

JOEL D. WRIGHT (10477)
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
Salt Lake City, UT 84111-1031
Telephone: (801) 799-5912
Facsimile: (801) 799-5700

DAVID J. SHAW (8477)
Utah Telecommunication Open Infrastructure
Agency
1385 West 2200 South, #302
West Valley City, Utah 84119
Telephone: (801) 990-5457
Facsimile: (801) 908-7225

Attorneys for UTOPIA

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of an Investigation into Pole Attachments.

Docket No. 04-999-03

**RESPONSE BY UTOPIA TO COMMENTS
SUBMITTED BY QWEST ON THE
STANDARD POLE ATTACHMENT
AGREEMENT AND REQUEST FOR
APPROVAL OF AGREEMENT BETWEEN
QWEST AND UTOPIA**

The Utah Telecommunication Open Infrastructure Agency (“UTOPIA”), by and through its attorneys, Holland & Hart LLP, hereby respectfully submits the following Response to Comments submitted by Qwest Corporation (“Qwest”) on August 18, 2006 under Docket Number 04-999-03 (“Qwest’s Comments”).

I. Comments by Qwest

The factual assertions in Qwest's Comments were disputed by UTOPIA in litigation initiated by Qwest in the U.S. District Court of Utah (*Qwest v. Utah Telecommunication Open Infrastructure Agency, et al.*, Case No. 2:05-cv-00471). In the last two weeks, UTOPIA and Qwest have reached a settlement on the claims supported by the factual assertions in Qwest's Comments (the "Settlement Agreement"). In the Settlement Agreement, the parties have mutually agreed to dismiss these claims by Qwest with prejudice

Based on the Settlement Agreement, UTOPIA believes it is inappropriate to continue to dispute specific factual claims before the Utah Public Service Commission (the "Commission"). The comments UTOPIA filed on August 14, 2006 regarding the Standard Contract were meant to bring to the Commission's attention to UTOPIA's actual recent experience dealing with Pole Owners in Utah who (1) have no economic incentive to allocate the resources necessary to sign a pole attachment agreement within a reasonable amount of time, and/or (2) have an economic incentive to delay signing a pole attachment as long as possible in order to gain a competitive advantage.

As UTOPIA has stated before, to the extent a Standard Contract eliminates unnecessary unilateral discretion of the Pole Owner, it will ensure a less contentious process that will allow *both* the Licensee *and* the Pole Owner to save substantial time and resources. Such savings will ultimately lower the cost of telecommunications services for the residents of Utah.

II. Pending Approval of the Qwest - UTOPIA Pole Attachment Agreement

UTOPIA also requests the Commission approve the Qwest - UTOPIA pole attachment agreement filed on April 14, 2006 with the Commission, and that it be unaffected by any changes the Commission considers to its safe harbor Standard Contract.

DATED this 21 day of August , 2006.

/s/ Joel D. Wright

JOEL D. WRIGHT
HOLLAND & HART LLP
DAVID J. SHAW
UTOPIA
Attorneys for UTOPIA

CERTIFICATE OF SERVICE

I hereby certify that on the 21 day of August, 2006, an original, five (5) true and correct copies, and an electronic copy of the foregoing **UTOPIA'S COMMENTS TO DRAFT STANDARD POLE ATTACHMENT AGREEMENT** were hand-delivered to:

Ms. Julie Orchard
Commission Secretary
Public Service Commission of Utah
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84114
mlivingston@utah.gov

and a true and correct copy, hand-delivered to:

Michael L. Ginsberg, Esq.
Patricia E. Schmid, Esq.
Assistant Attorney Generals
Office of the Utah Attorney General
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84114
mginsberg@utah.gov
pschmid@utah.gov

Marlin Barrow
Casey J. Coleman, Utility Analyst
State of Utah
Division of Public Utilities
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84114
mbarrow@utah.gov
ccoleman@utah.gov

and a true and correct copy mailed, postage prepaid thereon, or emailed in pdf format, to the following:

