BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
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Joint Application of UPH Holdings, Inc., UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC and Pac-West Telecomm, Inc. (U-5266-C) For Consent to Transfer Control of a Company Holding a Certification of Public Convenience and Necessity to Provide Local Exchange and Interexchange Service within the State of California	Application 11-10-017

DECLARATION OF JONATHAN B. MIRSKY: ATTACHMENT TO RESPONSE TO REQUEST OF ADMINISTRATIVE LAW JUDGE

Richard H. Levin
Attorney at Law
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Date: July 3, 2012

DECLARATION

I, Jonathan B. Mirsky, am a Partner of Wiltshire & Grannis LLP. To the best of my information, knowledge, and belief:

1. UPH Holdings, Inc. ("UPH"), UPH Acquisition Sub Inc. ("UPH-AS"), Pac-West Acquisition Company, LLC ("PWAC"), and Pac-West Telecomm, Inc. ("Pac-West") entered into an agreement dated August 20, 2011 for UPH to acquire 100% of the issued and outstanding shares of Pac-West (the "Transaction"), as more fully described in the joint application of UPH, UPH-AS, PWAC, and Pac-West to the California Public Utilities Commission.

2. UPH and UPH-AS retained Wiltshire & Grannis LLP ("we" or "us") to advise and represent them in connection with obtaining public service commission and Federal Communications Commission approvals to the Transaction.

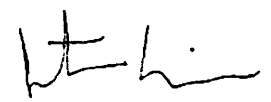
3. The public service commissions of Colorado, Delaware, Georgia, Minnesota, New Jersey, New York, Tennessee, Texas, and Utah have each given their consent to the Transaction and we have not received any notice that any such consent has been stayed, rescinded, or revoked. Copies of the orders, decisions, notices, or letters granting consent issued by the public service commissions of Colorado, Delaware, Georgia, Minnesota, New Jersey, New York, Tennessee, Texas, and Utah are attached hereto.

4. The Wireline Competition Bureau and the International Bureau of the Federal Communications Commission have also each given their consent to the Transaction and we have not received any notice that any such consent has been stayed, rescinded, or revoked. Copies of the orders, decisions, notices, or letters granting consent issued by the Wireline Competition Bureau and the International Bureau of the Federal Communications Commission are attached hereto.

5. The transaction is expected to close after the California Public Utilities Commission grants its approval.

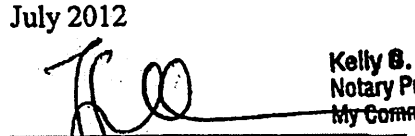
I declare under penalty of perjury that the foregoing is true and correct.

WILTSHIRE & GRANNIS LLP



Jonathan B. Mirsky

Subscribed and sworn to before me this 3rd day of July 2012



Notary Public

My commission expires: 10-31-12

Colorado

Decision No. C11-1395

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 11A-932T

IN THE MATTER OF THE JOINT APPLICATION OF PAC-WEST TELECOMM, INC. AND PAC-WEST ACQUISTION COMPANY, LLC TO EXECUTE A TRANSFER.

ORDER GRANTING APPLICATION

Mailed Date: December 28, 2011
Adopted Date: December 28, 2011

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a joint application filed by Pac-West Telecom, Inc. (PWTI); Pac-West Acquisition Company, LLC (PWAC); and UPH Holdings, Inc. (UPH) on November 16, 2011. The joint applicants request Commission authorization to complete a transaction involving PWAC, the parent of PWTI, and UPH, where UPH will acquire 100 percent equity interest in PWTI. The joint application was made pursuant to 4 *Code of Colorado Regulations* 723-2-2109, Rules Regulating Telecommunications Providers, Services, and Products.

2. The joint applicants represent that, as a part of a purchase of shares, UPH, through its wholly owned affiliate UPH Acquisition Sub, Inc. (UPH-AS), will acquire control of PWTI. UPH-AS was formed in order to merge into PWTI and following this transaction, PWTI would emerge as the surviving entity. The application contains the pre-transaction structures of UPH and PWTI as well as the post transaction structure following the contemplated transactions.

3. PWTI was granted Commission authority to provide local exchange and emerging telecommunications services in Decision Nos. C05-1524, Docket No. 05A-508T issued December 30, 2005; and C99-762, Docket No. 99A-237T issued July 21, 1999, respectively. PWTI has effective tariffs on file with the Commission.

4. UPH is a Delaware corporation that has no Commission issued authorities.

5. In Decision No. C07-0090, Docket No. 06A-669T, adopted on January 31, 2007, the Commission approved an encumbrance of certain assets of PWTI, including its Commission-issued authorities.

6. The joint applicants represent that, as part of the transaction related to PWTI and UPH, there will be no impact on PWTI's customers. Customers will be provided their existing services at the same rates, terms, and conditions that exist prior to the proposed transaction.

7. The joint applicants further represent, that following the transfer, PWTI may obtain additional capital to support and expand its operations.

8. On November 17, 2011, notice of the application was provided on the Commission's website. Interventions were due on or before December 19, 2011. No interventions were filed.

B. Discussion

9. We find that the Commission has jurisdiction in this matter.

10. The joint application contains all information required by applicable Commission Rules and is therefore deemed complete.

11. On December 22, 2011, in response to a question posed by Commission Staff related to the existing encumbrance of PWTI's telecommunications authorities authorized by the Commission, the representative for the applicants confirmed that the encumbrance will not be affected by the transaction included in this application.

12. The joint application is unopposed and therefore may be considered without a formal hearing pursuant to § 40-6-109(5), C.R.S.

13. The Commission finds the proposed transfer is not contrary to the public interest and therefore will grant the joint application.

II. ORDER

A. The Commission Orders That:

1. The joint application to effectuate a transfer filed by Pac-West Telecom, Inc. (PWTI); Pac-West Acquisition Company, LLC; and UPH Holdings, Inc. (UPH) on November 16, 2011 is deemed complete and is granted.

2. Applicants PWTI and UPH shall jointly notify the Commission if the transaction has been terminated or is not completed within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. This notice shall include the docket and decision number which granted the authority to execute the transfer.

3. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Order.

4. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING December 28, 2011.

(S E A L)

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

JAMES K. TARPEY

MATT BAKER

Commissioners

ATTEST: A TRUE COPY

CHAIRMAN JOSHUA B. EPEL ABSENT.

Doug Dean,
Director

Delaware

STATE OF DELAWARE
PUBLIC SERVICE COMMISSION
861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500
FAX: (302) 739-4849

December 2, 2011

Darah Franklin, Esquire
Wiltshire & Grannis LLP
1200 18th Street, NW, Suite 1200
Washington, DC 20036

RE: IN THE MATTER OF THE JOINT APPLICATION OF UPH HOLDINGS, INC., UPH ACQUISTIONS SUB INC., PAC-WEST ACQUISTION COMPANY, LLC, AND PAC-WEST TELECOMM, INC. FOR APPROVAL OF A TRANSACTION THAT WOULD RESULT IN THE TRANSFER OF CONTROL OF PAC-WEST TELECOMM, INC. TO UPH HOLDINGS, INC. (FILED NOVEMBER 14, 2011) - PSC DOCKET NO. 11-475

Dear Ms. Franklin:

Without discussion of my memorandum dated November 22, 2011, the Commission took no action in PSC Docket No. 11-475. If you would like, I will send you a copy of the December 1, 2011 Commission Meeting minutes.

Sincerely,

Jim Strong

Jim Strong
Public Utilities Analyst

Attachments

STATE OF DELAWARE
PUBLIC SERVICE COMMISSION
861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500
FAX: (302) 739-4849

November 22, 2011

MEMORANDUM

TO: The Members of the Commission

FROM: Jim Strong, Public Utilities Analyst

SUBJECT: IN THE MATTER OF THE JOINT APPLICATION OF UPH HOLDINGS, INC., UPH ACQUISITION SUB INC., PAC-WEST ACQUISTION COMPANY, LLC, AND PAC-WEST TELECOMM, INC. FOR APPROVAL OF A TRANSACTION THAT WOULD RESULT IN THE TRANSFER OF CONTROL OF PAC-WEST TELECOMM, INC. TO UPH HOLDINGS, INC. (FILED NOVEMBER 14, 2011) - PSC DOCKET NO. 11-475

Application

On November 14, 2011, UPH Holdings, Inc. ("UPH"), UPH Acquisition Sub Inc. ("UPH-AS"), Pac-West Acquisition Company, LLC ("PWAC"), and Pac-West Telecomm, Inc. ("Pac-West" and together with UPH, UPH-AS, and PWAC, "Applicants") filed an application ("Application") requesting that the Delaware Public Service Commission ("Commission") grant them the authority to consummate a transaction involving the transfer of control of Pac-West, as a result of the acquisition of 100% of the issued and outstanding shares of Pac-West by UPH ("Transaction"). Pac-West is certificated to provide local exchange and competitive intrastate telecommunications services within the State of Delaware. In order to consummate the Transaction in the fourth quarter of this year, the Applicants request that the Commission grant the Application no later than December 8, 2011, so that the Applicants can close the Transaction and meet critical business objectives.

Applicants

A. UPH

UPH Holdings, Inc. is a corporation formed under the laws of the State of Delaware and is headquartered in Austin, Texas. UPH does not currently hold any

authorizations to provide telecommunications services. UPH, however, has one indirect subsidiary that holds authorization to provide telecommunications services, nWire Communications, LLC ("nWire"). nWire was formed under the laws of the State of Delaware with headquarters in Austin, Texas. nWire currently offers numerous telephone services, including but not limited to, telephone exchange service, exchange accessed, and telephone toll service. As a result of the Transaction, nWire will be a sister company to Pac-West.

B. UPH- AS

UPH-AS is a California corporation headquartered in Austin, Texas and a wholly-owned subsidiary of UPH. UPH-AS was formed for Pac-West to merge into, with Pac-West being the surviving entity. UPH-AS does not hold any authorizations to provide telecommunications services.

C. Pac-West

Pac-West is a corporation formed under the State of California, and its headquarters and principal place of business is Stockton, California. In Delaware, Pac-West is authorized to provide local exchange and competitive intrastate communications services pursuant to PSC Order No. 6785 issued in PSC Docket No. 05-318 on November 22, 2005.

Transaction

A. The Transfer of Control

Pursuant to the Reorganization Agreement dated August 30, 2011, by and among UPH, UPH-AS, PWAC, and Pac-West, the following will occur at the closing of the Transaction. The issued and outstanding capital stock of Pac-West will obtain 29% ownership in UPH. Pac-West will be merged into UPH-AS, a wholly-owned subsidiary of UPH, with Pac-West as the surviving entity. Pac-West's wholly-owned subsidiaries, Pac-West Telecomm of Virginia, Inc., and Tex-Link Communications, Inc., will continue to operate as wholly-owned subsidiaries of Pac-West. Diagrams of the pre- and post-close organizational structures of the Applicants are included as Exhibits A and B.

Public Interest

The Applicants assert that the public interest will be served. The entity currently offering telecommunications services to customers, Pac-West, will not change, and there will be no change to the rates, terms, and conditions of the service it provides. Pac-West and its subsidiaries will continue to be managed by individuals with significant experience in the telecommunications industry. The Applicants further assert that the

Transaction may provide Pac-West and its subsidiaries with additional capital to support and expand its operations.

Staff Recommendation

Applications seeking merger approval by large multi-state resellers of competitive intrastate telecommunications services technically come under the provisions of 26 *Del. C.* §215 because the companies are deemed to be public utilities. The Applicants have represented that the proposed Transaction is in accordance with law, for a proper purpose, and consistent with the public interest. The Commission has previously allowed such applications to become effective by statutory approval without Commission action. The same result here seems appropriate under the circumstances. Staff, therefore, recommends that the Commission not act on this Application. This will have the effect, under 26 *Del. C.* §215, of the Application being approved. Staff will require, however, verification from the Applicants that the proposed Transaction has been consummated within thirty days (30) of the closing.

