

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Provision of Extended
Area Service Between All West
Communications, Inc.'s Jordanelle
Exchange and Qwest Corporation's Park
City Exchange

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DOCKET NO. 07-2270-01

REPORT AND ORDER APPROVING
STIPULATION AND ESTABLISHMENT
OF EXTENDED AREA SERVICE

SYNOPSIS

The Commission approves the Stipulation by and between All West Communications, Inc. and Qwest Corporation for Extended Area Service between the Jordanelle and Park City Exchanges ("EAS Stipulation") filed by All West Communications, Inc. ("All West") and Qwest Corporation ("Qwest") and approves establishment of Extended Area Service ("EAS") between All West's Jordanelle exchange and Qwest's Park City exchange pursuant to the terms of the EAS Stipulation. The Commission, having considered the record in this proceeding and the applicable law, hereby makes, adopts, and enters the following Report and Order.

ISSUED: June 4, 2007

By The Commission:

PROCEDURAL HISTORY

On April 6, 2007, All West Communications, Inc. ("All West") filed a Request for Agency Action ("Request") seeking Commission approval of the Stipulation by and between All West Communications, Inc. and Qwest Corporation for Extended Area Service between the Jordanelle and Park City Exchanges ("EAS Stipulation") attached to the Request. All West further requested the Commission waive those parts of Utah Administrative Code R746-347-4 and -5 requiring a cost-based study and a customer survey, respectively (hereinafter referred to collectively as the "EAS rules").

On May 18, 2007, the Division of Public Utilities (“Division”) filed a memorandum recommending approval of the EAS Stipulation and waiver of the EAS rules.

BACKGROUND

In their Settlement Stipulation in Docket No. 02-2270-01 approved by the Commission on November 29, 2006, All West and Qwest Corporation (“Qwest”) agreed to attempt to develop a mutually acceptable proposal for extended area service (“EAS”) between their Jordanelle and Park City exchanges. The EAS Stipulation filed for approval herein is the product of the parties’ negotiations in accordance with the Settlement Stipulation.

THE EAS STIPULATION

The EAS Stipulation contains the following principal terms and conditions. This description of the EAS Stipulation is made for convenience of reference only and is not intended to modify the terms and conditions of the EAS Stipulation appended to this Order. Parties to the EAS Stipulation agree as follows:

1. Within two weeks of approval of the EAS Stipulation by the Commission, All West shall pay Qwest a one-time payment of \$4,650. If All West agrees to notify customers in the exchanges of the new EAS in a newspaper of general circulation distributed in the area, the one-time payment amount shall be reduced to \$3,500.
2. No later than six months after the date of the Commission order approving the EAS Stipulation, Qwest shall implement EAS between the exchanges.

3. Two weeks following implementation of EAS between the exchanges, All West shall pay Qwest \$3,125 and shall make two successive annual payments of the same amount each year on or before the first of the month marking the anniversary of said implementation.

4. If Qwest imposes an EAS charge on its customers in the Park City exchange at any time during the three-year period that All West is obligated to make annual payments, All West's obligation to make any further annual payments shall terminate.

5. The Parties agree that EAS will be provided initially through one T-1 trunk. If additional capacity becomes necessary to provide the service between the exchanges, All West agrees to pay Qwest \$2,433 annually for each additional T-1. This obligation terminates if Qwest imposes an EAS charge on its customers in the Park City exchange or three years after Qwest implements EAS between the exchanges, whichever occurs first.

DISCUSSION

All West and Qwest believe approval of the EAS Stipulation and waiver of the Commission's EAS rules is consistent with the public interest because:

1. Customers in the Jordanelle exchange have a significant community of interest with customers in the Park City exchange.

2. Currently, approximately 90% of the Jordanelle customers are paying \$10 each month for foreign exchange service to call Park City customers toll free.

3. Under the terms of the EAS Stipulation, Jordanelle customers' monthly rate for local calling to Park City will decrease to approximately \$5 which is based on All West's costs. Park City customers' rate will not change.

4. The terms of the EAS Stipulation provide customers the service they desire in a way that is acceptable to both All West and Qwest.

5. Surveying the Jordanelle customers imposes a hardship on All West because of the nature of the communities in that exchange. Many of the customers are absent for long periods of time during the year making it very difficult to perform a survey in accordance with the EAS rules.

The Division recommends approval of the EAS Stipulation, noting the parties have found a solution that will allow All West the ability to provide a service to its customers at a cost that is less than customers are currently paying for a similar service. The Division also recommends waiver of the EAS rules requiring a cost-based study and customer survey.

FINDINGS AND CONCLUSIONS

Settlement of matters before the Commission is encouraged at any stage of proceedings.¹ However, parties to a proceeding not joining in a stipulation or settlement shall be entitled to oppose the stipulation.² No party has done so in this case, nor has anyone sought to intervene in this matter. The Commission may approve a stipulation or settlement if the Commission finds on the basis of the evidence presented that the settlement proposal is just and reasonable in result and is in the public interest.³

¹ Utah Code Ann. § 54-7-1. *See also Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613-14 (Utah 1983).

² Utah Code Ann. § 54-7-1(3)(e)(ii).

³ Utah Code Ann. § 54-7-1.