Meredith R. Harris, Esq.
AT&T Corp.
One AT&T Way
Bedminster, New Jersey 07921
harrism@att.com

Michael D. Nelson
Director, Government Affairs
Comcast Cable Communications, Inc.
West Division
183 Inverness Drive West
Englewood, Colorado 80112
Michael.Nelson@cable.comcast.com

Martin J. Arias, Esq.
Comcast Cable Communications, LLC
1500 Market Street
Philadelphia, Pennsylvania 19102
martin_arias@comcast.com

John Sullivan, Esq.
Vice President & Chief Counsel - Telephony
Comcast Cable Communications, Inc.
Cable Law Department
1500 Market Street
34th Floor, East Tower
Philadelphia, Pennsylvania 19102
John.Sullivan@comcast.com

J. Davidson Thomas, Esq.
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Avenue, N.W., 2d Floor
Washington, D.C. 20006
dthomas@crblaw.com

Genevieve D. Sapir, Esq.
Cole, Raywid & Braverman, LLP
2381 Rosecrans Avenue, Suite 110
El Segundo, California 90245
gsapir@crblaw.com

Curt Huttsell, Ph.D.
Manager, State Government Affairs
ELECTRIC LIGHTWAVE, LLC
4 Triad Center, Suite 200
Salt Lake City, Utah 84180
chuttsel@czn.com

Charles L. Best, Esq.
Associate General Counsel
ELECTRIC LIGHTWAVE, LLC
4400 N.E. 77th Avenue
Vancouver, Washington 98662-6706
charles_best@eli.net

Gerit F. Hull, Esq.
PACIFICORP
825 N.E. Multnomah, Suite 1700
Portland, Oregon 97232
gerit.hull@pacificorp.com

Charles A. Zdebski, Esq.
Raymond A. Kowalski, Esq.
Jennifer D. Chapman, Esq.
Troutman Sanders, LLP
401 Ninth Street, NW, Suite 1000
Washington, DC 20004-2134
charles.zdebski@troutmansanders.com
raymond.kowalski@troutmansanders.com
jennifer.chapman@troutmansanders.com

Gary Sackett, Esq.
Jones Waldo Holbrook & McDonough
170 South Main, #1500
Salt Lake City, Utah 84101
gsackett@joneswaldo.com

Robert C. Brown, Esq.
Theresa Atkins, Esq.
Melissa K. Thompson, Esq.
Qwest Services Corporation
1801 California Street, 49th Floor
Denver, Colorado 80202
Robert.Brown@qwest.com
Theresa.Atkins@qwest.com

Michael Peterson
Executive Director
Utah Rural Electric Association
10714 South Jordan Gateway
South Jordan, Utah 84095
mpeterson@utahcooperatives.com

Stephen F. Mecham, Esq.
Callister Nebeker & McCullough
Gateway Tower East, Suite 900
10 East South Temple
Salt Lake City, Utah 84133
sfmecham@cnmlaw.com

Bradley R. Cahoon, Esq.
Scott C. Rosevear, Esq.
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Gateway Tower West
Salt Lake City, Utah 84101
bcahoon@swlaw.com
srosevear@swlaw.com

Gregory J. Kopta, Esq.
Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, Washington 98101-1688
gregkopta@dwt.com

Danny Eyre
General Manager
Bridger Valley Electric Association, Inc.
Post Office Box 399
Mountain View, Wyoming 82939
derye@bvea.net

Mr. Carl R. Albrecht
General Manager / CEO
Garkane Energy Cooperative, Inc.
120 West 300 South
Post Office Box 465
Loa, Utah 84747
calbrecht@garkaneenergy.com

LaDel Laub
Assistant General Manager
Dixie Escalante Rural Electric Association
71 East Highway 56
HC 76 Box 95
Beryl, Utah 84714-5197
ladell@color-country.net

3595064_2.DOC