EXHIBIT A

Pac-West Pre-Transaction Organizational Chart

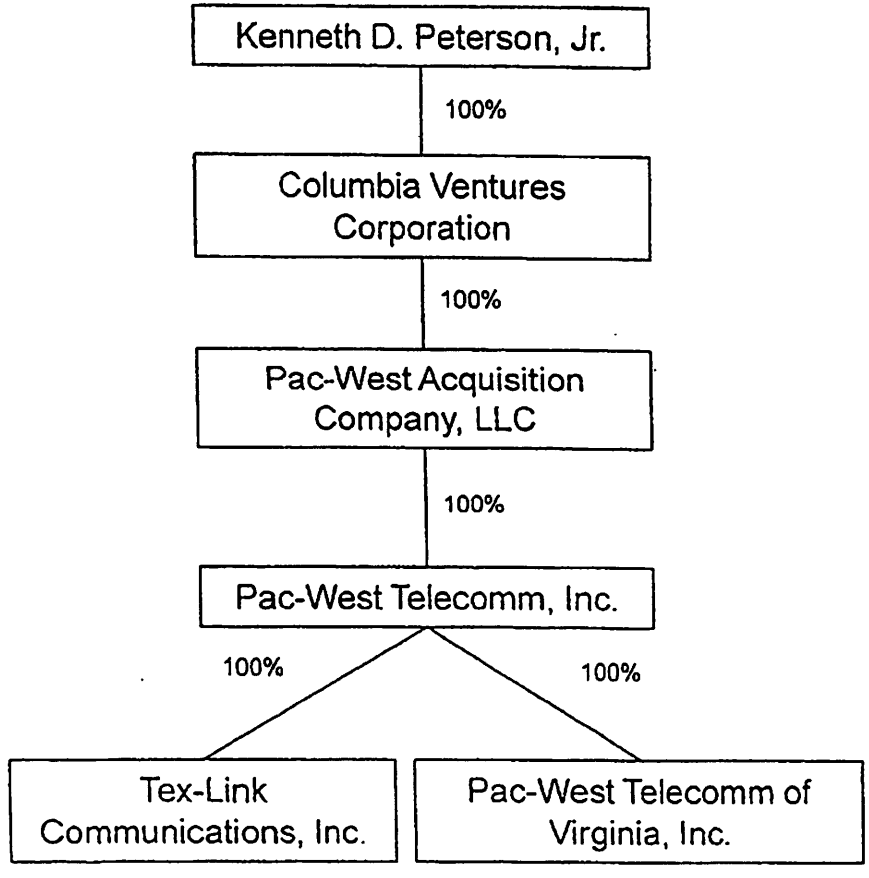


EXHIBIT A

UPH Pre-Transaction Organizational Chart

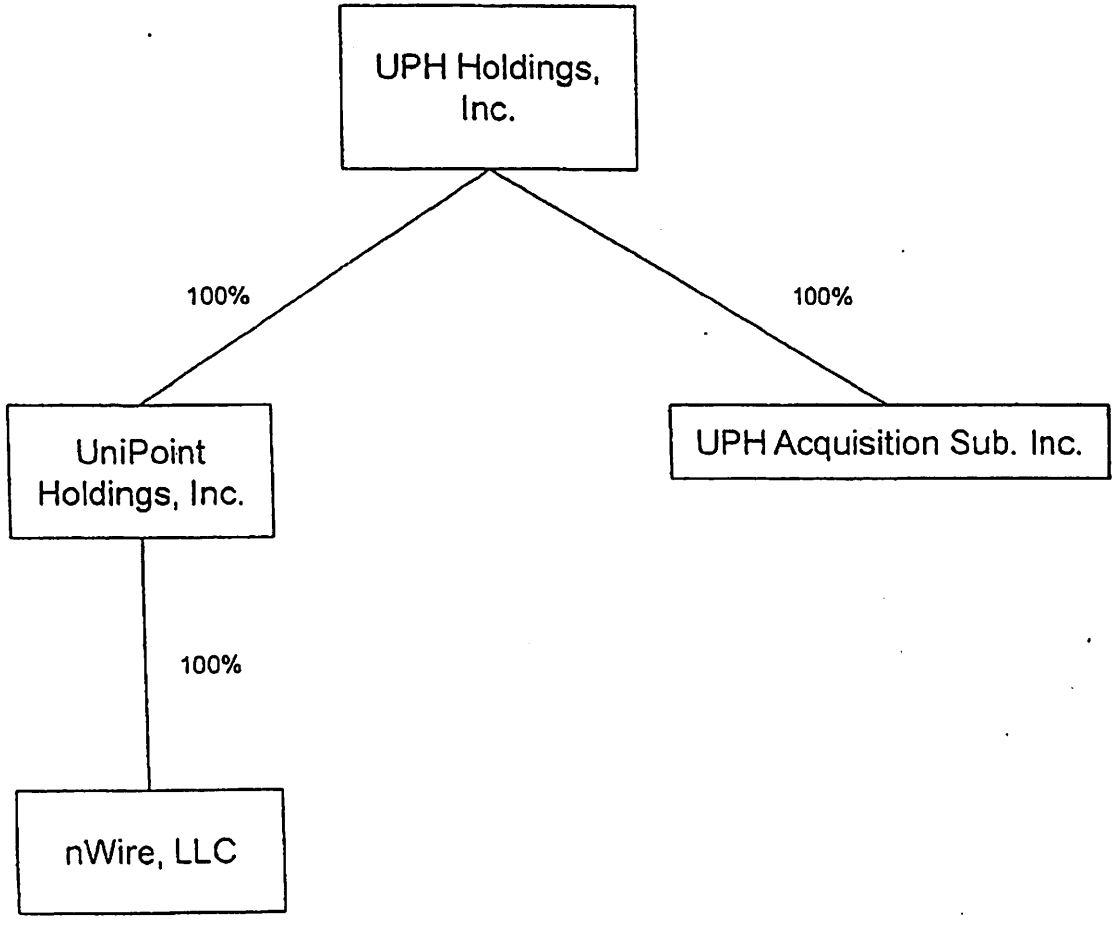
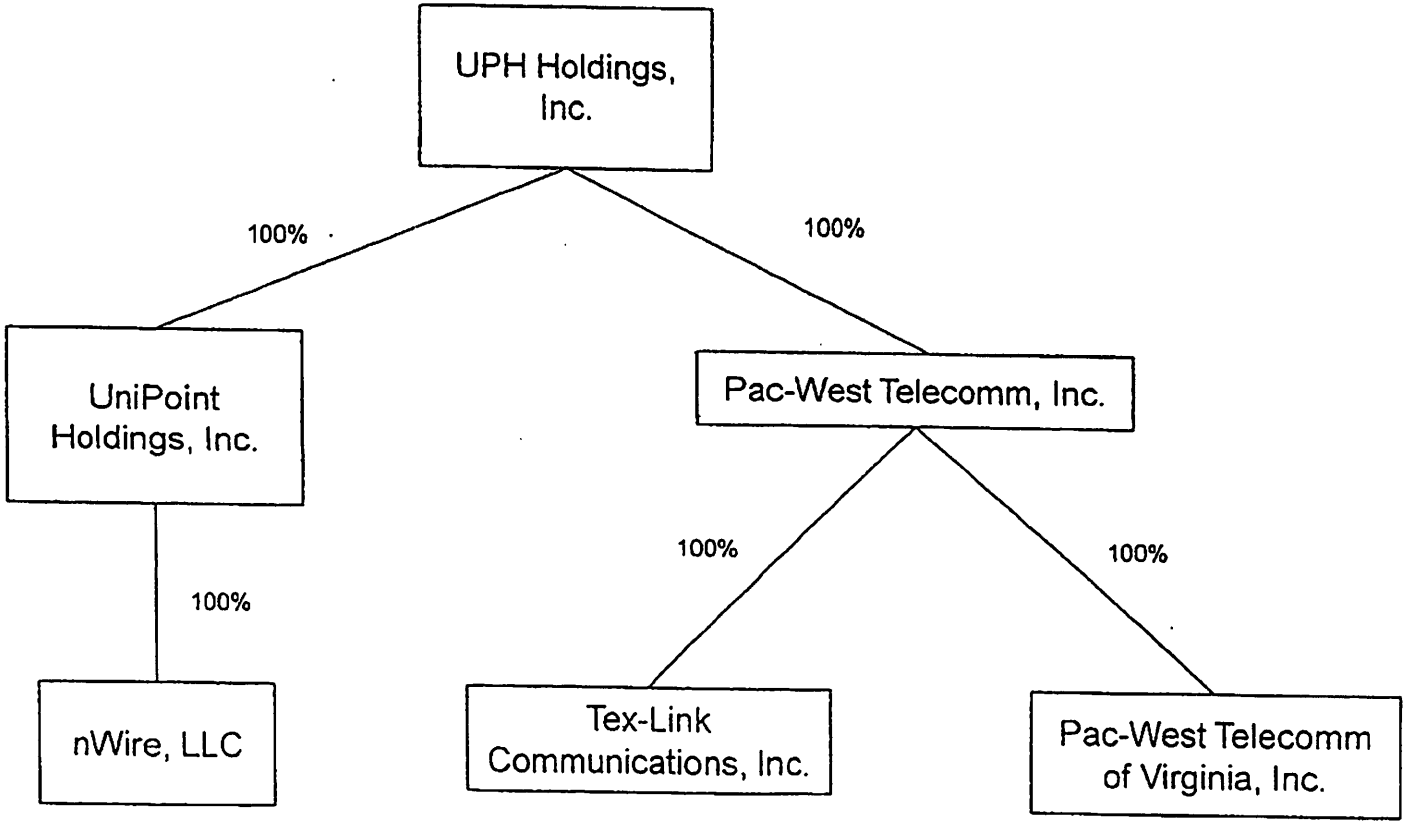


EXHIBIT B

Post-Transaction Organizational Chart



Georgia

COMMISSIONERS:

STAN WISE, CHAIRMAN
CHUCK EATON
TIM G. ECHOLS
H. DOUG EVERETT
LAUREN "BUBBA" McDONALD, JR.

DEBORAH K. FLANNAGAN
EXECUTIVE DIRECTOR

REECE McALISTER
EXECUTIVE SECRETARY

Georgia Public Service Commission

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FILED
NOV 21 2011
EXECUTIVE SECRETARY
G.P.S.C.

November 18, 2011

Darah S. Franklin
Wiltshire & Grannis LLP
1200 Eighteenth Street NW
Suite 1200
Washington, DC 20036
dfranklin@wiltshiregrannis.com

DOCKET # 21498
DOCUMENT # 139137

Re: **Docket Number 21498** –Application of UPH Holdings, Inc.; UPH Acquisition Sub Inc.; Pac-West Acquisition Company, LLC; and Pac-West Telecomm, Inc. for Consent to Transfer Control.

Dear Ms. Franklin:

On November 1, 2011, UPH Holdings, Inc.; UPH Acquisition Sub Inc.; Pac-West Acquisition Company, LLC; and Pac-West Telecomm, Inc. filed with the Georgia Public Service Commission (the "Commission") the above referenced application. Based on the representation contained in the application and the Code Section 46-2-28(g) of the Official Code of Georgia Annotated, relating to the procedure for issuance of stocks, bonds, notes or other debt by companies under the Public Service commission's jurisdiction, so as to provide for exemption from those procedures under certain circumstances, no further action by the Commission is required. The application has been placed in the company's file.

Sincerely,

Leon Bowles

Leon E. Bowles
Director of Telecommunications

LEB/MR
GPSC file(s): L-0396, X-1074, R-0774

Minnesota

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Phyllis Reha	Acting Chair
J. Dennis O'Brien	Commissioner
David Boyd	Commissioner
Betsy Wergin	Commissioner

Jonathan B. Mirsky
Darah S. Franklin
Wiltshire & Grannis LLP
1200 18th Street NW
Washington, DC 20036

SERVICE DATE: April 20, 2012

DOCKET NO. P-5979/PA-11-1119

In the Matter of the Joint Application of UPH Holdings, Inc., UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC, and Pac-West Telecomm, Inc. for Consent to Transfer Control

The above entitled matter has been considered by the Commission and the following disposition made:

Approved the proposed transfer of control of Pac-West Telecomm, Inc. (Pac-West), to UPH Holdings, Inc.

- **Pac-West has filed a tariff in compliance with the Commission's September 20, 2007 order in Docket No. P-5979/M-07-1011, *In the Matter of the Petition Filed by Pac-West Telecomm, Inc., to Discontinue the Provision of Telecommunications Services*, and has satisfied the conditions required to obtain limited operational facilities-based local authority.**
- **Pac-West must continue to submit Telephone Assistance Plan reports, jurisdictional annual reports, as well as any other required regulatory filings and payments for regulatory assessments.**
- **Notwithstanding the Commission's September 20, 2007 order, Pac-West need not obtain Commission approval for a 911 plan as long as Pac-West does not provide dial tone service to end-user customers.**
- **Pac-West violated Minn. Stat. § 237.16, subd. 1(b), and Minn. Rules, part 7812.0500. The Commission accepts the terms of a settlement whereby Pac-West, without admitting to violating Minnesota law knowingly or intentionally, agrees to pay $1,000 to the Minnesota Department of Commerce (the Department) within 30 days of the receipt of this order. The Department shall deposit the remittance into the State of Minnesota General Fund.**
- **Applicants must notify the Commission within 20 days of the closing of the proposed Transaction.**

The Commission agrees with and adopts the recommendations of the Department, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar

Burl W. Haar
Executive Secretary

This document can be made available in alternative formats (i.e. large print or audio) by calling 651.296.0406 (voice). Persons with hearing or speech disabilities may call us through Minnesota Relay at 1.800.627.3529 or by dialing 711.

