



State of Utah
Department of Commerce
Division of Public Utilities

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August 7, 2006

TO: PUBLIC SERVICE COMMISSION

FROM: DIVISION OF PUBLIC UTILITIES

Constance B. White, Director
Casey J. Coleman, Acting Manager Telecommunications

Re: Motion for Approval of Utah Pole Attachment Agreement between Qwest Corporation and Utah Telecommunication Open Infrastructure Agency. Docket 04-999-03

RECOMMENDATION: Approve the submitted Contract

ISSUES:

On April 14, 2006 Qwest submitted a proposed contract for the Commission's review. The Contract was similar to the proposed Pole Attachment Contract that was published by the Commission that could be used as a "safe harbor" for companies wanting to adopt an agreement with Qwest.

The agreement filed with the Commission is almost identical to the "proposed Pole Attachment Agreement" except that some of the language is specific to litigation between both Qwest and Utah Telecommunication Open Infrastructure Agency. The changes basically provide direction once the litigation is settled.

The Division has reviewed the contract submitted by Qwest and recommends that the Commission acknowledge the contract. The Division believes that both parties negotiated this contract in good faith and allows for both parties to understand how UTOPIA will be allowed to attach to Qwest's poles. This contract does not appear to discriminate against UTOPIA or any other entity.

cc: David Shaw, UTOPIA
Jim Farr, Qwest
Michael Ginsberg, Assistant Attorney General