

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the matter of the application of) Application No. C-742
Western Union Telegraph Company for)
approval of restructuring trans-) GRANTED
actions and the Worldcom merger.)
) Entered: October 13, 1987

Appearance: Donald H. Erickson
Erickson & Sederstrom
One Merrill Lynch Plaza
10330 Regency Parkway Drive
Omaha, NE 68114-3761

BY THE COMMISSION:

OPINION AND FINDINGS

By its application filed August 12, 1987 Western Union Telegraph Company seeks approval of restructuring transactions and merger with Worldcom.

Notice of the application was published pursuant to the provision of the Commission's rules and Regulations. No protest to the application was filed, therefore, the application was processed administratively on October 13, 1987.

Having considered the application and being fully advised, the Commission is of the opinion and finds that:

Notice was published in The Daily Record, a legal newspaper in Omaha, Douglas County, Nebraska, the principal place of business of The Western Union Telegraph Company ("Western Union") within Nebraska, beginning on the 13th day of August, 1987, and for two consecutive weeks, all in compliance with Section 75-147, Nebraska Revised Statutes, 1943, as amended.

Western Union has been certified by this Commission to conduct intrastate, interLATA inter-exchange operations and is subject to the jurisdiction of this Commission as a telecommunications common carrier for that part of its communications for hire; Western Union and ITT World Communications Inc. ("Worldcom") are record carriers within the purview of the Communications Act of 1934, as amended, Title 47, U.S.C. §§ 151 et seq., and more specifically under § 222; that the United States Government has by such legislation pre-empted the general jurisdiction of this Commission over Western Union and Worldcom as to their communications operations with the exception only of any intrastate, inter-exchange telephone services; this Commission further finds that Western Union and Worldcom are common carriers subject to the jurisdiction and regulation of the Federal Communications Commission under said Communications Act of 1934.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

The Commission finds that Section 75-146 and 75-147 are ambiguous as to whether those statutes require Commission approval of any increase in the capital stock of Western Union, or its merger with its parent, or of its acquisition of and merger with Worldcom, all as contemplated by the Restructuring Transactions, as set forth in the Petition (and as more particularly described in Amendment No. 2 to Form S-4 as filed with the Securities and Exchange Commission (Registration No. 33-11839) and in Amendment No. 2 to Form S-4 as filed with the Securities and Exchange Commission (Registration No. 33-150005) which append the Petition); the Commission does find that the total effect of those transactions, the capital stock increase and the mergers have little or no effect on telecommunications common carrier service which is subject to this Commission's jurisdiction; the Commission further finds that there is nothing deleterious to the public interest in the completion of the Restructuring Transactions and to the extent that Section 75-146 through and including 75-149, Nebraska Revised Statutes, 1943, as amended, would require Commission approval, that they should be approved by this Commission.

The Commission further finds that Sections 75-148 and 75-149, Nebraska Revised Statutes, 1943, were originally adopted as one statute (see Session Laws, 1923, ch. 168 and Session Laws, 1925, ch. 141); that the statute exempted security issuances of common carriers under the control of the Interstate Commerce Commission; that subsequent amendment changed this to the control of any Federal regulatory agency; that the Nebraska State Railway Commission, the predecessor of this Commission, had previously determined that the security issuance of Western Union were not subject to its jurisdiction (see In the Matter of the Application of Western Union Telegraph Company, No. 25444, dismissed on advise of Attorney General, May 12, 1965); this Commission finds that neither Section 75-148 nor 75-149 is applicable to Western Union or the Restructuring Transactions, including the issuance of stock or the merger.

ORDER

IT IS THEREFORE ORDERED that Application No. C-742 be and it is hereby granted that the Restructuring Transactions, including, but not limited to, any increase in capital stock, merger or consolidation, and the issuance of securities as may be required by Section 75-146 through and including Section 75-149, Nebraska Revised Statutes, 1943, as amended, be and they are hereby approved.

IT IS FURTHER ORDERED that Section 75-148 and 75-149, Nebraska Revised Statutes, 1943, as amended, are not applicable to the issuance of securities by Western Union.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

MADE AND ENTERED at Lincoln, Nebraska, this 13th day of October, 1987.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Duane D. Gay

//s//James F. Munnelly
//s//Eric Rasmussen
//s//Harold D. Simpson
//s//Daniel G. Urwiller

Eric Rasmussen
Chairman

ATTEST:

John Swaine
Acting Executive Secretary