June 2, 2005

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BY HAND AND E-MAIL

Sandy Mooy
Hearing Officer
Public Service Commission of Utah
Heber M. Wells Building
Fourth Floor
160 East 300 South
Salt Lake City, UT 84111

Re: Docket No. 03-049-62, Letter From Counsel For SBS, et al. Regarding Utah Power & Light Line-Extension Tariff

Dear Sandy:

Qwest wishes to briefly respond to the letter submitted by Mr. McDonough on May 26, 2005 ("Letter"), which was received by counsel for Qwest on May 31. Qwest appreciates counsel's non-argumentative tone in the Letter. However, despite the tone, Qwest submits that the Letter was not only substantively an argument but an erroneous one at that. Thus, while Qwest understands that the ostensible purpose of the Letter was to present the text of UP&L's Electric Service Regulation No. 12 for administrative notice, in fairness Qwest believes it should have the opportunity to reply to the Letter. Qwest briefly replies to two of the Letter's arguments below. To the extent the Commission considers the arguments in the Letter, Qwest requests that the Commission also consider the arguments below.

1. The Identity of the "Applicant" in an Applicant Built Line Extension. According to the Letter, under Regulation 12.5 "[w]hile the Applicant could be a home owner or end user, the more realistic and usual Applicant is a developer or home builder." (Letter at 1.) Qwest wonders how it is more usual for an Applicant to be a developer when, as Mr. Allen stated in the hearing, even under the Option 2 contractors' reading of the UP&L tariff essentially no one has been using the Applicant Built Line Extensions provision. Regardless, the Letter's argument is not supported by the text of Regulation 12.5, and the argument is refuted by Regulation 2.3 defining an Applicant as a "person, corporation, partnership, or other entity which applies to the Company for electric service" (not someone applying for potentially hundreds of Applicants on their behalf). The argument is further refuted by Regulation 12.4, which provides that in planned developments such as subdivisions the "**Company will install facilities** in developments **before there are actual Applicants for service** under the terms of a written contract." (Emphasis added.) If the utility installs facilities in subdivisions before there are any Applicants, an Applicant Built Line Extension would not be a possibility.

2. Costs Incurred for Applicant Built Line Extensions. According to the Letter, "consistent with the LDA Tariff, Section 5(a)(10) of Regulation 12 provides that after the Company

assumes ownership of the facilities, the Company reimburses the Applicant for its construction costs." (Letter at 2.) Regardless of the definition of an Applicant, this cost recovery issue is a major distinction between the UP&L tariff and Option 2 of Qwest's LDA tariff. And what the Letter fails to acknowledge, as counsel for Qwest noted in Qwest's closing argument, is that UP&L's reimbursement is limited to "construction costs covered by the Extension Allowance, less the cost of any Company provided equipment or services, **but in no case more than the Line Extension Value**." (*See* Regulation 12.5(a)(10).) The Line Extension Value is in turn **calculated by UP&L** "using its standard estimating methods." (*Id*. at 12.5(a)(9).) There is no provision for UP&L to pay more than it would have to install facilities itself and no provision for a flat per-lot rate—certainly not one set at 125% of average cost. (*See also* Regulation 12.1(d), (e).) Thus, under the UP&L tariff there is no incentive for an Option 2 industry to spring-up and take advantage of the perverse economic signals that have been sent by an interpretation of Qwest's LDA tariff that required Qwest to pay $436.13 per lot regardless of the actual cost to place facilities in a particular development. To the extent, therefore, that UP&L's tariff teaches anything about costs under Option 2, it teaches that such costs should be limited to the utility's costs.

Qwest will not restate the additional arguments it made during closing argument for why UP&L's Regulation 12 does not support the forced continuation of Qwest's Option 2 tariff, except to reiterate that Qwest is no longer subject to cost-of-service, rate-of-return regulation. Suffice it to say that, if anything, Regulation 12 supports Qwest's position rather than the position of the Option 2 contractors.

Sincerely,

Gregory B. Monson
David L. Elmont

Attorneys for Qwest Corporation

cc: All Parties of Record