

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 28th day of December, 2000.

CASE NO. 00-1720-T-PC

ALLTEL COMMUNICATIONS, INC.,
a corporation; and 360° LONG DISTANCE,
INC., a corporation.

Joint petition for consent and approval of the merger of
Alltel Communications, Inc. and 360° Long Distance, Inc.,
with Alltel Communications, Inc., being the surviving
corporation.

COMMISSION ORDER

On November 17, 2000, Alltel Communications, Inc., (ACI) and 360° Long Distance, Inc. (360) (collectively, Joint Petitioners) filed a "Joint Petition" averring that ACI was granted a certificate of convenience and necessity to provide intrastate intraLATA and interstate interLATA interexchange telecommunications services throughout all counties in West Virginia by the Commission on April 13, 1999, in Case No. 99-0293-T-CN and that 360 was granted a certificate of convenience and necessity to provide resold long distance telephone services throughout the State of West Virginia on March 6, 1997, in Case No. 96- 1254-T-CN. The Joint Petitioners state that pursuant to the terms and conditions of an "Agreement and Plan of Merger" 360 is to merge with and into ACI with ACI being the surviving corporation. The parties state that the proposed transaction will have no effect on the service or rates of the customers of 360 or ACI. Finally, the parties state that the Commission should grant its consent and approval to the proposed merger because the terms and conditions are reasonable, neither party is given an undue advantage over the other, and the terms and conditions do not adversely affect the public in this state. The attached, unexecuted, agreement and plan of merger states that such merger is to become effective at the close of business on December 31, 2000. The agreement and plan of merger also sets forth the manner of converting the outstanding shares of capital stock as well as outlining additional terms and conditions of the merger.

On December 19, 2000, Commission Staff filed an "Initial and Final Joint Staff Memorandum." Commission Staff noted that based on its discussions with counsel for the Joint Petitioners that the proposed transaction will have no effect on the service or rates of

the customers of 360 or ACI and that the 360 customers will be notified by bill insert of the proposed transaction and that their current rates will not change as a result thereof. Staff recommended approval of the merger.

On December 21, 2000, counsel for the Joint Petitioners filed a letter stating that they were in agreement with the recommendations made by Staff in the Staff Initial and Final Joint Staff Memorandum of December 19, 2000. Additionally, the Joint Petitioners requested approval of this matter prior to the end of the year.

DISCUSSION

West Virginia Code §24-2-12 reads, in pertinent part, as follows:

Unless the consent and approval of the public service commission of West Virginia is first obtained: ... (b) no public utility subject to the provisions of this chapter, except railroads other than street railroads, may purchase, lease, or in any other manner acquire control, direct or indirect, over the franchises, licenses, permits, plants, equipment, business or other property of any other utility; (c) no public utility subject to the provisions of this chapter, except railroads other than street railroads, may assign, transfer, lease, sell, or otherwise dispose of its franchises, licenses, permits, plants, equipment, business or other property or any part thereof; but this shall not be construed to prevent the

sale, lease, assignment or transfer by any public utility of any tangible personal property which is not necessary or useful, nor will become necessary or useful in the future, in the performance of its duties to the public; (d) no public utility subject to the provisions of this chapter, except railroads other than street railroads, may, by any means, direct or indirect, merge or consolidate its franchises, licenses, permits, plants, equipment, business or other property with that any other public utility; (e) no public utility subject to the provisions of this chapter, except railroads other than street railroads, may purchase, acquire, take or receive any stock, stock certificates, bonds, notes or other evidence of indebtedness of any other public utility; ... (g) no person or corporation, whether or not organized under the laws of this state, may acquire either directly or indirectly a majority of the common stock of any public utility organized and doing business in this state.

The commission may grant its consent in advance or exempt from the requirements of this section all assignments, transfers, leases, sales or other disposition of the whole or any part of the franchises, licenses, permits, plants, equipment, business or other property of any public utility, or any merger or consolidation thereof and every contract, purchase of stocks, arrangement,

transfer or acquisition of control, or other transaction referred to in this section, upon proper showing that the terms and conditions thereof are reasonable and that neither party thereto is given an undue advantage over the other, and do not adversely affect the public in this state.

Additionally, Rule 31 of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle.(Tariff Rules) requires that the acquiring entity continue to use the rates, classifications, and regulations of the former operating company, and shall issue, file and post an adoption notice, ratifying and making its own all rates, rules, classifications, and regulations of the former operating utility, on file with the Commission and effective at the time of the change of ownership or control. Tariff Rule 31 further provides that the adoption notices may be filed and made effective without previous notice.

Based on the content of the filing by the Joint Petitioners and the recommendation of Staff, the Commission concludes that approval of the proposed merger is reasonable and shall accordingly be granted.

FINDINGS OF FACT

1. On November 17, 2000, Alltel Communications, Inc., and 360° Long Distance, Inc. filed a "Joint Petition" requesting approval of a transaction whereby 360 is to merge with and into ACI with ACI being the surviving corporation.

2. The Joint Petitioners state that the proposed transaction will have no effect on the service or rates of the customers of 360 or ACI.

3. On December 19, 2000, Commission Staff filed an "Initial and Final Joint Staff Memorandum" recommending approval of the proposed transaction.

CONCLUSION OF LAW

The Commission concludes that the request of the Joint Petitioners is reasonable and should be approved without specifically approving the terms and conditions of the underlying "Agreement and Plan of Merger."

ORDER

IT IS THEREFORE ORDERED that the petition filed on November 17, 2000, by Alltel Communications, Inc., and 360° Long Distance, Inc., and the underlying "Agreement and Plan of Merger" are hereby approved without specifically approving the terms and

conditions of the "Agreement and Plan of Merger."

IT IS FURTHER ORDERED that Alltel Communications, Inc., shall file the proper adoption notice and tariff pursuant to Tariff Rule 31 within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that upon entry of this order, this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

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