

(Decision No. 84164)

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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IN THE MATTER OF THE JOINT APPLICATION OF THE BENNETT TELEPHONE COMPANY AND THE EASTERN SLOPE RURAL TELEPHONE ASSOCIATION, INC., FOR AN ORDER AUTHOR- IZING THE SALE AND TRANSFER OF ALL ASSETS, INCLUDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	} } } } } }	APPLICATION NO. 26994  RECOMMENDED DECISION OF CHRISTIAN O. IGENBERGS, EXAMINER  GRANTING APPLICATION
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December 7, 1973

Appearances: Richard L. Greener, Esq.,  
Aurora, Colorado, for  
Transferor Bennett Telephone  
Company;

Frank Safranek, Esq.,  
Limon, Colorado, for  
Transferee Eastern Slope  
Rural Telephone Association, Inc.;

James A. VanderWal and  
James Richards, Denver, Colorado,  
of the Staff of the Commission.

PROCEDURE AND RECORD

Under date of September 21, 1973, Bennett Telephone Company, hereinafter referred to by the full corporate name or as Bennett; and Eastern Slope Rural Telephone Association, Inc., hereinafter also referred to as Eastern Slope, filed a joint application with this Commission requesting authority to sell and transfer the Certificate of Public Convenience and Necessity of the Bennett Telephone Company and all assets, including an amount of \$16,000 for an addition to the Central Office building presently under construction, and, excepting the present Bennett office building, certain rental property, and associated land, to the Eastern Slope Rural Telephone Association, Inc., as specifically set forth in said application.

The Commission assigned Docket No. 26994 to the aforesaid joint application, gave due notice in accordance with the provisions of Chapter 115, CRS 1963, as amended; and set the application for hearing

on Friday, November 9, 1973, at 10 a.m. in the V. F. W. Hall, 1st and Palmer, in Bennett, Colorado, at which time and place it was heard by Christian O. Igenbergs, Examiner, to whom the matter had been assigned pursuant to law.

Exhibits Nos. 1 through 3 inclusive were tendered and received into evidence.

Official notice was taken by the Examiner of the Sale and Purchase Agreement between the parties and the service areas map as contained in the files of the Commission.

At the conclusion of the hearing, the Examiner ordered that certain exhibits, to wit: copies of the resolutions of the Boards of Directors of both Transferor and Transferee, authorizing the sale and purchase be filed with him as late-filed exhibits. The aforesaid late-filed exhibits were duly and timely filed with the Examiner on November 29, 1973.

Willis D. Bassett, general manager of Transferee; Glen Razak, consulting engineer in telephony; Douglas A. Wagner, partner in the firm of Management Consultants in Woodburn, Oregon; and William Bordner, president of the Transferor corporation, testified at the hearing.

At the conclusion of the hearing, the subject matter was taken under advisement.

Pursuant to the provisions of Chapter 115, Article 6, CRS 1963, as amended, Examiner Christian O. Igenbergs now transmits herewith to the Commission the record and exhibits of this proceeding, together with a written recommended decision which contains his findings of fact and conclusions thereon, together with the recommended order or requirement.

#### FINDINGS OF FACT

Based upon all the evidence of record, the following is found as fact that:

1. Transferor herein is a Colorado corporation duly organized and existing under the laws of the State of Colorado. It is a family

corporation with William P. Bordner, a resident of Bennett, Colorado, and his wife, Barbara Jean Bordner, each holding one half of the issued and outstanding stock of the corporation except for one share of said stock which is held by one Roy Wailes.

2. Transferor holds a Certificate of Public Convenience and Necessity authorizing Transferor, as a public utility, to render telephone service in its authorized service area. The aforesaid authority was granted to Transferor on June 28, 1960, by Decision No. 54567.

3. Transferee is a Colorado corporation duly organized and existing under the laws of the State of Colorado, and is a rural telephone cooperative rendering telephone service within its service area to the members of the cooperative and other customers within the aforesaid service area. Furthermore, Transferee is a public utility subject to the jurisdiction of this Commission and it holds a Certificate of Public Convenience and Necessity granted to Transferee by Decision No. 82242.

4. By agreement executed on August 28, 1973, by and between Transferor and Transferee, Transferor Bennett agrees to sell and transfer the Certificate of Public Convenience and Necessity of the Bennett Telephone Company and all assets, including an amount of \$16,000 for an addition to the Central Office building presently under construction, and excepting the present Bennett office building, certain rental property, and associated land, and Transferee Eastern Slope agrees to purchase the Certificate of Public Convenience and Necessity heretofore granted to Bennett and described in the findings of fact, together with all assets, except the present Bennett office building, certain rental property, and associated land, of Bennett, for a purchase price of a total sum of \$408,000.

