



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

November 13, 2006

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission
550 Capitol Street NE, Ste 215
Salem, OR 97301-2551

Attention: Vikie Bailey-Goggins, Administrator
Regulatory and Technical Support

RE: **Docket No. AR 506**

Enclosed for filing by PacifiCorp is a copy of the company's talking points presented at the November 8, 2006 hearing in Docket No. AR 506.

Please direct questions with respect to this filing to Laura Beane at 503-813-5542.

Very truly yours,

A handwritten signature in cursive script that reads "Andrea L. Kelly". To the right of the signature is a small, stylized monogram "AB".

Andrea L. Kelly
Vice President, Regulation
Enclosures

Service List: AR 506/510

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

AR 506/510

**In the Matter of a Rulemaking to Amend)
and Adopt Permanent Rules in OAR 860,)
Division 24 and 28, Regarding Pole)
Attachment Use and Safety)**

**PACIFICORP'S
TALKING POINTS
REGARDING
DIVISION 28
November 8, 2006**

PacifiCorp welcomes the telecommunications industry onto our distribution facilities, so long as the attachments are installed with our permission, in compliance with safety rules, and under cost recovery guidelines that ensure a cost neutral impact on our electricity consumers. These three fundamentals underpin all of our comments today, with respect to these two rulemakings. The Commission should consider three questions when evaluating the proposed rules:

First, does the pole owner have the right to protect its service reliability and public safety by dictating the circumstances under which a third-party may attach to its distribution poles?

Second, should an applicant be allowed to compromise public and worker safety just so it can be the first to bring high-speed internet services to a new neighborhood?

And finally, should a low-income electricity consumer, who struggles to keep his heat on, have to pay to subsidize his neighbor's right to watch premium cable channels?

Again, PacifiCorp supports the growth of the telecommunications industry and the benefits those services bring to our customers. Provided that all reasonable expectations of cost neutrality are met, PacifiCorp encourages the use of our distribution infrastructure

as the most logical and cost effective way to reach our mutual customers. Let's examine the questions in further detail.

Does the pole owner have the right to protect its service reliability and public safety by dictating the circumstances under which a third-party may attach to its distribution poles?

Of course. PacifiCorp makes every effort to ensure that safe and reasonable access requests are granted. Where the facility is not suitable for the proposed attachment, either because of concerns for the strength of the pole compared to its proposed load, or because of clearance issues, PacifiCorp communicates the appropriate make-ready costs to all parties involved, with the reasonable expectation that the applicant will not attempt to install facilities until the pole is made suitable for its attachment.

If the applicant were allowed to install its equipment prior to the pole owner giving its consent, even under circumstances where sufficient clearance height might appear to exist, the pole still may not have the strength or appropriate guying necessary to support the equipment safely, or there may be another attachment already pending by another licensee. These circumstances are not always immediately apparent through a simple visual inspection by the applicant, and attachments made without the consent of the pole owner could also give rise to allegations of discriminatory access, against the pole owner. It is the pole owner's responsibility and fundamental right to evaluate each request and, by explicitly authorizing or rejecting a specific attachment, be ultimately accountable for the condition of the facility. It is even more critical when dealing with attachments on transmission facilities. Transmission facilities, which form the backbone of the electrical network, could be significantly compromised, thereby increasing the risk of large-scale

outages--the ill-effects of which could be felt well beyond the state of Oregon.

Attachments made without consent takes away both the responsibility and accountability from the pole owner, leaving the electric facilities vulnerable to premature deterioration, costly emergency pole replacements, and service interruptions.

This leads to the second question. Should the applicant be allowed to compromise public and worker safety just so it can be the first to bring high-speed internet services to a new neighborhood?

Absolutely not. The Commission upheld and emphasized the importance of the Commission Safety rules in the recent Division 24 proceedings—a proceeding in which the wireless industry chose not to participate. The currently proposed changes to the sanction rules do not present enough of a deterrent to prevent poor construction practices, and they practically condone a “build it first and say you’ll fix it later” environment for licensees. There is not enough of a financial *dis*-incentive, to encourage licensees to build it right the first time. Sanctions would not even be an issue if licensees received the proper economic signals to encourage initial compliance with safety and constructions standards. Unless they are to be strengthened, the current sanction rules should not be altered.

Lastly, should a low-income electricity consumer, who struggles just to keep his heat on, have to pay to subsidize his neighbor’s right to watch premium cable channels?

