

For this reason, PacifiCorp endorses the inquiry into unauthorized pole attachment charges and, possibly, other fees and charges, but PacifiCorp urges the Commission exercise caution to avoid entangled relatively straight-forward rate design questions in a complicated terms and conditions discussion..

RESPECTFULLY SUBMITTED this first day of April, 2004.

**PacifiCorp, dba Utah Power**

By 

Gerit F. Hull  
Counsel  
PacifiCorp  
825 NE Multnomah, Suite 1700  
Portland, OR 97232  
Telephone: (503) 813-6559  
Facsimile: (503) 813-7190