Transferor Bennett and Transferee Eastern Slope pray for approval by this Commission of said Agreement and authority to transfer the Certificate of Public Convenience and Necessity of Bennett from Bennett to Eastern Slope.

5. The Commission has jurisdiction over Transferor, Transferee, and the subject matter of this proceeding,

6. The purchase price of \$408,000, which will be paid by Eastern Slope to Bennett, is found to be fair and reasonable.

7. Eastern Slope, at the present, is authorized to render telephone service in a service area in parts of the following counties, State of Colorado, to wit:

Washington, Kit Carson, Elbert, Lincoln, Cheyenne, Kiowa, Crowley, and Adams.

8. In the aforesaid service area, which consists of approximately 10,000 square miles in Eastern Colorado, Eastern Slope maintains nine (9) telephone exchanges and at the present time has approximately 3,400 stations. The service area of Eastern Slope is rather static insofar as population and economic activity is concerned. In fact, the area does not experience any population growth and neither are there any new business enterprises attracting additional residents. Eastern Slope is a modern, not to say aggressive, telephone company, which desires to increase its revenues and be able to modernize its equipment so that it may be able to attract better qualified professional people familiar with the telephone industry at higher salaries than it can afford to pay at the present, thus improving its service through the skill and knowledge of such professionals and their ability to effect economies in Eastern Slope's operations. The only way to do so is by acquiring more service territory, in a growing area, both population-wise and economically.

Bennett has a service area bisected by Interstate 70, one of the busiest interstate routes in the State of Colorado and, although at the present it has only 389 telephone customers, it can be reasonably anticipated that the number of customers served by Bennett will increase within the next few years by approximately 100-500 percent due to the construction or contemplated construction of several large trailer parks, location of several new industries, and a general growth of the residential



population. In other words, the Bennett service area is exactly an area of the kind Eastern Slope is looking for to increase and better its business both for the members of the cooperative and other customers.

9. The service areas of Bennett and Eastern Slope are not contiguous and yet the area of Bennett is within a reasonable distance of the Woodrow, Colorado, telephone exchange, a part of Eastern Slope's system. The customers of Bennett can easily be served by Eastern Slope without any great expenditures in connecting both service areas.

10. For the present time, Eastern Slope proposes to station one full-time employee, a telephone serviceman, in Bennett, and it is found as a fact that for the present time, that would be ample and sufficient to serve Bennett's customers.

11. If this application is approved, Eastern Slope will not increase the rates paid by the customers of Bennett for telephone service for the present time or within the near foreseeable future.

12. All customers of Bennett, if this application were to be approved, will be invited by Eastern Slope to join the Transferee cooperative at a membership fee of \$5 per customer.

13. The purchase of Bennett's Certificate and assets will involve the obtaining of a loan by Eastern Slope from the United States Rural Electrification Administration in the amount of \$700,000, both for the purpose of buying Bennett and upgrading the service of the customers of Bennett to the standards of Eastern Slope. A loan commitment and approval of this purchase and upgrading of service has been obtained from the aforesaid Federal authority by Eastern Slope (Exhibit No. 2).

14. Current assets of the Bennett Telephone Company on June 30, 1973, consisted of approximately \$22,500 and fixed assets of approximately \$166,600 resulting in total assets of approximately \$189,100. Current liabilities consist of approximately \$2,200 and long-term liabilities

of approximately \$75,700; Proprietary Capital consists of capital stock at \$8,552, paid-in surplus of \$40, earned surplus of \$88,015, and retained earnings of \$14,876, making the Proprietary Capital \$111,484.

Both Transferor and Transferee claim that the assets of Bennett have been under-valued to a considerable extent due to inadequate accounting procedures, wherefore Eastern Slope requests that an acquisition adjustment of \$140,000 be allowed. The purchase price of \$408,000 results in an acquisition adjustment of \$140,000 if a reappraisal of Bennett's properties as requested were to be allowed. After subtracting the net dollar value of \$158,621 on the books of Bennett as it is now stated for Plant from the reappraised amount of \$235,294, there remains an amount of \$76,673 which Eastern Slope wishes to include in, and thereby increase, its net plant value.

