

EXHIBIT 4

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**COX COMMUNICATIONS LAS VEGAS,
INC.,**

Complainant,

v.

NV ENERGY, INC.,

Respondent.

**Proceeding No. 14-267
File No. EB-14-MD-017**

DECLARATION OF TANIA JARQUIN

1. I am the Regional Engineer II for the Distribution Design Services, Southern Nevada Region of NV Energy, Inc. (“NV Energy”), with a general office address of 7155 Lindell Road, Las Vegas, Nevada 89118. I make this Declaration in support of NV Energy’s Response to Cox Communications Las Vegas’s (“Cox”) Pole Attachment Complaint in the above-captioned case. I know the following based on my own personal knowledge, and if called as a witness in this action, I could and would testify competently to these facts under oath.

2. I have been employed by NV Energy for almost six years. In this role, my duties and responsibilities related to this dispute include providing engineering support for the design and maintenance of distribution facilities in accordance with corporate guidelines, industry standards, current construction codes, and governing regulations; performing technical analyses and calculations on distribution plans; analyzing distribution system interruptions and reducing or eliminating similar occurrences; and coordinating the planning, final design, and project schedule of major distribution construction projects.

3. I have reviewed the statements made in NV Energy's Response to Cox's Pole Attachment Complaint as well as the exhibits and verify that they are true and correct to the best of my knowledge, information and belief.

4. Prior to implementing the NESC Grade B construction standard, NV Energy experienced pole failures across its service territory as a result of overloaded poles and improper construction techniques by attaching entities. In some instances, overloaded poles began to lean over roadways. *See* Exhibit A. In other instances, poles began to lean because telecom attachers failed to properly guy the pole. *See* Exhibit A. One pole snapped at the telecom attachment level because of inadequate guying by attaching entities. *See* Exhibit A.

5. NV Energy is still dealing with existing NESC violations and poor construction practices by attaching entities (including, but not limited to, Cox). For example, NV Energy has discovered that on three separate poles, Cox's down-guy wires are attached to one-eyed anchors when they should be attached to triple-eyed anchors to comply with NV Energy construction standards. *See* Exhibit B (Poles 18385, 12149, and 25921). This problem is not just limited to Cox. NV Energy pole 87203 has multiple telecom attachments that are guyed to a single anchor. *See* Exhibit C (Pole 87203). Other attaching entities fail to properly store their slack wire by lashing it out on the strand and do not provide the minimum 40 inches of NESC required clearance below the lowest power facility on the pole. *See* Exhibit D (Poles P78064 and 57909).

6. Under the NESC, Grade B construction is required for all NV Energy distribution poles with communications attachments unless: (a) the pole to which the communication plant is attached is part of a 4 KV system; or (b) both of the following two conditions are satisfied: (i) the supply voltage will be promptly removed from the communications plant by de-energization or other means, both initially and following subsequent circuit-breaker operations in the event of a

contact with the communications plant; and (ii) the voltage and current impressed on the communications plant in the event of a contact with the supply conductors are not in excess of the safe operating limit of the communications-protective devices.

7. The majority of NV Energy's circuits in the Las Vegas valley are 12 KV. Less than 2% (19 circuits out of 1170 circuits) of NV Energy's circuits in the Las Vegas valley are 4 KV. For these few circuits, NV Energy is working towards upgrading these systems to 12 KV as distribution projects arise in those areas. Thus, only 2% of NV Energy's circuits do not require Grade B construction.

8. 122 of the 137 poles Cox places at issue in this proceeding require Grade B construction under the NESC because they support 12KV electric systems or higher. 154 of the 169 total poles to which Cox applied to attach in the timeframe at issue support 12KV electric systems or higher and require Grade B construction. 15 of the 169 poles Cox places at issue in this proceeding support 4 KV electric systems.

