

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

<b>IN RE:</b>	<b>December 21, 2017</b>	)	
		)	
<b>APPLICATION OF UNITED TELEPHONE</b>		)	<b>DOCKET NO.</b>
<b>COMPANY, INC., UTC LONG DISTANCE, LLC AND</b>		)	<b>17-00111</b>
<b>UNITED COMMUNICATIONS, INC. FOR APPROVAL</b>		)	
<b>OF FINANCING ARRANGEMENTS AND TRANSFER</b>		)	
<b>OF CONTROL</b>		)	

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**ORDER APPROVING FINANCING ARRANGEMENTS  
AND TRANSFER OF CONTROL**

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This matter came before Chairman David F. Jones, Vice Chairman Robin L. Morrison and Commissioner Herbert H. Hilliard of the Tennessee Public Utility Commission ("TPUC" or "Commission"), the voting panel assigned to this docket, at a regularly scheduled Commission Conference held on October 23, 2017, for consideration of the *Application* filed by United Telephone Company, Inc. ("United"), UTC Long Distance, LLC ("UTC") and United Communications, Inc. ("UCI") (collectively, the "Applicants") on September 27, 2017, requesting approval to participate in certain financing arrangements and a transfer of control of parent company, United Communications Holdings, LLC.

**BACKGROUND AND APPLICATION**

United is a Tennessee corporation certificated by the Commission as a provider of incumbent local exchange service in portions of Bedford, Coffee, Davidson, Franklin, Marshall, Maury, Rutherford and Williamson counties in Tennessee, with over 11,000 access lines. UTC provides long-distance service as an interexchange provider. UCI is certificated as a CLEC, provides broadband and holds a video franchise. None of the Applicants have elected market regulation. The Applicants are affiliated companies owned by United Communications Holdings, LLC, ("UCH") a Delaware limited liability company.

The Applicants request approval of proposed financing arrangements consisting of a \$3,000,000 senior secured Revolving Credit Facility (the "Revolver"), and a \$33,000,000 senior secured Term Loan Credit Facility (the "Term Loan") (collectively the "Credit Facilities"). The proceeds from the Term Loan along with cash on hand will be used to refinance outstanding principal and interest balances due to CoBank pursuant to the \$31,500,000 term loan approved in Docket No. 15-00078<sup>1</sup>, to redeem the outstanding ownership interests in UCH owned by MSouth Equity Partners, and other corporate purposes. The Proceeds from the Revolver may be used for letters of credit, for capital expenditures, and general corporate purposes. The balance of the amount owed to senior creditors as of June 30, 2017, was \$28,300,000. The new Credit Facilities are approximately the same overall size as the original credit facilities borrowed in early 2016, but the new Credit Facilities will contain a larger, \$3,000,000 Revolver and have an 8 year term instead of a 6 year term, providing a longer term financing solution to Applicants. Both Credit Facilities are expected to mature within eight (8) years after the closing date.<sup>2</sup>

The *Application* also indicates that all obligations under the Credit Facilities will be incurred directly by or guaranteed by the Applicants, with some exceptions. Further, the Applicants state that the Credit Facilities will be secured by a first priority lien in all of Applicants' personal assets and real property and that they will grant a security interest in all of their equity interests.<sup>3</sup>

The Applicants' assert that participation in these financing arrangements will not result in a change in the Applicants' management or in their day-to-day operations; nor will it adversely affect the Applicants' current or expected operations in Tennessee. The Applicants assert that the financing arrangements are consistent with the public interest because they will provide an opportunity to

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<sup>1</sup> See *In Re: Petition of United Telephone Company and UTC Long Distance, LLC for Approval to Participate in Certain Financing Arrangements*, Docket No. 15-00078, *Order Approving Financing Arrangements* (November 3, 2015).

<sup>2</sup> *Application*, pp. 3-4 (September 27, 2017).

<sup>3</sup> *Id.* at 4.

strengthen their financial positions, with financial benefits that will inure to the benefit of their customers.<sup>4</sup>

Further, the *Application* alleges that, as a result of the redemption of the outstanding majority ownership interests in UCH owned by MSouth Equity Partners, a transfer of control of UCH to the Co-Owners, William H. Bradford and Eugene B. Johnson (“Co-Owners”), will occur. The Applicants assert that the transfer of control is in the public interest and in compliance with all applicable law. Further, the *Application* alleges that the Applicants possess the requisite financial, managerial and technical qualifications and that the transfer of control will benefit the public and ensure services are being provided efficiently.<sup>5</sup>

#### **STANDARD FOR COMMISSION APPROVAL**

Commission approval is required for certain financing programs pursuant to Tenn. Code Ann. § 65-4-109, which provides:

No public utility shall issue any stocks, stock certificates, bonds, debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the commission for such proposed issue. It shall be the duty of the commission after hearing to approve any such proposed issue maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the commission.

