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6 Attorneys for Plaintiff,
7 NEWPATH NETWORKS, LLC

8
9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 NEWPATH NETWORKS, LLC, A)
NEW JERSEY LIMITED LIABILITY)
12 COMPANY,)

13 Plaintiff,)

14 vs.)

15 THE CITY OF DAVIS, CALIFORNIA,)
A GENERAL LAW MUNICIPALITY)

16 Defendants)

Case No. 2:10-CV-00236-GEB-KJM

17 **DECLARATION OF STEVE**
WEINGARDT IN SUPPORT OF
18 **PLAINTIFF'S MOTION FOR**
PRELIMINARY INJUNCTION

19 Date: March 8, 2010
Time: 9:00 am
Courtroom: 10
20 Judge: Hon. Garland E. Burrell

21 I, Steve Weingardt, declare and state as follows:

- 22 1. I am over the age of eighteen, suffer no legal disabilities, have personal knowledge of the
23 facts set forth below, and am competent to testify.
24 2. I am a Manager for DAS Engineering and Construction for Ridge Communications, Inc.
25 (RCI) with offices at 12667 Alcosta Blvd., Suite 175, San Ramon, CA 94583.
26 3. RCI is a full service telecommunications services company for both the Distributed
27 Antenna System ("DAS") and wireless carrier industry. RCI's service expertise covers
28 the entire network site development process, from network deployment to site design and

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- 1 network performance evaluation., For DAS companies, RCI provides a wide range of
2 deployment services including: (1) Engineering, (2) Permitting, (3) Construction, (4)
3 Installation, (5) Maintenance and (6) Program Management.
- 4 4. I have been involved in outside plant engineering and construction since 1975,
5 participating in and managing outside plant construction and installation in California and
6 throughout the western United States and Hawaii.
- 7 5. Since 1997, I have also participated in and managed the engineering, construction, and
8 installation of wireless sites and infrastructure, specializing in sites in the public right-of-
9 way.
- 10 6. At RCI, I currently provide project management services for DAS builds in California,
11 Arizona, Nevada, Oregon, and Colorado. I have completed project management for
12 outdoor DAS builds in Washington, Nevada, Colorado, Louisiana, Maryland, and
13 Virginia as well as indoor DAS projects in Atlanta, Chicago, and Portland.
- 14 7. NewPath Networks, LLC (“NewPath”) has contracted with RCI to construct DAS
15 networks throughout the United States. I have personally managed the construction and
16 deployment of twelve DAS networks for NewPath.
- 17 8. NewPath is attempting to construct in the City of Davis (“City”) and operate a neutral-
18 host DAS comprised of small, low-power antennas mounted on replacement light
19 standards located within the public rights-of-way and connected to each other and to a
20 central hub by fiber optic cable and radio-frequency-to-optical conversion equipment
21 (“DAS Facilities”). I am intimately familiar with this project as RCI has a contract with
22 NewPath to provide project management services for this project. I have been assigned as
23 the project manager by RCI for NewPath’s project and was responsible for construction
24 of the project until the City issued a Stop Work Notice.
- 25 9. I have reviewed the “DECLARATION OF WILLIAM H. MARSHALL IN SUPPORT
26 OF DEFENDANT CITY OF DAVIS’ OPPOSITION TO MOTION FOR
27 PRELIMINARY INJUNCTION AND, IN THE ALTERNATE, REQUEST FOR BOND”
28 dated February 22, 2010.

1 10. As NewPath's primary contract construction manager, I have been tasked with
2 investigating the financial validity of the bond analysis prepared by Mr. Marshall. I have
3 ordered an estimate from RCI's subcontractors for the removal costs of NewPath's DAS
4 Facilities in the event the court issues an Injunction in favor of NewPath allowing the
5 project to proceed. As part of the analysis, I am assessing removal of both NewPath's
6 structures in the public right-of-way and public utility easements, including poles,
7 antennas, coaxial cable, and node equipment, as well as the excavation and removal of
8 foundation and fiber. While I am still awaiting the results of this estimate, I believe the
9 estimated removal bond requirement provided by Mr. Marshall to be grossly excessive.

10 I HEREBY ATTEST THIS 1st DAY OF MARCH 2010 THAT, TO THE BEST OF MY
11 KNOWLEDGE, UNDERSTANDING AND BELIEF, THE FOREGOING STATEMENTS
12 ARE TRUE AND THAT I WOULD BE WILLING TO MAKE THESE STATEMENTS
13 UNDER PENALTY OF PERJURY IN A COURT OF LAW.

14 
15 Steve Weingardt
16 DAS Engineering and Construction Manager
17 Ridge Communications, Inc.

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CERTIFICATE OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 207 E. Broadway, Suite 201, Long Beach, CA 90802.

On March 1, 2010, I caused to be served the following document(s):

DECLARATION OF STEVE WEINGARDT IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

on the interested parties in this action as follows:

Harriet Ann Steiner
McDonough Holland & Allen PC
500 Capitol Mall, 18th Floor
Sacramento, CA 95814
916-444-3900
hsteiner@mhalaw.com

I served a true copy of the foregoing document by way of the Court's electronic filing/serving system, file and serve website. I declare under penalty pursuant to the laws of the United States that the above is true and correct.

Executed on March 1, 2010, at Long Beach, California.

/s/ Robert Jystad
Attorney for NewPath Networks, LLC
E-mail: rjystad@channellawgroup.com

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