
In the Matter of the Application of
Uintah
Basin Telecommunications Association,)
Inc.,)
And UBET Telecom, Inc., for an Order)
of the Commission Approving the)
Combination,)
Merger and Consolidation of UBET)
Telecom, Inc.,)
and Uintah Basin
Telecommunications Association, Inc.

DOCKET NO. 04-053-03
ORDER ON MOTION TO
COMPEL ACCESS

ISSUED: February 25, 2005

By The Commission:

On January 20, 2005, the Commission issued its Order on Request for Reconsideration (“Reconsideration Order”). In addition to denying intervener Brent Hansen’s request to reconsider our approval of the merger of Uintah Basin Telecommunications, Inc. (UBTA) and UBET Telecom, Inc. (UBET) (jointly the Applicants@), we noted with approval the Applicants’ continuing willingness, as expressed in the affidavit of their attorney, Mr. Clark B. Allred, to provide Mr. Hansen with the corporate articles, bylaws and financial information which he had previously requested. On February 9, 2005, Mr. Hansen filed a Motion for Order Compelling Access to All Protected Records seeking: (1) access, upon specific data request, to all records submitted by or between the parties in this docket; (2) immediate delivery of all records requested from the Applicants in Mr. Hansen’s data requests of January 2, 2005, and February 1, 2005; (3) an order directing the Committee of Consumer Services (“Committee”) to respond to the data requests Mr. Hansen previously served on the Committee; (4) an order acknowledging that the February 4, 2005, response of Applicants’ counsel to Mr. Hansen’s prior data requests constitutes the Applicants’ final response such that the Commission may act immediately upon the current Motion; (5) that the “Commission should make its order effective the day it is issued since I am not requesting that any of the protected records become ‘public’ records”; and (6) that the Applicants’ response time for any new data requests from Mr. Hansen be shortened to five business days. On February 16, 2005, the

Applicants' filed a Response arguing that the evidentiary record in this docket is closed, that the opportunity for discovery ended with the evidentiary hearing on November 22, 2004, and requesting that the Commission deny the Motion.

As noted in our Reconsideration Order, we are satisfied that Mr. Hansen was provided ample opportunity to obtain desired records once granted intervener status and that his failure to obtain such records results primarily from his own failure to timely participate in this docket's proceedings, including the discovery process and the hearing itself. We agree with the Applicants that there is no provision in the Utah Rules of Civil Procedure for continuing discovery beyond the date of the hearing in this matter. Our Order of November 23, 2004, is now final and this docket is closed. No provision exists to require further transfer of information between parties. We therefore deny Mr. Hansen's Motion for Order Compelling Access to All Protected Records.

However, to the extent that the information Mr. Hansen seeks through his data requests is similar to the information Applicants previously informed the Commission they were willing to provide to him, we express our disappointment at Applicants' apparent refusal to provide said information to Mr. Hansen now that our Order is final. We remind Mr. Hansen that he is entitled to review the complete public record for this docket maintained by the Commission. In addition, because he has satisfactorily filed Appendix A to Protective Order pursuant to our Protective Order of September 23, 2004, Mr. Hansen may also inspect any confidential records maintained by the Commission relating to this docket. The Committee and the Division of Public Utilities ("Division") may maintain more extensive documentation obtained from the Applicants during discovery. While we are unable to compel the Division or the Committee to release this documentation, Mr. Hansen may contact these agencies and request release of this information. Such release may be governed by, among other statutes or regulations, the Government Records Access and Management Act, Title 63, Chapter 2 of the Utah Code. Finally, we note that pursuant to Utah Code Annotated § 16-6a-1602, "Utah Revised Nonprofit Corporation Act", members of nonprofit corporations may seek access to much of the financial and administrative information which Mr. Hansen seeks. UCA § 16-6a-1604 provides for court-ordered inspection of such records where a nonprofit corporation has refused a member's request under Section 1602.

DATED at Salt Lake City, Utah, this 25th day of February, 2005.

/s/Ric Campbell, Chairman

/s/Constance B. White, Commissioner

/s/Ted Boyer, Commissioner

Attest:

/s/Julie Orchard
Commission Secretary

G#42995