

FILE
BINGHAM

5

LEGAL INSIGHT. BUSINESS INSTINCT.

Jean L. Kiddoo
Brett P. Ferenchak
Jean.kiddoo@bingham.com
Brett.ferenchak@bingham.com
Our file no.: 4015328.0000325777

RECEIVED-DOCKETING DIV

2007 AUG -1 AM 10:41

PUCO

July 31, 2007

By FedEx

Renee J. Jenkins, Director of Administration
Docketing Department
Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, OH 43215-3793

Re: Case No. 07-852-TP-ABN - Application of Pac-West Telecomm, Inc. to
Discontinue all Telecommunications Services to Customers in Ohio

Dear Ms. Jenkins:

On behalf of Pac-West Telecomm, Inc. ("Pac-West"), enclosed please find an original
and ten (10) copies of Pac-West's Motion for Expedited Treatment.

Please date-stamp the extra copy and return it in the self-addressed, postage-paid
envelope provided. Should you have any questions regarding this filing, please do not
hesitate to contact the undersigned.

Respectfully submitted,

Brett P Ferenchak

Jean L. Kiddoo
Brett P. Ferenchak

Counsel for Pac-West Telecom, Inc.

Enclosure

Cc: Ethan Sprague (Pac-West)

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T 202.373.6000
F 202.373.6001
bingham.com

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician SM Date Processed 8/1/07

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
)	
Pac-West Telecomm, Inc.)	Case No. 07-852-TP-ABN
)	
To Discontinue All Telecommunications)	
Services to Customers in Ohio)	
_____)	

MOTION FOR EXPEDITED TREATMENT

On behalf of Pac-West Telecomm, Inc. ("Pac-West"), this Motion requests that the Commission expedite the approval of Pac-West's above-referenced application to discontinue all telecommunications services in Ohio ("Application") and, pursuant to O.A.C. 4901:1-6-06, waive the applicable the time periods in O.A.C. 4901:1-6-10 to the extent that such time periods would not otherwise permit Pac-West to discontinue its services on or about August 23, 2007. While Pac-West had originally filed the Application as a "ZTA - Withdrawal of Tier 2 Service," which had a 0-day notice period, the Application was ultimately assigned by the Commission as an "ABN - Abandonment of all services," which has a 90-day approval because Pac-West holds a Certificate as a CLEC and CTS Provider.¹ For the reasons stated below, Pac-West must discontinue services on or about August 23, 2007

As stated in the Application, Pac-West filed for protection under Chapter 11 of the U.S. Bankruptcy Laws in the U.S. Bankruptcy Court for the District of Delaware on April 30, 2007. As part of the bankruptcy, Pac-West has been working diligently to improve its profitability and

¹ Pac-West characterized the Application as a ZTA because Pac-West is discontinuing/withdrawing Tier 1 services. See O.A.C. 4901:1-6-21(H). Since Tier 2 services are involved, Pac-West should be able to discontinue such services without, and separate and apart from, the approval of the abandonment and cancellation of its Certificate as a CLEC and CTS Provider. Nevertheless, since the Commission characterized the Application as an ABN, Pac-West requests expedited approval.

to reduce costs and unnecessary obligations to return the company to its historic profitability. Pac-West has collaborated closely with its creditors, carriers, vendors, and its debtor-in-possession ("DIP") lender to explore its options for a successful reorganization. It has become clear from this review that the markets served by Pac-West's eastern network, which includes Ohio (the "Eastern Region"), are likely to continue to operate at a substantial loss for the foreseeable future and that these losses are unsustainable. Unfortunately Pac-West has not been able to gain the business volumes and revenues needed to support these Eastern Region markets even with competitive customer pricing and quality services. This has put at risk the continued availability of financing for operations in these markets and could place Pac-West in jeopardy of a precipitous disruption of service to customers in the Eastern Region, including Ohio.

During the reorganization, Pac-West is dependent on financing provided by its DIP lender. The DIP lender has informed Pac-West that the DIP lender does not support the continued financing of losses incurred in the eastern markets, and is very likely to condition advances on the DIP loan on prompt elimination of the cash losses from the Eastern Region and to hold Pac-West to a funding budget that allows no room for continued funding of the Eastern Region operations. Similarly, parties with whom Pac-West has had discussions regarding purchasing the assets of Pac-West or funding a plan of reorganization have all made clear that such transactions would not include the Eastern Region because of the losses Pac-West is incurring. Regrettably, therefore, the choices Pac-West has are few. Simply put, if Pac-West continues to try to provide service to both the eastern and western regions, Pac-West will be unable to successfully reorganize and emerge from bankruptcy. In order to continue to serve the majority of customers and be able to successfully emerge from bankruptcy, Pac-West has decided to exit markets served by a costly network where traffic and customer counts are low

and revenues do not cover costs. The markets affected cover the Company's 25-state/jurisdiction Eastern Region, including those located in Ohio. This is a difficult decision and Pac-West does not leave these markets or our customers lightly. It has been critical to face up to the reality quickly because Pac-West cannot assure the continued availability of financing for the operations in the Eastern Region. This risks a discontinuance of service to all of Pac-West's customers in all locations, and would also contravene Pac-West's obligation in bankruptcy to protect the value of the business for its creditors. Taking the initiative, and not waiting for a precipitous action by a third party, will maximize as much as possible the amount of notice that Pac-West can provide its Eastern Region customers and thereby minimize the risk of a service disruption.

Notwithstanding the financial situation that might otherwise warrant immediate cessation of operations in a bankruptcy proceeding, Pac-West recognizes that it has obligations under federal and state regulations to provide notice to their customers of the pending discontinuance so that the customers have an opportunity to transfer services to another carrier without interruption. To comply as much as possible with these obligations, Pac-West has proposed to the Bankruptcy Court that Pac-West discontinue service to the Eastern Region markets no later than August 23, 2007, which is 30 days after the date of the notice to customers, (recognizing that there is no assurance that Pac-West will have continued financing for operations in the Eastern Region even for this period), rather than immediately. In order to meet that goal, Pac-West requests that the Commission approve the application prior to August 23, 2007 and waive the applicable time periods in O.A.C. 4901:1-6-10 to the extent that such time periods would not otherwise permit Pac-West to discontinue its services on or about August 23, 2007.

Pac-West reiterates that it does not provide service directly to end-users and that Pac-West's customers are services providers that tend to use multiple and redundant underlying

carriers for their telecommunications services. In addition, all but two (2) of Pac-West's Ohio customers have contracts that expressly allow Pac-West to eliminate a market or region from its geographic service footprint on thirty (30) days' notice. The two (2) Ohio customers that have a contract that requires sixty (60) days' notice have not indicated to Pac-West that discontinuance in 30-days will be a problem. Therefore, approval of this Application by August 23, 2007 will not harm Ohio customers.

For these reasons, Pac-West requests that the Commission expedite consideration of this Application and approve the Application prior to August 23, 2007.

Respectfully submitted,



Jean L. Kiddoo
Brett Ferenczak
Bingham McCutchen LLP
2020 K Street, NW
Washington, DC 20006-1806
Tel: (202) 373-6000
Fax: (202) 373-6001
Email: jean.kiddoo@bingham.com
brett.ferenczak@bingham.com

Counsel for Pac-West Telecomm, Inc.

Dated: July 31, 2007