Of course not. The pole owner has two basic means of recovering the costs associated with pole attachments. The first is the annual contact rental rate, and the second is direct billing of expenses incurred by a specific party for purposes not covered by the rate. The

annual rental rate is a common rate, per foot of attachment space, for all parties in any given state. It is meant to compensate the pole owner for some of the generic indirect costs associated with the maintenance of joint use space on a pole. The direct charges are meant to recover expenses associated with specific licensee attachments on specific poles.

The pole owner, as the party ultimately responsible for the condition of its facilities, must perform pre-and post-construction inspections on all new attachments, and post-construction inspections on removals and modifications, to ensure all work is completed in accordance with Safety rules and contractual requirements. Only the party who creates this work should have to pay for the explicit costs associated with the inspections.

In addition to inspections, the administrative expense specifically associated with each applicant's request should be paid for by that applicant. So far this fiscal year, since April, 2006, PacifiCorp has received requests for attachment or overlash to over 4,000 poles in Oregon. More than 40% of those poles were associated with only two companies. If these costs are all bundled into the carrying charge component of the contact rental rate for which we only recover a small percentage, why should the electric ratepayer have to absorb the difference not paid by all of the licensees? Or subsidize a telecommunications provider from whom they can never receive services because they are in a different provider's territory? For that matter, why should all other licensees in the state have to share in the cost of processing applications for their competitors?

In conclusion, PacifiCorp again reiterates that we welcome attachments by the telecommunications industry, and encourage the reasonable and efficient use of our distribution infrastructure. PacifiCorp asks that the final rules ensure a cost-neutral

impact on our customers, contain sufficient punitive measures that will offer incentive for the licensees to construct their facilities safely on the first pass, and maintain the right of the pole owner to explicitly approve each pole before installation can commence.

Thank you for your time and the opportunity to participate in this proceeding.

Respectfully submitted,

A handwritten signature in cursive script that reads "Cece L. Coleman". The signature is written in black ink and is positioned above a horizontal line.

Cece L. Coleman,
Senior Counsel
PacifiCorp
825 NE Multnomah Street, Suite 1800
Portland, Oregon 97232
Telephone 503-813-6762
Facsimile 503-813-7252

CERTIFICATE OF SERVICE

AR 506/510

I certify that I have, this 13th day of November, 2006, served PacifiCorp's Talking Points Regarding Division 28 by electronic mail to the parties indicated on the attached service list.

Dated at Portland, Oregon, this 13th day of November, 2006.

MATT COONS matt.coons@comspanusa.net	HAROLD LEAHY & KIERAN CHRISTY MONSON ckm@haroldleahy.com
JIM DEASON ATTORNEY AT LAW jimdeason@comcast.net	MCMINNVILLE CITY OF WATER & LIGHT SCOTT ROSENBALM sgr@mc-power.com
ASHLAND CITY OF SCOTT JOHNSON johnsons@ashland.or.us	LEAGUE OF OREGON CITIES ANDREA FOGUE afogue@orcities.org
CENTRAL LINCOLN PUD DENISE ESTEP destep@cencoast.com MICHAEL L WILSON mwilson@cencoast.com	IDAHO POWER COMPANY JEANNETTE C BOWMAN jbowman@idahopower.com TOM WICHER twicher@idahopower.com BARTON L. KLINE bkline@idahopower.com LISA D. NORDSTROM lnordstrom@idahopower.com BRENT VAN PATTEN bvanpatten@idahopower.com
CENTURYTEL OF OREGON INC DOUG COOLEY doug.cooley@centurytel.com	MILLENNIUM DIGITAL MEDIA EUGENE A FRY gfry@mdm.net
CHARTER COMMUNICATIONS CORP GARY LEE glee@chartercom.com	MILLER NASH LLP BROOKS HARLOW ATTORNEY brooks.harlow@millernash.com

