

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UP 247

In the Matter of)	
)	
UNITED TELEPHONE COMPANY OF THE)	
NORTHWEST dba EMBARQ (EMBARQ))	ORDER
)	
Application for Authority to Sell a Building)	
Located in Hood River.)	

DISPOSITION: APPLICATION APPROVED WITH CONDITIONS

On November 4, 2008, the Public Utility Commission of Oregon (Commission) received an application from United Telephone Company of the Northwest, dba Embarq (Embarq or Company), requesting approval of the sale of the building located at 902 Wasco Street, Hood River, Oregon, to The Port of Hood River, Oregon, with a partial leaseback by Embarq. The application is filed pursuant to ORS 759.375 and OAR 860-027-0025. Due to the dual jurisdiction, Embarq also submitted a concurrent application to the Washington Utilities and Transportation Commission. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

OPINION

Under ORS 759.375, a public utility doing business in Oregon shall first obtain Commission approval for any transaction to sell, lease, assign, or otherwise dispose of property. Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules.

At its Public Meeting on December 23, 2008, the Commission adopted Staff's recommendation to approve Embarq's sale of the building located at 902 Wasco Street, Hood River, Oregon, to The Port of Hood River, Oregon, with a partial leaseback by Embarq.

ORDER

IT IS ORDERED that the application of United Telephone Company of the Northwest, dba Embarq, is approved, subject to the following conditions:

1. Embarq shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to the transfer of telecommunications properties.
2. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or earnings review under an alternative form of regulation.
3. Embarq shall notify the Commission in advance of any substantive changes to the transfer of telecommunications properties, including any material changes in price. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein, shall be submitted for approval in an application for a supplemental order (or other appropriate format) in this docket.
4. The gain on the sale (depreciable and non-depreciable real property) will be applied as a rate base offset.
5. The final journal entry recording the transaction will be submitted to the Commission within 30 days of finalization.

Made, entered, and effective DEC 30 2008.



BY THE COMMISSION:

Becky L. Beier
Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 23, 2008

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A

DATE: December 16, 2008

TO: Public Utility Commission

FROM: Marion Anderson 

THROUGH: ^{lis} Lee Sparling, ^{MSA} Marc Hellman, and ^{MSA} Michael Dougherty

SUBJECT: UNITED TELEPHONE COMPANY OF THE NORTHWEST/EMBARQ:
(Docket No. UP 247) Application for approval to sell a building located in Hood River, Oregon.

STAFF RECOMMENDATION:

The Commission should approve the sale of a building located at 902 Wasco Street, Hood River, Oregon by United Telephone Company of the Northwest/EMBARQ (EMBARQ) to The Port of Hood River, Oregon with a partial leaseback under the following conditions:

1. EMBARQ shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to the transfer of telecommunications properties.
2. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or earnings review under an alternative form of regulation.
3. EMBARQ shall notify the Commission in advance of any substantive changes to the transfer of telecommunications properties, including any material changes in price. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein shall be submitted for approval in an application for a supplemental order (or other appropriate format) in this docket.
4. The gain on the sale (depreciable and non-depreciable real property) will be applied as a rate base offset.

UP 247
December 16, 2008
Page 2

5. The final journal entry recording the transaction will be submitted to the Commission within 30 days of finalization.

DISCUSSION:

This application was filed on November 4, 2008, pursuant to ORS 759.375 and OAR 860-027-0025. Due to the dual jurisdiction, there is a concurrent Washington Utilities and Transportation Commission application submission.

Staff investigated the following issues:

- Scope and Terms of the Real Estate Sales Agreement
- Allocation of Gain
- Public Interest Compliance
- Records Availability, Audit Provisions, and Reporting Requirements

Scope and Terms of the Real Estate Sales Agreement

The property designated for sale consists of a 209,000 square foot office building on 6.58 acres. There will be partial utility ownership retention in the parking lot with a perpetual easement property rights grant to the purchaser. The leaseback is comprised of three spaces (as measured in square footage): 35,717 office, 6,148 warehouse, and 284 basement. Existing tenants' leases will be transferred to the purchaser.

Allocation of Gain

A ratio using gross plant in service is applied to the gain and that factor will allow for Washington's adjustment. The financial data pertaining to this application was submitted to the Oregon and Washington Commissions under a confidential designation. This prevents the normal presentation of specificity. However, examination of the documentation did not raise any Staff objections.

The standard Commission treatment for transfer of the benefits of such gains to ratepayers is creation of/addition to a balancing account with interest thereon accruing at the utility's Oregon authorized rate of return until the next rate case or rate adjustment. However, due to the experienced infrequency of telecommunications rate filings, rate base offset will serve the same purpose.

Public Interest Compliance

There is only 20 percent utility administrative staff occupancy currently and EMBARQ considers this situation to satisfy a non used and useful designation since no Oregon network assets are located there. Staff has no issue with that designation. The sale

UP 247
December 16, 2008
Page 3

conforms to the no harm standard used by the Commission because the utility property at issue is being sold at a gain and there will be an operating expense reduction.

An RFP with the leaseback proffer was released on this property and there were six respondents. This establishes current fair market value without need for the commonly required professional appraisal although one was performed. Building annual operating expense incurrence will be materially reduced by the sale. The reasonableness of the agreement's lease terms was informally vetted by Staff through calls to several Hood River commercial real estate firms.

Records Availability, Audit Provisions, and Reporting Requirements

Order Condition Number 1, listed previously in the Staff recommendation, affords the necessary Commission examination.

This memorandum was reviewed by both Commissions and EMBARQ, and Staff concludes that the application is fair and reasonable and not contrary to the public interest.

PROPOSED COMMISSION MOTION:

The requested sale of property with partial leaseback by United Telephone Company of the Northwest/EMBARQ to The Port of Hood River, Oregon be approved with the conditions stated in this memorandum.

UP 247