15. From the evidence of record, the Examiner finds as a fact that Eastern Slope has not convincingly substantiated its claim that a net book cost of Bennett's telephone plant is under-valued by \$76,673 or any other specific amount; and, therefore, an increase in book value of the properties being transferred and a resulting decrease in the acquisition adjustment amount below the \$216,673, that results from the purchase price of \$408,000 less net original book cost of \$191,327\* cannot be allowed.

16. The acquisition and operation of the public utility properties of Bennett by Eastern Slope will result in lower operating costs with resulting benefits to the ratepayers.

17. The acquisition adjustment of \$216,673, amortized over a period of fifteen (15) years will increase operating expenses by approximately \$14,445 annually, which is reasonable, and to this extent, shall be a burden on the ratepaying public; such burden, however, is being offset and more than exceeded by the cost benefits in part accruing from the transfers as follows:

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\* - Total assets of \$189,137, plus the \$16,000 central office addition, less \$7,983 net property retained by transferor, and \$5,827 expenses associated with the acquisition equals \$191,327.

Margins allocable to Bennett customers	\$26,388
Savings in Income Taxes	<u>6,196</u>
Total	\$32,584

Other cost benefits, not definitely measurable at this time in dollars, will include reduced future financing costs and lower maintenance and operation costs.

18. The acquisition as described supra and as proposed, including amortization of the acquisition adjustment of \$216,673 as an operating expense as described in the immediate preceding finding of fact will create sufficient net benefits for the ratepaying public and is, therefore, in the public interest and should be authorized.

19. The authority for the sale and transfer of the assets and the Certificate of Public Convenience and Necessity of Bennett to Eastern Slope is in the public interest.

#### CONCLUSIONS ON FINDINGS OF FACT

Based on the aforesaid findings of fact, it is concluded that:

1. The transfer of the Certificate of Public Convenience and Necessity now held by Transferor Bennett to Transferee Eastern Slope should be authorized and approved by this Commission.

2. Pursuant to 115-6-9 (2), CRS 1963, as amended, it is recommended by the Examiner that the Commission enter the following order.

#### O R D E R

##### THE COMMISSION ORDERS THAT:

1. Transfer of the Certificate of Public Convenience and Necessity now held by Bennett Telephone Company, described in Finding No. 2 above, to Eastern Slope Rural Telephone Association, Inc., and the sale of certain of the assets and liabilities by the seller, Bennett Telephone Company, to the purchaser, Eastern Slope Rural Telephone Association, Inc., be, and hereby are, authorized and approved.

2. The acquisition adjustment of approximately \$216,673 resulting from this transfer to Eastern Slope Rural Telephone Association,



Inc., amortized in equal amounts over a period of time of fifteen (15) years by charges to account No. 614 (Amortization of Telephone Plant Acquisition Adjustments) be, and hereby is, authorized and approved.

3. Eastern Slope Rural Telephone Association, Inc., be, and hereby is, authorized to serve as a public utility rendering telephone service in the present service area of Bennett Telephone Company; and that this order shall be deemed and held to be a CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY therefor.

4. The service area of Eastern Slope Rural Telephone Association, Inc., shall hereafter consist of two non-contiguous service areas, both said service areas described as follows, to wit:

AREA A:

Beginning at the Southeast corner of Section 21, Township 20 South, Range 47 West; thence Westerly a distance of approximately 13 miles to the Southwest corner of Section 21, Township 20 South, Range 49 West; thence Southerly a distance of 2 miles to the Southeast corner of Section 32, Township 20 South, Range 49 West; thence Westerly a distance of approximately 32 1/2 miles to the Southwest corner of the Southeast quarter of Section 36, Township 20 South, Range 55 West; thence North a distance of approximately 9 1/2 miles to the Northwest corner of the Southeast quarter of Section 13, Township 19 South, Range 55 West; thence Westerly a distance of approximately 1 1/2 miles to the West quarter corner of Section 14, Township 19 South, Range 55 West; thence Northerly a distance of approximately 2 miles to the Northwest corner of Section 2, Township 19 South, Range 55 West; thence Westerly to the Southwest corner of Section 35, Township 18 South, Range 55 West; thence Northerly a distance of 4 1/2 miles to the Northwest corner of the Southwest quarter of Section 11, Township 18 South, Range 55 West; thence Westerly a distance of 4 miles to the Southwest corner of the Northwest quarter of Section 7, Township 18 South, Range 55 West; thence North to the Southeast corner of the Northeast quarter of Section 12, Township 18 South, Range 56 West; thence Westerly a distance of approximately 20 1/2 miles to the Southwest corner of the Northeast quarter of Section 10, Township 18 South, Range 59 West; thence Northerly a distance of approximately 8 miles to the center of Section 34, Township 16 South, Range 59 West; thence East 5 miles to the center of Section 33, Township 16 South, Range 58 West; thence North 4 miles to the center of Section 9, Township 16 South, Range 58 West; thence West 2 miles to the center of Section 7, Township 16 South, Range 58 West; thence North 1 1/2 miles to the Northeast corner of the West 1/2 of Section 6, Township 16 South, Range 58 West; thence East approximately one-eighth mile to the Southwest corner of the East 1/2 of Section 31, Township 15 South, Range 58 West; thence North 4 1/2 miles to the center of



