

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Joint Application of U.S. WEST )  
COMMUNICATIONS, INC., ALL WEST )  
COMMUNICATIONS, INC., CARBON/EMERY )  
TELCOM, INC., CENTRAL UTAH TELEPHONE, )  
INC., HANKSVILLE TELCOM, INC., MANTI )  
TELEPHONE COMPANY, SKYLINE TELECOM, )  
and UBET TELECOM, INC. for Approval of Purchase )  
and Sale of the Various Exchanges and Associated )  
Matters )

Docket No. 99-049-65  
REPORT AND ORDER

ISSUED: September 6, 2000

SYNOPSIS

The stipulation of the parties appearing to adequately protect the public interest, the Commission approved the stipulation.

By The Commission:

PROCEDURAL HISTORY

This matter was initiated December 22, 1999, by a joint application as set forth in the caption above. Thereafter, several parties intervened including the Division of Public Utilities, Utah Department of Commerce (DPU). On July 6, 2000, the parties filed a stipulation ("the stipulation") settling all contested issues. The Commission has reviewed the stipulation and concludes its provisions adequately protect the public interest. As its findings of fact and conclusions of law in this matter, the Commission adopts the representations and covenants contained in the stipulation, which is annexed hereto and incorporated herein by this reference. Accordingly, the Commission enters the following

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- The stipulation and the sales of assets, and each of them, as set forth in the Application and stipulation be, and they are, approved effective the date of this Order. Parties must comply with the terms of the stipulation.
- For each sale, the associated service territory is deleted from the Certificate of Convenience and Necessity of U.S. West Communications, Inc., which is thereby relieved of the responsibilities of a local exchange carrier of last resort, and in each case the service territory is included in the respective buyer's Certificate of Convenience and Necessity, thereby placing the responsibility of a local exchange carrier of last resort on said buyer. The parties shall file promptly, with the Commission, legal descriptions of the affected service areas for inclusion in a supplemental order amending and/or granting certificates of convenience and necessity with specificity.
- Each buyer shall serve as carrier of last resort in the exchange it is purchasing and is designated as an Eligible Telecommunications Carrier pursuant to 47 U.S.C. § 214 in each exchange it is purchasing.
- The Commission hereby states it has no objection to the Federal Communications Commission (FCC) granting study area waivers, nor does it object to any reconfiguration of study area boundaries for the affected exchanges.

- Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

Dated at Salt Lake City, Utah, this 6th day of September, 2000.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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 TELCOM, INC., CENTRAL UTAH TELEPHONE, INC., :  
 HANKSVILLE TELCOM, INC., MANTI TELEPHONE :  
 COMPANY, SKYLINE TELECOM and UBET :  
 TELECOM, INC. for Approval of Purchase and Sale of :  
 the Various Exchanges and Associated Matters. :

Docket No. 99-049-65

**STIPULATION TO APPROVE  
 PURCHASE AND SALE OF  
 VARIOUS EXCHANGES**

U S WEST Communications, Inc. ("U S WEST" or "Seller"), All West Communications, Inc. ("All West"), Carbon/Emery Telcom, Inc. ("Carbon/Emery"), Central Utah Telephone, Inc. ("Central Utah"), Emery Telephone ("Emery"), Hanksville Telcom, Inc. ("Hanksville"), Manti Telephone Company ("Manti"), Skyline Telecom ("Skyline") Uintah Basin Telephone Association, Inc. ("Uintah") and UBET Telecom, Inc. ("UBET") (All West, Carbon/Emery, Central Utah, Emery, Hanksville, Manti, Skyline, Uintah and UBET will be collectively referred to hereinafter as "Independent Telcos" or "Buyers") and the Division of Public Utilities ("Division") (the stipulating entities will be referred to collectively as the "Parties"), hereby jointly stipulate and move the Public Service Commission of Utah ("Commission") as follows:

1. The Parties request approval of agreements for purchase and sale of telephone exchanges entered into between U S WEST and the Independent Telcos, in October of 1999 ("Agreements"), involving the sale by U S WEST of 12 exchanges currently owned by U S WEST with a total of approximately 34,622 access lines located in the state of Utah as follows:

<b>Buyer / Assignee</b>	<b>Exchange</b>	<b>Access Lines (12/31/98)</b>
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All West	Coalville	1,847
	East Carbon	977
Carbon/Emery	Helper	1,943
	Price	8,944
Central Utah	Mt. Pleasant	1,958
Hanksville	Hanksville	169
Manti	Ephraim	1,856
Skyline	Dugway	571
	Wendover	808
	Duchesne	954
UBET	Roosevelt	4,288
	Vernal	10,307
	TOTAL	34,622

Each of these Exchanges should be transferred from U S WEST's service territory and added to the service territory of the Buyer acquiring it, and their respective certificates of convenience and necessity amended accordingly.

