



State of Utah
Department of Commerce
Division of Public Utilities

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February 10, 2006

TO: PUBLIC SERVICE COMMISSION

FROM: DIVISION OF PUBLIC UTILITIES

Constance B. White, Director
Wes Huntsman, Manager, Telecommunications
Casey J. Coleman, Technical Consultant

Re: In the Matter of an Investigation into Pole Attachments Docket No. 04-999-03

RECOMMENDATION:

Approve attached Standard Contract as a “safe harbor” for the various parties.

BACKGROUND:

On March 11, 2004 the Division filed a request to open an investigative docket into the rules dealing with pole attachments. Over the course of the next two years a number of technical conferences have occurred as well as numerous briefs, memos, and pleadings have been filed to investigate Pole Attachments. One of the objectives of the investigation was to draft a contract that could be adopted by either attachers or pole owners.

Through a collaborative effort with all interested parties the Division was able to draft a proposed contract that captured the best efforts of the various contributors.

On February 2, 2006 the Commission provided some direction regarding the contract which stated:

“The Commission provides the Parties to this Docket with the following determinations regarding the comments submitted on the Division’s draft contract. The Commission believes that the following resolutions or responses to comments are reasonable. While the Commission will still permit parties to negotiate unique terms that could differ from what is provided herein, these are in the nature of ‘safe harbors.’ Agreements which contain these provisions would be approved by the Commission (if other terms are reasonable); they will be the default provisions for the generic agreements or where parties do not, or cannot, propose alternative mutually agreed upon terms.

The Division has modified the submitted contract to reflect the determinations of the Commission. The Division feels that the attached Standard Contract contains the provisions agreed to by the parties as well as follows decisions made by the Commission. Therefore the Commission should use the attached Standard Contract as the “safe harbor” when parties can not agree to terms through negotiation.