MINNESOTA
DEPARTMENT OF
COMMERCE

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651.296.4026 FAX 651.296.1959
An equal opportunity employer

March 15, 2012

PUBLIC DOCUMENT – TRADE SECRET DATA HAS BEEN EXCISED

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **PUBLIC Comments of the Minnesota Department of Commerce**
Docket No. P5979/PA-11-1119

Dear Dr. Haar:

Attached are the PUBLIC comments of the Minnesota Department of Commerce in the following matter:

> In the Matter of the Joint Application of UPH Holdings, Inc., UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC, and Pac-West Telecomm, Inc. for Consent to Transfer Control.

The petition was filed on November 17, 2011:

> Jonathan B. Mirsky
> Darah S. Franklin
> Wiltshire & Grannis LLP
> 1200 18th Street NW
> Washington, DC 20036

The Department recommends **approval**, and is available to answer any questions the Commission may have.

Sincerely,

/s/ BRUCE L. LINSCHEID
Financial Analyst

BLL/sm
Attachment

PUBLIC DOCUMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

PUBLIC COMMENTS OF THE MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P5979/PA-11-1119

I. BACKGROUND

On November 17, 2011, the Minnesota Department of Commerce (Department) received a copy of a joint application (Application) from UPH Holdings, Inc. (UPH), UPH Acquisition Sub Inc. (UPH-AS), Pac-West Acquisition Company, LLC (PWAC), and Pac-West Telecomm, Inc. (Pac-West) (collectively, the Applicants) to the Minnesota Public Utilities Commission (Commission) for approval to transfer control of Pac-West to UPH (the Transaction).

A. APPLICANTS

1. UPH Holdings, Inc. is a privately held, non-operating holding company with investments in companies operating in the data and voice communications industries. It does not hold any authorizations to provide telecommunications services. It has one indirect subsidiary, nWire Communications, LLC, (nWire) that has authorizations to provide telecommunications services (local exchange, exchange access, and toll) in Texas, Arkansas and Oklahoma.

2. UPH Acquisition Sub, Inc. is a wholly owned subsidiary of UPH that was formed to implement the acquisition of Pac-West.

3. On September 20, 2007 in Docket No. 07-1011, the Commission issued an Order permitting Pac-West to maintain its conditional certificate of authority to provide local and long distance services granted in Docket No. 05-1950 on February 21, 2006. Pac-West continues to file its jurisdictional annual reports, but no operations were being reported in Minnesota.

   Pac-West has two wholly owned subsidiaries that provide telecommunications services outside of Minnesota. Pac-West Telecomm of Virginia, Inc. provides local exchange and

interexchange services in Virginia, and Tex-Link Communications, Inc. provides local exchange and interexchange services in Texas.

4. Pac-West Acquisition Company, LLC is the parent of Pac-West and does not have any authorizations to provide telecommunications services.

B. THE PROPOSED TRANSACTION

The August 30, 2011 Reorganization Agreement provides that Pac-West will become a wholly owned subsidiary of UPH. The issued and outstanding capital stock of Pac-West will be exchanged for common stock of UPH. PWAC, the parent company of Pac-West will obtain 29% ownership in UPH, and PAC-West will be merged into UPH-AS, a wholly owned subsidiary of UPH, with Pac-West emerging as the surviving entity (see attached pre-and post-transaction organizational charts).

C. PUBLIC INTEREST

The Applicants state that the proposed Transaction is in the public interest because it may provide Pac-West and its subsidiaries with additional capital to support and expand its operations. The Applicants state that neither the entity offering service to customers, nor the rates, term, and conditions of service will change as a result of the proposed Transaction. As a non-dominant carrier, Pac-West competes with other carriers, including the incumbent carrier, in each market, and no adverse impact on competition is expected.

II. STATEMENT OF ISSUES

A. Does the proposed Transaction require Commission approval?

B. Is the proposed Transaction in the public interest?

C. Have the Applicants complied with Minnesota law requiring prior Commission approval of the Transaction?

D. Has Pac-West conducted operations without operational authority?

E. Is there a requirement to provide Commission notice for the assignment of interconnection agreements?

F. Does the proposed Transaction have any impact on 911 Plans that require regulatory approvals?

G. Are there any additional regulatory requirements?

III. LEGAL REFERENCES

Minn. Stat. § 237.035(a) provides that telecommunications carriers are subject to regulation under this chapter only to the extent required under paragraphs (b) to (e). Minn. Stat. § 237.035(b) provides that telecommunications carriers shall comply with sections 237.121 (prohibited practices) and 237.74 (regulation of telecommunication carriers). Minn. Stat. § 237.035(c) states that telecommunications carriers shall comply with section 237.16, subd. 8 (local competition rules) and 9 (universal service fund requirements). Minn. Stat. § 237.035(d) states that to the extent a telecommunications carrier offers local service, it shall obtain a certificate under section 237.16 for that local service. Minn. Stat. § 237.035(e) provides that a telecommunications carrier's local service is subject to this chapter except that: (1) a telecommunications carrier is not subject to rate-of-return or earnings investigations under section 237.075 (rate change) and 237.081 (investigation), and (2) a telecommunications carrier is not subject to section 237.22 (depreciation, amortization).

Minn. Stat. § 237.23 states that it shall be unlawful for any telephone company, corporation, person, partnership, or association subject to the provisions of this chapter to purchase or acquire the property, capital stock, bonds, securities, or other obligations, or the franchises, rights, privileges, and immunities of any telephone company doing business within the state without first obtaining the consent of the commission thereto.

Minn. Stat. § 237.74, subd. 12 provides that no telecommunications carrier shall construct or operate any line, plant, or system, or any extension of it, or acquire ownership or control of it, either directly or indirectly, without first obtaining from the commission a determination that the present or future public convenience and necessity require or will require the construction, operation, or acquisition, and a new certificate of territorial authority.

Minn. Stat. § 237.16, subd. 4 states that no person shall acquire ownership or control of another telephone company either directly or indirectly, without first obtaining from the Commission an amended certificate of authority.

Minn. Stat. § 237.16, subd. 1(b) states that no person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules.

Minnesota Rule 7812.0200 further affirms the requirement for a certificate of authority:

> [n]o person may provide telecommunications service in areas served by local exchange carriers with 50,000 or more subscribers

> in Minnesota without first obtaining a certificate of authority under this part and parts 7812.0300 to 7812.0600 . . .. [1]

Minnesota Rule 7812.0300 recognizes that conditional authority may be granted:

> The commission may grant a conditional certificate pending submittal and commission approval of the tariffs and intercompany agreements necessary for providing the services contemplated in the applicant's petition for certification.[2]

Minnesota Rule 7812.2210, subp. 16 addresses mergers and acquisitions and states: "In accordance with Minnesota Statutes, section 237.74\\fp2-cougar\stats\237\74.html, subdivision 12, before acquiring ownership or control of any provider of local service in Minnesota, either directly or indirectly, a CLEC must demonstrate to the commission that the present or future public convenience and necessity require or will require the acquisition. To make this determination, a CLEC must show that the merger is consistent with the public interest, based on such factors as the potential impact of the merger on consumers, competition, rates, and service quality."

The Commission's requirement that it receive notice regarding the assignment of interconnection agreements is documented in the docket, In the Matter of ASC, L.P. and U S WEST Communications, Inc. Under the Federal Telecommunications Act of 1996, Docket No. P421/EM-98-554, Order Rejecting Agreement and Directing Further Filing, June 22, 1998 at page 3.

Minn. Stat. 403.025, subd. 3 states that every owner and operator of a wireline or wireless circuit switched or packed-based telecommunications system connected to the public switched telephone network shall design and maintain the system to dial the 911 number without charge to the caller.

Minn. Rule Part 7812.0550 contains the requirements for Commission approval of 911 Plans.

Minn. Stat. §§ 237.69-.711 describe the Telephone Assistance Plan and procedures for application, financial administration and complaint investigation.

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[1] Minn. Rule 7811.0200, subpart 1.
[2] Minn. Rule 7811.0300, subpart 4.

IV. ANALYSIS

A. COMMISSION ACTION IS REQUIRED FOR THE TRANSFER OF CONTROL OF PAC-WEST TO UPH.

The Commission has established a consistent precedent for requiring approval for any change of ownership or control affecting Minnesota telephone companies and telecommunications carriers. Commission approval is required for transactions where the ultimate ownership or control of either a telephone company or a telecommunications carrier authorized to operate in Minnesota changes, or a telephone company's or a telecommunications carrier's Minnesota operations are affected by a merger or acquisition transaction. Commission approval is not required for corporate reorganizations in which ultimate ownership or control does not change and the operating company is not impacted by the reorganization.[3] The Commission should review the Transaction to determine if it is in the public interest because ultimate control of Pac-West transfers to UPH.

B. THE PROPOSED TRANSACTION IS IN THE PUBLIC INTEREST.

In Docket No. 07-1011, Pac-West filed a petition to discontinue the provision of telecommunication services in 2007. Pac-West did not wish to cancel its certificate of authority and stated, "[s]ince emerging from bankruptcy, Pac-West's new management is in a position to decide whether to reenter the Minnesota market or cancel its certificates.[4]" The Commission approved Pac-West's request on September 20, 2007, and Pac-West currently has a conditional certificate of authority. The only change resulting from the Transaction will be that Pac-West will be ultimately owned by UPH.

[TRADE SECRET DATA HAS BEEN EXCISED]

The proposed Transaction is in the public interest once Pac-West obtains operational authority and resolves its violation of the law described in Section IV.D. of these comments for providing service without an operational certificate of authority. The acquisition is expected to enable the Applicants to be better competitors. The Transaction will have no impact on Minnesota employees as the Applicants have no employees in Minnesota.[5] Although specific plans for broadband deployment are not currently known, the proposed transaction will enable Pac-West to be in a better position to provide all services.[6] UPH appears to have the resources to continue its operations, and the Transaction is expected to improve the consolidated company's financial

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[3] *In the Matter of an Application for Approval of a Corporate Reorganization by Winstar Wireless, Inc.*, Docket No P5246/PA-00-925, August 25, 2000.

[4] Pac-West letter requesting withdrawal of its tariff, Docket No. 07-1011, November 19, 2008.

[5] March 7, 2012 electronic reply by Wiltshire Grannis, Counsel for UPH, in response to the Department's March 1, 2012 electronic information request asking if the proposed transaction will have any impact on any Minnesota employees.

[6] March 7, 2012 electronic reply by Wiltshire Grannis, Counsel for UPH, in response to the Department's March 1, 2012 electronic information request asking if the proposed transaction will have any impact on broadband deployment.

performance and condition. No adverse impact is expected, and the Transaction should provide the resources to enable Pac-West to compete in the Minnesota market.

C. *THE APPLICANTS HAVE COMPLIED WITH THE REQUIREMENT TO REQUEST PRIOR COMMISSION APPROVAL FOR THE PROPOSED TRANSACTION.*

The Application for the Transaction was filed on November 17, 2011, and Applicants initially requested that the Commission approve this Application by December 15, 2011. The August 30, 2011 Reorganization Agreement (Agreement) provides for regulatory approvals.[7] The Applicants have sought prior Commission review, and they have confirmed that, while closing the Transaction in mid-December was the goal, they will await all required regulatory approvals before closing the Transaction.[8] No violation of Minn. Stat. §§ 237.23 or 237.74, subd. 12 is expected to occur.

D. *PAC-WEST HAS CONDUCTED OPERATIONS WITHOUT AN OPERATIONAL CERTIFICATE OF AUTHORITY.*

Minnesota law requires a certificate of authority to provide telecommunications services. Minnesota Statute 237.16 states that:

> No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission[9]

Minnesota Rule 7812.0200 further affirms the requirement for a certificate of authority:

> [n]o person may provide telecommunications service in areas served by local exchange carriers with 50,000 or more subscribers in Minnesota without first obtaining a certificate of authority under this part and parts 7812.0300 to 7812.0600 . . .. [10]

Minnesota Rule 7812.0300 recognizes that conditional authority may be granted:

> The commission may grant a conditional certificate pending submittal and commission approval of the tariffs and

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[7] Application, Trade Secret Exhibit B- Reorganization Agreement, Article 4.9(c), p. 25; Article 6.1, p. 32; and Article 7.3, p. 41.

[8] December 1, 2011 telephone conversation between Wiltshire & Grannis, Counsel for UPH, and the Department in which the Department inquired about the timing of the proposed Transaction.

[9] Minn. Stat. § 237.16, subd. 1(b).

[10] Minn. Rule 7811.0200, subpart 1.

