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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UM 943

In the Matter of the Petition for Extended Area	)	
Service by the OREGON SLOPE	)	ORDER
TELEPHONE EXCHANGE.	)	

DISPOSITION: COMMUNITY OF INTEREST FOUND WITH VALE;  
NO COMMUNITY OF INTEREST FOUND WITH NYSSA

On August 10, 1999, the customers of the Oregon Slope telephone exchange (petitioners) petitioned the Commission for extended area service (EAS) to the Nyssa and Vale telephone exchanges. The Commission docketed the request as UM 943 for investigation.

On February 16, 2000, the Commission Staff filed testimony for Phase I, Community of Interest Determination. Based on a review of geographic and telephone usage information, Staff concluded that the petition failed the Commission's objective criteria for a community of interest. *See* Order Nos. 89-815 and 92-1136.

On March 3, 2000, Michael Grant, an Administrative Law Judge (ALJ) with the Commission, issued a proposed order adopting Staff's findings and recommending that the petition be dismissed. Petitioners subsequently requested an opportunity to establish, through demographic and other evidence, that a community of interest exists between the Oregon Slope and the Nyssa and Vale telephone exchanges.

On April 13, 2000, ALJ Grant held a hearing on this matter in Ontario, Oregon. Approximately 30 people appeared in support of the petition. Marlene Gorsuch and Lance Ball, members of the Commission Staff, and Jim Jensen, President of Malheur Home Telephone, also appeared and provided additional information and answered questions from members of the audience.

Based on a preponderance of the evidence in this matter, the Commission makes the following:

## **FINDINGS**

### **Geography and Demography**

The Oregon Slope, Nyssa, and Vale telephone exchanges are located in the northeast corner of Malheur County in eastern Oregon. All three exchanges are served by Malheur Home Telephone, a wholly owned subsidiary of U S WEST Communications, Inc. The petitioning exchange, Oregon Slope, is comprised of about 540 customers. The target exchanges, Nyssa and Vale, are comprised of approximately 2,400 and 2,000 access lines, respectively.

The Oregon Slope exchange is a rural farming area with no centralized businesses. Currently, the exchange has two small markets and a restaurant. Exchange residents, therefore, seek essential goods and services in neighboring communities.

The City of Ontario, located just south of the Oregon Slope, is a relatively large metropolitan area that offers a variety of professional, commercial, and consumer services. With a population of over 10,000, Ontario is the economic hub of Malheur County with numerous retail- and service-oriented businesses.

Customers of the Oregon Slope exchange also rely on the city of Vale, which serves as the county seat for Malheur County. With a population of approximately 1,500, the City of Vale is home to many governmental agency offices that provide essential services to the Oregon Slope exchange customers.

### **Emergency Services**

The Oregon Slope petitioners obtain police protection through the County Sheriff's office located in Vale. Similarly, most 911 calls made in Oregon Slope are dispatched through the calling center in Vale.

The Oregon Slope exchange customers receive fire protection services from Payette, Idaho.

### **Schools**

The Oregon Slope exchange is home to one grade school and one middle school, with older students attending the high school in Ontario. Some high school students in the Oregon Slope exchange attend school in Fruitland, Idaho.

The schools within the Oregon Slope exchange rely on the Malheur Educational Service District, whose office is located in Vale, Oregon.

### **Governmental and Jurisdictional Issues**

The Oregon Slope exchange is located within Malheur County and, as discussed above, served by governmental offices in Vale. These include offices for the Circuit Court, County Assessor, County Clerk, District Attorney, Health Department, Planning Department, and Sheriff. Oregon Slope residents also rely on federal governmental offices located in Vale, such as the Bureau of Land Management.

The irrigation district that serves Oregon Slope is located in Nyssa.

### **Medical and Dental Services**

Residents of the Oregon Slope exchange can obtain basic medical and dental care in Ontario. Most Malheur County residents rely on Boise and surrounding Idaho communities for certain types of specialized medical, dental, and emergency care.

### **Toll Avoidance**

Many Oregon Slope residents engage in a variety of toll avoidance practices. Residents often avoid toll calls by combining a trip with their telephone activities. Others relay calls through neighbors or friends. Some use cellular telephones or prepaid long-distance phone cards. A large majority of the customers of Malheur Home Telephone use carriers other than U S WEST Communications, Inc., to carry calls to Vale and Nyssa.

## **CONCLUSIONS**

### **Commission Policy**

The Commission has long recognized the problem with out-dated telephone exchange boundaries. In many parts of the state, original exchange territories no longer relate to community boundaries. Improved roads and highways, changes in local economies, and the growth or decline of cities and towns have greatly modified what local residents view as their community.

To address this problem, the Commission allows telephone customers to request EAS to other nearby exchanges to increase their toll-free calling area. EAS is important to many customers, because it allows them toll-free access to family, friends, neighbors, and businesses, as well as emergency, medical, educational, and governmental services, not located in their local calling area.

EAS is not a cost-free service, however. EAS merely changes the way telephone companies are compensated for interexchange telephone service. Per-minute toll charges are replaced with a flat or measured EAS rate. Large toll charges faced by a relatively small number of customers

are replaced with smaller charges to many customers. The implementation of new EAS routes, therefore, may create new problems as telephone companies try to recover lost toll revenues.

