



State of Utah  
Department of Commerce  
Division of Public Utilities

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September 5, 2003

**TO: PUBLIC SERVICE COMMISSION**

**FROM: DIVISION OF PUBLIC UTILITIES**

Judith Johnson, Interim Director  
Ingo Henningsen, Manager, Telecommunications  
Peggy Egbert, Technical Consultant  
Bart Croxford, Utility Analyst

**Re: Application of Broadweave Networks of Utah, LLC for a certificate authorizing it to provide local exchange services in Docket No. 03-2410-01**

Broadweave Networks of Utah, LLC ("Broadweave") filed an application for a certificate of public convenience and necessity ("CPCN") on July 9, 2003. In reviewing the application and subsequent meetings with the parties the Division has determined that the company has met the requirements of financial, technical and managerial resources as defined in both the statute 54-8b-2.1 (a) and the Commission rule R749-349 -3. Nonetheless, the Division, after several investigative meetings with Qwest (intervening party) and Broadweave, is concerned that Broadweave's that network configuration may limit access to their network by competitive providers. The Division believes that this issue, along with other issues, as discussed below, warrants a proceeding to determine if this certification is in the public interest ( 54-8b-2.1 (b)).

The facts that have been brought forth through the Division's investigation are as follows:

- 1) Broadweave has stated that it plans to operate as a provider of telecommunications services utilizing its own facilities, throughout Qwest's service territory in Utah.
- 2) Broadweave stated that it will begin to introduce its service to the Traverse Mountain Development and eventually expand to other Qwest service areas.
- 3) Broadweave stated that they intend to be the exclusive provider in the Traverse Mountain development. Company representative stated that Broadweave is not willing to lease or share facilities with another provider. Nor will it allow another provider to bring facilities into the distribution portion of the network utilizing its private right-of-way. Moreover, Broadweave maintains that as a CLEC, this is their niche in a competing market, and as such, they should not be obligated to open their network to other providers.
- 4) Broadweave, asserts that it will allow other providers to interconnect at a mee

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outside of the distribution network. In spite of this type of interconnection, all customers will be subject to Broadweave's network which is composed of FTTH and Voice over IP (VOIP). In essence, all Traverse Mountain customers will be Broadweave's customers and will be subject to its exclusive network configuration, regardless of what other provider of telecommunication services interconnects to Broadweave.

- 5) In meetings with the Division, Qwest representatives maintain that they will be blocked from serving the Traverse Mountain area by the following.
- a) The inability to use a public right-of-way easement that is only two feet wide to place cable.
  - b) believes that Interconnection at the meet point as described by Broadweave will cause operational problems.
  - c) believes that there is a discriminatory issue as it relates to owner/developer partnerships in the Traverse Mountain development.
  - d) questions what company will be designated as the "carrier of last resort".

Due to the unique issues that surround Broadweave's application for certification to become a competitive provider (CLEC) in Qwest's service area, the Division recommends that the Commission schedule a proceeding to hear evidence and provide direction to the parties on the issues that have been brought forth in this case.

Attachment

cc: Jerold G. Oldroyd, Esq., Ballard Spahr Andrews & Ingersoll, LLP  
Yvonne R. Hogle, Esq., Ballard Spahr Andrews & Ingersoll, LLP  
Stephen T. Christensen, Broadweave Networks of Utah, LLC  
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