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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of an  
Investigation into Pole  
Attachments

**SUPPORTING AND OPPOSING REPLY  
COMMENTS OF VOICESTREAM PCS  
II CORPORATION DBA T-MOBILE**

**DOCKET NO. 04-999-03**

VoiceStream PCS II Corporation dba T-Mobile ("**T-Mobile**"), through its counsel, hereby files its Supporting and Opposing Reply Comments pursuant to the March 19, 2004 Notice of Further Agency Action and Scheduling of the Utah Public Service Commission ("**Commission**").

T-Mobile has reviewed and analyzed the initial comments filed by the several participants to this investigation docket. T-Mobile generally supports the initial comments filed by Comcast Cable Communications, LLC ("**Comcast**"). T-Mobile opposes the comments filed by PacifiCorp dba Utah Power because the Pole Attachment Act ("**PAA**") requires Utah to regulate not only rates but also terms and conditions of attachments.

T-Mobile agrees with Comcast and others who support a single, uniform, statewide rate for all attachers. Further, T-Mobile supports the Commission's applying the FCC cable formula for all attachers and not implementing a separate telecommunications rate. T-Mobile supports the reasons Comcast identified for applying the cable formula for all attachers.

T-Mobile supports requiring pole owners to file with the Commission their attachment contract terms and conditions. T-Mobile strongly opposes PacifiCorp's position that the Commission should not regulate terms and conditions of attachments. This position is directly contrary to section 224(c)(2)(A) of the PAA that requires certified states such as Utah to regulate "rates, terms and conditions" of attachments. The Commission should not allow PacifiCorp to exert its monopoly power to impose onerous unregulated terms and conditions on attachers. The Commission definitely needs to regulate terms and conditions in addition to rates and should promulgate rules accordingly. Having the pole owners file their contract terms and conditions with the Commission would be the most practical and effective way to regulate the same.

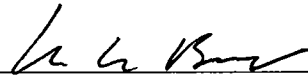
T-Mobile supports all of the issues Comcast identified as Nos. 1-15 on Pages 18-26 of its Initial Comments. In particular, T-Mobile agrees that all poles, including transmission towers, and ducts, conduits and rights of way should be presumed suitable and available for attachment or use. The Commission should require all pole owners to provide nondiscriminatory access to all these facilities. The Commission should impose deadlines, namely 30 days for pole owners to approve or deny an attachment request, and no more than 60 days to perform make ready from the date of original request. Make ready, inspection and rearrangement costs must not exceed actual, reasonable expenses incurred and must be based on unit cost. All attachers should be allowed to use their own personnel and contractors for installation and maintenance so long as they are properly trained and, as necessary, licensed. The Commission should not permit pole owners to charge attachers for inspections of attacher's facilities. If substandard attachments are discovered, then charges must be limited to the cost of correction. The Commission should require pole owners to provide itemized statements of all incremental charges in excess of the attachment rate, including, without limitation, date of work, work description, work location, unit cost or labor cost per hour, itemized material costs, and detailed miscellaneous charges.

Finally, T-Mobile supports Comcast's comment requesting expedited dispute resolution. T-Mobile maintains that the Commission should amend its rules at Utah Admin. Code R746-101

to allow for expedited disposition of attachment disputes. An expedited declaratory ruling process for attachment disputes is definitely in the public interest and in the interest of the Commission, pole owners and attachers.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of April 2004.

SNELL & WILMER L.L.P.



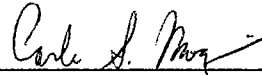
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Attorneys for T-Mobile

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of April, 2004, an original, fifteen (15) true and correct copies, and an electronic copy of the foregoing Supporting and Opposing Reply Comments of Voicestream PCS II Corporation dba T-Mobile were hand-delivered to:

Ms. Julie Orchard  
Commission Secretary  
Public Service Commission of Utah  
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