Section 7, Township 15 South, Range 58 West; thence East 2 miles to the center of Section 9, Township 15 South, Range 58 West; thence North 9 miles to the center of Section 28, Township 13 South, Range 58 West; thence east 4-1/2 miles to the Northeast corner of the Southeast 1/4 of Section 30, Township 13 South, Range 57 West; thence Northerly a distance of 4 miles to the Northwest corner of the Southwest quarter of Section 5, Township 13 South, Range 57 West; thence Easterly a distance of 9-1/2 miles to the Northeast corner of the Southwest quarter of Section 2, Township 13 South, Range 56 West; thence Northerly a distance of 12-1/2 miles to the Northwest corner of the Northeast quarter of Section 2, Township 11 South, Range 56 West; thence Easterly a distance of .3 miles to the South quarter corner of Section 35, Township 10 South, Range 56 West; thence Northerly a distance of approximately 6 miles to the North quarter corner of Section 2, Township 10 South, Range 56 West; thence Easterly 1-1/2 miles to the Southwest corner of Section 31, Township 9 South, Range 55 West; thence northerly 14 miles to the Northwest corner of Section 30, Township 7 South, Range 55 West; thence Easterly 2-1/2 miles to the South quarter corner of Section 21, Township 7 South, Range 55 West; thence Northerly 3 miles to the Northwest corner of the Northeast quarter of Section 9, Township 7 South, Range 55 West; thence Westerly 1 mile to the Southwest corner of the Southeast quarter of Section 5, Township 7 South, Range 55 West; thence Northerly 7 miles to the North quarter-corner of Section 5, Township 6 South, Range 55 West; thence Easterly approximately .4 miles to the South quarter corner of Section 32, Township 5 South, Range 55 West; thence North 8 miles to the Southwest corner of the Southeast 1/4 of Section 20, Township 4 South, Range 55 West; thence running west approximately 7-1/2 miles to the Northwest corner of Section 30, Township 4 South, Range 56 West; thence running North 4 miles to the Northwest corner of Section 6, Township 4 South, Range 56 West; thence running West 2 miles to the Southwest corner of Section 35, Township 3 South, Range 57 West; thence running North 6 miles to the Northwest corner of Section 2, Township 3 South, Range 57 West; thence running East 2 miles to Northeast corner of Section 1, Township 3 South, Range 57 West; thence running 12 miles North to the Northwest corner of Section 6, Township 1 South, Range 56 West, thence running East 10-1/2 miles to the Northeast corner of the Northwest 1/4 of Section 2, Township 1 South, Range 55 West, thence running South 13 miles to the Southeast corner of the Southwest 1/4 of Section 2, Township 3 South, Range 55 West; thence East approximately 1 mile to the Northeast corner of the Northwest 1/4 of Section 12, Township 3 South, Range 55 West; thence South 5 miles to the Southeast corner of the Southwest 1/4 of Section 36, Township 3 South, Range 55 West; thence East 1/2 mile to Northeast corner of Section 1, Township 4 South, Range 55 West; thence Southerly a distance of 6 miles to the Southeast corner of Section 36, Township 4 South, Range 55 West; thence Easterly a distance of 13 miles to the Northeast corner of Section 6, Township 5 South, Range 52 West; thence Southerly a distance of 4 miles to the Southeast corner of Section 19, Township 5 South,

