

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-197T

IN THE MATTER OF THE JOINT APPLICATION OF SUNWEST COMMUNICATIONS, INC., AND USURF AMERICA, INC., FOR AN ORDER APPROVING THE TRANSFER OF SUNWEST COMMUNICATIONS, INC., TO UTEL, INC.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING MOTION TO COMPEL AND
VACATING ARGUMENT ON MOTION**

Mailed Date: August 12, 2004

I. STATEMENT

1. On April 23, 2004, SunWest Communications, Inc., UTEL, Inc., and USURF America, Inc. (collectively, Applicants), jointly filed an Application in which they seek a Commission order approving the transfer of the assets of SunWest Communications, Inc., to UTEL, Inc., which is a wholly-owned subsidiary of USURF America, Inc. (Application). The Application commenced this docket. Both the Colorado Office of Consumer Counsel (OCC) and the Staff of the Commission intervened in this proceeding of right, and each requested a hearing.

2. On August 10, 2004, OCC filed a Motion to Compel [Applicants'] Response to OCC's Second Set of Data Requests (Motion). The undersigned Administrative Law Judge (ALJ) scheduled an oral argument on the Motion and shortened response time. *See* Decision No. R04-0947-I.

3. On August 12, 2004, counsel for OCC and counsel for Applicants contacted the ALJ by telephone and informed her that they agreed that the Motion should be granted and that

the ALJ should enter an Order requiring Applicants to respond fully, on or before August 18, 2004, to OCC's Second Set of Data Requests. Counsel for Applicants stated that Applicants have interposed no objection to the OCC's data requests at issue and would respond fully to those data requests. In view of their agreement, counsel requested that the oral argument be vacated and that the ALJ enter an order reflecting their oral agreement.

4. The ALJ finds and concludes that the oral agreement between OCC and Applicants should be approved. The ALJ will issue an Order granting the Motion; requiring Applicants to respond to OCC's Second Set of Data Requests on or before close of business on August 18, 2004; and vacating the oral argument scheduled for August 13, 2004.

5. Absent further Order, the procedural schedule established in Decision No. R04-0791-I will remain in effect.

6. The parties received oral notification of this Order on August 12, 2004.

II. ORDER

A. It Is Ordered That:

1. The Motion to Compel [Applicants'] Response to OCC's Second Set of Data Requests filed by the Office of Consumer Counsel is granted.

2. On or before close of business on August 18, 2004, SunWest Communications, Inc., UTEL, Inc., and USURF America, Inc., shall respond in full to the Office of Consumer Counsel's Second Set of Data Requests.

3. The oral argument on the Motion to Compel scheduled for August 13, 2004, is vacated.

4. Absent further Order, the procedural schedule established in Decision No. R04-0791-I remains in effect.

5. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge