

MEMORANDUM IN SUPPORT OF THE CONTINUED SUSPENSION

A. Background

On February 13, 2004, the Appellants (Radio Paging Service, PageData, and Tel-Car, hereinafter referred to as “the Pagers”), Qwest Corporation and the Public Utilities Commission filed a Stipulated Motion to suspend this appeal and temporarily remand the matter back to the Utilities Commission. In their initial Motion, the Parties maintained that there was good cause to suspend the appeal primarily so they could consider a recent decision issued by the United States Court of Appeals for the District of Columbia Circuit. More specifically, the Circuit Court vacated orders of the Federal Communications Commission (FCC) that the Utilities Commission relied upon when it issued the underlying decisions in this appeal. The Parties’ Motion asserted that a temporary remand would allow: (1) the Parties another opportunity to settle the appeal; (2) the FCC to address the remanded telecommunication issues; and (3) the Utilities Commission to reconsider its Orders in light of the recent Circuit Court opinion. On March 8, 2004, the Supreme Court granted the Motion, suspended the appeal, and remanded the matter back to the Public Utilities Commission.

On May 8, 2004, the Parties filed another Stipulated Motion requesting that the Court continue the suspension in this appeal until July 15, 2004. As the Parties noted in their Stipulated Motion to Continue the Suspended Appeal, the Parties were once again unable to settle their dispute and the FCC had not addressed the remanded issues in the D.C. Circuit Court case. Consequently, the Commission directed the Pagers and Qwest to file supplemental briefs addressing the federal telecommunications issues. Order No. 29491 (May 11, 2004). On June 7, 2004, the Court issued its Order granting the Motion to continue the suspended appeal until July 15, 2004.

B. Second Request to Continue the Suspension of the Appeal

In response to the Commission's Order No. 29491, Qwest and the Pagers each filed Supplemental Briefs and other materials totaling more than 160 pages. On July 7, 2004, Qwest filed a Motion to Strike portions of the Pagers' Supplemental Brief submitted to the Commission. Although the Commission anticipates that the Pagers will file a speedy Answer to the Qwest Motion, the Commission's Procedural Rule 57.03 provides a party with up to fourteen (14) days to answer a motion. IDAPA 31.01.01.057.03.

Although the Commission has begun its reconsideration of this matter on remand, the Commission will not be able to conclude its reconsideration by July 15, 2004. Because of the Commission's out-of-town travel, previously scheduled rate case hearings and Qwest's recent Motion to Strike, the Commission requests that the current suspension be continued for an additional eighteen (18) days until August 2, 2004. This will provide ample time for the Commission to complete its travels, consider the Supplemental Briefs, review the Motion to Strike and possible Answer, and render a decision. The Commission is confident that continuing the suspension until August 2, 2004 will provide ample time for it to conclude its reconsideration of the remanded issues and Qwest's Motion. The Commission believes that additional suspensions will not be necessary.¹

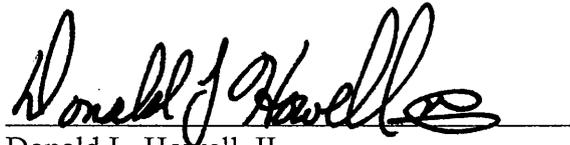
PRAYER

In summary, the Idaho Public Utilities Commission with the consent of both the Pagers and Qwest respectfully request that the Court continue the suspension of this appeal. The Parties maintain that there is good cause for the Court to continue the suspension until August 2, 2004, pursuant to I.A.R. 13.2 and 13.3.

¹ The Commission also anticipates that a Supplemental Record will be necessary to include the additional materials filed with the Commission during the temporary remand to the agency.

Respectfully submitted this 9th day of July 2004.

FOR THE
IDAHO PUBLIC UTILITIES COMMISSION,
RESPONDENT ON APPEAL

A handwritten signature in black ink, appearing to read "Donald L. Howell, II", written over a horizontal line.

Donald L. Howell, II
Deputy Attorney General

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 9th DAY OF JULY 2004, SERVED THE FOREGOING **SECOND STIPULATED MOTION TO CONTINUE THE SUSPENDED APPEAL**, IN SUPREME COURT DOCKET NO. 29175, VIA U S MAIL BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO:

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