

(Decision No. C93-1316){PRIVATE }

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE JOINT)
APPLICATION OF U S WEST COMMU-)
NICATIONS, INC., AND EAGLE COM-)
MUNICATIONS, INC. D/B/A COLORADO,)
D/B/A PTI COMMUNICATIONS, INC.,)
FOR AUTHORITY TO TRANSFER CERTAIN)
TELEPHONE EXCHANGES, OPERATIONS,)
AND BUSINESS OF U S WEST COMMUNI-)
CATIONS, INC., TO EAGLE TELECOM-)
MUNICATIONS, INC./COLORADO,)
D/B/A PTI COMMUNICATIONS, INC., A)
WHOLLY OWNED SUBSIDIARY OF)
PACIFIC TELECOM, INC.)

DOCKET NO. 93A-440T

ORDER

Mailed Date: October 20, 1993
Adopted Date: October 18, 1993

STATEMENT

BY THE COMMISSION:

This matter comes before the Colorado Public Utilities Commission ("Commission") on its own motion to consider whether the application filed in this case can be deemed complete. For the reasons set forth below, the Commission will not deem the application complete.

Newly enacted § 40-6-109.5(1), C.R.S. (1993), imposes certain time periods by which this Commission must issue a final decision on applications. The time periods begin running when the application is "deemed complete" pursuant to the Commission's rules. To determine whether the application in this case would be deemed

complete, the Commission reviewed the requirements of Rule 55 of the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations 723-1, which delineates the requirements for an application and is applicable to the type of request involved in this application. Based on a comparison to the Rule 55 requirements with

the filed application, the following deficiencies are found to exist.

- a. Under Rule 55(c)(1)(A), a corporation is required to include a copy of the documents that establish its existence. The application states that the purchaser is "Eagle Communications, Inc./Colorado d/b/a PTI Communications, Inc." ("ETI"). The application fails to disclose that Eagle Communications, Inc., is authorized to do business under the name "PTI Communications, Inc."
- b. Under Rule 55(c)(13)(D), Applicants are to provide an evaluation of the benefits and detriments, if any, to the customers of each party and to all other persons who will be affected by the transfer. The application provides no evaluation of the benefits and detriments (savings or profit versus costs) regarding, at a minimum, issues such as:
 - (1) The impact of the availability, non-availability, or partial availability of cost support mechanisms, such as the federal Universal Service Fund;
 - (2) The impact of the granting, denial, or granting-in-part of the declaratory orders requested by the two applicants;
 - (3) The impact of the lack of USWC municipal franchises on ETI as stated in the application in the response to Rule 55(c)(14);
 - (4) The impact on quality of service issues such as changes in trouble report rates, timely response and availability of service representatives, maintenance, repair and supervisory personnel to customer requests relative to the current operations of USWC and the proposal of ETI.

The impact of these issues should be evaluated in terms of the interests of affected local exchange and interexchange carriers, ratepayers, and municipalities (See item 4), as well as the applicants and stockholders. Such impacts should be quantified in financial terms

to the extent possible. For instance, on item 2, ETI should address the significance of fixing the rate base at the requested amount if net plant investment is actually much less. All other sections of the application are deemed complete.

The Commission also determined that it would be helpful to have information regarding, at the least: a quantification of the expected intrastate basic local exchange annual revenue requirement per residential and small business customer; the Commission jurisdictional rates necessary to support that revenue requirement; and the projected annual rate of return associated with jurisdictional services as distilled from the ETI feasibility study submitted in response to Rule 55(c)(5). This information is not required by Rule 55 and, therefore, the deeming of this application as complete is not dependent on the submission of the information contained in this paragraph. Nevertheless, the Commission finds that this information is relevant and important to its consideration of the public convenience and necessity.

Finally, it is important to note here that the Commission's determination that various portions of the application are complete does not mean that the Commission has determined that the facts set forth in the application are sufficient to meet the utility's burden of persuasion.

THEREFORE THE COMMISSION ORDERS THAT:

Notice should be and is hereby given that the application in this case is deemed incomplete at this time. The Commission orders that if and when the Applicants file the information necessary to correct the deficiencies noted above that the Applicants also provide the information regarding the quantification of the expected intrastate basic local exchange annual revenue requirement per residential and small business customer, the Commission jurisdictional rates necessary to support that revenue requirement, and the projected annual rate of return associated with jurisdictional services as distilled from the Eagle Communications, Inc./Colorado d/b/a PTI Communications, Inc. feasibility study submitted in response to Rule 55(c)(5) of the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations 723-1.

This Order is effective on its Mailed Date.

ADOPTED IN SPECIAL OPEN MEETING October 18, 1993.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER CHRISTINE E. M. ALVAREZ
SPECIALLY CONCURRING.

COMMISSIONER CHRISTINE E. M. ALVAREZ SPECIALLY CONCURRING:

I support the decision above. However, that portion of the decision that requires the Applicants to submit information regarding rate impact, which is not required by the rule but which my colleagues state is "relevant and important" to the Commission's consideration of the application, causes me some concern. While I agree that such information may be important to understanding whether or not the application is in the public interest, I believe that, in order to maintain confidence among parties regarding the Commission's objectivity, it must leave decisions regarding the submittal of helpful information not otherwise required by the rule to the discretion of the Applicants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioner

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