

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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**IN THE MATTER OF QWEST CORPORATION )  
LAND DEVELOPMENT AGREEMENTS ( LDA )  
TARIFF PROVISIONS )**

**Docket No. 03-049-62  
DPU Exhibit No. 1**

**SURREBUTTAL TESTIMONY**

**OF**

**PEGGY N. EGBERT**

**DPU # 1**

**DIVISION OF PUBLIC UTILITIES  
DEPARTMENT OF COMMERCE  
STATE OF UTAH**

**April 5, 2005**

1 **Q. PLEASE STATE YOUR NAME.**

2 A. Peggy N. Egbert

3

4 **Q. HAVE YOU FILED TESTIMONY IN THIS DOCKET?**

5 A Yes I have filed Direct Testimony in this Docket.

6

7 **Q. PLEASE STATE THE PURPOSE OF YOUR TESTIMONY.**

8 A. The purpose of this testimony, is to respond to the Qwest/Salt Lake Home Builders  
9 Association (HBA) Stipulation filed in this Docket.

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11 **Q. HAS THE DIVISION EVALUATED THE STIPULATION BETWEEN QWEST  
12 AND THE SALT LAKE HOME BUILDERS ASSOCIATION (HBA) PLEASE  
13 COMMENT?**

14 A. The stipulation is a commendable effort by Qwest to resolve many of the issues that  
15 the Division has been grappling with throughout this case. It has been our intent to work  
16 toward a solution that would assure timely facility placement to the end user, and to  
17 ensure that Qwest would not pay more than their estimated cost for the facilities that  
18 Developers place in new subdivisions. It appears that this stipulation may satisfy both  
19 criteria for developers who are members of the Salt Lake HBA.

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21 **Q. WHAT ABOUT OTHER DEVELOPERS THAT ARE NOT MEMBERS OF  
22 THE SALT LAKE HBA?**

23 A. The Division's first concern with the stipulation was the number of developers that  
24 this stipulation would represent, and as discussed in our Direct Testimony, the choices  
25 those who were not covered would have.

26

27 The Division spoke with Mr. Woolley, a member of the local Salt Lake HBA Executive

1 Board, to gain an understanding of the Salt Lake HBA organization and the negotiation  
2 process between HBA and Qwest.

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4 As we understand, there are three divisions of the HBA, National, State and Local. The  
5 Salt Lake HBA is one of many local associations within the area. Neither the State nor  
6 the National Organizations are a party to the stipulation. For this reason, there are many  
7 developers that are not parties to the stipulation. Mr. Woolley, Salt Lake HBA, agreed  
8 with the Division that the only developers that are included in the stipulation are those  
9 that are members of the Salt Lake HBA.

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11 **Q. WERE OTHER PARTIES IN THIS DOCKET CONTACTED BY THE SALT**  
12 **LAKE HBA TO DISCUSS QWEST'S PROPOSAL?**

13 A. Yes. It is my understanding after speaking with Mr. Woolley, that the Salt Lake HBA  
14 officials met with Steve Allen of Clearweave stated that he represented other Option 2  
15 Contractors. The Salt Lake HBA and Clearweave discussed the issues and stipulation.  
16 Due to time constraints in filing testimony, the Division has not had the opportunity to  
17 speak with Clearweave about this meeting.

18

19 At any rate, we understand from our conversation with the Salt Lake HBA it was stated  
20 that Qwest will, in all likelihood, use some of the same Option 2 Contractors through  
21 subcontracting and additionally allow the Option 2 Contractors to bid to become a  
22 contractors for Qwest. This pledge falls in line with the Division's recommendation that  
23 Qwest provide an opportunity for the Option 2 contractors to continue to pursue placing  
24 facilities in subdivisions by contracting with Qwest.

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1 **Q. DID THE DIVISION DISCUSS THE STIPULATION AND VOTING PROCESS**  
2 **WITH THE SALT LAKE HBA?**

3 A. In our discussion with the Salt Lake HBA, we understand that Qwest made a  
4 presentation of the stipulation to the local Salt Lake HBA association at their monthly  
5 meeting. The Developers told Qwest, as they told the Division that placing facilities and  
6 closing the trench in a timely manner was a major concern. During the negotiation  
7 process the Salt Lake HBA petitioned Qwest to add an alternative to provide and place a  
8 conduit if they could not meet the time schedules outlined in Qwest's proposed LDA  
9 tariff (Attached to Dennis Pappas's Direct Testimony). Additionally, the Salt Lake HBA  
10 wanted assurance that Qwest was meeting its obligations; a provision was inserted in the  
11 stipulation where by Qwest would monitor its activities and provide the Salt Lake HBA  
12 with the results. Qwest agreed and inserted those changes into the stipulation.

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14 Once the stipulation was agreed to by the Salt Lake HBA Local Board it was passed to  
15 the Executive Board for approval. Members were then contacted by the Executive Board  
16 to assure that they were agreeable to the stipulation. Once the Executive Board felt the  
17 stipulation was favorable to its members it gave the approval to sign the stipulation with  
18 Qwest.

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20 **Q. DOES THE DIVISION HAVE SUGGESTIONS THAT THEY WOULD LIKE**  
21 **TO HAVE INSERTED INTO THE STIPULATION?**

22 A. The Division suggests that it would be in the public interest for Qwest to file its time  
23 lines, performance and monitoring criteria outlined in the stipulation in its proposed LDA  
24 Tariff or Price List resulting from this Docket. This action would allow a full  
25 understanding of Qwest's obligations going forward. Furthermore, the Division feels that  
26 a fifteen percent<sup>1</sup> benchmark for failing to meet its obligation of constructing facilities

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<sup>1</sup> Stipulation 4 (f)

1 may be low since the Commission's Quality of Service Rule R746-340-8 (A) (3) now  
2 states that Qwest must meet its commitment to complete construction of facilities to end  
3 users ninety percent of the time, which would infer a ten percent benchmark rather than  
4 fifteen percent.

5  
6 If the Commission adopts the Stipulation, it is imperative that the LDA is filed as a Tariff  
7 or in a Price List, so that it will cover all Developers in the State, who sign an LDA with  
8 Qwest.

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10 **Q. DOES THE DIVISION CONTINUE TO SUPPORT ITS RECOMMENDATION**  
11 **PROPOSED IN ITS DIRECT TESTIMONY?**

12 A. Yes. The Division affirms that Qwest should have control of its network and should  
13 not be required to pay more than its estimated cost, but more importantly the end users  
14 should receive telephone service in a timely manner. Additionally, the Division continues  
15 to believe that Developer should have choice to allow the placement of facilities in a  
16 timely manner. If the Commission chooses to adopt the Stipulation, the choice for the  
17 developer changes from "who will place facilities" to the method of "Qwest placing  
18 facilities" or "Qwest providing conduit for the developer to conduit." This option is  
19 somewhat different than the Division's recommended solution of having Qwest maintain  
20 a list of contractors for the Developers to choose from, but arrives at the same result in  
21 that Qwest regains control of its network.

22  
23 The Division trusts that either its proposed solutions or the solutions represented in the  
24 stipulation between Qwest and the Salt Lake HBA, filed as a tariff or price list, will be  
25 workable solutions and will satisfy the needs of Developers placing facilities to end users  
26 in a timely manner. Additionally, both proposals ensure that Qwest will not be obligated  
27 to pay more than its estimated cost for construction of distribution facilities, which is in

1 line with that of their competitors.

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3 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 A. Yes it does.

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