> intercompany agreements necessary for providing the services contemplated in the applicant's petition for certification.[11]

As previously stated, on September 20, 2007 in Docket No. 07-1011, the Commission issued an Order permitting Pac-West to maintain its conditional certificate of authority to provide local and long distance services granted in Docket No. 05-1950 on February 21, 2006. The Department was informed that Pac-West has no end-user retail customers in Minnesota, but it does provide service to other carriers in Minnesota.[12] Pac-West acknowledged that it has one wholesale customer with a business address in Minnesota that provides originating services with approximately $1,000 of intrastate revenue since October 2010.[13] Pac-West described the services provided in Minnesota as resold phone numbers and dialing services.[14]

Minnesota law makes no distinction regarding the regulation of intrastate wholesale and retail services and revenues, and direct inward dialing services are specific price regulated services in Minnesota.[15] Pac-West violated the law requiring operational authority in order to conduct telecommunications operations. Minnesota law provides for penalties of at least $100 and not more than $1,000 for each day of a knowing and intentional violation.[16] Although not an admission of a knowing and intentional violation of state law, a settlement agreement in lieu of the pursuit of penalties was reached in which the Pac-West and the Department have agreed to a payment of $1,000 for providing regulated services without an operational certificate of authority. The settlement amount reflects the approximate revenues earned by Pac-West while it served its Minnesota customer without operational authority.

E. THE REQUIREMENT TO NOTIFY THE COMMISSION REGARDING THE ASSIGNMENT OF INTERCONNECTION AGREEMENTS DOES NOT APPLY TO THE TRANSACTION.

The Commission's 60-day notice requirement for the assignment of interconnection agreements[17] does not apply to the proposed merger. An interconnection agreement was one of the conditions to be met for Pac-West to become an operational provider of telecommunications

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[11] Minn. Rule 7811.0300, subpart 4.

[12] December 13, 2011 electronic response from Wiltshire & Grannis, Counsel for UPH, in response to the Department's November 22, 2011 electronic information request asking if Pac-West holds a conditional certificate of authority in Minnesota.

[13] December 14, 2011 phone conversation between Pac-West and the Department in which Pac-West described the nature of its Minnesota operations.

[14] January 5, 2012 phone conversation between Pac-West and the Department in which Pac-West described the nature of its Minnesota operations.

[15] Minn. Stat. 237.761, subd. 3(1).

[16] Minn. Stat. § 237.74, subd. 11.

[17] *In the Matter of an ASC, L.P. and US WEST Communications, Inc. Under the Federal Telecommunications Act of 1996*, Docket No. P421/EM-98-554, ORDER REJECTION AGREEMENT AND DIRECTION FURTHER FILING, June 22, 1998, page 8.

services in Minnesota.[18] Pac-West's interconnection agreement with Qwest Corporation (now d/b/a CenturyLink QC) approved in Docket No. 06-151 meets the condition.

F. THE REQUIREMENT FOR PAC-WEST TO OBTAIN AN APPROVED 911 PLAN BEFORE IT CAN OBTAIN AN OPERATIONAL CERTIFICATE OF AUTHORITY TO PROVIDE LOCAL TELECOMMUNICATIONS SERVICES CAN BE WAIVED AS LONG AS IT DOES NOT PROVIDE DIAL TONE SERVICES TO END-USER CUSTOMERS.

Pac-West did not receive Commission approval of its 911 plan in Docket No. 05-1961, and it subsequently was granted a waiver of the 911 requirement in Docket No. 06-1484. Obtaining Commission approval of a 911 plan was one of the conditions for allowing Pac-West to maintain a conditional certificate of authority in Docket No. 07-1011. Since Pac-West does not provide dial tone service to end-user customers, Pac-West's authority should be restricted to non-dial tone services. Prior to providing dial tone services, Pac-West will have to file and receive Commission approval of a 911 plan.

G. PAC-WEST HAS SATISFIED THE REQUIREMENTS TO MAKE ITS CONDITIONAL CERTIFICATE OF AUTHORITY OPERATIONAL, AND THE FOLLOWING COMPLIANCE ITEMS WERE ADDRESSED.

- The 07-1011 Order required that Pac-West meet the following conditions for operational facilities-based authority: a tariff, a 911 Plan, and an interconnection agreement.
  - Tariff- The only compliance requirement that Pac-West failed to obtain was to re-file a tariff,[19] and Pac-West submitted a new tariff on February 16, 2012.
  - 911 Plan- Pac-West is not providing dial-tone service to retail end-user customers, and the requirement for a 911 Plan is not required.
  - Interconnection agreement- Pac-West has an interconnection agreement with Qwest Corporation d/b/a CenturyLink QC (Qwest) in Docket No. 06-151.

- Pac-West has conditional local authority and files an annual Telephone Assistance Plan (TAP) report.[20] The Commission provided for a consistent assessment of TAM, TAP, and 911 surcharges on affected carriers in Minnesota.[21]

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[18] *In the Matter of the petition filed by Pac-West Telecomm, Inc. to Discontinue the Provision of Telecommunication Services*, Docket No. 07-1011, Commission Order, September 20, 2007.

[19] Commission Order, Docket No. 07-1011, September 20, 2007.

[20] Pac-West's 2010 TAP report was filed December 21, 2010.

[21] In the Matter of a Commission Investigation of How Carriers Assess 911, TAP, and TAM Surcharges on Various Telecommunications Service, Docket No. P999/CI-07-617, AND In the Matter of a Commission Investigation of the Applicability of 911, TAP, and TAM Surcharges to VoIP Services, Docket No. P999/CI-09-157, ORDER ASSESSING SURCHARGES TO CERTAIN SERVICES, AUTHORIZING PROCEDURE TO REQUEST WAIVERS AND EXTENSIONS, AND OPENING NEW DOCKET REGARDING VoIP SERVICES, February 20, 2009.

TAP/TAM/911 fees are to be collected from subscribers for each "telephone access line"[22] or trunk equivalent.[23] Minn. Stat. Section 237.69, subd. 5 defines "access line" as telephone company-owned facilities furnished to permit switched access to the telecommunications network that extend from a central office to the demarcation point on the property where the subscriber is served. The Commission's Order in 07-617 clarified the application of the TAP/TAM/911 fees with respect to trunk equivalents. Pac-West should continue filing a TAP report, and it must collect and remit TAP/TAM/911 fees for each assess line it serves.

- Applicants must notify the Commission within 20 days of the closing of the proposed Transaction.
- Neither the Company serving customers nor the rates, terms and conditions of service changes as a result of this Transaction, and no requirement for customer notice is anticipated.
- Pac-West will continue as an entity, and no need exists to release or return NXX codes to the North American Numbering Plan Administration (NANPA) or to inform USAC (Universal Service Administrative Company) of the transfer of control.
- Pac-West must continue to submit jurisdictional annual reports, as well as any other required regulatory filings and payments for regulatory assessments.

V. COMMISSION ALTERNATIVES

1. Approve the proposed transfer of control of Pac-West Telecomm, Inc. to UPH Holdings, Inc.

   - Pac-West Telecomm, Inc. has filed a tariff in compliance with the Commission's Order in Docket No. 07-1011 on September 20, 2007, and has satisfied the conditions required to obtain limited operational facilities-based local authority.
   - Pac-West Telecomm, Inc. must continue to submit Telephone Assistance Plan reports, jurisdictional annual reports, as well as any other required regulatory filings and payments for regulatory assessments.
   - The requirement for Pac-West Telecomm, Inc. to file and receive Commission approval of a 911 plan in compliance with the Commission's Order in Docket No. 07-1011 on September 20, 2007 is not required as long as Pac-West Telecomm, Inc. does not provide dial tone service to end-user customers.
   - Pac-West Telecomm, Inc. violated Minn. Stat. §237.16, subd. 1(b) and Minn. Rule Part 7812.0500. A settlement in the amount of $1,000 payable to the Department of Commerce has been negotiated between Pac-West Telecomm, Inc. and the Department of Commerce. Agreement to this settlement is not an admission of a knowing and intentional violation of Minnesota law. Payment of this settlement is

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[22] Commission Order, Docket No. P-999/CI-07-617 at footnote 5)
[23] 2 *Id.* p. 8.

- due within 30 days of the receipt of this Order. The Department of Commerce will deposit the remittance into the State of Minnesota General Fund.
- Applicants must notify the Commission within 20 days of the closing of the proposed Transaction.

2. Approve the Application with modifications.

3. Reject the Application.

VI. RECOMMENDATION

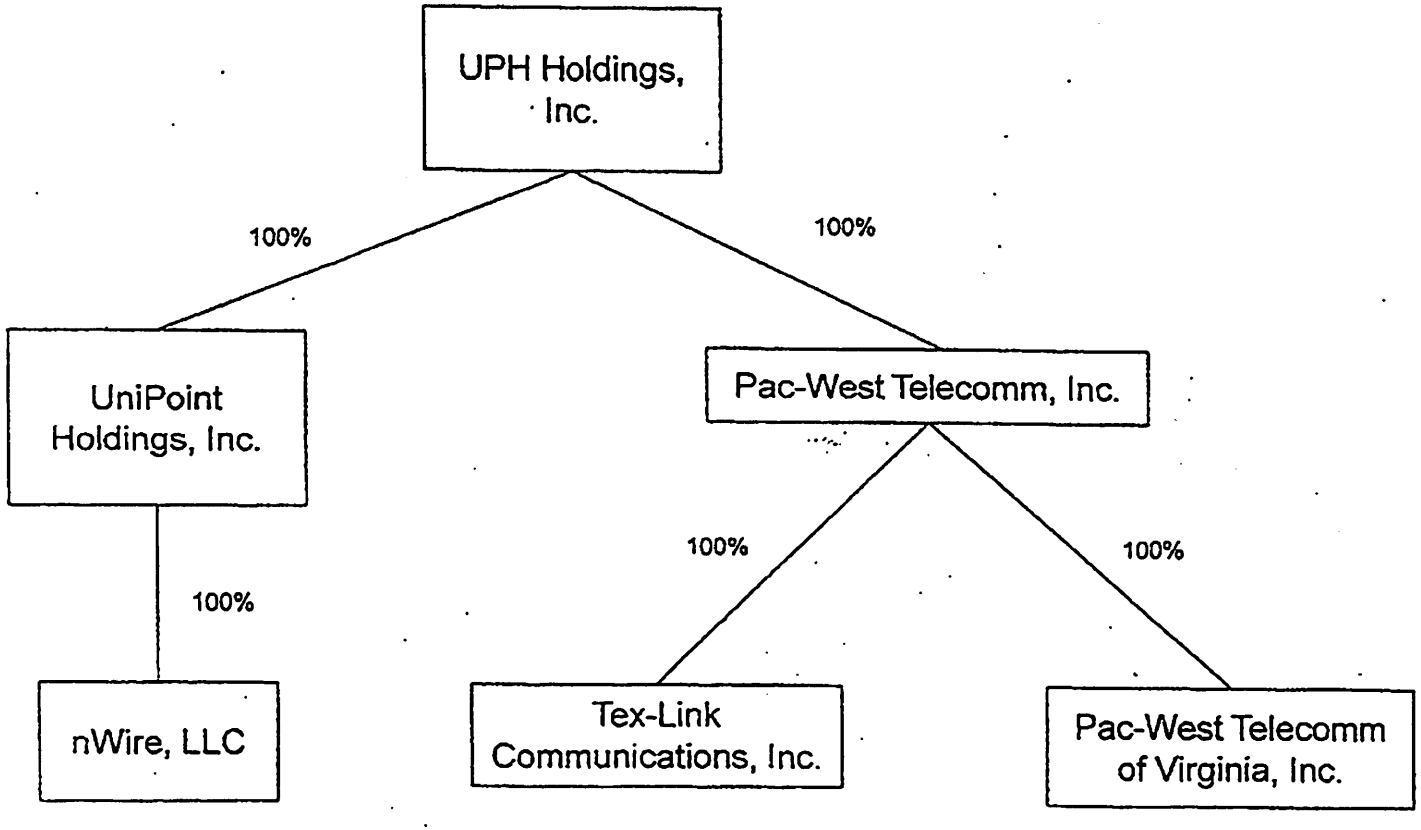
The Department recommends Alternative 1.

Approve the proposed transfer of control of Pac-West Telecomm, Inc. to UPH Holdings, Inc.