9. The protective devices on NV Energy distribution circuits cause the lines to be de-energized in the event of a fault. The breaker will try to restore power a few times to see if the fault has cleared, but after a few unsuccessful attempts it will de-energize the circuit. It is possible, however, that the circuit may not be de-energized in cases where the fault is at the end of the line, far away from the circuit breaker. In these cases, the breaker may read a higher load but it will not be enough to trip the breaker. Due to this uncertainty, NV Energy constructs all of its line to meet NESC Grade B construction to provide a higher level of safety and reliability because the de-energization of the line is not guaranteed. In addition, NV Energy must receive confirmation from attaching entities in order to know whether the communications-protective devices can withstand the fault current caused by the supply conductors making contact with

their lines and the ground. In NV Energy's service territory, the distribution spans are long enough to where if a conductor falls from its attachment point on a pole, it will touch the ground. When the conductor finds a path to ground, a fault current will occur causing a higher voltage than that of the circuit rating. Without this confirmation, NV Energy cannot know whether the conditions exempt its line from Grade B construction standards and must assume that Grade B construction is required.

10. Cox places only 137 of the total 169 poles at issue in its complaint (NV Energy approved Cox's request to attach to all of the remaining thirty-two poles). Of the 137 poles at issue, 60 do not meet the strength and loading requirements of the NESC Grade B construction standard, and three of the poles are currently with NV Energy's Transmission Team undergoing review. NV Energy learned that the 60 poles fail the Grade B construction standard through nine different Cox pole attachment applications. NV Energy will replace all of these poles to accommodate the existing facilities in a manner conformant to the NESC Grade B Construction standard at no cost to Cox. In cases where the new poles are not strong enough to accommodate Cox's proposed attachment or overlash, Cox will pay for the marginal cost required to install a larger class pole with sufficient capacity for its proposed attachment if it chooses to proceed with the attachment.

11. Typically, overlash loads are small compared to the loads that already exist on a pole. Whatever the average of Cox's proposed overlash loads may be, in some instances, like Cox's proposed attachment for the Garces and 8th Street poles, the proposed attachment adds 4-5% incremental load to the pole. If a pole is already overloaded, however, adding any additional load, however minimal, is a risk.

12. Because NV Energy requires Grade B construction for all poles, NV Energy does not perform an analysis of whether a pole satisfies the lower Grade C construction standards.

13. The timeline for pole replacement varies by pole location, is not a simple process, and can be effected by external factors beyond NV Energy's control. For example, Cox submitted an attachment application for poles at Garces Ave between 6th and 8th streets. Nine of the poles in the application failed Grade B analysis, so NV Energy initiated project 3000858402 to replace these nine poles. The project duration, from start (assignment to NV Energy's design team) to finish (replacement by NV Energy's construction team) is expected to take 87 business days. NV Energy assigned the project to its design team on October 13, 2014 and has a goal of completing the project on February 20, 2015. Construction design, review, and approval took 25 days. Lands approval took 14 days. Government approval took 11 days, and it took 7 days to assemble the work order package. After initiating a project to replace the poles in mid-October, NV Energy had a construction plan ready by mid-December. Because this pole line traveled roadways, NV Energy had to submit a lane block request to a traffic barricade company on December 26, 2014. The traffic barricade company must get approval from the City of Las Vegas and it submitted its plan to the city on December 31, 2014. The traffic barricade company did not receive its approved traffic control plans until January 27, 2015. NV Energy requested a renewal of the traffic control plans the same day because the approved plans expire on January 31, 2015. NV Energy crews attempted to dig pole holes on January 20, 2015 but were shut down by a City of Las Vegas Inspector who claimed that NV Energy needed a city permit to perform the work. *See* Exhibit E (Project Chart for 3000858402).

14. The foregoing is just an example of the circumstances beyond NV Energy's control that prohibit adherence to any time line or time projection in a pole replacement project.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

This the 2nd day of February, 2015,



Tania Jarquin

EXHIBIT A

NV Energy North



Overloaded pole



NV Energy South

Improper guying for
telecom attachment





NV Energy South Pole Failure

Inadequate guying by
attaching entities
caused pole to break at
telecom attachment
level