With regard to a transfer of control or ownership of a utility, Commission approval is required pursuant to Tenn. Code Ann. § 65-4-113, which states:

Upon petition for approval of the transfer of authority to provide utility services, the commission 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 commission shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 5-8.

### THE OCTOBER 23, 2017 HEARING

A Hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on October 23, 2017, as noticed by the Commission on October 13, 2017. Participating in the Hearing were:

United Telephone Company, Inc.; UTC Long Distance, LLC; United Communications, Inc. – R. Dale Grimes, Bass, Berry & Sims, PLC, 150 Third Avenue South, Nashville, TN 37201; and, William H. Bradford, President and CEO, United Communications Holdings, LLC, 120 Taylor Street, Chapel Hill, TN 37034-3123.

During the Hearing, Mr. Bradford ratified, then summarized his pre-filed testimony and was subject to questioning before the panel and by TPUC staff. Members of the public were given an opportunity to offer comments, at which time, no comments were submitted.

### FINDINGS AND CONCLUSIONS

The Commission reviews financing transactions of public utilities to determine whether such transactions are in accordance with applicable law and purposed for the public interest pursuant to Tenn. Code Ann. § 65-4-109. The Applicants indicated that the proceeds from the debt issuance will be used for refinancing outstanding indebtedness, to redeem the outstanding ownership interests in UCH, to fund expenses related to construction programs and for other corporate purposes. The panel found that the proposed use of funds described in the *Application* is consistent with typical business activities and consistent with previous financing transactions approved by the Commission. Further, the panel found that these uses are in the public interest. Based upon the representations in the *Application*, pre-filed testimony and the argument and testimony presented at the October 23, 2017 hearing, the panel found that the proposed transactions are in accordance with applicable law and in the public interest. Thereafter, the panel voted unanimously to approve the *Application*.

In addition, the panel found that one of the proposed uses of the financing transaction, redemption of the outstanding ownership interests in UCH owned by MSouth Equity Partners, would result in a transfer in the ownership and control of UCH, which is a company currently certificated by this

Commission. The panel must determine whether the proposed new owners possess the requisite technical, managerial and financial qualifications to capably provide telecommunications services and whether the transfer of ownership and control is in the public interest pursuant to Tenn. Code Ann. § 65-4-113.

The Co-Owners currently have equity stakes in the Applicants and are part of the management team. One of the Co-Owners, William Bradford, currently leads the management team. Under the circumstances of the proposed transfer, the transfer of control will not change the current management of the company, nor change the technical or financial operations of the Applicants. Hence, the panel found that the new ownership has sufficient technical, managerial and financial qualifications. Further, the panel found that the transaction is in the public interest, as it promotes competition among telecommunications providers. The Applicants have filed a Petition with the FCC that is being considered in FCC Docket Number WC 17-242. The panel voted unanimously to approve the transfer of control conditioned upon subsequent approval by the FCC in the aforementioned docket.

In summary, the panel made the following findings and conclusions:

1. The proposed financing transactions are subject to Commission approval pursuant to Tenn. Code Ann. § 65-4-109.
2. The proposed financing transactions are being made in accordance with laws enforceable by this agency.
3. The purpose of the transactions is in the public interest because it will help United Telephone Company, Inc., UTC Long Distance, LLC and United Communications, Inc. to strengthen their financial positions to the benefit of their customers.
4. The proposed transfer of ownership and control of United Communications Holdings, LLC is subject to Commission approval pursuant to Tenn. Code Ann. § 65-4-113.
5. The new ownership group has sufficient technical, financial and managerial capabilities.
6. The transfer of ownership and control of United Communications Holdings, LLC is in the

public interest because it promotes competition among telecommunications service providers.

7. Approval of the transfer of ownership and control of United Communications Holdings, LLC is contingent upon subsequent approval of the transfer of ownership and control by the FCC.

**IT IS THEREFORE ORDERED THAT:**

1. United Telephone Company, Inc., UTC Long Distance, LLC and United Communications, Inc. are authorized to enter into the financing arrangements described in the *Application of United Telephone Company, Inc., UTC Long Distance, LLC and United Communications, Inc. for Approval of Financing Arrangements and Transfer of Control*.

2. The authorization and approval given hereby shall not be used by any party, including but not limited to, any lending party for the purpose of inferring an analysis or assessment of the risks involved.

3. This decision is not intended to create any liability on the part of the Tennessee Public Utility Commission, the State of Tennessee or any political subdivision thereof.

4. The transfer of ownership and control of United Communications Holdings, LLC as described in the *Application of United Telephone Company, Inc., UTC Long Distance, LLC and United Communications, Inc. for Approval of Financing Arrangements and Transfer of Control* is approved, contingent upon subsequent approval of the transfer by the Federal Communications Commission.

**Chairman David F. Jones, Vice Chairman Robin L. Morrison and Commissioner Herbert H. Hilliard concur.**

**ATTEST:**



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**Earl R. Taylor, Executive Director**