

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Joint Application of)
UPH Holdings, Inc., UPH Acquisition Sub) DOCKET NO. 11-2305-01
Inc., Pac-West Acquisition Company, LLC,)
and Pac-West Telecomm, Inc. for Consent to)
Transfer Control of Pac-West Telecomm, Inc.) REPORT AND ORDER

ISSUED: January 11, 2012

By The Commission:

This matter is before the Commission on the Joint Application of UPH Holdings, Inc. (“UPH”), UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC, and Pac-West Telecomm, Inc. (“Pac-West”), (collectively, “Applicants”) for Commission approval to transfer control of Pac-West by UPH. Applicants filed a joint application on November 9, 2011 and requested expedited review and action. The application contains all the information required by Utah Admin. Code R746-349-7(A)(1).

On December 7, 2011, the Division of Public Utilities (the “Division”) submitted a recommendation to approve the application. Pursuant to Utah Admin. Code 746-349-7(A)(2), the Commission issued a public notice of the application on December 12, 2011, allowing for the submission of comments within 14 days by an interested party regarding the application. No comments or objections were received.

Pursuant to Utah Admin Code R746-349-7(A)(2), the administrative law judge for the Commission held a hearing on January 4, 2012. No one appeared at the hearing objecting to the application. Darah S. Franklin appeared telephonically on behalf of the Applicants.

Dahnelle Burton-Lee, Assistant Attorney General, appeared for the Division, and was accompanied by Ron Slusher, utility technical consultant for the Division.

The ALJ took administrative notice of both the application and recommendation filed by the Division recommending approval. No reference was made during the hearing of Applicants' expedited request; however, the application requests expedited review no later than December 13, 2011.¹ Given the necessary action request to and response from the Division,² and subsequent notice allowing any interested party to comment within 14 days following the notice,³ the Commission has responded as expeditiously as possible under the circumstances.

Under Utah Admin. Code R746-349-7, "[i]f no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and use the information contained in the application and accompanying documents as evidence to support a Commission order." Utah Admin. Code R746-349-7(A)(3). Because there is no objection to the granting of the application, the Commission presumes the application for approval of transfer of control is in the public interest. Moreover, the Division's memorandum provides additional support for approval of the application.

ORDER

For the foregoing reasons, the Commission approves the application to combine, merge, or consolidate Pac-West by UPH.

¹ The Application was filed on November 9, 2011.

² The Division's response was filed December 7, 2011.

³ The notice was issued on December 12, 2011.

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DATED at Salt Lake City, Utah, this 11th day of January, 2012.

/s/ Melanie A. Reif
Administrative Law Judge

Approved and confirmed this 11th day of January, 2012, as the Report and Order issued by the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary Widerburg
Commission Secretary
D#213568

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of January, 2012, a true and correct copy of the foregoing REPORT AND ORDER, was delivered upon the following as indicated below:

By Electronic-Mail:

Jonathan B. Mirsky (jmirsky@wiltshiregrannis.com)
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