Utah Administrative Code Rule 746-110-1, authorizes the Commission to adjudicate a matter informally under *Utah Code Annotated* § 63-46b-5 when the Commission “determines that the matter can reasonably be expected to be unopposed and uncontested.”

There appearing no reasonable expectation of opposition to the Request, we determine it is in the public interest to convert this matter to an informal proceeding, pursuant to §63-46b-4(3), UCA 1953, as amended, and proceed accordingly without hearing.

Given the facts presented by the parties and the Division, we see no need to require the parties to conduct the cost-based study and customer survey required by our EAS rules and therefore waive application of those rules in this docket. Based upon our review of the Request, the EAS Stipulation, and the Division’s recommendation, we find and conclude establishment of the proposed EAS between the Jordanelle and Park City exchanges in accordance with the terms of the EAS Stipulation is just and reasonable and is in the public interest. We therefore approve the EAS Stipulation as a just and reasonable settlement of the issues in this docket. However, as we have indicated in previous cases, said approval is not intended to alter any existing Commission policy or to establish any precedent by the Commission.

Wherefore, based upon the foregoing information, and for good cause appearing, the Commission enters the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. This matter be, and it is, converted to an informal proceeding pursuant to §63-46b-4(3), UCA 1953, as amended.
2. The Stipulation by and between All West Communications, Inc. and Qwest Corporation for Extended Area Service between the Jordanelle and Park City Exchanges filed on April 6, 2007, attached hereto and, by this reference, made a part of this Report and Order, is approved.
3. The establishment of Extended Area Service between All West Communications, Inc.'s Jordanelle exchange and Qwest Corporation's Park City exchange is approved with prices for said EAS as provided in the EAS Stipulation and indicated *supra*.
4. Absent meritorious protest, this Order shall automatically become effective without further action twenty (20) days from the date of this Order.
5. Persons desiring to protest this Order may file said protest prior to the effective date of this Order. If the Commission finds said protest to be meritorious, the effective date shall be suspended pending further proceedings.

Pursuant to *Utah Code Ann.* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained 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

DOCKET NO. 07-2270-01

- 7 -

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.* §§ 63-46b-14 and 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 4th day of June, 2007.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 4th day of June, 2007, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#53486

APPENDIX: STIPULATION

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In the Matter of the Provision of Extended Area Service between All West Communications, Inc.'s Jordanelle Exchange and Qwest Corporation's Park City Exchange	<p style="text-align: center;">Docket No. 07-2270-01</p> <p style="text-align: center;">Stipulation by and between All West Communications, Inc. and Qwest Corporation for Extended Area Service between the Jordanelle and Park City Exchanges</p>
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All West Communications, Inc. ("All West") and Qwest Corporation ("Qwest") (together "Parties"), pursuant to Utah Code Ann. § 54-7-1, stipulate as follows:

Introduction

1. On November 8, 2006, All West Communications, Inc. ("All West") and Qwest Corporation ("Qwest") entered into a Settlement Stipulation in Docket No. 02-2270-01, In Regard to the Request of ALL WEST COMMUNICATIONS, INC. for Revision to Exchange Boundaries.

2. The Public Service Commission ("Commission") approved the Settlement Stipulation in an order dated November 29, 2006.

3. In paragraph 16 of the Settlement Stipulation, All West and Qwest agreed to attempt to develop a mutually acceptable proposal for extended area service (“EAS”) between All West’s Jordanelle exchange and Qwest’s Park City exchange (“the exchanges”).

4. The Parties have negotiated in good faith and have agreed to the following terms and conditions for the provision of EAS between the exchanges:

Terms and Conditions

5. Within two weeks of approval of this Stipulation by the Commission, All West shall pay Qwest a one-time payment of \$4,650. If All West agrees to notify customers in the exchanges of the new EAS in a newspaper of general circulation distributed in the area, the one-time payment amount shall be reduced to \$3,500.

6. No later than six months after the date of the Commission order approving this Stipulation, Qwest shall implement EAS between the exchanges.

7. Two weeks following implementation of EAS between the exchanges, All West shall pay Qwest \$3,125 and shall make two successive annual payments of the same amount each year on or before the first of the month marking the anniversary of said implementation.

8. If Qwest imposes an EAS charge on its customers in the Park City exchange at any time during the three-year period that All West is obligated to make annual payments, All West’s obligation to make any further annual payments shall terminate.

9. The Parties agree that EAS will be provided initially through one T-1 trunk. If additional capacity becomes necessary to provide the service between the exchanges, All West agrees to pay Qwest \$2,433 annually for each additional T-1. This obligation terminates if

Qwest imposes an EAS charge on its customers in the Park City exchange or three years after Qwest implements EAS between the exchanges, whichever occurs first.

10. This Stipulation shall not be final or binding on the Parties until it has been approved without material condition by the Commission in an order that is no longer subject to reconsideration or appellate review. In the event the Commission rejects any part or all of this Stipulation, or imposes any additional material condition on approval of this Stipulation, the Parties agree that they have no obligation hereunder.

Based on the foregoing, the Parties request that the Commission issue an order adopting and approving this Stipulation.

Respectfully submitted this 6th day of April, 2007.

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