

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Navajo Communications)
Company Tariff Filing Regarding) DOCKET NO. 11-050-T01
Introduction of a New Condition Addressing) ORDER REJECTING TARIFF
Facility Relocation Requests)

ISSUED: April 21, 2011

By The Commission:

This matter is before the Commission on the tariff filing (dated January 31, 2011) of Navajo Communications Company (Company). The Company proposes to add the following language to its tariff:

When an applicant, customer, association, government entity or political division or other third-party requests a change in the type, location or the relocation of aerial or underground of communications facilities used to provide telephone service, the requestor shall be required to pay the cost incurred by the Utility for such change or relocation of facilities. Payment for the cost of the change or relocation must be made prior to the change or relocation.

The Division of Public Utilities (Division) submitted its recommendation on March 23, 2011 recommending the Commission reject the tariff. The Division specifically had concern with the phrase “government entity or political division”. The Division commented that the State, a county, or municipality could be required to pay for requested changes or relocation of company facilities. This could occur in the event of highway improvement, street widening, etc. However, the Division noted that such tariff language could conflict with existing Utah law governing cost of relocation in situations involving rights-of-way, including when impacting interstate and state highways. *See Utah Code Ann. §§ 72-6-116, 72-7-107,-108, and 54-3-29.*

The Division noted that the language might also conflict with franchise agreements or

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ordinances. *See Utah Code. Ann. § 54-3-29(8)*. The Division recommended rejecting the tariff until and if the Company amended the tariff to clarify that reimbursement obligations arise only in the event they do not conflict with federal, state, or local law.

ORDER

Based on the findings and recommendation of the Division, the tariff is rejected. This rejection is without prejudice and a new tariff may be approved by the Commission once the clarification described above is made.

Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Sections 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 21st day of April, 2011.

/s/ Ruben H. Arredondo
Administrative Law Judge

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Approved and confirmed this 21st day of April, 2011, as the Order Rejecting
Tariff of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#71839