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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of
BROADWEAVE NETWORKS OF UTAH,
LLC for a Certificate of Public Convenience
and Necessity to Provide Local Exchange
and Facilities-Based Interexchange Services
within the State of Utah

**RESPONSE OF THE DIVISION
OF PUBLIC UTILITIES TO THE COMMISSION'S NOVEMBER 12, 2003 ORDER**

Docket No. 03-2410-01

The following is a response of the Division of Public Utilities (DPU) to the
Commission's November 12, 2003 Order.

1. The Commission's November 12, 2003 Order created a new Docket to consider the issues raised by Qwest and the DPU during the course of their Certificate Application. The Commission indicated that they believed that it was more appropriate to consider "the placement of facilities and Interconnection disputes" in a docket separate from the Certificate proceeding. If parties believed that the Certificate docket should be kept open while the Commission in a

separate docket, consider the issues raised by Qwest and the DPU a filing needed to occur by December 5, 2003.

2. On November 21, 2003 Qwest filed a response to the Commission's Procedural Order outlining many of the issues that surround this development. The issues that are included in Qwest's filing and that have surfaced during the course of the DPU's investigation relates directly to the public interest standard contained in the Certificate statute. If the Commission determines in a separate docket that the actions of this company are not in the public interest, such a finding relates directly to their qualifications to obtain a Certificate in this state.

3. The public interest standard contained in the statute has meaning, and when raised in a Certificate proceeding, should be considered as part of the Application. The Applicant argues that since the Commission has not considered issues raised in this docket in other Certificate proceedings, it cannot address them in this Docket. The DPU disagrees. The fact that these issues have not been brought forth to the Commission does not eliminate their relevance to the ultimate decision of whether this Application meets the public interest standard. Issues similar to issues raised by Qwest in their filing have not been raised in any other Certificate proceeding because they have not been alleged to have occurred. Therefore, whether the issues raised by Qwest are considered in a separate docket or in the Certificate docket, any decision that is made will directly affect the finding of whether this Application meets the public interest standard in the statute. The DPU therefore recommends that the Certificate docket be kept open while the issues raised by Qwest and the DPU are considered.

Dated this _____ day of December, 2003.

MICHAEL L. GINSBERG
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Attorney for the Division of Public Utilities

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **RESPONSE OF THE DIVISION OF PUBLIC UTILITIES TO THE COMMISSION'S NOVEMBER 12, 2003 ORDER** was mailed on this _____ day of December, 2003 to the following:

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