

In the Matter of the Application of FRON-)
TIER TELEMAGEMENT, INC., for)
Authority to Operate as a Competitive)
Local Exchange Carrier Providing Resold)
Local Exchange Service)

DOCKET NO. 97-2246-01

)
In the Matter of the Application of QUIN-)
TELCO, INC., for a Certificate of Public)
Convenience and Necessity to Provide)
Local Resale Telecommunication Services)

DOCKET NO. 97-2244-01

)
In the Matter of the Application of U.S.)
TELCO, INC., for a Certificate to Offer)
Competitive Local Exchange Telecommuni-)
cations Services to the Public in the State)
of Utah)

DOCKET NO. 97-2242-01

)
In the Matter of the Application of INTER-)
MEDIA COMMUNICATIONS, INC., for)
Authority to Provide Local Exchange Ser-)
vices in Utah)

DOCKET NO. 97-2230-01

REPORT AND ORDER

ISSUED: January 26, 1998

SYNOPSIS

Having found each of the applicants fit, and the respective authority grants to be in the public interest, the Commission grants the Application of each of the above-named Applicants for a Certificate of Public Convenience and Necessity authorizing them to provide local exchange services within the State of Utah, except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone corporation with fewer than 30,000 access lines within the State.

By the Commission:

PROCEDURAL HISTORY

Intermedia Communications, Inc., (hereafter "Intermedia"), U.S. Telco, Inc., (hereafter "Telco"), Quintelco, Inc., (hereafter "Quintelco"), and Frontier Telemanagement, Inc., (hereafter "Frontier") seek authority to provide Utah local exchange telephone service by applications filed, respectively, March 19, 1997, July 1, 1997, August 1, 1997, and November 7, 1997. Each of the applicants, either through materials accompanying its initial application, or through responses to data requests of the Division of Public Utilities, Utah Department of Commerce, (hereafter "DPU") has made out a prima facie case supporting its application. On December 3, 1997, on its own motion, the Commission notified the Incumbent Local Exchange Carrier ("ILEC") of the Commission's intention to convert these matters to informal proceedings and to grant the applications summarily unless said ILEC requested a hearing within 20 days of the date of the notice. The Commission has received no such request. The Administrative Law Judge, having been fully advised in the premises now enters the following Report, consisting in proposed Findings of Fact, Conclusions of Law,

and the Order based thereon.

FINDINGS OF FACT

1. Intermedia is a Delaware Corporation qualified to do business in Utah. Telco is a Texas Corporation qualified to do business in Utah. Quintelco is a Delaware Corporation qualified to do business in Utah. Frontier is a New York Corporation qualified to do business in Utah.
2. Each Applicant has requested that the Commission grant a Certificate of Public Convenience and Necessity authorizing it to provide local exchange service throughout the State of Utah, except within any local exchange of fewer than 5,000 access lines that is owned or controlled by an incumbent telephone corporation with fewer than 30,000 access lines within the State.
3. Each Applicant is currently negotiating, or has negotiated, a resale agreement with U S West, Inc. (Hereafter "U S West"), the ILEC, to provide service in the State of Utah.
4. Each Applicant has sufficient technical resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
5. Each Applicant has sufficient managerial resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
6. Each Applicant has a secure and sufficient source of funding for its Utah operations that will enable Tel-Link to meet projected capital and operating expenses and to implement its business plans.
7. Each Applicant has sufficient financial resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
8. In its provision of intrastate services, each Applicant will be subject to competition from U S West and other certified local exchange providers.
9. The issuance of a Certificate to each Applicant is in the public interest. Each Applicant's service offerings will provide customers with a wider range of choices in meeting their telecommunications needs and will support the development of competition.
10. The Division of Public Utilities, Utah Department of Commerce (hereafter "DPU"), supports granting each Application.
11. Quintelco has requested waiver of the Commission's \$100,000 bonding requirement, which request has the support of DPU.
12. The reporting requirements in Exhibit E attached hereto are in the public interest and should be binding upon each Applicant until modified by the Commission.
13. Each Applicant has applied for exemptions from the requirements of various procedures of the Utah Code and the Commission's Rules and Regulations.
14. The grant of exemptions from the provisions of the Utah Code and the Commission's Rules and Regulations, as set forth in Exhibit E, is in the public interest.