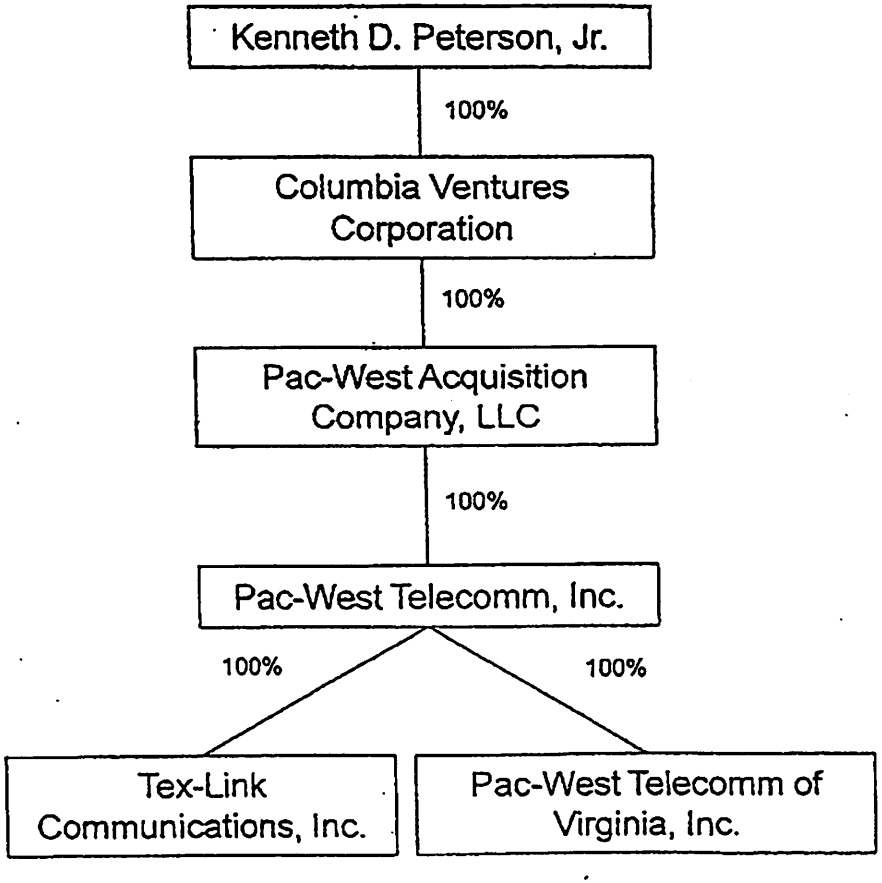
- Pac-West Telecomm, Inc. has filed a tariff in compliance with the Commission's Order in Docket No. 07-1011 on September 20, 2007, and has satisfied the conditions required to obtain limited operational facilities-based local authority.
- Pac-West Telecomm, Inc. must continue to submit Telephone Assistance Plan reports, jurisdictional annual reports, as well as any other required regulatory filings and payments for regulatory assessments.
- The requirement for Pac-West Telecomm, Inc. to file and receive Commission approval of a 911 plan in compliance with the Commission's Order in Docket No. 07-1011 on September 20, 2007 is not required as long as Pac-West Telecomm, Inc. does not provide dial tone service to end-user customers.
- Pac-West Telecomm, Inc. violated Minn. Stat. §237.16, subd. 1(b) and Minn. Rule Part 7812.0500. A settlement in the amount of $1,000 payable to the Department of Commerce has been negotiated between Pac-West Telecomm, Inc. and the Department of Commerce. Agreement to this settlement is not an admission of a knowing and intentional violation of Minnesota law. Payment of this settlement is due within 30 days of the receipt of this Order. The Department of Commerce will deposit the remittance into the State of Minnesota General Fund.
- Applicants must notify the Commission within 20 days of the closing of the proposed Transaction.

/sm

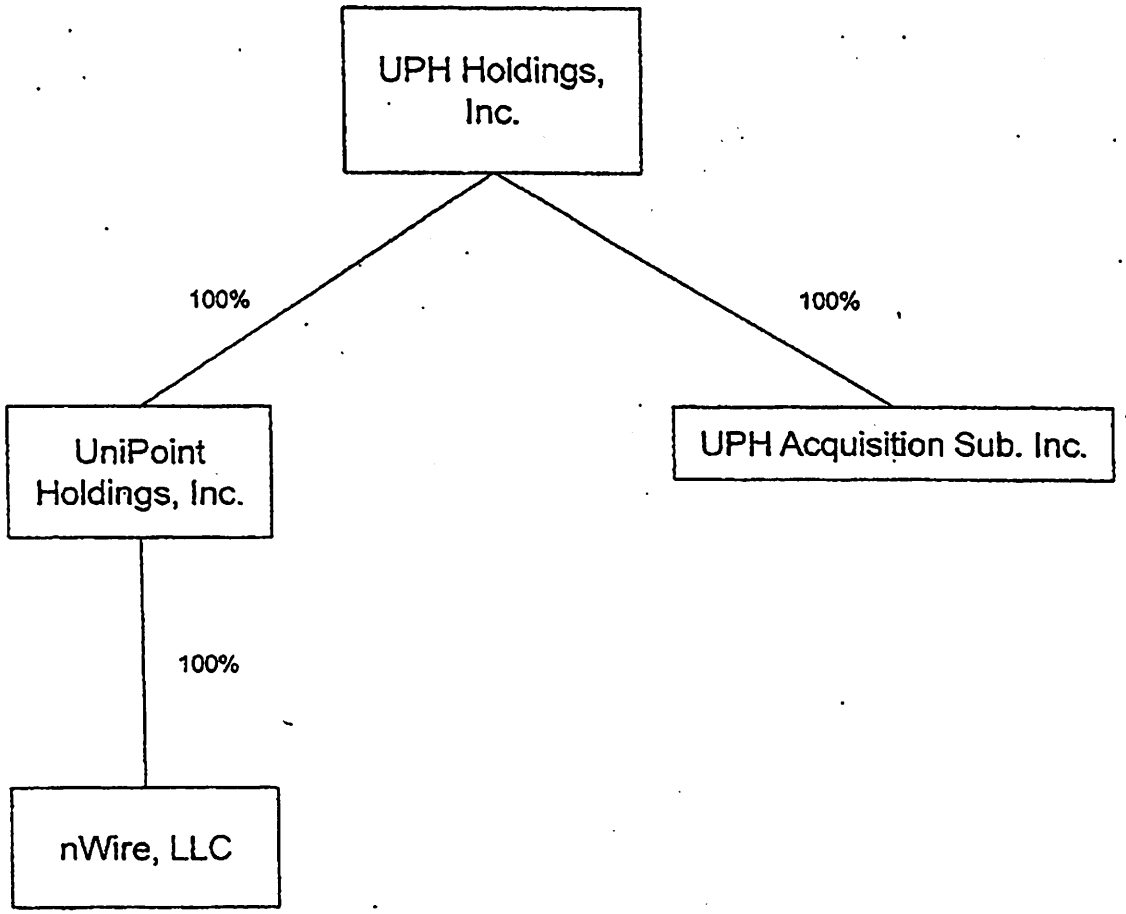
Post-Transaction Organizational Chart



Pac-West Pre-Transaction Organizational Chart



UPH Pre-Transaction Organizational Chart



New Jersey

Agenda Date: 01/18/12
Agenda Item: IVD

STATE OF NEW JERSEY

Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED JOINT PETITION OF UPH HOLDINGS, INC., UPH ACQUISITION SUB INC., PAC-WEST ACQUISITION COMPANY, LLC, AND PAC-WEST TELECOMM, INC. FOR CONSENT TO TRANSFER CONTROL OF PAC-WEST TELECOMM, INC.	)	ORDER
	)	DOCKET NO. TM11110803

Parties of Record:

Darah S. Franklin, Esq., Wiltshire & Grannis LLP, on behalf of Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On November 23, 2011, UPH Holdings, Inc. ("UPH"), UPH Acquisition Sub Inc ("UPH-AS"), Pac-West Acquisition Company, LLC ("PWAC"), and Pac-West Telecomm, Inc. ("Pac-West" and together with UPH, UPH-AS, and PWAC, "Petitioners") filed a verified Petition with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 and 48:3-10 requesting approval to consummate a transaction that will result in the transfer of control of Pac-West to UPH ("Transaction"). Following the transfer, Pac-West will continue to offer services at the same terms, rates and conditions on which it currently offers such services in the state.

BACKGROUND

UPH is a corporation formed under the laws of the State of Delaware with its headquarters in Austin, Texas. According to the petition, UPH is a privately held, non-operating holding company with investments in companies operating in the data and voice communications industries. UPH has one indirect subsidiary that holds authorization to provide telecommunications services, nWire Communications, LLC ("nWire"). nWire is authorized in Texas, Arkansas and Oklahoma. As a result of the Transaction, nWire will be a sister company to Pac-West. UPH-AS is a California corporation and a wholly owned subsidiary of UPH that was formed for the purposes of this merger.

Pac-West is a California corporation headquartered in Stockton, California. According to the petition, Pac-West currently offers all forms of telecommunications, including: local and long distance origination and termination, switched and special access, 8YY originating access and 8YY services, managed modem and collection services. Pac-West is certified to provide telecommunications services in 31 states and the District of Columbia. In New Jersey, Pac-West was granted authority to provide local exchange and interexchange telecommunications services on December 2, 2005. See Order, I/M/O the Petition of Pac-West Telecomm, Inc. for Authority to Provide Facilities Based Local Exchange Services and Inter-Exchange Telecommunications Services Throughout New Jersey, Docket No. TE05090779. Also, in New Jersey, Pac-West currently has 13 wholesale customers, and 2 employees. Pac-West is a wholly-owned subsidiary of PWAC, a limited liability company formed under the laws of the State of Washington, with a principal place of business located in Vancouver, Washington. PWAC in turn is a wholly owned subsidiary of Columbia Ventures Corporation, a privately owned Washington corporation, with its principal place of business also located in Vancouver, Washington. PWAC does not hold any authorizations to provide telecommunications services.

By letter dated December 16, 2011, the Division of Rate Counsel advised that it does not object to Board approval of the petition.

DISCUSSION

According to the petition, pursuant to a reorganization Agreement dated August 30, 2011 (Agreement"), by and among UPH, UPH-AS, PWAC, and Pac-West, the following will occur at the closing of the Transaction. The issued and outstanding capital stock of Pac-West will be exchanged for, and converted into, common stock of UPH. PWAC, the parent company of Pac-West, thereby will obtain 29% ownership interest in UPH. Pac-West will be merged into UPH-AS, a wholly owned subsidiary of UPH, with Pac-West as the surviving entity. Petitioners state that Pac-West's customers will continue to receive their existing services at the same rates, terms and conditions that they have prior to the transfer and, therefore, the transaction will be seamless and transparent to customers. Petitioners have also represented that the transaction will not have any adverse impact on employment in New Jersey.

Petitioners assert that the transaction described herein will serve the public interest. The financial, technical, and managerial resources that UPH will bring to Pac-West will enhance Pac-West's ability to compete in the telecommunications and information marketplace.

In evaluating this petition, the Board must be satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1 and N.J.A.C. 14:1-5.14(c). Finally, regarding N.J.S.A. 48:3-10, the Board must determine whether "it appears that the public utility or a wholly owned subsidiary thereof may be unable to fulfill its obligations to any employees thereof with respect to pension benefits previously enjoyed . . ."

FINDINGS AND CONCLUSIONS

After a thorough review of the petition and all related documents, the Board concludes that there will be no negative impact on rates or service quality since Pac-West's New Jersey customers will continue to receive the same services from the same entities at the same rates and under the same terms and conditions; nor will there be a negative impact on employees.

Moreover, the Board is satisfied that positive benefits will flow to customers based on the record presented by Petitioners as the transaction will strengthen Pac-West's competitive posture in the telecommunications market due to its access to additional resources. Finally, there are no apparent issues regarding obligations to any employees.

The Board HEREBY ORDERS that Petitioners shall notify the Board of the closing of the proposed transaction within ten (10) days of consummation of the transfer. The Board FURTHER ORDERS that this approval will expire if the transaction is not fully consummated on or before January 31, 2013.

DATED: 1/18/12

BOARD OF PUBLIC UTILITIES
BY:

ROBERT M. HANNA
PRESIDENT

JEANNE M. FOX
COMMISSIONER

JOSEPH L. FIORDALISO
COMMISSIONER

NICHOLAS ASSELTA
COMMISSIONER

MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities

IN THE MATTER OF THE VERIFIED JOINT PETITION OF UPH HOLDINGS, INC., UPH ACQUISITION SUB INC., PAC-WEST ACQUISITION COMPANY, LLC, AND PAC-WEST TELECOMM, INC. FOR CONSENT TO TRANSFER CONTROL OF PAC-WEST TELECOMM, INC.
DOCKET NO. TM11110803

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New York

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

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PUBLIC SERVICE COMMISSION

GARRY A. BROWN
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Commissioners

PETER McGOWAN
General Counsel

JACLYN A. BRILLING
Secretary

December 7, 2011

Ms. Darah S. Franklin
Wiltshire & Grannis LLP
1200 Eighteenth Street NW
Suite 1200
Washington, DC 20036

Re: Matter 11-02394 - Joint Petition of Pac-West Telecomm, Inc., UPH Holdings, Inc., UPH Acquisition Sub Inc., and Pac West Acquisition Company, LLC for Consent to Transfer Control of Pac-West Telecomm, Inc.