2. The Parties also request approval of the transfer and assignment of assets, operating authorities, licenses and contracts and other related matters associated with the transactions contemplated by the Agreements.

3. U S WEST provides local exchange and other telecommunications services within the state of Utah, including in the exchanges in the foregoing table ("Exchanges"), pursuant to a certificate of convenience and necessity issued by the Commission. All West, Central Utah, Manti and Skyline provide local exchange and other telecommunications services within the state of Utah pursuant to certificates of convenience and necessity issued by the Commission.

4. Carbon/Emery, Docket No. 99-2302-01, Hanksville, Docket No. 99-2303-01, and UBET, Docket No. 00-2304-01, have each applied for a certificate of convenience and necessity and the Parties stipulate that these companies should be granted a certificate of convenience and necessity from the Commission to provide local exchange and other telecommunications services in the Exchanges they are acquiring in the transaction as listed above.

5. Emery and UBTA will financially and managerially support Carbon/Emery and Hanksville, and UBET, respectively, for a period of no less than three years but continuing as long as necessary to ensure the financial viability of these new companies (i.e., funding of principal and interest payments, financial availability to implement upgrades, undergo modifications, normal plant replacements and funding for unforeseeable events).

6. U S WEST and each of the Independent Telcos agreed upon the purchase price for each exchange as a result of arms-length negotiations. The terms of the sale for each Exchange are fair, just and reasonable.

7. Following closing, each Independent Telco will provide public telecommunications services in each of the Exchanges it is acquiring. To ensure a seamless transition for U S WEST customers, each Independent Telco will adopt the applicable U S WEST rates, tariffs, price lists and competitive contracts in effect at the closing for the Exchange being acquired for a period of at least six months following the closing. The Agreements provide that both companies will work together, from the time the Agreements were executed to the closing, to ensure a smooth transition of operations and customers from U S WEST to the Buyer, with respect to the Exchanges acquired by that Buyer.

8. As set forth more fully in the Agreements, U S WEST will convey all of its telephone plant, contracts (subject to certain exclusions), books and records, and Federal Communications Commission ("FCC") licenses and non-FCC authorizations (to the extent assignable), related to its operations in each Exchange to the Buyer acquiring the Exchange. Each Buyer will purchase the assets with cash.

9. Each Buyer will acquire assets from U S WEST in the Exchanges the Buyer has agreed to purchase on the closing date that include: (i) Federal and State licenses and permits necessary to operate the systems; (ii) interests in assigned

contracts, including equipment leases and agreements with suppliers, customers and subscribers; (iii) 911 facilities; (iv) tangible telephone plant facilities; (v) real property rights; and (vi) certain books and records. Schedules attached to the Agreements describe in more detail the property to be acquired. A statement of the book value of the property to be acquired for each Exchange is included in Exhibit D attached to each Agreement.

10. U S WEST and Buyers have agreed that there will be no change in existing extended area service arrangements or routes unless otherwise authorized (ordered) by the Commission. U S WEST and Buyers have also designated transition teams and will sign transition agreements to ensure that the transition of facilities and customers between the companies is a smooth one. Each Buyer has agreed to assume U S WEST's customer contractual obligations in the Exchanges that Buyer is purchasing and to continue existing customer services, including the provision of 911 service. Each Buyer has agreed that for a period of six months after closing, it will adopt and maintain intrastate tariffs similar in all material respects to U S WEST's intrastate tariffs.

11. The Independent Telcos have the business, technical, management, and operating experience to serve smaller, more rural communities such as the Exchanges. Each Buyer also has adequate resources to assure the continuation of quality services in both its existing Utah exchanges and the acquired Exchanges. Each Buyer's core business is focused on providing service to smaller, more rural communities, and the Exchanges each Buyer is purchasing fit well into that Buyer's business strategy and plans. The transaction should provide benefits to all customers that will be realized from the greater opportunities for service and operating efficiencies. Each Buyer will focus its resources on improving and upgrading the properties it is acquiring.

12. On March 9, 2000, the Division and U S WEST entered into a stipulation in this docket ("Prior Stipulation"). The Report and Order dated June 9, 2000 in Docket No. 99-049-41 ("Merger Order") addressed issues raised in the Prior Stipulation. All portions of the Merger Order addressing the Prior Stipulation are hereby incorporated in this Stipulation and supercede the Prior Stipulation to the extent inconsistent therewith.