EXHIBIT B

Pole 18385



Pole 12149



Pole 25921



EXHIBIT C

Pole 87203





EXHIBIT D

Pole 78064



Pole 57909



EXHIBIT 5

- ② Lines that can fall outside the exclusive private rights-of-way shall comply with the grades specified for lines not on exclusive private rights-of-way.
- ③ Grade B construction shall be used if the supply circuits will not be promptly de-energized, both initially and following subsequent breaker operations, in the event of a contact with lower supply conductors or other grounded objects.
- ④ If the wires are service drops, they may have Grade N sizes and tensions as set forth in Table 263-2.
- ⑤ Grade N construction may be used where the communication conductors consist only of not more than one insulated twisted-pair or parallel-lay conductor, or where service drops only are involved.
- ⑥ Grade C construction may be used if the voltage does not exceed 5.0 kV phase to phase or 2.9 kV phase to ground.
- ⑦ Grade C construction may be used if both of the following conditions are fulfilled:
 - (a) The supply voltage will be promptly removed from the communications plant by de-energization or other means, both initially and following subsequent circuit-breaker operations in the event of a contact with the communications plant.
 - (b) The voltage and current impressed on the communications plant in the event of a contact with the supply conductors are not in excess of the safe operating limit of the communications-protective devices.
- ⑧ Not used in this edition.
- ⑨ Communication circuits located below supply conductors shall not affect the grade of construction of the supply circuits.
- ⑩ There is no intent to require Grade B over ordinary streets and highways.

243. Grades of construction for line supports

A. Structures

The grade of construction shall be that required for the highest grade of conductors supported except as modified by the following:

1. The grade of construction of jointly used structures, or structures used only by communication lines, need not be increased merely because the communication wires carried on such structures cross over trolley-contact conductors of 0 to 750 V to ground.
2. Structures carrying supply service drops of 0 to 750 V to ground shall have a grade of construction not less than that required for supply line conductors of the same voltage.
3. Where the communication lines cross over supply conductors and a railroad in the same span and Grade B is required by Rule 241C3b for the communication conductors, due to the presence of railroad tracks, the grade of the structures shall be B.
4. The grade of construction required for a conflicting structure (first circuit) shall be determined from the requirements of Rule 242 for crossings. The conflicting structure's conductors (first circuit) shall be assumed to cross the other circuit's conductors (second circuit) for the purposes of determining the grade of construction required for the conflicting structure.

NOTE: The resulting structure grade requirement could result in a higher grade of construction for the structure than for the conductors carried thereon.

B. Crossarms and support arms

The grade of construction shall be that required for the highest grade of conductors carried by the arm concerned except as modified by the following:

1. The grade of construction of arms carrying only communication conductors need not be increased merely because the conductors cross over trolley-contact conductors of 0 to 750 V to ground.
2. Arms carrying supply service drops of 0 to 750 V to ground shall have a grade of construction not less than that required for supply line conductors of the same voltage.
3. Where communication lines cross over supply conductors and a railroad in the same span and Grade B is required by Rule 241C3b for the communication conductors due to the presence of railroad tracks, the grade of the arm shall be B.

C. Pins, armless construction brackets, insulators, and conductor fastenings

The grade of construction for pins, armless construction brackets, insulators, and conductor fastenings shall be that required for the conductor concerned except as modified by the following:

1. The grade of construction need not be increased merely because the supported conductors cross over trolley-contact conductors of 0 to 750 V to ground.
2. Supply service drops of 0 to 750 V to ground require only the same grade of construction as supply line conductors of the same voltage.
3. When Grade B construction is required by Rule 241C3b for the communication conductors due to the presence of railroad tracks, Grade B construction shall be used when supporting communication lines that cross over supply conductors and a railroad in the same span.
4. When communication conductors are required to meet Grade B or C, only the requirements for mechanical strength for these grades are required.
5. Insulators for use on open conductor supply lines shall meet the requirements of Section 27 for all grades of construction.

