BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE JOINT APPLICA­TION OF U S WEST COMMUNICATIONS, INC. AND FARMERS MUTUAL TELEPHONE COMPANY, INC. FOR TRANSFER OF A CERTIFICATE OF AUTHORITY. | )  )  )  )  )  )  ) | CASE NO.  USW-S-95-5  FMT-T-95-1  ORDER NO. 26242 |

On August 1, 1995, U S WEST Communications, Inc. (U S WEST) and Farmers Mutual Telephone Company, Inc. (Farmers) filed a Joint Application with the Public Utilities Commission requesting approval of the sale of U S WEST’s NuAcres local telephone exchange to Farmers.  The Joint Application also requested that the Commission cancel U S WEST’s certificate of public convenience and necessity for the NuAcres exchange and amend Farmers’ certificate for an exclusive service area to include the NuAcres exchange.  The Commission by this Order approves the transfer of the NuAcres exchange to Farmers.

BACKGROUND

The NuAcres exchange is the Idaho portion of the Nyssa, Oregon exchange.  NuAcres is an area directly east of the Snake River located primarily within Payette County, with a small portion contained in Canyon County.  The NuAcres exchange has approximately 176 customers with 165 residence lines and 24 business lines.  The northern border of the exchange is contiguous to Farmers’ Fruitland exchange.  The assets being sold are distribution (outside) plant.  According to the Joint Application, the proposed sale price for the NuAcres exchange is $396,000.  With a current net book value of $268,378, all of it outside plant, the sale price represents a ratio of price to net book value of 1.37:1.  Farmers intends to pay for the purchase with current operating reserve funds, so no borrowing will be required by the Company.

On August 21, 1995, the Commission issued a Notice of Joint Application and Notice of Modified Procedure.  Interested parties were notified that the sale as proposed would affect the NuAcres customers in several ways.  First, the NuAcres customers would lose a zone charge credit.  The customers are currently subject to a $3.19 monthly zone charge, but also receive a $1.60 credit against the zone charge as part of U S WEST’s revenue sharing plan.  Second, the Notice stated that NuAcres’ customers would be required to purchase a member’s share of stock for each access line at a cost of $25 per share.  Finally, the Notice identified a benefit of the sale resulting from Farmers’ proposal to increase NuAcres extended area service (EAS) calling area by including Payette and New Plymouth in its toll-free calling area.  The Notice provided for the filing of written comments on or before October 5, 1995.

On October 5, 1995, the Commission Staff filed written comments recommending approval of the sale, but also identifying specific issues Staff recommended should be addressed as part of the sale.  Noting that the NuAcres customers would lose the $1.60 monthly zone charge credit following the sale, Staff recommended that the sale “be structured so that the NuAcres customers will be paying no more than they are currently paying; i.e., the net of the $3.19 zone increment and the $1.60 credit.”  Staff also recommended the NuAcres customers not be required to pay the $25 membership purchase fee unless Farmers’ rates rather than U S WEST’s rates applied to the NuAcres customers.  Staff recommended that the membership purchase requirement be waived or that U S WEST pay the stock purchase amount from the proceeds of the sale.  Staff also calculated the portion of the gain from the sale that should be allocated to Title 61 Idaho intrastate services to be $44,326.  Staff recommended U S WEST pay that amount into the Idaho Universal Fund.  Written comments also were filed by Farmers, which objected to the conditions Staff proposed for the sale to Farmers.

On October 23, 1995, the Commission issued a Notice of Public Hearing, announcing a hearing for November 8, 1995 in Fruitland.  Prior to the hearing, U S WEST, Farmers, and the Commission Staff entered into a Settlement Agreement.  To resolve some of the issues raised by Staff in its comments, the parties agreed that U S WEST would apply $44,326 from the proceeds of the sale to pay expenses the NuAcres customers otherwise would pay as a result of the sale, and would make a one-time contribution to the Idaho Universal Service Fund.  Specifically, the Settlement Agreement provides that U S WEST will pay $4,725 to Farmers to pay for the $25 per line membership share purchase the customers otherwise would pay.  Additionally, U S WEST agreed to contribute to Farmers $10,886 to cover zone charge credits for the NuAcres customers for a three-year period.  Farmers agreed it would continue to collect only $1.59 from its NuAcres customers for zone charges following the sale.  Finally, the Settlement Agreement calls for U S WEST to make at the time of closing a one-time contribution to the Idaho Universal Service Fund in the amount of $28,715, the balance of the contributed proceeds.  At the hearing on November 8, the parties provided evidence in support of the Settlement Agreement, and asked the Commission to approve it.

DISCUSSION, FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Public Utilities Commission is vested with authority “to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the provisions of this act.”  Idaho Code § 61-501.  In performing its regulatory function, the Commission is charged with a responsibility to ensure that public utilities provide service, rates and facilities that are “adequate, efficient, just and reasonable.”  Idaho Code § 61-302.  When evaluating applications for the issuance or transfer of certificates of public convenience and necessity, the Commission will review and decide public interest issues.  See Idaho Code §§ 61-526, 61-528; Application of Kootenai Natural Gas Company; 78 Idaho 621, 627, 308 P.2d 593 (1957).  The Commission will approve the transfer of a certificate where the public interest is not adversely affected by the transfer and sale.  Because we find that the NuAcres customers will benefit from the sale to Farmers, we conclude that the public interest supports the transfer of the certificate of public convenience and necessity to Farmers.