13. It is specifically reaffirmed that the Division shall not support adoption by the Commission of any investment, expenditure or other treatment of any gain realized on the sales by U S WEST as a condition for the approval of the sales of exchanges which are the subject of this docket other than the condition set forth in this Stipulation.

14. U S WEST and the Buyers agree that no customers will be worse off as a result of the sales of Exchanges in this docket. This includes, without limitation, no negative impacts on any rates charged or the service quality provided to new or existing customers as a direct result of the sales of Exchanges in this docket. If, on balance, customers are ultimately found by the Commission to be worse off, U S WEST and the Buyers stipulate that an appropriate remedy may be implemented consistent with then existing law.

15. Costs incurred directly as a result of the purchase will neither be recovered from the State Universal Service Fund nor in intrastate rates from the customers of either the exchange being purchased or the Buyers' existing service territory. The premium paid to U S WEST in excess of the net book value will not be included in the Buyers' rate base or revenue requirement.

16. There shall be no deviation from the current statutory framework under Section 54-8b-2.1(3) Utah Code Ann. (1999) which provides that a telephone corporation serving fewer than 30,000 access lines in the State may petition the Commission to exclude any of its local exchanges with less than 5,000 access lines from the authority granted to a competitive local exchange carrier. Those Exchanges with fewer than 5,000 access lines should receive the protection afforded by Section 54-8b-2.1(3) governing competitive entry.

17. Each Buyer has entered or will enter into agreements with affiliated interexchange carriers (the "Affiliated Companies") to assume the retail toll carrier role and obligations for any end users in the Exchanges that Buyer is purchasing that are presubscribed or defaulted to U S WEST for intraLATA toll services. Prior to closing, U S WEST will inform customers by letter that all services will now be provided by the respective Buyer and that their local long distance service currently provided to them by U S WEST will be provided by an Affiliated Company and not the local exchange provider. The letter will also state that customers remain free to select their local long distance provider. Moreover, the Affiliated Companies shall also notify each toll customer of the available intrastate, inter-exchange carriers who are willing to provide toll services to the customer and that they have the right and ability to change their

intrastate Primary Inter-exchange Carrier ("PIC"). Such notice shall take the form of a bill insert and shall be sent to the customer in the first billing statement immediately following closing. In addition, the Affiliated Companies shall pay the PIC charge associated with any toll customer making one change in its PIC for a period of two billing cycles following the notice from the Buyer. Any notice or letter to be sent to customers pursuant to this paragraph shall be provided to the Division and Committee of Consumer Services at least ten days prior to being sent to customers.

18. The Division believes that at the time of sale, these toll customers had value to the Buyers and the Division reserves the right to raise the issue of imputation of value in subsequent rate cases involving the individual Independent Telcos.

19. None of the Parties object to a change in study area boundaries. The Parties request that the Commission's order approving these transactions include a statement that the Commission does not object to the FCC granting study area waivers, nor to any reconfiguration of study area boundaries for the Exchanges.

20. Each Buyer shall serve as a carrier of last resort in the Exchanges it is purchasing and should be designated as an ETC pursuant to 47 U.S.C. § 214 in each Exchange it is purchasing. In addition, U S WEST should be relieved of the obligations as an ETC in each Exchange it is selling.

21. The Buyers agree to equitably deploy advanced and enhanced services throughout the respective Exchanges they currently serve and those being acquired, taking into account economic and other considerations, and attempting to balance deployment among the basic-rural and outlying-rural areas.

22. Based on the foregoing, the sale of the Exchanges is in the public interest and should be approved by the Commission.

23. The Parties believe that the terms of this Stipulation obviate the need for an extended hearing before the Commission. The Parties intend to present this Stipulation to the Commission immediately. In the event that the Commission rejects all or any portion of this Stipulation, or imposes additional conditions, each Party reserves the right to withdraw from this Stipulation. In such case, no Party to this Stipulation shall be bound or prejudiced by the terms of this Stipulation and each Party shall be entitled to seek reconsideration of the Commission order, to file any testimony it chooses, to cross-examine witnesses, and in general to put on such case as it deems appropriate. If this Stipulation does not become effective according to its terms, it shall be null and void unless otherwise agreed to by the Parties.

24. It is understood that this Stipulation is a settlement of contested issues and that neither party is waiving its position on any issue or agreeing to accept any position on any issue in any future proceeding as a result of this Stipulation.

25. Each Party shall take all actions necessary and appropriate to enable it to carry out this Stipulation, including providing testimony and argument in support of the approval of this Stipulation by the Commission.

RESPECTFULLY SUBMITTED this \_\_\_\_ day of July, 2000.

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