CONCLUSIONS OF LAW

1. Each Applicant meets each of the statutory requirements (Utah Code §§ 54-8b-2.1, *et. seq.*) for issuance of a Certificate as a telecommunications corporation.
2. Each Applicant meets each of the statutory requirements (Utah Code §§ 54-8b-2.1, *et. seq.*) for authorization to

provide the public telecommunications services for which it seeks a Certificate.

3. The issuance of a Certificate to each Applicant to provide the telecommunications services for which it has applied is in accord with the legislative policy declarations set forth in Utah Code § 54-8b-1.1.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

The above-captioned matters, and each of them, be and each is, converted to an informal proceeding pursuant to § 63-46b-4(3), UCA 1953, as amended.

. The Commission hereby grants to INTERMEDIA COMMUNICATIONS, INC., U.S. TELCO, INC., QUINTELCO, INC., and FRONTIER TELEMANAGEMENT, INC., and to each of them, the Certificate that is attached hereto, respectively, as Exhibits A, B, C, and D and by this reference made a part of this Report and Order.

. Each of the above-named grantees shall provide reports to the Commission and to the DPU, as set forth in Exhibit E and by this reference made part of this Report and Order.

. Each Grantee is exempt from certain provisions of the Utah Code and the Commission's Rules and Regulations, as set forth in Exhibit E.

. Prior to providing intrastate services, each Grantee, *with the exception of QUINTELCO, INC.*, shall post a bond in the amount of \$100,000 to provide security for customer deposits or other liabilities to customers of the respective Grantee and any penalties assessed by the Commission for violation of its rules and regulations or any order of the Commission. The bond shall be used for the purposes set forth herein and shall not be used to cover any other liability imposed upon the respective Grantee.

DATED at Salt Lake City, Utah, this 26th day of January, 1998.

/s/ A. Robert Thurman

Administrative Law Judge

Approved and Confirmed this 26th day of January, 1998, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

(SEAL) /s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

EXHIBIT A

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of) DOCKET NO. 97-2230-01

INTERMEDIA COMMUNICATIONS,)

INC., for authority to Provide Local)

Exchange Services in Utah) CERTIFICATE

ISSUED: January 26, 1998

By the Commission:

The Public Service Commission of Utah, pursuant to the Utah Code Ann. §§ 54-8b-2.1, *et. seq.*, hereby issues a Certificate of Public Convenience and Necessity authorizing INTERMEDIA COMMUNICATIONS, INC., (hereafter "Grantee") to provide local and interexchange services and other public telecommunications services anywhere within the State of Utah, as described in Exhibits which shall be filed effective ten (10) days after filing, except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone company with fewer than 30,000 access lines within the State. The Exhibits shall define the service territory in the State and shall specify the public telecommunications services offered.

Grantee shall file a revised Exhibit at such time as it intends to expand or otherwise change the public telecommunications services it offers or the geographic area in which it offers public telecommunications services within the State.

U S West, Inc. or the Division of Public Utilities may file a Request for Agency Action that seeks to expand or contract the definition of Grantee's service territory as specified in any Exhibit filed in accordance with this Certificate. The mere filing of a Challenge to the Exhibit shall not suspend its effectiveness. No suspension or change of an Exhibit can occur without a hearing. No hearing shall be required if a challenge to the Exhibit is not filed. The Commission shall after notice and hearing have the right, jurisdiction and power to require Grantee to refile the Exhibit in accordance with the Commission's decision on the proper definition of Grantee's service territory.

DATED at Salt Lake City, Utah, this 26th day of January, 1998.

/s/ Stephen F. Mecham, Chairman

(SEAL) /s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

EXHIBIT B

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of) DOCKET NO. 97-2242-01

U.S. TELCO, INC., for a Certificate to)

Offer Competitive Local Exchange Tele-) CERTIFICATE

communications Services to the Public)

in the State of Utah)

ISSUED: January 26, 1998

By the Commission:

The Public Service Commission of Utah, pursuant to the Utah Code Ann. §§ 54-8b-2.1, *et. seq.*, hereby issues a Certificate of Public Convenience and Necessity authorizing U.S. TELCO, INC., hereafter ("Grantee") to provide local and interexchange services and other public telecommunications services anywhere within the State of Utah, as described in Exhibits which shall be filed effective ten (10) days after filing, except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone company with fewer than 30,000 access lines within the State. The Exhibits shall define the service territory in the State and shall specify the public telecommunications services offered.