Range 52 West; thence Easterly a distance of 5 miles to the Northeast corner of Section 25, Township 5 South, Range 52 West; thence South a distance of 2 miles to the Southeast corner of Section 36, Township 5 South, Range 52 West; thence Easterly along the North boundary line of Township 6 South, a distance of approximately 6 miles to the North quarter corner of Section 6, Township 6 South, Range 50 West; thence North approximately 1/4 mile to the Northwest corner of the Southwest quarter of the Southwest quarter of Section 31, Township 5 South, Range 50 West; thence Easterly approximately 4-1/2 miles to the Northeast corner of the Southwest quarter of the Southwest quarter of Section 35, Township 5 South, Range 50 West; thence Southerly a distance of approximately 27-1/4 miles to the Southeast corner of Section 14, Township 10 South, Range 50 West; thence Westerly approximately 2-1/2 miles to the North quarter corner of Section 21, Township 10 South, Range 50 West; thence Southerly along the center lines of Sections 21, 28 and 33, Township 10 South, and along the Easterly boundary lines of Sections 4, 9, 16, 21, 28 and 33, Township 11 South, Range 50 West to the Southeast corner of Section 33, Township 11 South, Range 50 West; thence Easterly along the North boundary line of Township 12 South a distance of approximately 21 miles to the Northeast corner of Section 1, Township 12 South, Range 47 West; thence Southerly along the East boundary line of Range 47 West, a distance of approximately 24 miles to the Southeast corner of Section 36, Township 15 South, Range 47 West; thence Westerly to the Northeast corner of Section 1, Township 16 South, Range 47 West; thence Southerly a distance of approximately 5-1/2 miles to the Southeast corner of Section 36, Township 16 South, Range 47 West; thence Westerly a distance of 3 miles to the Northeast corner of Section 4, Township 17 South, Range 47 West; thence Southerly a distance of approximately 22 miles to the Southeast corner of Section 21, Township 20 South, Range 47 West, the point of beginning, Kiowa County, Elbert, Lincoln, Washington, Kit Carson, and Cheyenne Counties, State of Colorado.

#### AREA B-

Beginning at a point, which point is the southeast corner of Section 36, Township 5 South, and Range 63 West; thence proceeding northerly a distance of approximately 27-1/2 miles to the east 1/4 corner, Section 13, Township 1 South, Range 63 West; thence east 1 mile; thence north 2 miles to the east 1/4 corner of Section 6, Township 1 South, Range 62 West; thence west 3 miles; thence south 1-1/2 miles; thence west 3 miles to the northwest corner, Section 17, Township 1 South, Range 63 West; thence south 4 miles; thence west 4 miles to the northwest corner of Section 3, Township 2 South, Range 64 West; thence south approximately 12 miles to the southwest corner, Section 34, Township 3 South, Range 64 West; thence east 2 miles; thence south 6 miles; thence east 3 miles; thence south 6 miles to the southwest corner, Section 33, Township 5 South, Range 63 West; thence east 4 miles to the point of beginning.

5. Applicant Eastern Slope Rural Telephone Association, Inc. shall, within 30 days of the completion of the acquisition contemplated herein file with this Commission a report showing the various journal entries occasioned by such acquisition and the amount to be amortized.

6. Applicant Bennett Telephone Company shall file with this Commission on or before March 31, 1974, a final annual report for that portion of 1973 in which it operated as a separate entity.

7. The Applicant Eastern Slope Rural Telephone Association, Inc. shall operate the utility property to be acquired from the Bennett Telephone Company in accordance with the Rules and Regulations of this Commission with respect to service, construction, maintenance, operation, accounting, and other matters applicable to telephone utilities.

8. Applicant Eastern Slope Rural Telephone Association, Inc. shall file with this Commission rates and tariffs to make available to the customers served from the properties acquired from Bennett Telephone Company, the same rates and tariffs presently in effect with respect to the customers of Bennett Telephone Company of this date.

9. This Recommended Decision shall be effective on the day it becomes the decision of the Commission, if such be the case, and is entered as of the date hereinabove set out.

10. As provided by 115-6-9 (2), CRS 1963, as amended, copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto, but if no exceptions are filed within twenty (20) days after service upon the parties or within such extended period of time as the Commission may authorize in writing (copies of any such extension to be served upon the parties), or unless such Decision is stayed within such time by the Commission upon its own motion, such Recommended Decision shall become the Decision of the Commission and subject to the provisions of 115-6-14, CRS 1963, as amended.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

CHRISTIAN O. IGENBERGS

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Examiner  
hbp



ATTEST:

*Harry N. Galligan, Jr.*  
Harry N. Galligan, Jr., Secretary