

In the Matter of the Application of )  
AIRSWITCH CORPORATION for a )  
Certificate Authorizing it to Provide )  
Dedicated Internet Access Services Within )  
the State of Utah )

DOCKET NO. 98-2260-01

REPORT AND ORDER

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ISSUED: January 8, 1999

### SYNOPSIS

By this Report and Order, the Public Service Commission of Utah (the "Commission") grants the request of AIRSWITCH CORPORATION ("Applicant"), for a Certificate of Public Convenience and Necessity ("Certificate") authorizing Applicant to provide dedicated Internet access services within the State of Utah. The Commission, having considered the record in this proceeding and the applicable law, hereby makes, adopts, and enters the following Report and Order.

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By the Commission:

### PROCEDURAL HISTORY

AIRSWITCH CORPORATION ("Applicant") filed its Application for Authority to Provide dedicated Internet access services July 17, 1998, pursuant to Utah Code Annotated § 54-8b-1.1 *et. seq.*, and Title 63, Chapter 46b of the Utah Administrative Procedures Act. U.S. West Communications, Inc. ("USWC"), the Incumbent Local Exchange Carrier ("ILEC") has been notified of the Application and has filed no protest thereto. Since there appears to be no opposition, and Applicant has made out its *prima facie* case in support of the application, there appears to be no reason to convene an evidentiary hearing on the matter. Accordingly, the Administrative Law Judge, having been fully advised in the premises, enters the following Report, containing proposed Findings of Fact, Conclusions of Law, and the Order based thereon.

### FINDINGS OF FACT

1. Applicant is a Utah corporation in good standing with applicable law.
2. Applicant has requested that the Commission grant a Certificate of Public Convenience and Necessity authorizing it to provide dedicated Internet access service throughout the State of Utah.
3. Applicant will utilize its managerial and technical expertise to support its Utah operations.
4. Applicant has sufficient technical resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
5. Applicant has sufficient managerial resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
6. Applicant has a secure and sufficient source of funding for its Utah operations that will enable it to meet projected capital and operating expenses and to implement its business plans.

7. 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, Applicant will be subject to competition from USWC and other Internet service providers.

9. 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 issuance of a Certificate to Applicant to provide public telecommunications services is in the public interest.

#### CONCLUSIONS OF LAW

1. It is in the public interest to convert this matter to an informal proceeding, pursuant to § 63-46b-4(3), UCA 1953, as amended.

2. Applicant meets each of the statutory requirements ( §§ 54-8b-2.1, *et. seq.*, UCA 1953, as amended) for issuance of a Certificate as a telecommunications corporation.

3. Applicant meets each of the statutory requirements (§§ 54-8b-2.1, *et. seq.*, UCA 1953, as amended) for authorization to provide the public telecommunications services for which it seeks a Certificate.

4. The issuance of a Certificate to 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 that:

This matter be, and it is, converted to an informal proceeding pursuant to § 63-46b-4(3), UCA 1953, as amended.

The Commission hereby grants to AIRSWITCH CORPORATION the Certificate that is attached hereto as Exhibit A and by this reference made a part of this Report and Order.

AIRSWITCH CORPORATION shall provide reports to the Commission and to the Division of Public Utilities, Utah Department of Commerce, as required by applicable law.

Prior to providing intrastate services, AIRSWITCH CORPORATION shall post a bond in the amount of \$100,000 to provide security for customer deposits or other liabilities to customers of AIRSWITCH CORPORATION 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 AIRSWITCH CORPORATION.

DATED at Salt Lake City, Utah, this 8th day of January, 1999.

/s/ A. Robert Thurman

Administrative Law Judge

Approved and Confirmed this 8th day of January, 1999, 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 -

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AIRSWITCH CORPORATION for a ) DOCKET NO. 98-2260-01

Certificate Authorizing it to Provide )

Dedicated Internet Access Services Within ) CERTIFICATE

the State of Utah. )

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ISSUED: January 8, 1999

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 AIRSWITCH CORPORATION to provide dedicated Internet access services anywhere within the State of Utah.

DATED at Salt Lake City, Utah, this 8th day of January, 1999.

/s/ Stephen F. Mecham, Chairman

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

Attest: /s/ Clark D. Jones, Commissioner

/s/ Julie Orchard  
Commission Secretary