Dear Ms. Franklin:

We received your petition, filed on November 14, 2011, pursuant to Section 100 of the Public Service Law, requesting authorization for the transfer of control of Pac-West Telecomm, Inc. (Pac-West) from Pac-West Acquisition Company, LLC (PWAC) to UPH Holdings, Inc (UPH). As a result of the transaction, PWAC will obtain a 29% ownership interest in UPH and Pac-West will become a wholly owned subsidiary of UPH.

According to Section 100 of the Public Service Law, an application is deemed approved within 90 days unless the Commission or its designee notifies the petitioner in writing that the public interest requires the Commission's review and its written order. I have been designated by the Commission to review such petitions. The Department has reviewed your petition and, based on representations in the petition, finds that the proposed transactions do not require the Commission's action. Therefore, approval is deemed granted by operation of law effective February 12, 2012.

Please contact Mr. Ruvain Kudan at ruvain_kudan@dps.ny.gov or 518-473-4053 with any questions you may have regarding this letter.

Very truly yours,

Chad G. Hume
Director
Office of Telecommunications

cc: G. Pattenaude
J. Sylvester
Central Operations

Tennessee

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

January 12, 2012

IN RE:	)	
	)	
JOINT PETITION OF UPH HOLDINGS, INC., UPH ACQUISITION SUB INC., PAC-WEST ACQUISITION COMPANY, LLC, AND PAC-WEST TELECOMM, INC. FOR CONSENT TO TRANSFER CONTROL OF PAC-WEST TELECOMM, INC.	)	DOCKET NO. 11-00196

ORDER APPROVING TRANSFER OF CONTROL

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") at a regularly scheduled Authority Conference held on December 12, 2011 for consideration of the *Joint Petition to Transfer Control ("Joint Petition")* filed by UPH Holdings, Inc., UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC, and Pac-West Telecomm, Inc. for Consent to Transfer Control of Pac West Telecomm, Inc. on November 10, 2011.

UPH Holdings, Inc. ("UPH") is a privately held, non-operating holding company with investments in companies operating in the data and voice communications Industries. UPH does not currently hold any authorizations to provide telecommunications services. UPH Acquisition Sub Inc. ("UPH-AS") is a California corporation and a wholly-owned subsidiary of UPH. UPH-AS was formed for Pac-West to merge with and Pac-West is the surviving entity. UPH-AS does not hold any authorizations to provide telecommunications services. Pac-West Acquisition Company, LLC ("PWAC") is a limited liability company formed under the laws of the State of Washington. PWAC is a wholly-owned subsidiary of Columbia Ventures Corporation, a privately owned Washington

corporation. PWAC holds no authorizations relating to the provisions of telecommunications services. Pac-West Telecomm, Inc. ("Pac-West") is a California corporation and a wholly-owned subsidiary of PWAC. In Tennessee, Pac-West is authorized to provide local exchange and facilities-based and resold interexchange telecommunications services pursuant to Authority Order in Docket No. 05-00314 on January 11, 2006. Pac-West also holds domestic and International Section 214 authorizations from the FCC to provide interstate and international telecommunications services.

The *Joint Petition*

The parties entered into a Reorganization Agreement ("Agreement") on August 30, 2011, by and among UPH, UPH-AS, PWAC, and Pac-West, at the closing of the transaction the issued and outstanding capital stock of Pac-West will be exchanged for, and converted into common stock of UPH. PWAC, the parent company of Pac-West will have a 29% ownership interest in UPH. Pac-West will be merged into UPH-AS, as a wholly-owned subsidiary of UPH, with Pac-West as the surviving entity.

The *Joint Petition* states the proposed transfer of control transaction will have no adverse impact on customers or on public interest considerations. Pac-West will continue to be managed by personnel with experience in the telecommunications industry and may realize an additional infusion of capital to support further explanation of Pac-West's current operations. Pac-West's customers will continue to receive their existing services at the same rates, terms and conditions they had prior to the transfer and any future changes in the rates terms and conditions of service will be made consistent with Authority requirements.

Findings and Conclusions

Tenn. Code Ann. § 65-4-113 (2004) requires a public utility to obtain TRA approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) (2004) reads as

follows:

> No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) (2004) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

> Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

At the regularly scheduled Authority Conference held on December 12, 2011, the voting panel assigned to this docket considered the transfer of authority requested in the *Joint Petition.* Based on assertions in the *Joint Petition*, the panel found that Tenn. Code Ann. § 65-4-113 (2004) applies to this transaction because the ultimate ownership of Pac-West is being transferred to UPH, which does not hold a certificate at the holding company level. Further, the panel found that UPH is capable of maintaining the operations of Pac-West and the transfer is in the public interest and complies with applicable law. The panel found UPH has an experienced management team with experience in the telecommunications industry.

Based on the administrative record and findings, the panel voted unanimously to approve the transfer contingent upon FCC approval and the Petitioners should file any documentation from the FCC regarding subsequent action on the transfer of control with the Authority.

IT IS THEREFORE ORDERED THAT:

The transfer of authority as described in the *Joint Petition to Transfer Control* of UPH Holdings, Inc., UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC, and Pac-West

Telecomm, Inc. for Consent to Transfer Control of Pac West Telecomm, Inc. and discussed herein is approved pursuant to Tenn. Code Ann. §65-4-113 (2004), contingent on approval by the Federal Communications Commission.

Kenneth C. Hill, Chairman

Sara Kyle, Director

Mary W. Freeman, Director

Texas

Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Rolando Pablos
Commissioner

Brian H. Lloyd
Executive Director

Rick Perry
Governor

Public Utility Commission of Texas

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TO: Jonathan B. Mirsky and Darah S. Franklin
Counsel for UPH Holdings, Inc. and nWire, LLC
Wilshire & Grannis LLP
1200 Eighteenth Street NW, Ste. 1200
Washington, DC 20006

Infrastructure and Reliability Division
Legal Division

RE: **Docket No. 39849 – *Application of PAC-West Telecomm, Inc., Tex-Link Communications, Inc., and nWire, LLC for an Amendment to Service Provider Certificates of Operating Authority***

NOTICE OF APPROVAL

This Notice addresses the application of Pac-West Telecomm, Inc. (Pac-West) and Tex-Link Communications, Inc. (Tex-Link) (collectively, Applicants) for an amendment to their Service Provider Certificates of Operating Authority (SPCOA) Nos. 60740[1] and 60050,[2] respectively. The amendment will reflect a change in ownership from Pac-West Acquisition Company, LLC to UPH Holdings, Inc. This amendment will have no regulatory impact on the subsidiary of UPH Holdings, Inc., nWire, LLC. The docket was processed in accordance with applicable statutes and Public Utility Commission of Texas (Commission) rules. The Commission provided notice to interested parties. More than 15 days have passed since the completion of notice. No protests, motions to intervene, or requests for hearing were filed. Applicants and Commission Staff are the only parties to this proceeding. Commission Staff recommended approval of the application. The application is approved.

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[1] *Application of Pac-West Telecomm, Inc. for a Service Provider Certificate of Operating Authority*, Docket No. 21457, Order (Nov. 18, 1999).No. 21457, Order (Nov. 18, 1999).

[2] *Application of Taylor Group Communications, Inc. for a Service Provider Certificate of Operating Authority*, Docket No. 16225, Order (Oct. 16, 1996).

Statutory Findings

1. Pac-West is a California corporation formed on May 15, 1996, and registered with the Texas Secretary of State (SOS) as a foreign for-profit corporation as of July 11, 2005.

2. Tex-Link is a Texas Corporation formed on and registered with the SOS as of October 14, 1994.

3. nWire, LLC is a Delaware limited liability company that was formed on March 22, 2010, and registered as a foreign limited liability company with the SOS as of April 22, 2010.

4. Pac-West holds SPCOA No. 60740 and Interexchange Carrier (IXC) No. IX010999.

5. Tex-Link holds SPCOA No. 60050 and IXC No. IX110030.

6. Applicants' parent is Pac-West Acquisition Company, LLC.

7. nWire, LLC, holds SPCOA No. 60860.

8. UPH Holdings, Inc. is a Delaware corporation formed on April 22, 2008.

9. Pac-West currently provides data, facilities-based, and resale telecommunications services within the exchanges of all of the incumbent local exchange carriers (ILECs) in Texas and will continue to provide Business-Only – VOIP, POTs, T1 Private Line, 56Kbps Switch, ISDN, Optical, T1 Fractional, and Long Distance Services.

10. Tex-Link currently provides data, facilities-based, and resale telecommunications services within the exchanges of all ILECs in Texas and will continue to provide Business-Only – VOIP, POTs, T1 Private Line, ISDN, T1 Fractional, Frame Relay, and Long Distance Services.

11. Applicants will continue to provide one customer service representative per 2,500 customers during normal business hours.

12. Any equipment provided by Applicants will be 911 compliant and local number portability capable.

13. Applicants have established toll-free customer service numbers, office numbers, fax numbers, website addresses, and email addresses.

14. Applicants requested a change in ownership from Pac-West Acquisition Company, LLC to UPH Holdings, Inc.

15. Applicants do not request changes in their existing service areas.

16. Tex-Link and nWire, LLC were required to provide clarifying or supplemental technical information concerning their status with the Texas Comptroller's Office. On February 1, 2012, the supplemental inform was filed stating that Pac-West, Tex-Link, and nWire, LLC are all in compliance with the Texas Comptroller's Office.

17. Pac-West's underlying financial qualifications were obtained in Docket No. 32005 and amended in Docket Nos. 33647 and 34590. Tex-Link's underlying financial qualifications were obtained in Docket No. 16225 and amended in Docket Nos. 22904 and 36203.

18. Combined management consists of key personnel that have accumulated over 142 years of telecommunications experience.

19. UPH Holdings, Inc. affirms that it and its predecessors-in-interest, if any, do not have a history of bankruptcy, dissolution, merger, or acquisition in the past two calendar years.

20. UPH Holdings, Inc. has sufficient resources to satisfy the financial requirements of P.U.C. SUBST. R. 26.111 by provision of unaudited balance sheets for the most recent quarter supported by the required affidavit.

21. From a financial perspective, UPH Holdings, Inc. has satisfied the financial requirements of P.U.C. SUBST. R. 26.111.

22. The application complies with PURA[3] §§ 54.154-54.159.

23. Applicants are not precluded by PURA §§ 54.152 or 54.201 from providing service under their SPCOAs.

24. Pursuant to PURA §§ 54.154(b) and 54.155(b), Applicants are entitled to approval of this application, having demonstrated the required financial and technical qualifications to

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[3] Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.016 (Vernon 2007 & Supp. 2011) (PURA).

continue providing existing telecommunications services and continued provision of the necessary quality of service to their customers.

25. Pac-West, Tex-Link, and nWire, LLC are in compliance with their 2011 CLEC and/or IXC Annual Reports.

Compliance History

26. The Texas Comptroller's Office determined that Pac-West, Tex-Link, and nWire, LLC are in good standing not for dissolution or withdrawal through May 15, 2012, regarding compliance with its rules and statutes.

Complaint History

27. The Commission's Customer Protection Division complaint database revealed four complaints against Pac-West; six complaints against Tex-Link; and zero complaints against both nWire, LLC and UPH Holdings, Inc. for the past 60 months.

28. Applicants' filed their number of customers as 235for the past 60 months.

29. The complaint-to-customer ratio is below six percent; therefore, no further investigation is required.

30. Applicants are committed to continue meeting the quality of service standards as applicable.

Ordering Paragraphs

31. Pac-West Telecomm, Inc.'s and Tex-Link Communications, Inc.'s request to amend SPCOA No. 60740 and SPCOA No. 60050 is approved.[4] SPCOA Nos. 60740 and 60050 are amended to reflect the change in ownership from Pac-West Acquisition Company, LLC to UPH Holdings, Inc. The name on SPCOA Nos. 60740 and 60050 will remain unchanged.

32. This application has no regulatory impact on nWire, LLC; therefore, no amendment to SPCOA No. 60860 is necessary.

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[4] Administrative approval of this uncontested application has no precedential value in a future proceeding.

33. Applicants shall be bound by the requirements of P.U.C. SUBST. R. 26.111. Service under the certificates shall be provided exclusively in the names under which the certificates were granted by the Commission.

34. Applicants shall file any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission by June 30th of each year. If the SPCOA holders have any changes during the year in the information requested in Section One of the annual report form, then the SPCOA holders shall file an updated form correcting the information in Section One within 30 days of the change.

