

Decision 90 02 060 FEB 28 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Jeffrey Chandler, doing business as)
WESTERN TELECOMMUNICATIONS CO.)
(U-2087-C) to sell, and of U S WEST)
PAGING, INC. to purchase and)
operate a one-way radiotelephone)
paging service in Southern)
California.)

Application 89-11-028
(Filed November 20, 1989)

O P I N I O N

This is an application in which U S West Paging, Inc. (U S West), seeks authority to purchase all of the assets of a one-way radiotelephone paging system owned by Jeffrey Chandler (Chandler), doing business as Western Telecommunications Co. (Company).

Notice of the filing of the application appeared in the Commission's Daily Calendar on November 29, 1989. U S West did not include in the application the financial data required by Rule 35. Instead, it filed a motion requesting that it be allowed to file the information as confidential information under seal. The information was included with the original application only as Exhibit VI, purportedly under seal. On December 7, 1989, the assigned administrative law judge (ALJ) issued a ruling denying the motion and placed the contents of Exhibit VI in the formal file. The ALJ's ruling also directed U S West to serve a copy of Exhibit VI on each person or entity shown in the proof of service attached to the application. On December 15, 1989, U S West filed a proof of service indicating that it had complied with the ALJ's ruling. There are no protests to the application as augmented.

The Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary in this matter.

2. Chandler holds a certificate of public convenience and necessity granted in Decision (D.) 86-10-037 in Application (A.) 85-12-067, dated October 16, 1987, authorizing him to provide one-way radiotelephone service in the Counties of San Diego, Orange, Los Angeles, Ventura, and Riverside. Chandler also holds licenses issued by the Federal Communications Commission (FCC). Chandler conducts operations under the name of Company.

3. U S West is a Minnesota corporation which has qualified to do business in California. It presently provides one-way radiotelephone paging service in over fifty cities throughout a thirteen-state area and two-way radiotelephone service in five western states. U S West is a wholly owned subsidiary of U S West NewVector Group, Inc., a Colorado corporation (NewVector Group), which operates cellular radiotelephone systems in twenty-eight Cellular Geographic Service Areas, including San Diego. NewVector Group, also holds limited partnership interests in Block B cellular systems licensed in Portland, Oregon; Pueblo, Colorado; and Illinois. NewVector Group is majority owned by U S West, Inc., a Colorado corporation, which provides exchange telephone service in various Local Access Transport Areas in fourteen western states, exclusive of California and Nevada.

4. On June 22, 1989, the parties entered into an agreement in which U S West agreed to purchase all the assets of Company, including its operating authority, from Chandler and his wife for \$1,500,000, subject to certain adjustments.

5. As of December 31, 1988, U S West had total current assets of \$5,103,443 and property plant and equipment, less depreciation of \$11,906,472. It had operating revenues of \$15,724,245 for the twelve months' ending December 31, 1988. NewVector Group has given U S West a statement of intent and commitment which states it will provide U S West financial and

technical resources to conduct the operations under the assets sought to be acquired.

6. Chandler has never fully developed Company into a functioning one-way paging system. It has only one employee and has subscribed only one customer in its nearly three years of existence. Chandler does not intend to further develop the system to provide one-way paging service and has chosen to sell the assets to U S West, which has the financial and technical expertise to operate the system. U S West proposes to operate Company to provide one-way radiotelephone paging and signalling service transmitting on the frequency 931.4875 megahertz from six base stations. The system will be interconnected to the public switched telephone network and will operate automatically. The service will be tone-only, digital numeric, and digital alphanumeric. Service will initially be offered in the Counties of San Diego, Orange, Los Angeles, Ventura, and Riverside. U S West anticipates providing one-way radiotelephone paging service to more than 4,500 customers in Southern California during its first year of service and more than 18,000 customers after five years. No new construction of facilities will be required. U S West will provide service through facilities already constructed by Company.

U S West desires to expand the geographic scope of its participation in the one-way radio radiotelephone paging service market and increasing its role, generally, in the broader radiotelephone services market. The purchase of Company will provide an opportunity to further these goals.

7. U S West has successfully operated one-way radiotelephone service in more than fifty cities throughout a thirteen-state area for over five years. It has developed extensive technical and operational capabilities in the one-way and the two-way paging industries. The expertise gained from this experience would be directly transferable to the operation of the paging system sought to be acquired.

8. On October 4, 1989, the FCC authorized Chandler to transfer his FCC licenses to U S West.

9. The application, as augmented, contains the tariff proposed to be adopted by U S West.

10. U S West has the ability, including financial ability, to acquire the operating authority and properties of Chandler and continue the operations.

11. The proposed sale and transfer by Chandler to U S West of Chandler's operating authority and properties is not adverse to the public interest.

12. Chandler and U S West are telephone corporations which are nondominant telecommunications carriers.

13. Ordering Paragraph 1 of D.85-01-008 in A.85-03-092 dated January 3, 1985, provides that:

"1. On and after the effective date of this order, public utility resellers of telecommunications services are exempted from the requirements of PU Code §§ 816-830."

14. Ordering Paragraph 7 of D.87-04-017, dated April 8, 1987, provides in part that:

"...in noncontroversial applications for authority to transfer assets or control under PU Code §§ 851-855, such authority may be granted by the Commission's Executive Director as specified in D.86-08-057."

15. Since the ensuing order primarily affects the parties to this application, it should be made effective on the date of issuance.

Conclusion of Law

The application should be granted.

This authorization is not a finding of the value of the rights and properties to be transferred.

O R D E R

IT IS ORDERED that:

1. On or after the effective date of this order, Jeffrey Chandler (Chandler) may sell and transfer to U S West Paging, Inc. (U S West), the certificate of public convenience and necessity granted in D.86-10-037 in A.85-12-067 dated October 16, 1987 and the operating properties set forth in the application in accordance with the terms of the application.

2. Within 10 days after transfer, Chandler shall write the Commission stating the date of transfer and the date when U S West began operating the system. A copy of the transfer documents shall be attached.

3. U S West shall either file a statement adopting Chandler's tariffs or file the tariffs proposed in the application as prescribed in General Order 96. Rates shall not be changed unless in accordance with law and the rules of the Commission.

4. Within 90 days after actual transfer, U S West shall file, in proper form, annual report on Chandler's operations from the first day of the current year through date of transfer.

5. When this order has been complied with, Chandler shall have no further public utility obligations in connection with the operating authority transferred.

6. The corporate identification number previously assigned to Chandler (U-2087-C) is revoked. U S West is assigned corporate identification number U-2115-C which shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings in existing cases.

7. The authority granted in Ordering Paragraph 1 shall expire unless it is exercised before March 31, 1991.

This order is effective today.

Dated FEB 28 1990, at San Francisco, California.

Wesley Franklin for
Neal J. Shulman
Executive Director

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY

Neal J. Shulman
NEAL J. SHULMAN, Executive Director
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