

Robert C. Brown
Qwest Services Corporation
1801 California, Suite 4900
Denver, CO 80202
(303) 672-5839
(303) 295-7069 (fax)
Robert.Brown@qwest.com

Gregory B. Monson (2294)
Ted D. Smith (3017)
David L. Elmont (9640)
STOEL RIVES LLP
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111
(801) 328-3131
(801) 578-6999 (fax)
gbmonson@stoel.com
tsmith@stoel.com
dlelmont@stoel.com

Attorneys for Qwest Corporation

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.

Docket No. 01-049-75

**QWEST'S MOTION FOR
MODIFICATION OF
SCHEDULING ORDER**

Qwest Corporation ("Qwest"), pursuant to Utah Code Ann. §§ 54-7-13 and 63-46b-12 and Utah Admin. Code R746-100-3.H and R746-100-11.F, hereby moves the Commission to modify its Scheduling Order issued in this matter on July 6, 2004. Qwest

specifically requests that the order be modified to remove the requirement that Qwest and other parties opposing the claim of Beaver County, et al. (“Counties”) for a refund to customers of the property tax refund received by Qwest from the Counties in January of 1999 complete discovery by August 31, 2004.

Qwest appreciates the Commission’s efforts to set a schedule in this matter and to require the Counties to move this matter along. However, Qwest does not believe it appropriate for the Commission to set a discovery cutoff of August 31, 2004, for *all* parties to complete discovery of *all* issues they intend to submit to the Commission in this matter. Such a discovery cutoff is entirely appropriate for the Counties and any other party supporting the Counties’ claim. The Counties filed their complaint in this matter on September 17, 2001, and their amended complaint on July 19, 2002, and have had ample opportunity to conduct discovery to develop the factual basis for their allegations. However, the Counties have yet to provide anything other than conclusory allegations in support of their claim that Qwest should be required to refund \$16.9 million to its customers.¹ Qwest and any party opposing the relief sought by the Counties should be permitted to conduct discovery of the Counties once the Counties have stated the specific factual basis for their claim in accordance with due process.

Qwest respectfully requests that the Commission modify the Scheduling Order to provide that parties opposing the Counties’ claim may conduct discovery following disclosure by the Counties of the specific factual basis for their claim. In other major

¹ Qwest sent data requests to the Counties on July 28, 2003, seeking disclosure of the specific factual basis for the allegations in the amended complaint. The Counties provided a response on September 29, 2003. A copy of the response is attached. The Counties generally responded by stating that discovery was ongoing and that they were still in the process of developing the facts in support of their allegations. Therefore, Qwest has had no opportunity to conduct discovery of the facts which the Counties claim underlie their claim.

matters before the Commission, the party seeking relief is often required to file direct testimony in support of the relief sought before the other parties commence discovery. Qwest believes it would be appropriate for the Commission to require the Counties and others supporting their claim to file direct testimony and then allow discovery for a reasonable period of time following the filing for other parties to discover facts in support of their positions and in opposition to those of the Counties and others supporting the Counties' claim before filing their direct testimony.

The Scheduling Order anticipates that the parties may file or renew prehearing motions until September 30, 2004, and that further proceedings will be scheduled as necessary following disposition of those motions. Therefore, Qwest respectfully suggests that the Commission not consider a discovery cutoff for parties opposing the Counties' claim before the time that further proceedings are scheduled.

Based upon the foregoing, Qwest requests that the Commission modify the Scheduling Order issued July 6, 2004, by removing the requirement that parties opposing the Counties' claim complete discovery by August 31, 2004.

RESPECTFULLY SUBMITTED: July 14, 2004.

Gregory B. Monson
Ted D. Smith
David L. Elmont
STOEL RIVES LLP

Robert C. Brown
Qwest Services Corporation

Attorneys for Qwest Corporation

CERTIFICATE OF SERVICE

I hereby certify that true and complete copies of the foregoing **QWEST'S MOTION FOR MODIFICATION OF SCHEDULING ORDER** were served on the following by hand delivery on July 14, 2004:

Bill Thomas Peters
David W. Scofield
PETERS SCOFIELD PRICE
111 East Broadway, Suite 340
Salt Lake City, UT 84111

Michael Ginsberg
Assistant Attorney General
Patricia E. Schmid
Assistant Attorney General
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84114

Reed T. Warnick
Assistant Attorney General
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