Due to these competing concerns, the Commission has established a review process designed to balance the need to avoid rate increases on low-volume users with the benefits customers may desire from toll-free rates. In an EAS investigation, the Commission first requires that a community of interest exist between the petitioning exchange and target exchange(s). A community of interest exists where there is a “social, economic, or political interdependence between two areas, or where there is a heavy dependence by one area or another area for services and facilities necessary to meet many of its basic needs.” *See Forest Grove EAS Investigation*, Order No. 87-309, at 8.

The Commission first attempts to make a community of interest determination based on an analysis of calling pattern data. In this process, the Commission Staff reviews calling data to determine whether a sufficient number of calls are placed between the exchanges and whether a sufficient percentage of customers in the petitioning exchange are making those calls. This test is known as the objective criteria test and requires an EAS petition to meet the following requirements:

1. Contiguous exchange boundaries – The petitioning exchange must share a common boundary with the target exchange(s);<sup>1</sup>
2. Minimum calling volume - There must be an average of four toll calls per access line per month between the contiguous exchanges; and
3. Minimum calling distribution - More than 50 percent of the customers in the petitioning exchange must make at least two toll calls per month to the contiguous exchange(s). *See* Order Nos. 89-815 and 92-1136.

If a petition fails to meet these objective criteria, petitioners may request the opportunity to make an alternative showing of a community of interest through demographic, economic, financial, or other evidence. In this alternative showing, the Commission relies on an analysis of the following factors:

- (1) geographic and demographic information; (2) location of schools;
- (3) governmental and jurisdictional issues; (4) emergency services;
- (5) social services; (6) medical and dental providers; (7) employment and commuting patterns; (8) business and commercial dependence or interdependence; (9) transportation patterns; (10) the results of the objective criteria test; and (11) other factors deemed relevant by the Commission. *See In the Matter of the Consolidated Applications for*

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<sup>1</sup> In Order No. 99-038, the Commission adopted standards to allow a community of interest finding between non-contiguous exchanges if the petition satisfies the calling volume and calling distribution criteria and petitioners establish that the proposed EAS route is necessary to meet their critical needs.

*Expansion of the Portland Extended Area Service Region*, Order No. 93-1045, at 12.

## **Community of Interest**

### **I. Objective Criteria Findings**

The telephone companies serving the affected exchanges filed calling pattern data with the Commission Staff. Staff reviewed the data and on February 16, 2000, filed testimony for Phase I, Community of Interest Determination. A review of geographic and telephone usage information reveals that neither of the requested interexchange routes satisfies the Commission's objective community of interest criteria.

The Oregon Slope exchange is contiguous with both the Vale and Nyssa exchanges. The proposed Oregon Slope/Vale and Oregon Slope/Nyssa interexchange routes, however, failed the calling volume and customer distribution criteria. Under the calling volume criterion, an average of 1 toll call per line per month was placed between Oregon Slope and Vale, and only 0.78 toll calls per line per month were placed between Oregon Slope and Nyssa. Similarly, only 16.06 percent of the Oregon Slope customers made at least 2 toll calls per month to the Vale exchange, while 12.78 percent of the customers made the requisite number of calls to the Nyssa exchange.

### **II. Demographic Evidence**

The Commission concludes that the Oregon Slope petitioners have established, through demographic and other evidence, that a community of interest exists with the Vale exchange. The evidence presented at hearing establishes a sufficient degree of dependence by the Oregon Slope exchange residents on the Vale exchange.

As indicated above, the residents who live within the Oregon Slope exchange are served by governmental offices and services located in Vale. Consequently, Oregon Slope customers must make long distance calls when contacting county courts, obtaining building permits, calling for law enforcement, obtaining health-related information, or seeking a myriad of other governmental services. The local schools in the area also call Vale to access the educational services offered by the Malheur County Educational Service District. Many farmers in the area must also contact the Bureau of Land Management in Vale.

In summary, the Oregon Slope petitioners showed strong ties to the Vale exchange. The Commission concludes that such evidence establishes that a community of interest exists between the Oregon Slope and Vale exchanges. That portion of the EAS petition should proceed to Phase II for tariff analysis.

The Commission further concludes, however, that petitioners have failed to establish that a community of interest exists between the Oregon Slope and the Nyssa exchange. Petitioners offered little evidence to establish strong ties between the two areas. The Commission concludes that the Oregon Slope/Nyssa portion of the petition should be denied.

**ORDER**

IT IS ORDERED that:

1. The petitioners have established, through demographic and other evidence, that a community of interest exists between the Oregon Slope and Vale telephone exchanges. This completes Phase I for that portion of the petition. For Phase II, the proposed Oregon Slope/Vale interexchange route will be grouped with all other EAS dockets that complete Phase I by August 2000. Malheur Home Telephone shall file proposed rates and supporting cost information by October 16, 2000.
2. The petitioners have failed to establish that a community of interest exists between the Oregon Slope and the Nyssa exchange. That portion of the petition is denied.

Made, entered, and effective \_\_\_\_\_.

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**Ron Eachus**  
Chairman

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**Roger Hamilton**  
Commissioner

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**Joan H. Smith**  
Commissioner

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 to a court pursuant to applicable law.