

T. 20567A-07-0662



0000104462

ORIGINAL

ARIZONA CORPORATION COMMIS

UTILITY COMPLAINT FORM

47

Investigator: Trish Meeter

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2009 82776

Date: 10/30/2009

Complaint Description: 09Z Rates/Tarriffs - Other
N/A Not Applicable

Complaint By: First: Gary Last: Z

Account Name: Gary Z

Home: (000) 000-0000

Street: n/a

Work:

City: n/a

CBR: [REDACTED]

State: AZ **Zip:** n/a

is: E-Mail

Utility Company: Newpath Networks, LLC

Division: Telephone

Contact Name: n/a

Contact Phone: (000) 000-0000

Nature of Complaint:

10/30 REC'VD THRU THE OFFICE OF CHAIRMAN MAYES Docket No. T20567A-07-0662

From: Gary Z. [REDACTED]
Sent: Wednesday, October 28, 2009 11:53 AM
To: Mayes-WebEmail
Cc: newman-web@azcc.gov; Pierce-Web; Kennedy-Web; Stump-Web
Subject: Fw: Attention: IRVINE CA. CELL TOWER, COURT RULING

TO: ACC

Commission Members:

FOR YOUR AWARENESS

Arizona Corporation Commission
DOCKETED

NOV - 2 2009

DOCKETED BY [Signature]

RECEIVED
2009 NOV - 2 A 11:45
AZ CORP COMMISSION
DOCKET CONTROL

----- Original Message -----

From: GJZ.

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

To 

Sent: Monday, October 19, 2009 4:52 PM

Subject: CELL TOWERS

Tuesday, August 11, 2009

Irvine denies Turtle Rock cell towers
City Council backs concerns over projects aesthetics and safety over calls for better cell coverage.
By SEAN EMERY

THE ORANGE COUNTY REGISTER

Comments 7 | Recommend 2

IRVINE - City leaders on Tuesday denied a plan to build nearly two dozen cell towers in the Turtle Rock neighborhood, backing residents' aesthetic and safety concerns over complaints of elusive cell signals and dropped calls.

The City Council's unanimous decision to shoot down NewPath Network's cell tower request comes after several years of heated debate, which has divided local residents and sparked a legal battle between the city and cellular company.

NewPath, a "carrier's carrier" that sells services to various other cellular providers, wants to graft antennas onto 23 newly built light poles connected by 22,000 feet of underground fiber optic cabling. The newer poles would replace the leaner light poles that line Turtle Rock streets.

While some residents have argued that NewPath's plan would do away with the cell service dead-zones that plague portions of Turtle Rock, council members argued that the towers aren't compatible with the nearby neighborhood.

"I'm not going to approve something that is not compatible with our community," Mayor Sukhee Kang said. "I have come to the conclusion that the NewPath proposal does not meet the city's aesthetic expectations."

The council's decision was applauded by the majority of the several dozen Turtle Rock residents in attendance Tuesday.

"In short, Newpath's proposal would have turned Turtle Rock into an antenna farm," said Barbara Wiener, a former councilwoman and Turtle Rock resident.

The Irvine Planning Commission denied Newpath's cell tower proposal in June, but city staffers have since backed the projects approval, arguing that the antennas are relatively small and that there aren't any known technological alternatives.

NewPath's proposal was originally shot down by city planners in December 2007, kicking off a legal battle that culminated with a federal court judge overturning the city's restrictions on cell towers. City official responded with a nearly year-long moratorium on new cell towers to prevent telecommunication companies from rushing in to take advantage of the court ruling.

A subsequent 9th Circuit Court of Appeals decision provided local cities with the model for a wireless ordinance

ARIZONA CORPORATION COMMISSION
UTILITY COMPLAINT FORM

that could pass legal muster, and a lower court in March declared that Irvine once again had the authority to uphold its own cell tower restrictions.

NewPath in recent weeks met several times with Turtle Rock residents, and offered to move the placement of some towers.

"We are trying to make a good faith effort to resolve this through the city and not through other means," NewPath CEO Mike Cavanaugh said.

The Turtle Rock cell debate may not be over, however, with several city leaders noting that a legal challenge by NewPath is likely.

Contact the writer: [REDACTED]
End of Complaint

Utilities' Response:

Investigator's Comments and Disposition:

Docket No. T20567A-07-0662

10/30/09

Dear sir,

Your comments have been received through the office of Chairman Mayes and will be made part of the record in the NewPath Networks, LLC application, Docket No. T-20567A-07-0662.

Staff appreciates your comments in relation to the application.

Sincerely,

Trish Meeter
Public Utilities Consumer Analyst
Arizona Corporation Commission
Utilities Division
[REDACTED]

End of Comments

Date Completed: 10/30/2009

Opinion No. 2009 - 82776
