

SERVICE DATE

FEB - 7 2000

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of	)	
U S WEST Communications, Inc.,	)	DOCKET NO. UT-000143
	)	
For Determination That Property Is Not	)	ORDER FINDING PROPERTY
"Necessary or Useful" Within the Meaning of	)	NOT NECESSARY OR USEFUL
WAC 480-143-180(1)	)	
.....	)	
	)	

**BACKGROUND**

On February 3, 2000, U S WEST Communications, Inc., (USWC), filed an application with the Commission for a determination that certain real property it plans to exchange for like-kind real property in another location is not necessary or useful within the meaning of RCW 80.12.020 and WAC 480-143-180. Such a determination by the Commission would relieve USWC from its statutory obligation to obtain a Commission order authorizing the property's disposal.

**DISCUSSION**

**I. Salient Facts**

USWC owns a parcel of improved real property located at 900 Minor St., Seattle, Washington. The property is used for maintenance of vehicles and equipment in USWC's regulated operations. This property is almost completely surrounded by the facilities of the Fred Hutchinson Cancer Research Center (Fred Hutchinson). USWC believes that the fair market value of the existing USWC maintenance facility exceeds the greater of .1% of the most recently determined rate base for USWC's regulated telecommunications operation, or \$20,000.

USWC and Fred Hutchinson entered into an Exchange Agreement (Confidential Appendix A to this Application) on January 27, 2000, under which Fred Hutchinson will acquire real property at 4755 First Ave. S., Seattle, Washington, and build to USWC's specifications and at Fred Hutchinson's cost, a replacement facility. The parties' Exchange Agreement provides that the property at 4755 First Ave. S., will be exchanged in kind for USWC's property at 900 Minor St. If the final appraisal shows that the property USWC receives has a fair market value less than the property it will part with through the exchange, Fred Hutchinson must pay USWC the difference in value.

USWC will be granted an easement on the property it transfers to Fred Hutchinson, to accommodate existing telecommunications equipment such as antennas so that

these facilities need not be relocated. Fred Hutchinson will reimburse USWC for relocation costs of other facilities.

USWC's journal entries for the transaction will reflect equal valuation for the property disposed of and the property received. A copy of the Journal entries that will be used to record the transaction is included as Confidential Appendix B to this application. The journal entries are appropriate to record the transaction, but may be a matter of concern in any rate proceeding.

## II. Applicable Law

The proposed transaction is subject to RCW 80.12.020, which provides in relevant part:

No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public. . . without having secured from the Commission an order authorizing it so to do.

The Commission's rules implementing RCW 80.12.020 provide in relevant part:

A public service company must not dispose of any property necessary or useful to perform its public duties unless it first applies for, and obtains, written authority from the commission.

Necessary or useful includes all property except items that:

(1) Are substituted with or replaced by items of equal or greater value or usefulness; . . .

The public service company must file an application for commission determination that the property is not necessary or useful, prior to disposing of such property, if the property to be disposed of has a market value that exceeds the greater of .1% of the public service company's rate base . . . , or \$20,000.

WAC 480-143-180. Thus, even though property is asserted to be not "necessary or useful," if it exceeds the threshold value established by WAC 480-143-180, the public service company must obtain a Commission determination to that effect prior to disposing of the property without further Commission authority pursuant to RCW 80.12.020.

**III. Commission Determination**

This is a like-kind exchange of real property, in which USWC will receive a new, equivalent building located in Seattle. The new building will be used for the same purpose as the existing building. The transaction is structured so that the fair market value of the property USWC receives in the exchange is at least as great as that of the property that it will part with through the exchange. The property is not "necessary or useful" because it falls within the exception to that term which applies when property disposed of is substituted or replaced by property of equal or greater value or usefulness. The Commission determines that the property USWC proposes to dispose of is not necessary or useful within the meaning of RCW 80.12.020 and WAC 480-143-180.

**FINDING OF FACT**

- 1. The property to be disposed of by USWC will be substituted with or replaced by property of equal or greater value or usefulness.

**CONCLUSIONS OF LAW**

- 1. USWC is a public service company subject to the Commission’s jurisdiction. Chapter 80.36 RCW.
- 2. The property U S WEST Communications, Inc., proposes to exchange is not necessary or useful within the meaning of RCW 80.12.020 and WAC 480-143-180(1).

**ORDER**

THE COMMISSION ORDERS That the property that is the subject of USWC’s Application is not necessary or useful within the meaning of RCW 80.12.020 and WAC 480-143-180(1), and, therefore, no further Commission authority is required for the proposed transaction to be consummated.

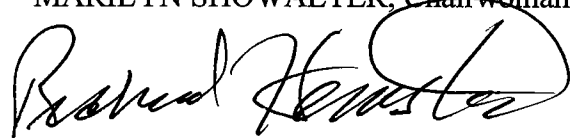
THE COMMISSION ORDERS FURTHER That this Order shall in no way affect the authority of this Commission over rates, services or accounts, evaluations, estimates, or determination of cost or any matters whatsoever that may come before it, nor shall anything herein be construed as an acquiescence in any estimate or determination of costs or any valuation of property claimed or asserted.

DATED at Olympia, Washington, and effective this 7<sup>th</sup> day of February, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



MARILYN SHOWALTER, Chairwoman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner