

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

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| In the Matter of the Complaint of: |) | |
| |) | |
| Clear Wave Communications LC, East Wind |) | <u>DOCKET NO. 04-049-06</u> |
| Enterprises LLC and Prohill Inc., dba |) | |
| Meridian Communications of Utah |) | |
| |) | |
| Complainants, |) | <u>ORDER DENYING MOTION TO STAY</u> |
| |) | |
| vs. |) | |
| |) | |
| QWEST CORPORATION, |) | |
| |) | |
| Respondent. |) | |

ISSUED: April 12, 2004

By The Commission:

In this matter, various complainants claim that Qwest Corporation (Qwest) has misapplied provisions of Qwest's tariffs concerning reimbursement for facilities placed in residential developments. On February 13, 2004, Qwest filed a Motion to stay these proceedings. Qwest argues that the issues raised in this complaint proceeding are similar to issues to be addressed in PSC Docket No. 03-049-62; a docket created to explore alterations to the existing tariff provisions concerning facility placement. Qwest argues that it could be beneficial to deal with these issues in the 03-049-62 docket and that, potentially, more interested parties may be participating in that docket. On March 4, 2004, complainants filed their Memorandum in Opposition to Qwest's Motion for Stay. They argue procedural and substantive aspects of the Motion. On March 26, 2004, complainants filed a Supplemental Response to Qwest's Motion.

Upon consideration of the documents filed by the parties and our examination of the issues associated with each of the two dockets, we conclude that we will deny Qwest's Motion for Stay. We intend to explore the policies and issues associated with facility placements in the 03-049-62 docket and could use those proceedings to consider future alterations to existing tariff provisions and future tariffs. We view that docket as a 'going forward' examination of

potential, alternative terms to replace the existing tariff provisions. In this docket, the issues arise from past conduct and the application of the existing tariff. We recognize that our resolution of the disputes in this docket can set precedent on the future application or interpretation of the existing tariff provisions. That is distinct, however, from our intended purpose of using the 03-049-62 docket to explore modifications to or entirely new terms and conditions for facility placements. We believe that administrative efficiency and management of our proceedings is better served by addressing the application of the existing tariff to these complainants in this docket and using the 03-049-62 docket proceedings for future tariff provisions that might be used in place of the existing provisions.

Wherefore, we enter this ORDER denying Qwest's Motion for Stay.

DATED at Salt Lake City, Utah, this 12th day of April, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

GW#37784