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Attorneys for Petitioners, Clear Wave, et al.

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of QWEST CORPORATION'S Land Development Agreements (LDA) Tariff Provisions	Docket No. 03-049-62
	PETITION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Petitioners, Clear Wave Communications, L.C. ("Clear Wave"), East Wind Enterprises, L.L.C. ("East Wind") and Prohill, Inc. dba Meridian Communications of Utah ("Prohill") (collectively "Petitioners" or "Clear Wave"), by and through their counsel of record, Kevin M. McDonough and pursuant to and consistent with Rule 65A, Utah Rules of Civil Procedure and § 63-46b-20 of the Utah Code, hereby petition the Public Service Commission ("the Commission") for a Temporary Restraining Order and Preliminary Injunction, enjoining Qwest Corporation ("Qwest") from enforcing the July 31, 2005 cut-off date for the provisioning of telecommunications network facilities, pending a hearing and disposition of Petitioners' Motion for a Temporary Restraining Order and Preliminary Injunction filed on this 19th day of July, 2005. In this regard, Petitioners herein request that the Commission enter an Order permitting these Petitioners to complete, and be fully compensated for the Option 2 projects upon which they are presently providing telecommunications network facilities. The grounds for this request for a temporary restraining order and preliminary injunction are that, in absence of such relief:

- (1) Clear Wave will suffer irreparable harm;

(2) The threat and injury to Clear Wave outweighs any damage that Qwest may be caused if it is restrained or enjoined consistent with this Petition;

(3) The injunction, if issued, would not be adverse to the Public Interest; and

(4) There is a substantial likelihood that Clear Wave will prevail on the merits and the case presents serious issues on the merits upon which a final ruling and order has not been issued and may be the subject of further review and/or litigation.

Based upon the foregoing grounds, it is further requested that a Temporary Restraining Order be issued until a hearing can be held on the Petition herein. This Petition for Temporary Restraining Order and Preliminary Injunction is more fully supported by the memorandum and Affidavit of Stephan G. Allen filed simultaneously herewith.

Petitioners further respectfully move the Commission for a hearing on this matter, and to be advanced in an expeditious manner.

DATED this the _____ day of July, 2005

Kevin M. McDonough
Attorney for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on this ___ day of July, 2005 a true and correct copy of **MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION** was served upon the person named below, at the address set out below their name, either by mailing postage prepaid, hand-delivery, Federal Express, Email, or by telecopying to them a true and correct copy of said document.

Julie Orchard Lindsay Mathie Public Service Commission 160 East 300 South P. O. Box 45585 Salt Lake City, Utah 84145-0585 jorchard@utah.gov lmathie@utah.gov	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Federal Express <input checked="" type="checkbox"/> Hand-Delivery <input checked="" type="checkbox"/> Email <input type="checkbox"/> Facsimile <input type="checkbox"/> Other:
Gregory B. Monson David L. Elmont Stoel Rives LLP 201 South Main, #1100 Salt Lake City, Utah 84111 gbmonson@stoel.com dlelmont@stoel.com	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand-Delivery <input checked="" type="checkbox"/> Email <input type="checkbox"/> Facsimile <input type="checkbox"/> Other:

<p>Patricia Schmid Michael Ginsberg Assistant Attorney General 160 East 300 South #500 Heber Wells Building Salt Lake City, Utah 84111 pschmid@utah.gov mginsberg@utah.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand-Delivery <input checked="" type="checkbox"/> Email <input type="checkbox"/> Facsimile <input type="checkbox"/> Other:</p>
<p>Oliwia Smith Paul Proctor Committee for Consumer Services 160 E. 300 So, 2nd floor Salt Lake City, Utah 84111 osmith@utah.gov pproctor@utah.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Federal Express <input type="checkbox"/> Hand-Delivery <input checked="" type="checkbox"/> Email <input type="checkbox"/> Facsimile <input type="checkbox"/> Other:</p>