35. The Applicants shall provide a copy of this application and/or the Commission's Notice of Approval, in accordance with the entity's requirements, to all affected Commission on State Emergency Communications (9-1-1) entities prior to providing service to those entities.

36. The Applicants' provision of local telephone service to end-users, whether by their own facilities, flat-rate resale, or usage sensitive loop, must also include "9-1-1" emergency telephone service at a level required by the applicable regional plan followed by local telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, TEX. HEALTH & SAFETY CODE ANN. §§ 771.001 *et seq.* (Vernon 2010 & Supp. 2011) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters. The Applicants shall diligently work with the Commission on State Emergency Communications, local "9-1-1" entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all "9-1-1" emergency services, whether provided through the certificate holders' own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. The Applicants shall diligently work with the "9-1-1" entities to pursue, in good faith, the mutually agreed goal that the local "9-1-1" entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the

certifications granted herein and the involvement of the certificate holders in the provision of "9-1-1" emergency service.

37. The Applicants shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with P.U.C. SUBST. R. 26.433(d)(3).

38. The Applicants shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with P.U.C. SUBST. R. 26.435(e)(4).

39. The Applicants have committed to and are bound by the quality of service requirements set forth in the Quality of Service Questionnaire. The underlying incumbent local exchange companies (ILECs) continue to be bound by the quality of service requirements contained in P.U.C. SUBST. R. 26.54. Approval of this application does not expand the scope of the underlying ILEC's obligation to its own customers.

40. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 8th day of February 2012.

PUBLIC UTILITY COMMISSION OF TEXAS

ANDREW KANG
ADMINISTRATIVE LAW JUDGE

Utah

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Joint Application of UPH Holdings, Inc., UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC, and Pac-West Telecomm, Inc. for Consent to Transfer Control of Pac-West Telecomm, Inc.	)	DOCKET NO. 11-2305-01 REPORT AND ORDER

ISSUED: January 11, 2012

By The Commission:

This matter is before the Commission on the Joint Application of UPH Holdings, Inc. ("UPH"), UPH Acquisition Sub Inc., Pac-West Acquisition Company, LLC, and Pac-West Telecomm, Inc. ("Pac-West"), (collectively, "Applicants") for Commission approval to transfer control of Pac-West by UPH. Applicants filed a joint application on November 9, 2011 and requested expedited review and action. The application contains all the information required by Utah Admin. Code R746-349-7(A)(1).

On December 7, 2011, the Division of Public Utilities (the "Division") submitted a recommendation to approve the application. Pursuant to Utah Admin. Code 746-349-7(A)(2), the Commission issued a public notice of the application on December 12, 2011, allowing for the submission of comments within 14 days by an interested party regarding the application. No comments or objections were received.

Pursuant to Utah Admin Code R746-349-7(A)(2), the administrative law judge for the Commission held a hearing on January 4, 2012. No one appeared at the hearing objecting to the application. Darah S. Franklin appeared telephonically on behalf of the Applicants.

Dahnelle Burton-Lee, Assistant Attorney General, appeared for the Division, and was accompanied by Ron Slusher, utility technical consultant for the Division.

The ALJ took administrative notice of both the application and recommendation filed by the Division recommending approval. No reference was made during the hearing of Applicants' expedited request; however, the application requests expedited review no later than December 13, 2011.[1] Given the necessary action request to and response from the Division,[2] and subsequent notice allowing any interested party to comment within 14 days following the notice,[3] the Commission has responded as expeditiously as possible under the circumstances.

Under Utah Admin. Code R746-349-7, "[i]f no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and use the information contained in the application and accompanying documents as evidence to support a Commission order." Utah Admin. Code R746-349-7(A)(3). Because there is no objection to the granting of the application, the Commission presumes the application for approval of transfer of control is in the public interest. Moreover, the Division's memorandum provides additional support for approval of the application.

ORDER

For the foregoing reasons, the Commission approves the application to combine, merge, or consolidate Pac-West by UPH.

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[1] The Application was filed on November 9, 2011.
[2] The Division's response was filed December 7, 2011.
[3] The notice was issued on December 12, 2011.

DATED at Salt Lake City, Utah, this 11th day of January, 2012.

/s/ Melanie A. Reif
Administrative Law Judge

Approved and confirmed this 11th day of January, 2012, as the Report and Order issued by the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary Widerburg
Commission Secretary
DF213568

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of January, 2012, a true and correct copy of the foregoing REPORT AND ORDER, was delivered upon the following as indicated below:

By Electronic-Mail:

Jonathan B. Mirsky (jmirsky@wiltshiregrannis.com)
Darah S. Franklin (dfranklin@wiltshiregrannis.com)
Wiltshire & Grannis LLP
Counsel for UPH Holdings, Inc. and UPH Acquisition Sub Inc.

Dahnelle Burton-Lee (dburton-lee@utah.gov)
Assistant Utah Attorney General

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
Salt Lake City, Utah 84111

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84111

By U.S. Mail:

Kenneth D. Peterson, Jr.
Pac-West Telecomm, Inc.
12503 S.E. Mill Plain Blvd., Ste. 120
Vancouver, WA 98684

_____
Administrative Assistant

Wireless Competition Bureau of the Federal Communications Commission

PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: http://www.fcc.gov
TTY: 1-888-835-5322

DA 11-1999
December 8, 2011

NOTICE OF DOMESTIC SECTION 214 AUTHORIZATION GRANTED

WC Docket Nos. 11-173

The Wireline Competition Bureau (Bureau) has granted the application listed in this notice pursuant to the Commission's streamlined procedures for domestic section 214 transfer of control applications, 47 C.F.R. § 63.03. The Bureau has determined that grant of this application serves the public interest.[1] For purposes of computation of time when filing a petition for reconsideration or application for review, or for judicial review of the Commission's decision, the date of "public notice" shall be the release date of this notice.[2]

> Domestic Section 214 Application Filed for the Transfer of Control of Pac-West Telecomm, Inc. and nWire, LLC, WC Docket No. 11-173, Public Notice, DA 11-1865 (rel. Nov. 7, 2011).

Effective Grant Date: December 8, 2011

For further information, please contact Tracey Wilson at (202) 418-1394, or Jodie May at (202) 418-0913, Competition Policy Division, Wireline Competition Bureau.

-FCC-

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[1] *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, CC Docket No. 01-150, Report and Order, 17 FCC Rcd 5517, 5529, para. 22 (2002).

[2] *Id.*; *see* 47 C.F.R. § 1.4 (Computation of time).

International Bureau of the Federal Communications Commission

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET S.W.
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: http://www.fcc.gov (or ftp.fcc.gov)
TTY (202) 418-2555

DA No. 11-2072

Report No. TEL-01536 Thursday December 29, 2011

International Authorizations Granted

Section 214 Applications (47 C.F.R. § 63.18); Section 310(b)(4) Requests

The following applications have been granted pursuant to the Commission's streamlined processing procedures set forth in Section 63.12 of the Commission's rules, 47 C.F.R. § 63.12, other provisions of the Commission's rules, or procedures set forth in an earlier public notice listing applications accepted for filing.

Unless otherwise noted, these grants authorize the applicants (1) to become a facilities-based international common carrier subject to 47 C.F.R. § 63.22; and/or (2) to become a resale-based international common carrier subject to 47 C.F.R. § 63.23; or (3) to exceed the 25 percent foreign ownership benchmark applicable to common carrier radio licensees under 47 U.S.C. § 310(b)(4).

THIS PUBLIC NOTICE SERVES AS EACH NEWLY AUTHORIZED CARRIER'S SECTION 214 CERTIFICATE. It contains general and specific conditions, which are set forth below. Newly authorized carriers should carefully review the terms and conditions of their authorizations. Failure to comply with general or specific conditions of an authorization, or with other relevant Commission rules and policies, could result in fines and forfeitures.

Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules in regard to the grant of any of these applications may be filed within thirty days of this public notice (see Section 1.4(b)(2)).

An updated version of Sections 63.09–.25 of the rules, and other related sections, is available at http://www.fcc.gov/ib/pd/pf/telecomrules.html.

For additional information, please contact the FCC Reference and Information Center, Room CY-A257, 445 12th Street SW, Washington, D.C. 20554, (202) 418-0270.

ITC-214-20090508-00208 E IP To Go LLC

International Telecommunications Certificate

Service(s): Global or Limited Global Facilities-Based Service, Global or Limited Global Resale Service

Grant of Authority Date of Action 12/19/2011

Application for authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(1), (2).

We grant the Petition to Adopt Conditions to Authorizations and Licenses filed in the proceeding on December 19, 2011, by the Department of Justice (DOJ). Accordingly, we condition grant of this application on IP To Go LLC abiding by the commitments and undertakings set forth in the December 5, 2011 Agreement from the President of IP To Go LLC to Assistant Attorney General, National Security Division, DOJ (dated November 21, 2011). The Petition and the Agreement may be viewed on the FCC's website through the International Bureau Filings System (IBFS) by searching for ITC-214-20090508-00208 and accessing "Other Filings related to this application" from the Document Viewing Area.

ITC-214-20110407-00088 E Linkotel, LLC

International Telecommunications Certificate

Service(s): Global or Limited Global Facilities-Based Service, Global or Limited Global Resale Service

Grant of Authority Date of Action 12/20/2011

Application for authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(1), (2).

ITC-214-20111122-00359 E Bontel Software Solutions, Inc.

International Telecommunications Certificate

Service(s): Global or Limited Global Facilities-Based Service, Global or Limited Global Resale Service

Grant of Authority Date of Action 12/23/2011

Application for authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(1), (2).

ITC-214-20111129-00353 E Yoxtel, LLC

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action 12/23/2011

Application for authority to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(2).

ITC-214-20111201-00361 E Convergence Technologies

International Telecommunications Certificate

Service(s): Global or Limited Global Facilities-Based Service, Global or Limited Global Resale Service

Grant of Authority Date of Action 12/23/2011

Application for authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(1), (2).

ITC-214-20111201-00362 E Amtel Corporation

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action 12/23/2011

Application for authority to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(2).

ITC-214-20111206-00360 E Aircell Business Aviation Services LLC

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action 12/23/2011

Application for authority to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(2).

ITC-ASG-20111208-00368 E Emerging Markets Communications, LLC

Assignment

Grant of Authority Date of Action 12/28/2011

Current Licensee: Emerging Markets Communications, Inc.

FROM: Emerging Markets Communications, Inc.

TO: Emerging Markets Communications, LLC

Notification filed of the pro forma assignment of international section 214 authorization, ITC-214-20100329-00132, held by Emerging Markets Communications, Inc. to Emerging Markets Communications, LLC, effective July 20, 2011. Emerging Markets Communications changed its corporate structure from a corporation to a limited liability company.

ITC-T/C-20111006-00317 E Pac-West Telecomm Inc

Transfer of Control

Grant of Authority Date of Action 12/23/2011

Current Licensee: Pac-West Telecomm Inc

FROM: PAC-WEST ACQUISITION COMPANY LLC

TO: UPH Holdings, Inc.

Application filed for consent to the transfer of control of international section 214 authorization, ITC-214-19920215-00122 (Old File No. ITC-92-160), held by Pac-West Telecomm Inc. (Pac-West), from its 100% parent company, Pac-West Acquisition Company, LLC (PWAC), to UPH Holdings, Inc. (UPH). Pursuant to the terms of a reorganization agreement dated August 30, 2011, the capital stock of Pac-West will be exchanged for, and converted into common stock of UPH, with the current shareholders of PWAC acquiring a 29.45% ownership interest in UPH. Pac-West will be merged into UPH Acquisition Sub Inc., a newly formed wholly-owned subsidiary of UPH, with Pac-West emerging as the surviving entity. Upon closing, Pac-West will become a wholly-owned direct subsidiary of UPH.

After consummation the following entities, or individuals is expected to hold 10 percent or greater ownership interests in UPH: J. Michael Holloway, a U.S. citizen (44.58%); Columbia Ventures Corporation, a Washington state corporation (29.45%) (Kenneth D. Peterson, Jr., U.S. citizen, 100% owner); CIT Group\Equity Investments, Inc. (CIT Investments), a New Jersey corporation (10.22%). CIT Investments is a wholly-owned subsidiary of CIT Group, a publicly traded corporation in which no individual or entity holds 10 percent or greater interest. No individuals or entities have a ten percent or greater direct or indirect ownership interest in UPH or Pac-West.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-T/C-20111118-00350 E Oklahoma Independent RSA 5 Partnership

Transfer of Control

Grant of Authority Date of Action 12/23/2011

Current Licensee: Oklahoma Independent RSA 5 Partnership

FROM: OK-5 Holdco, LLC

TO: Cellular Network Partnership Ltd Partnership

Application filed for consent to the transfer of control of international section 214 authorization, ITC-214-20071219-00537, held by Oklahoma Independent RSA 5 Partnership (OK-5 Partnership), from OK-5 Holdco, LLC to Cellular Network Partnership Ltd. (CNP). Oklahoma 5, L.L.C. a wholly-owned subsidiary of OK-5 Holdco, LLC, holds a 65% ownership interest in OK-5 Partnership. Immediately prior to the closing of the proposed transaction, Oklahoma 5 LLC will transfer its 65% ownership interest in OK-5 Partnership to Newco LLC, a newly formed limited liability company. CNP will then acquire all of the membership interests in Newco LLC, thereby acquiring control of OK-5 Partnership.

