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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Complaint of
BEAVER COUNTY, et al.,

Complainants,

-VS-

QWEST CORPORATION fka U S WEST
COMMUNICATIONS, INC. fka MOUNTAIN STATES TELEPHONE &
TELEGRAPH SERVICES, INC.,

Respondent.

COMPLAINANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Docket No. 01-049-75

Complainants, pursuant to Utah R. Civ. P. 56, 81, hereby moves the Commission to grant partial summary judgment, in favor of Complainants, on grounds of issue preclusion and judicial estoppel, that the Commission in this proceeding has exclusive jurisdiction over all of the claims asserted by Complainants, such that no contention may be asserted that this Commission lacks jurisdiction concerning the restitution of all, or any portion of, the tax refunds at issue. Grounds for this motion are that Respondent affirmatively asserted the position that this Commission had exclusive jurisdiction over the claims of Complainants, in proceedings before the Third District Court, Salt Lake County, State of Utah and before the Utah Supreme Court, that such issues were resolved in favor of Respondents, namely, that they obtained relief based on the exclusive jurisdiction of this Commission over all of Complainants' claims, and that arguing now to this

Commission that it in fact lacks jurisdiction over all of Complainants' claims is precluded by both issue preclusion and judicial estoppel.

This motion is supported by the accompanying memorandum, the file herein and the Third District Court file, Case No. 980913349, and the Utah Supreme Court file, Case Nos. 990771, 20000140, 990268.

DATED this _____ day of December, 2004.

PETERS SCOFIELD PRICE
A Professional Corporation

DAVID W. SCOFIELD
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing Complainants' Motion For Partial Summary Judgment was served via e-mail transmission this _____ day of December, 2004, to the following:

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