CLEAR CREEK MUTUAL TELEPHONE CO BILL KIGGINS bkiggins@clearcreek.coop	MONMOUTH CITY OF JIM HOUGH jhough@ci.monmouth.or.us
CN UTILITY CONSULTING STEPHEN R CIESLEWICZ steve@cnutility.com	MONMOUTH CITY OF DAVE WILDMAN dwildman@ci.monmouth.or.us
COLE RAYWID & BRAVERMAN LLP SCOTT THOMPSON ATTORNEY sthompson@crblaw.com	CLPUD NWCPUD SUSAN K ACKERMAN ATTORNEY susan.k.ackerman@comcast.com
COMPSPANUSA SEBASTIAN MC CROHAN sebastian.mccrohan@comspansua.net	OREGON CABLE AND TELECOMMUNICATIONS ASSOCIATION MICHAEL DEWEY mdewey@oregoncable.com
CONSUMER POWER INC STUART SLOAN stuarts@cpi.coop	OREGON JOINT USE ASSOCIATION GENOA INGRAM genoa@westernadvocates.com JOHN SULLIVAN john.sullivan@pgn.com WILLIAM C WOODS william_woods@cable.comcast.net
DAVIS WRIGHT TREMAINE SARAH K WALLACE ATTORNEY AT LAW sarahwallace@dwt.com	OREGON MUNICIPAL ELECTRIC UTILITIES ASSOC TOM O'CONNOR toconnor@teleport.com
DEPARTMENT OF JUSTICE MICHAEL T WEIRICH ASSISTANT ATTORNEY GENERAL michael.weirich@state.or.us	OREGON PUD ASSOCIATION DON GODARD dgodard@opuda.org
ELECTRIC LIGHTWAVE LLC CHARLES L BEST ATTORNEY AT LAW charles_best@eli.net	OREGON RURAL ELECTRIC COOPERATIVE ASSN JACK EVANS jevans@oreca.org
EMERALD PUD CRAIG ANDRUS craig.andrus@epud.org	OREGON TELECOMMUNICATIONS ASSN BRANT WOLF bwolf@ota-telecom.org

<p>ESCHELON TELECOM OF OREGON INC CATHERINE A MURRAY camurray@eschelon.com</p>	<p>PACIFIC POWER & LIGHT CECE L COLEMAN <u>cece.coleman@pacificorp.com</u> COREY FITZGERALD <u>corey.fitz-gerald@pacificorp.com</u> WILLIAM EAQUINTO <u>Bill.eaquinto@pacificorp.com</u> RANDALL MILLER <u>randy.miller@pacificorp.com</u> HEIDI CASWELL <u>heide.caswell@pacificorp.com</u> JIM MARQUIS <u>james_I.marquis@pacificorp.com</u> LAURA RAYPUSH <u>laura.raypush@pacificorp.com</u> ANDREA KELLY <u>andrea.kelly@pacificorp.com</u></p>
<p>PORTLAND CITY OF – OFFICE OF TRANSPORTATION RICHARD GRAY richard.gray@pdxtrans.org</p>	<p>PORTLAND GENERAL ELECTRIC DAVID P VAN BOSSUYT <u>dave.vanbossuyt@pgn.com</u> JENNIFER BUSCH <u>Jennifer.busch@pgn.com</u> RANDALL DAHLGREN <u>Randy.dahlgren@pgn.com</u> BARBARA HALLE barbara.halle@pgn.com DOUG KUNS doug.kuns@pgn.com INARA K. SCOTT <u>inara.scott@pgn.com</u> ALEX TOOMAN <u>Alex.tooman@pgn.com</u> DAVID P. VAN BOSSUYT <u>dave.vanbossuyt@pgn.com</u> KARLA WENZEL karla.wensel@pgn.com</p>
<p>PRIORITYONE TELECOMMUNICATIONS INC kmutch@p1tel.com</p>	<p>QWEST JEFF KENT jeffrey.kent@qwest.com</p>

<p>INTEGRA TELECOM OF OREGON INC. ROBERT DAVIDSON <u>robert.davidson@integratelecom.com</u> LEE GUSTAVSON <u>lee.gustavson@integratelecom.com</u> SHEILA HARRIS <u>sheila.harris@integratelecom.com</u> JAY NUSBAUM <u>Jay.nusbaum@integratelecom.com</u></p>	<p>MCMINNVILLE CITY OF WATER & LIGHT SCOTT ROSENBALM <u>sgr@mc-power.com</u></p>
<p>MONMOUTH CITY OF J. WHITE <u>jwhite@ci.monmourh.or.us</u> DAVE WILDMAN <u>dwildman@ci.monmouth.or.us</u></p>	<p>OREGON HOUSE OF REPRESENTATIVES THE HONORABLE ROBERT ACKERMAN 900 COURT ST. NE RM H-389 SALEM, OR 97310</p>
<p>OREGON RURAL ELECTRIC COOPERATIVE ASSN SANDRA FLICKER <u>sflicker@oreca.org</u></p>	<p>PERKINS COIE LLP LAWRENCE REICHMAN <u>lreichman@perkinscoie.com</u></p>
<p>PRIORITY ONE TELECOMMUNICATIONS, INC. P.O. BOX 758 LA GRANDE, OR 97850 <u>kmutch@p1tel.com</u></p>	<p>PUBLIC UTILITY COMMISSION JERRY MURRAY <u>jerry.murray@state.or.us</u> GARY PUTNAM <u>gary.jputnam@state.or.us</u> JOHN WALLACE <u>john.wallace@state.or.us</u></p>
<p>QUALITY TELEPHONE INC FRANK X. MCGOVERN <u>fmcgovern@qtelephone.com</u></p>	<p>QWEST CORPORATION ALEX M. DUARTE <u>alex.duarte@quest.com</u></p>
<p>SPRINGFIELD UTILITY BOARD TAMARA JOHNSON <u>tamaraj@subutil.com</u></p>	<p>SPRINT NEXTEL KRISTIN L. JACOBSON <u>kristin.l.jacobson@sprint.com</u></p>
<p>T-MOBILE ANDREW NENNINGER <u>andrew.nenninger@t-mobile.com</u></p>	<p>T-MOBILE USA INC. TERI OHTA <u>teri.ohta@t-mobile.com</u></p>
<p>TIME WARNER TELECOM KEVIN O'CONNOR <u>kevin.oconnor@twtelecom.com</u></p>	<p>UNITED TELEPHONE COMPANY OF THE NORTHWEST TOM MCGOWAN <u>tom.a.mcgowan@sprint.com</u></p>