OT&T Communications, Inc. (OT&T) owns a 58.5% interest in CNP and is the managing general partner of CNP. OT&T is a wholly-owned subsidiary of Pioneer Telephone Cooperative, Inc., an Oklahoma cooperative in which no individual or entity holds a one percent or greater ownership interest. South Central Communications, Inc. (South Central) owns a 10.11% interest and is a general partner in CNP. South Central is a wholly-owned subsidiary of South Central Telephone Association, Inc. a Kansas cooperative in which no individual or entity holds a one percent or greater ownership interest.

The remaining 35% ownership of OK-5 Partnership, which will not be affected by this transaction, is held by Hinton Cellular Co., LLC (20%) and Stojmat LLC (15%). Hinton Cellular Co., LLC also has an 8% ownership interest in CNP, so it will have a direct and indirect ownership interest in OK-5 Partnership of 25.2%. No individuals or entities have a ten percent or greater direct or indirect ownership interest in CNP or OK-5 Partnership.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-T/C-20111122-00358 E ITC Global USA, LLC

Transfer of Control

Grant of Authority Date of Action 12/23/2011

Current Licensee: ITC Global USA, LLC

FROM: ITC Global, Inc.

TO: Riverside Fund IV, L.P.

Application filed for consent to the transfer of control of international section 214 authorization, ITC-214-20110609-00184, held by ITC Global USA, LLC (ITC USA), from ITC Global, Inc. (ITC) to Riverside Fund IV, L.P. (Riverside). Pursuant to the terms of a November 11, 2011 Securities Purchase and Redemption Agreement, Riverside will acquire approximately 57.5% of ITC's stock, and thus will acquire control of ITC USA.

After closing, the following entities will hold 10 percent or greater ownership interests in ITC: Riverside (57.5%); and Fine Spotted Partners, LLC (13.19%)--the sole member is Michael Monier, a U.S. citizen. The following entities and individuals, all U.S citizens, hold 10 percent or greater ownership interests in Riverside: Yale University, limited partner (14.81%); Arkansas Teacher Retirement System, limited partner (13.16%); W.Virginia Investment Management Board, limited partner (13.16%); Riverside Partners IV, L.P. (Riverside Partners), a Delaware limited partnership (General Partner, with 1.5% equity interest). The sole members of Riverside Partners are Riverside Partners IV, LLC (Riverside Partners LLC) (General Partner); Brian Guthrie, David Belluck, Steve Kaplan. Riverside Partners IV, L.P., is controlled by an investment committee composed of six members, namely, David Belluck, Philip Borden, Frank Do, Brian Guthrie, Steve Kaplan, and Jon Lemelman. The sole members of Riverside Partners LLC are David Belluck (greater than 50% interest); Brian Guthrie (less than 50% interest). No individuals or entities have a ten percent or greater direct or indirect ownership interest in Riverside or ITC USA.

This authorization is without prejudice to the Commission's action in any other related pending proceedings.

ITC-T/C-20111208-00367 E Emerging Markets Communications, LLC

Transfer of Control

Grant of Authority Date of Action 12/28/2011

Current Licensee: Emerging Markets Communications, LLC

FROM: Emerging Markets Communications, LLC

TO: Emerging Markets Communications, LLC

Notification filed of the pro forma transfer of control of international section 214 authorization, ITC-214-20100329-00132, held by Emerging Markets Communications, LLC (EMC), effective July 20, 2011. In a corporate restructuring, a new holding company, RWB Holding, Inc. (RWB), was inserted into the ownership chain. RWB holds 80.6% equity interest and a 100% voting interest in EMC.

Dismissal

ITC-214-20100105-00006 Mediatel S.A.

Application hereby dismissed by Chief, Policy Division, International Bureau on December 27, 2011, pursuant to sections 1.748(a) and 63.51(b) of the Commission's rules, 47 CFR 1.748(a), 63.51(b), for failure to respond to the Commission's request for information.

This dismissal is without prejudice to re-filing the application in accordance with the Commission's rules.

SURRENDER

ITC-214-20050104-00001 iTalk Global Communications, Inc.

By letter filed October 20, 2011, Applicant notified the Commission of the Surrender of its international section 214 authorization

CONDITIONS APPLICABLE TO INTERNATIONAL SECTION 214 AUTHORIZATIONS

(1) These authorizations are subject to the Exclusion List for International Section 214 Authorizations, which identifies restrictions on providing service to particular countries or using particular facilities. The most recent Exclusion List is attached to this Public Notice. The list applies to all U.S. international carriers, including those that have previously received global or limited global Section 214 authority, whether by Public Notice or specific written order. Carriers are advised that the attached Exclusion List is subject to amendment at any time pursuant to the procedures set forth in Streamlining the International Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95-118, 11 FCC Rcd 12884 (1996), para. 18. A copy of the current Exclusion List will be maintained in the FCC Reference and Information Center and will be available at http://www.fcc.gov/ib/pd/pf/telecomrules.html#exclusionlist. It also will be attached to each Public Notice that grants international Section 214 authority.

(2) The export of telecommunications services and related payments to countries that are subject to economic sanctions may be restricted. For information concerning current restrictions, call the Office of Foreign Assets Control, U.S. Department of the Treasury, (202) 622-2520.

(3) Carriers shall comply with the requirements of Section 63.11 of the Commission's rules, which requires notification by, and in certain circumstances prior notification by, U.S. carriers acquiring an affiliation with foreign carriers. A carrier that acquires an affiliation with a foreign carrier will be subject to possible reclassification as a dominant carrier on an affiliated route pursuant to the provisions of Section 63.10 of the rules.

(4) Carriers shall comply with the Commission's International Settlements Policy and associated filing requirements contained in Sections 43.51, 64.1001 and 64.1002 of the Commission's Rules, 47 C.F.R. §§ 43.51, 64.1001, 64.1002. The Commission modified these requirements most recently in International Settlements Policy Reform: International Settlement Rates, First Report and Order, FCC 04-53, 19 FCC Rcd 5709 (2004). In addition, any carrier interconnecting private lines to the U.S. public switched network at its switch, including any switch in which the carrier obtains capacity either through lease or otherwise, shall file annually with the Chief, International Bureau, a certified statement containing, on a country-specific basis, the number and type (e.g., 64 kbps circuits) of private lines interconnected in such manner. The Commission will treat the country of origin information as confidential. Carriers need not file their contracts for interconnection unless the Commission specifically requests. Carriers shall file their annual report on February 1 (covering international private lines interconnected during the preceding January 1 to December 31 period) of each year. International private lines to countries which the Commission has exempted from the International Settlements Policy at any time during a particular reporting period are exempt from this requirement. See 47 C.F.R. § 43.51(d). The Commission's list of U.S. international routes that are exempt from the International Settlements Policy may be viewed at http://www.fcc.gov/ib/pd/pf/isp_exempt.html.

(5) Carriers authorized to provide private line service either on a facilities or resale basis are limited to the provision of such private line service only between the United States and those foreign points covered by their referenced applications for Section 214 authority. A carrier may provide switched services over its authorized resold private lines in the circumstances specified in Section 63.23(d) of the rules, 47 C.F. R. § 63.23(d).

(6) A carrier may engage in "switched hubbing" to countries that do not appear on the Commission's list of U.S. international routes that are exempt from the International Settlements Policy, set forth in Section 64.1002, 47 C.F.R. § 64.1002, provided the carrier complies with the requirements of Section 63.17(b) of the rules, 47 C.F.R. § 63.17(b). The Commission's list of U.S. international routes that are exempt from the International Settlements Policy may be viewed at http://www.fcc.gov/ib/pd/pf/isp_exempt.html.

(7) Carriers shall comply with the "No Special Concessions" rule, Section 63.14, 47 C.F.R. § 63.14.

(8) Carriers regulated as dominant for the provision of a particular communications service on a particular route for any reason other than a foreign carrier affiliation under Section 63.10 of the rules shall file tariffs pursuant to Section 203 of the Communications Act, as amended, 47 U.S.C. § 203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61. Carriers shall not otherwise file tariffs except as permitted by Section 61.19 of the rules, 47 C.F.R. § 61.19. Except as specified in Section 20.15 with respect to commercial mobile radio service providers, carriers regulated as non-dominant, as defined in Section 61.3, and providing detariffed international services pursuant to Section 61.19, must comply with all applicable public disclosure and maintenance of information requirements in Sections 42.10 and 42.11.

(9) Carriers shall file the annual reports of overseas telecommunications traffic required by Section 43.61(a). Carriers shall also file the quarterly reports required by Section 43.61 in the circumstances specified in paragraphs (b) and (c) of

that Section.

(10) Carriers shall file annual reports of circuit status and/or circuit additions in accordance with the requirements set forth in Rules for Filing of International Circuit Status Reports, CC Docket No. 93-157, Report and Order, 10 FCC Rcd 8605 (1995). See 47 C.F.R. § 43.82. See also §§ 63.22(e), 63.23(e). These requirements apply to facilities-based carriers and private line resellers, respectively. See also http:www.fcc.gov/ib/pd/pf/csmanual.html.

(11) Carriers should consult Section 63.19 of the rules when contemplating a discontinuance, reduction or impairment of service. Further, the grant of these applications shall not be construed to include authorization for the transmission of money in connection with the services the applicants have been given authority to provide. The transmission of money is not considered to be a common carrier service.

(12) If any carrier is reselling service obtained pursuant to a contract with another carrier, the services obtained by contract shall be made generally available by the underlying carrier to similarly situated customers at the same terms, conditions and rates. 47 U.S.C. § 203.

(13) To the extent the applicant is, or is affiliated with, an incumbent independent local exchange carrier, as those terms are defined in Section 64.1902 of the rules, it shall provide the authorized services in compliance with the requirements of Section 64.1903.

(14) Except as otherwise ordered by the Commission, a carrier authorized here to provide facilities-based service that (i) is classified as dominant under Section 63.10 of the rules for the provision of such service on a particular route and (ii) is affiliated with a carrier that collects settlement payments for terminating U.S. international switched traffic at the foreign end of that route may not provide facilities-based switched service on that route unless the current rates the affiliate charges U.S. international carriers to terminate traffic are at or below the Commission's relevant benchmark adopted in International Settlement Rates, IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19806 (1997). See also Report and Order on Reconsideration and Order Lifting Stay in IB Docket No. 96-261, FCC 99-124 (rel. June 11, 1999). For the purposes of this rule, "affiliated" and "foreign carrier" are defined in Section 63.09.

Exclusion List for International Section 214 Authorizations

The following is a list of countries and facilities not covered by grant of global Section 214 authority under Section 63.18(e)(1) of the Commission's Rules, 47 C.F.R. § 63.18(e)(1). In addition, the facilities listed shall not be used by U.S. carriers authorized under Section 63.18 of the Commission's Rules unless the carrier's Section 214 authorization specifically lists the facility. Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate Section 214 application pursuant to Section 63.18(e)(3) of the Commission's Rules. See 47 C.F.R. § 63.22(c).

Countries:

Cuba (Applications for service to Cuba shall comply with the separate filing requirements of the Commission's Public Notice, DA 10-112, dated January 21, 2010, "Modification of Process to Accept Applications for Service to Cuba and Related Matters.")

Facilities:

All non-U.S.-licensed satellite systems that are not on the Permitted Space Station List, maintained at http://www.fcc.gov/ib/sd/se/permitted.html. See International Bureau Public Notice, DA 99-2844 (rel. Dec. 17, 1999).

This list is subject to change by the Commission when the public interest requires. Before amending the list, the Commission will first issue a public notice giving affected parties the opportunity for comment and hearing on the proposed changes. The Commission may then release an order amending the exclusion list. This list also is subject to change upon issuance of an Executive Order. See Streamlining the Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95-118, FCC 96-79, 11 FCC Rcd 12,884, released March 13, 1996 (61 Fed. Reg. 15,724, April 9, 1996). A current version of this list is maintained at http://www.fcc.gov/ib/pd/pf/telecomrules.html#exclusionlist.

For additional information, contact the International Bureau's Policy Division, (202) 418-1460.