Grantee shall file a revised Exhibit at such time as Grantee intends to expand or otherwise change the public telecommunications services it offers or the geographic area in which it offers public telecommunications services within the State.

U S West, Inc. or the Division of Public Utilities may file a Request for Agency Action that seeks to expand or contract the definition of Grantee's service territory as specified in any Exhibit filed in accordance with this Certificate. The mere filing of a Challenge to the Exhibit shall not suspend its effectiveness. No suspension or change of an Exhibit can occur without a hearing. No hearing shall be required if a challenge to the Exhibit is not filed. The Commission shall after notice and hearing have the right, jurisdiction and power to require Grantee to refile the Exhibit in accordance with the Commission's decision on the proper definition of Grantee's service territory.

DATED at Salt Lake City, Utah, this 26th day of January, 1998.

/s/ Stephen F. Mecham, Chairman

(SEAL) /s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

EXHIBIT C

In the Matter of the Application of) DOCKET NO. 97-2244-01

QUINTELCO, INC., for a Certificate of)

Public Convenience and Necessity to Pro-) CERTIFICATE

vide Local Resale Telecommunications)

Services)

ISSUED: January 26, 1998

By the Commission:

The Public Service Commission of Utah, pursuant to the Utah Code Ann. §§ 54-8b-2.1, *et. seq.*, hereby issues a Certificate of Public Convenience and Necessity authorizing QUINTELCO, INC., (Hereafter "Grantee") to provide local and interexchange services and other public telecommunications services anywhere within the State of Utah, as described in Exhibits which shall be filed effective ten (10) days after filing, except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone company with fewer than 30,000 access lines within the State. The Exhibits shall define the service territory in the State and shall specify the public telecommunications services offered.

Grantee shall file a revised Exhibit at such time as Grantee intends to expand or otherwise change the public telecommunications services it offers or the geographic area in which it offers public telecommunications services within the State.

U S West, Inc. or the Division of Public Utilities may file a Request for Agency Action that seeks to expand or contract the definition of Grantee's service territory as specified in any Exhibit filed in accordance with this Certificate. The mere filing of a Challenge to the Exhibit shall not suspend its effectiveness. No suspension or charge of an Exhibit can occur without a hearing. No hearing shall be required if a challenge to the Exhibit is not filed. The Commission shall after notice and hearing have the right, jurisdiction and power to require Grantee to refile the Exhibit in accordance with the Commission's decision on the proper definition of Grantee's service territory.

DATED at Salt Lake City, Utah, this 26th day of January, 1998.

/s/ Stephen F. Meham, Chairman

(SEAL) /s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

EXHIBIT D

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of) DOCKET NO. 97-2246-01

FRONTIER TELEMAGEMENT, INC.,)

for a Authority to Operate as a Compet-) CERTIFICATE

itive Local Exchange Carrier by Providing)

Resold Local Exchange Services)

ISSUED: January 26, 1998

By the Commission:

The Public Service Commission of Utah, pursuant to the Utah Code Ann. §§ 54-8b-2.1, *et. seq.*, hereby issues a Certificate of Public Convenience and Necessity authorizing FRONTIER TELEMAGEMENT, INC., (hereafter "Grantee") to provide local and interexchange services and other public telecommunications services anywhere within the State of Utah, as described in Exhibits which shall be filed effective ten (10) days after filing, except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone company with fewer than 30,000 access lines within the State. The Exhibits shall define the service territory in the State and shall specify the public telecommunications services offered.

Grantee shall file a revised Exhibit at such time as Grantee intends to expand or otherwise change the public telecommunications services it offers or the geographic area in which it offers public telecommunications services within the State.

U S West, Inc. or the Division of Public Utilities may file a Request for Agency Action that seeks to expand or contract the definition of Grantee's service territory as specified in any Exhibit filed in accordance with this Certificate. The mere filing of a Challenge to the Exhibit shall not suspend its effectiveness. No suspension or charge of an Exhibit can occur without a hearing. No hearing shall be required if a challenge to the Exhibit is not filed. The Commission shall after notice and hearing have the right, jurisdiction and power to require Grantee to refile the Exhibit in accordance with the Commission's decision on the proper definition of Grantee's service territory.

