

Decision No. R04-1070-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-496T

IN THE MATTER OF THE JOINT APPLICATION TO EXPAND THE LOCAL CALLING
AREA IN NORTHERN COLORADO.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
ACCEPTING PARTIAL
SETTLEMENT AGREEMENT**

Mailed Date: September 8, 2004

I. STATEMENT, FINDINGS AND CONCLUSIONS

1. On August 30, 2004, Nunn Telephone Company, the Staff of the Public Utilities Commission of the State of Colorado, the Office of Consumer Counsel, and the City of Loveland, Colorado (Joint Movants) filed an Unopposed Joint Motion to Approve Partial Stipulation and Partial Settlement, Agreement of the Parties, and Request for Waiver of Response Time. On the same date, Joint Movants filed a Partial Stipulation and Partial Settlement Agreement.

2. Joint Movants state that they have resolved the issue in this docket concerning whether the Applicants have demonstrated clear and convincing evidence of a community of interest under the alternative criteria for the community of interest standard contained in 4 *Code of Colorado Regulations* (CCR) 723-2-17.3.3.2. The Joint Movants also state that any issues that are not specifically addressed in the Partial Stipulation and Partial Settlement Agreement, attached to and incorporated in this order, will be addressed at the hearing of this matter.

3. Joint Movants stipulate with the Applicants to the facts contained in the Joint Application. The parties agree that the stipulated facts constitute clear and convincing evidence of the community of interest under the alternative criteria standard for the community of interest contained in 4 CCR 723-2-17.3.3.2.

4. Qwest Corporation, though not a party to the Partial Stipulation and Partial Settlement Agreement does not object to the approval Agreement. Thus, no party opposes the Motion to Approve the Partial Stipulation and Partial Settlement Agreement.

5. It is found that the Partial Stipulation and Partial Settlement Agreement filed on August 30, 2004 is just, reasonable, and in the public interest.

6. Pursuant to Section 40-6-109, C.R.S., it is recommended that the following order be entered.

II. ORDER

A. The Commission Orders That:

1. The Unopposed Joint Motion to Approve Partial Stipulation and Partial Settlement Agreement is granted. Response time to the motion is waived.

2. The Partial Stipulation and Partial Settlement Agreement filed on August 30, 2004, attached to this Order as Exhibit A is accepted.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

5. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

