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Submitted August 10, 2006 (past the deadline, with
the understanding that the PSC has no binding
obligation to consider this filing)

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of an Investigation into Pole Attachments.	Docket No. 04-999-03
	UTOPIA'S COMMENTS TO DRAFT POLE ATTACHMENT RULES

The Utah Telecommunication Open Infrastructure Agency (“UTOPIA”), by and through its attorneys, Holland & Hart LLP, hereby submits these comments to the draft Utah Pole Attachment Rules (the “Rules”), published July 1, 2006.

UTOPIA’s comments will only address the importance of clear and concise default timeframes without exceptions.

COMMENTS

I. Timeframes Without Exceptions

UTOPIA would like to strongly endorse all of the comments that Comcast filed with the PSC on this matter on August 1, 2006 under “Section I. Timeframes” of Comcast’s filing. Specifically, UTOPIA is concerned that the July 1, 2006 draft of the Rules that allows pole owners to ignore the fair and reasonable timelines so long as an “explanation” is given for the delay. The July 1, 2006, draft of the Rules reads as follows:

As an alternative to all of the time periods allowed for construction below, a pole owner may provide the applicant with an estimated time by which the work could be completed that is different than the standard time periods contained in this rule with an *explanation* for the anticipated delay. (emphasis added)

See Utah Admin. Code, R746-345-3(C).

As drafted, the “explanation” does not even need to be reasonable, or legitimate, leading to a situation where the pole owner could simply say that the delay is due to entirely to the fact they view the applicant as a potential competitor, and want to prevent competition. Such an explanation would clearly violate the principle that the Rules are specifically designed to provide pole attachers with “nondiscriminatory access to utility poles at rates, terms and conditions that are just and reasonable” *See* Utah Admin. Code, R746-345-1(B)(2)

So, it appears the Commission would only have two choices at this point: (1) expend substantial resources now, and in the future, determining what is a reasonable or legitimate explanation for a delay, or (2) simply delete the offending language from the draft Rules. Since Comcast already established the substantial costs this offending language imposes, and no other party has established any benefits, UTOPIA would like to encourage the Commission to delete this offending language in any subsequent versions of the Rules.

II. Conclusion

UTOPIA respectfully requests the Commission delete the language referenced above in the draft of the Utah Admin. Code, R746-345-3(C) released on July 1, 2006.

DATED this 14 day of August , 2006.

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CERTIFICATE OF SERVICE

I hereby certify that on the 14 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:

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