DATED at Salt Lake City, Utah, this 26th day of January, 1998.

/s/ Stephen F. Mecham, Chairman

(SEAL) /s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

EXHIBIT E

I. Annual Report

Grantee shall file an Annual Report, which shall be subject to a Protective Order issued by the Commission, on or before March 31 of each year, unless Grantee requests and obtains an extension. The Annual Report shall contain the following:

A. **Annual Revenues** from operations attributable to the State of Utah by major service categories. Such information would be provided on a "Total Utah" and "Utah Intrastate" basis. "Total Utah" will consist of the total of interstate and intrastate revenues. "Utah Intrastate" will reflect only revenues derived from intrastate tariffs, price lists, or contracts. Both Total Utah and Intrastate Utah revenues shall be reported according to at least the following classes of service:

- (1) private line and special access,
- (2) business local exchange,
- (3) residential local exchange,
- (4) measured interexchange, and
- (5) vertical services.

Business local exchange, residential local exchange and vertical service revenue will be reported by geographic area, to the extent feasible.

B. **Annual Expenses and Estimated Taxes** attributed to operations in the State of Utah.

C. Year End Balances by Account for Property, Plant, Equipment, Annual Depreciation, and Accumulated Depreciation for telecommunications investment in Utah. The Actual Depreciation Rates which were applied in developing annual and accumulated depreciation figures shall also be shown.

D. Financial Statements maintained in accordance with generally accepted accounting principles in the ordinary course of business. These financial statements shall at a minimum include an income statement, balance sheet and statement of cash flows.

E. List of Services offered to customers and the geographic areas in which those services are offered. This list shall be current and shall be updated whenever a new service is offered or a new area is served.

F. Number of Access Lines in Service by geographic area, segregated between business and residential customers.

G. Number of Messages and Minutes of Services for measured services billed to end users.

H. List of Officers and Responsible Contact Personnel updated annually.

I. Chart of Accounts. In addition to the foregoing, Grantee will provide its chart of accounts as existing and updated (no less than annually). Grantee will also work with the Division in good faith to develop a method of estimating intrastate expenses and investments.

II. Applicable Statutory Provisions and Exemptions from Statutes and Waiver of Regulations.

As a competitive local exchange carrier ("CLEC"), Grantee should be exempted from the following statutory provisions and regulations:

A. Exemptions from Title 54

54-3-8, 54-3-19 -- Prohibitions of discrimination

54-7-12 -- Rate increases or decreases

54-4-21 -- Establishment of property values

54-4-24 -- Depreciation rates

54-4-26 -- Approval of expenditures

B. Waivers of Regulations

R746-340-2(D) -- Uniform System of Accounts (47 C.F.R. 32)

R746-340-2(E)(1) -- Tariff filings required

R746-340-2(E)(2) -- Exchange Maps

R746-341 -- Lifeline⁽¹⁾

R746-344 -- Rate case filing requirements

R746-401 -- Reporting of construction, acquisition and disposition of assets

R746-405 -- Tariff formats

R746-600 -- Accounting for post-retirement
benefits

III. Obligations with Respect to Provision of Services.

As a non-facilities based reseller of local exchange telecommunication service, Grantee agrees to provide service within specified geographic areas upon reasonable request and subject to the following conditions:

- A. Grantee's obligation to furnish service to customers is dependent upon the availability of suitable facilities on the networks of its underlying carriers (e.g., U.S. West). Grantee will provide a map identifying the areas within the state of Utah where Grantee is offering service through resale. The map will be updated no less frequently than annually.
- B. Grantee will only be responsible for the operation and maintenance of services that it provides.

IV. Modification

It is anticipated that to the extent such requirements impact competitive entry or impact effective competition that they will be subject to the rulemaking requirements of the Utah Code Ann. § 54-8b-2.2 and that the provisions set forth herein shall be superseded by any such rule adopted by the Commission.

1. This regulation would be waived only until the Commission establishes Lifeline rules that may include Grantee or until Grantee begins to provide residential local exchange service.