

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of Qwest Corporation's Verified)
Petition to Conditionally Amend its Certificate)
)

DOCKET NO. 04-049-136

ORDER GRANTING PETITION

ISSUED: October 8, 2004

By The Commission:

On September 16, 2004, Qwest Corporation ("Qwest") requested that the Commission enter an order conditionally amending Qwest's Certificate of Convenience and Necessity No. 1499-sub 2, as amended, to delete the Eagle Mountain area from the territory in which Qwest is certificated to serve. The request was made conditional upon the closing of the sale of the municipal telephone system of the City of Eagle Mountain ("Eagle Mountain") to Direct Communications Cedar Valley, LLC ("Direct"), in order for Direct to serve the Eagle Mountain area. Qwest requested that the certificate amendment automatically be rescinded and that the area conditionally removed from Qwest's certificated territory automatically revert to being part of its certificated territory upon the earlier to occur of the following: (1) notification by Direct that it does not intend to proceed with the purchase of the municipal telephone system of Eagle Mountain or (2) the passage of one year from the date of Qwest's petition without the purchase by Direct of the municipal telephone system of Eagle Mountain closing, unless Qwest provides notice to the Commission that it agrees to extend the one-year period prior to expiration of the one-year period, in which event the territory will automatically revert to Qwest's certificated area on the passage of the extended period without the sale closing. On September 30, 2004, the Division of Public Utilities submitted its comments, recommending that the Commission approve the petition to amend the certificate. No other responses to the petition have been submitted and no opposition is expected.

Qwest is a telecommunications corporation holding a Certificate of Convenience and Necessity, No. 1499-sub 2, as amended, from the Commission authorizing it to provide public telecommunications services in various

areas in the state of Utah. Eagle Mountain established a municipal telephone system to provide service in a portion of the area currently certificated to Qwest. The area in which Eagle Mountain currently provides telephone service is the area which is the subject of this petition. Direct is a telecommunications corporation holding a Certificate of Convenience and Necessity, No. 2419, issued by the Commission in Docket No. 04-2419-01 on August 9, 2004. Direct has entered into a contract with Eagle Mountain to purchase Eagle Mountain's municipal telephone system and to operate the system to provide service to existing customers of Eagle Mountain and future customers in the area currently served by Eagle Mountain. Closing of the sale is conditional on a number of events, including approval by the Federal Communications Commission ("FCC") of a Study Area Waiver, which will remove the area to be served by Direct from Qwest's Study Area and create a separate Study Area for Direct in order for Direct to qualify for participation in the National Exchange Carriers Association ("NECA") pools and tariffs and to receive federal universal service support.

Qwest does not currently serve any customers in the area to be removed from its certificated territory, and Eagle Mountain does not currently serve any customers in the territory that will remain in Qwest's certificated territory. Qwest has made a number of agreements that it will cooperate with efforts to permit Direct to serve the Eagle Mountain area. Qwest has made these agreements conditional upon the closing of the sale. If the sale does not close, it is understood that the amendment of Qwest's certificate will be automatically rescinded. After review of the Petition and investigation, the Division of Public Utilities has concluded that granting the Petition is appropriate and supports granting the Petition.

Based upon the foregoing, the Commission treats this as an uncontested matter to be adjudicated informally under Utah Admin. Code R746-110. The Commission issues this tentative order granting the petition, which order will become final 20 days after issuance of the order, without further action by the Commission, absent meritorious objection filed with the Commission during the 20 day period.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Commission grants Qwest's September 16, 2004, Petition and orders that the territory described in Attachment 1 (GW#40396) is deleted from Qwest's certificated territory conditional upon the closing of the sale of the

municipal telephone system of Eagle Mountain to Direct.

2. The deletion ordered herein will be automatically rescinded and the area conditionally removed from Qwest's certificated territory will automatically revert to being part of Qwest's certificated territory upon the earlier to occur of the following: (1) notification by Direct that it does not intend to proceed with the purchase of the municipal telephone system of Eagle Mountain or (2) the passage of one year from the date of this petition without the purchase by Direct of the municipal telephone system of Eagle Mountain closing, unless Qwest provides notice to the Commission that it agrees to extend the one-year period prior to expiration of the one-year period, in which event the territory will automatically revert to Qwest's certificated area on the passage of the extended period without the sale closing.

DATED at Salt Lake City, Utah, this 8th day of October, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

GW#40762