QWEST CORPORATION ALEX M DUARTE alex.duarte@qwest.com	SALEM ELECTRIC ROGER KUHLMAN kuhlman@salemelectric.com
SPRINT COMMUNICATIONS CO LP BARBARA YOUNG barbara.c.young@mail.sprint.com	TIME WARNER TELECOM OF OREGON LLC BRIAN THOMAS brian.thomas@twtelecom.com
VERIZON STEVEN LINDSAY steve.lindsay@verizon.com SUSAN BURKE susan.burke@verizon.com	VERIZON NORTHWEST INC RICHARD STEWART richard.stewart@verizon.com RENEE WILLER renee.willer@verizon.com
WANTEL INC MARTY PATROVSKY marty.patrovsky@comspanusa.net	ATER WYNNE LLP WENDY L. MARTIN wlm@aterwynne.com LISA F. RACKNER lfr@aterwynne.com
BEND BROADBAND JEFF LIBERTY jliberty@bendbroadband.net	CHARTER COMMUNICATIONS SUZANNE CURTIS suzanne.curtis@chartercom.com
CINGULAR WIRELESS CINDY MANHEIM Cindy.manheim@cingular.com	CITY OF PORTLAND RICHARD JOHNSON Richard.johnson@pdxtrans.org
CLATSKANIE PUD KEENE C. BASSO kbasso@clatskaniepud.com	COLE, RAYWID, & BRAVERMAN JILL VALENSTEIN jvalenstein@crblaw.com
COMCAST DAWNA FARRELL dawna_farrell@calbe.comcast.com NANCY MARSTON nancy_marston@cable.comcast.com	COMCAST PHONE OF OREGON LLC SCOTT WHEELER scott-wheeler2@cable.comcast.com
COOS CURRY ELECTRIC COOPERATIVE SCOTT ADAMS scotta@cooscurryelectric.com	DAVIS WRIGHT TREMAINE LLP MARK P. TRINCHERO marktrinchero@dwt.com
ELECTRIC LIGHTWAVE PHIL CHARLTON pcharlton@eli-consulting.com	EMBARQ COMMUNICATIONS INC. WILLIAM E. HENDRICKS tre.hendricks@embarq.com NANCY JUDY nancy.judy@embarq.com

EUGENE WATER & ELECTRIC BOARD MARK OBERLE mark.oberle@eweb.eugene.or.us	FRONTIER COMMUNICATIONS OF AMERICA KEVIN L. SAVILLE ksaville@czn.com
GRAHAM & DUNN RICHARD J. BUSCH rbusch@grahamdunn.com	HUNTER COMMUNICATIONS INC RICHARD W. RYAN rryan@coreds.net
IBEW LOCAL 659 RONALD W. JONES ronjones@ibew659.org	PIONEER TELEPHONE COOPERATIVE GENERAL MANAGER 1304 MAIN ST. PHILOMATH, OR 97370
VERIZON CORPORATE SERVICES THOMAS DIXON thomas.f.dixon@verizon.com	NATIONAL RURAL UTILITIES COOPERATIVE WILLIAM K. EDWARDS bill.edwards@nrucfc.coop
OREGON TRAIL ELECTRIC COOPERATIVE ANTHONY BAILEY abailey@otecc.com	

Peggy Ryan
Supervisor, Regulatory Administration