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Submitted: May 31, 2006

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of an Investigation into Pole Attachments)))))))	DOCKET NO. 04-999-03 COMMENTS OF PACIFICORP ON PROPOSED CHANGE TO RULE R746-345-3
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Pursuant to the Notice of Proposed Rule Change issued by the Utah Division of Administrative Rules in the *Utah State Bulletin* on May 1, 2006, concerning proposed changes to Utah Admin. Code § R746-345-3, PacifiCorp, dba Utah Power, respectfully submits the following comments.

Background. In the December 15, 2005, edition of the *Utah State Bulletin*, the Commission published extensive changes to the rules governing attachments to poles owned by utility companies “to clarify the intent and result of the rule modification previously proposed” and make changes to “areas of possible confusion and ambiguity.”

The Commission's additional May 1, 2006, proposed changes involve only two issues: modifications to (a) § R746-345-3.C, concerning alternative make-ready work bids by the pole owner; and (b) § R746-345-3.C.8, concerning availability of the electrical utility space in connection with the "self-build option." PacifiCorp addresses these two changes in reverse order.

The electrical utility space. Under paragraph C.8 of the rules governing an applicant who elects to use approved contractors to self-build make-ready work, the Commission has proposed to add the following provision: "The self-build option is available only for make-ready work outside of the electrical utility space."

PacifiCorp regards this proposed change as an absolute necessity and appreciates the Commission's recognition of the importance of such a provision. For electric utility poles, the electric company must have exclusive control of the electric utility space. Its responsibilities to its customers and to the general public do not permit it to allow other parties—even approved make-ready contractors—to operate or alter facilities in this critical space. The safety concerns, considerations of quality control and adherence to National Electric Safety Code (NESC) requirements and standards on electric poles necessitate the limitation that the Commission has proposed, and PacifiCorp concurs with the change.

Make-Ready Estimates. The Commission has proposed to add the following provisions to the introductory section under paragraph C of Rule 746-345-5, concerning make-ready work:

Applications that plan to consider self-building shall inform the pole owner at the time of application that they are considering the self-build option and they would like a two-alternative make-ready bid. In the first alternative, the pole owner would be responsible for all necessary make-ready work. For the second alternative, the pole owner would be responsible only for the make-ready work that is required in the electrical utility space on the poles.

This *appears* to address the general idea that an applicant may want to know the relative make-ready costs between choosing to self-build and having the pole owner do all the work. The difficulty is that there really are no options.

First, for an electric-company pole owner, there are only two situations that face an applicant, and neither of them provide choices for the applicant. If the pole contains only electric facilities, then, under the new provision in subparagraph C.8 discussed above, there is nothing that the applicant or an outside contractor can do, as any make-ready work would, by definition, be in the electrical space and would be done by the electric company.

If there are other attachers on the pole, the electric company will require them to do such make-ready work as is necessary to accommodate the applicant, but it is, by agreement with the electric company, to be at no cost to the electric company. In addition, the pole owner is in no position to advise the applicant attacher of any cost to the applicant that might ensue from an existing attacher's make-ready work. Whether the existing attacher attempts to bill or work out some other arrangement with the applicant is not a matter for the pole owner to attempt to address.

Thus, in either situation, there is nothing for the electric pole owner to "bid" on. It will directly perform make-ready work on its own facilities and will notify any existing attacher that it has an obligation, at no cost to the pole owner, to make such alterations as are necessary to accommodate the applicant's attachments.

The situation for a communications pole owner is similarly alternative-less. Whether or not there are electric attachments to a communications pole, the only bid that can be generated is for the make-ready work in the communications area of the pole.

Therefore, the final three sentences that the Commission has proposed to add to the first paragraph of § R746-345-3.C should be eliminated, and the previous version of that paragraph should be retained as previously adopted by the Commission.

WHEREFORE, PacifiCorp respectfully requests that the Commission: adopt as final its proposed addition to § R746-345-3.C.8, concerning the electric space on a pole; and withdraw the proposal to add three sentences to the first paragraph of § R746-345-3.C, dealing with alternative make-ready bids.

SUBMITTED this 31st day of May 2006.

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Certificate of Service

I certify that on May 31, 2006 a copy of the foregoing **COMMENTS OF PACIFICORP ON PROPOSED CHANGE TO RULE R746-345-3** was sent by U.S. Mail or by e-mail in pdf format to the following participants in PSCU Docket No. 04-999-03:

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