The record reveals significant, tangible benefits that will accrue to the NuAcres customers following the transfer to Farmers.  Because it is within their current EAS area, NuAcres customers now can make local calls to Fruitland and to the Oregon exchanges of Nyssa, Ontario, and Vale.  Farmers’ current customers have EAS between Fruitland, New Plymouth, Payette, and Ontario, Oregon.  Following the sale Farmers will increase the NuAcres customers’ EAS by adding New Plymouth and Payette.  U S WEST has stated its intention to reciprocate by extending EAS from Payette and New Plymouth to the NuAcres exchange.  These changes result in an increase of more than 5,000 lines in the local calling area for NuAcres customers,  representing a significant increase in the toll free local calling area.  Most of the NuAcres customers live in Payette County, and will have local calling to the county seat in Payette following the sale.

The NuAcres customers also should receive a better grade of service following the sale.  Farmers intends to connect the NuAcres exchange to its Fruitland office with fiber optic cable.  Additionally, Farmers has a business office located in Fruitland, from which it can provide daily installation, repair and maintenance services to its NuAcres customers.  These differences should result in significant improvements in services to the NuAcres customers.

Regarding rates, Farmers will continue charging the NuAcres customers the existing U S WEST rates which, at $11.07 for residents and $28.63 for business customers, are substantially higher than Farmers’ current rates.  However, Farmers will charge the U S WEST rates only until it has recovered the costs of the purchase of the exchange.  Thereafter, Farmers will charge the NuAcres customers the same rates it charges its other customers, who currently pay $6.75 per month for either residential or business basic service.  When the NuAcres customers are charged the same rates as the other Farmers’ customers, the NuAcres customers should see a significant reduction in their rates for basic service.(footnote: 1)

The only adverse cost effects the sale would bring to the NuAcres customers have been resolved by the Settlement Agreement.  If the sale were approved as proposed in the Joint Application, the customers would pay an additional $1.59 per month for zone charges, and would pay $25 per line to purchase a membership share in Farmers.  The Settlement Agreement reached among U S WEST, Farmers and the Commission Staff eliminates these charges for the customers.  As a result, the customers will see no increase in the amount they actually pay for basic telephone service.  Thus the sale, as modified by the Settlement Agreement, will have no adverse impact on the rates of the NuAcres customers and, in the future, the customers should see a rate decrease.

The Settlement Agreement also provides for a contribution by U S WEST of $28,715 to the Idaho Universal Service Fund.  Although this amount is not significant compared to the total size of the IUSF, any meaningful contribution to the fund reduces the amount that must be paid by Idaho telephone ratepayers, and thus is a general benefit to the NuAcres customers as well as other Idaho local exchange customers.  Accordingly, we find the Settlement Agreement to be just, fair and reasonable and in the public interest, and we hereby approve it.

Based on this record, we find the proposed sale, as modified by the Settlement Agreement, to be just and reasonable and in the public interest.  The NuAcres customers will receive additional services, will be served by a local entity, and will see no increase in their rates in the short term.  In the long term, the customer rates will actually be lower than they would be if the sale had not occurred.  We conclude therefore that the sale of the NuAcres exchange, and the amendments to the respective certificates of public convenience and necessity, should be approved.

O R D E R

IT IS HEREBY ORDERED that the Joint Application of U S WEST and Farmers, as modified by the Settlement Agreement, to transfer the NuAcres exchange to Farmers is approved.

IT IS FURTHER ORDERED that U S WEST shall pay from the proceeds of the sale $4,725 for customer membership fees and $10,886 for zone charge credits to Farmers, and shall make a one-time contribution of $28,715 to the Idaho Universal Service Fund at the time of closing.  Farmers may not charge current NuAcres customers for membership fees following the sale, and will continue to collect only $1.59 per month for zone charges.

IT IS FURTHER ORDERED that U S WEST amend its certificate of public convenience and necessity to reflect removal of the NuAcres exchange.  U S WEST should file its amended certificate within 60 days of closing the sale.

IT IS FURTHER ORDERED that Farmers file an amended certificate of public convenience and necessity to include the NuAcres exchange in its exclusive franchise service area pursuant to Idaho Code § 62-615(3).  Farmers should file its amended certificate within 60 days of closing the sale.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in these Case Nos. USW-S-95-5 and FMT-T-95-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in these Case Nos. USW-S-95-5 and FMT-T-95-1.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of  November 1995.

RALPH NELSON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**FOOTNOTES**

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In his testimony at the public hearing, Jay Garrett, the manager of Farmers, stated that the Company intends to maintain the U S WEST rates in NuAcres until such time as Farmers has recovered the entire premium on the sale—$100,622 minus the amount contributed towards the zone credit of $10,886, for a net of $89,736.  Normally, only the intrastate portion of the premium may be recovered.  This would amount to the intrastate allocation of $70,234, minus the contribution of $10,886, for a net of $59,348.  This is the amount the Commission believes is the proper amount to recover from local rates.