EXHIBIT 6



June 21, 2013

VIA OVERNIGHT FEDERAL EXPRESS AND ELECTRONIC MAIL

Kristen Weathersby
Vice President, Chief Litigation Officer
Cox Communications, Inc.
1400 Lake Hearn Drive
Atlanta, Georgia 30319

Re: **Response to Cox Communications, Inc.'s June 11, 2013 Correspondence Regarding Attachment Agreement Between Nevada Power Company and Cox Communications Las Vegas, LLC Dated June 1, 1997**

Dear Ms. Weathersby:

This letter responds to your June 11, 2013 correspondence to Paul J. Kaleta and Christopher Miller of NV Energy ("NVE"). In your letter, you express Cox Communications Las Vegas, LLC's ("Cox") concern regarding NVE's failure to approve four Cox applications for attachment to NVE's poles. Your letter states that the reason given for NVE's alleged delay in processing Cox's applications is that the parties have either amended the June 1, 1997 Pole Attachment Contract between Nevada Power Company and Community Cable TV (predecessor in interest to Cox) (the "Contract") or have entered into a new agreement. According to your letter, Cox has not agreed to either.

Cox's characterization of the situation is incorrect. Rather, as stated in Christopher Miller's May 15, 2013 correspondence to Cox's Glenda Mills and Eugene Quartucci, those applications were not approved because of "non-conformance with prevailing NVE requirements for such Applications as outlined in [Mr. Miller's] letter of December 12th. Specifically, because they lack the requisite PE certified structural assessment, and supporting pole data that would be needed for that determination."

NVE's requirement that attachers perform a pole loading analysis and obtain a professional engineer's approval of that analysis prior to attaching to NVE's poles (the "Loading Requirement") does not constitute an amendment to the Contract. Additionally, NVE is not attempting to implement that requirement under the unexecuted, proposed new agreement. Instead, the Loading Requirement has been implemented pursuant to the terms of the existing Contract.

The Contract provides NVE with the discretion to adjust its attachment processes and procedures: "In view of the Parties obligations to maintain safe and adequate service, Attachments, at each and every location, shall be erected, installed, placed, maintained and removed (if applicable) in accordance with the requirements and specifications listed below." Contract at § 4.1. One of those requirements includes "[a]ny additional specifications of Licensor, as reasonably required *in Licensor's sole judgment as may be required from time to time.*" See Contract at § 4.1.10 (emphasis added). The Loading Requirement constitutes a

Kristen Weathersby
Cox Communications, Inc.
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reasonable exercise of NVE's "sole judgment" to impose additional requirements regarding license application processes and procedures.

NVE's rejection of the applications at issue based on Cox's failure to comply with the Loading Requirement is also supported by the Pole Attachment Act, which provides in relevant part:

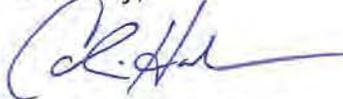
[A] utility providing electric service may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes.

47 U.S.C. § 224(f)(2). As explained in Christopher Miller's December 12, 2012 letter to Cox, one of the key reasons that NVE implemented the Loading Requirement was "internal concern regarding system safety and reliability." That concern stemmed from the fact that historically, the cable industry in Las Vegas has not exhibited a commitment to building its plant in conformance with NESC requirements, and from specific instances of dangerous pole overloading by attaching entities. Without Cox's compliance with the Loading Requirement, it is impossible to know whether it is safe for Cox to attach to the poles in question, or to know whether those poles have sufficient capacity to support the additional load of the proposed attachments.

With regard to your request that NVE approve the four applications resubmitted by Cox on June 11, 2013, until such time as those applications comply with the Loading Requirement, they will be considered incomplete and will not be approved. Once Cox complies with the Loading Requirement NVE can then move forward with processing the applications.

NVE shares in Cox's desire to maintain the historically positive relationship between the parties. However, NVE must insist on compliance with its Loading Requirement by all licensees in order to protect the integrity and reliability of its pole network and the safety of utility and communications workers and the general public.

Sincerely,



Colin R. Harlow, Esq.
Assistant General Counsel

CRH/ggf

Cc: Frank Gonzales, VP Distribution Operations
Larry Luna, Director Distribution Design Svcs.
Patricia Ortwein, Mngr. Rule 9 and Joint Use Contracts Admin.
Chris Miller, Joint Use Contracts Agent
Tania Jarquin, Regional Engineer, Dist. Design Svcs.