

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

U S WEST Communications, Inc.
SB 2420 MTS
Tariff

Case No. PU-314-99-419

U S WEST Communications, Inc.
SB 2420 Access Service
Tariff

Case No. PU-314-99-420

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

August 16, 2000

Appearances

Commissioners Bruce Hagen, Susan Wefald and Leo Reinbold

William Binek, Commission Counsel for the Public Service Commission, State Capitol, 12th Floor, Bismarck, ND 58505, appearing on behalf of the **Public Service Commission Staff**.

Daniel S. Kuntz, Attorney at Law, Zuger Kirmis & Smith, P. O. Box 1695, Bismarck, North Dakota 58502-1695, appearing on behalf of **U S WEST Communications, Inc.**, 1801 California, Suite 5100, Denver, Colorado 80202.

John L. Munn, Senior Attorney at Law, U S WEST Communications, Inc., 1801 California Street, Room 5100, Denver, CO 80202, appearing on behalf of **U S WEST Communications, Inc.**

Allen C. Hoberg, Administrative Law Judge and Director, Office of Administrative Hearings, 1707 North 9th Street - Lower Level, Bismarck, ND 58501-1882, appearing as procedural hearing officer.

Preliminary Statement

On August 1, 1999, substantial changes to North Dakota's telecommunications laws took effect due to the enactment of Senate Bill 2420. One new subsection allows U S WEST Communications, Inc. (U S WEST) to raise the price of its local residential service to \$15.50 after July 31, 1999 and to \$18.00 after June 30, 2000. The law requires U S WEST to use the increased revenues from the residential price increase to reduce the price of access and intraLATA toll in a revenue neutral and competitively neutral manner.

On July 30, 1999 U S WEST filed revisions to its price schedule, Case No. PU-314-99-119, to increase the price of local residential service as allowed under N.D.C.C. §49-21-01.3(5). Also On July 30, 1999, U S WEST filed revisions to its intraLATA toll price schedules, Case No. PU-314-99-419 as well as its access service price schedules, Case No. PU-314-99-420, together with a report supporting the revisions as required by law.

On September 10, 1999, Sprint Corporation (Sprint) filed a petition to intervene, which was granted by the Commission on September 22nd. Sprint did not appear at the hearing.

On November 3, 1999, the Commission issued a Notice of Hearing, scheduling a public hearing in Case Nos. PU-314-99-419 and PU-314-99-420 to begin February 15, 2000. On December 29, 1999, The Commission continued the hearing to a date yet to be determined.

On November 8, 1999 AT&T Communications of the Midwest, Inc. (AT&T) filed a petition to intervene, which was granted by the Commission on November 17th. AT&T subsequently withdrew from the proceedings on May 26, 2000.

On March 15, 2000, the Commission issued a Notice of Hearing, scheduling a public hearing on these three cases to begin June 6, 2000. The Notice identified the following issues to be considered in Case No. PU-314-99-419 and Case No. PU-314-99-420:

1. Whether U S WEST has reasonably demonstrated that it has reduced the prices of intrastate intraLATA message toll service and intrastate switched access, as such prices existed on January 1, 1999, in aggregate by an annual amount not less than the annual revenue increase resulting from the service price increases;
2. Whether U S WEST has reasonably demonstrated that it has reduced the prices of intrastate intraLATA message toll service and intrastate switched access by similar percentages as to be accomplished in a competitively neutral manner.

On May 9, 2000, the Commission's consultant filed a Staff Report setting forth staff's findings and recommendations concerning the embedded cost study filed by U S WEST. On May 30, 2000 U S WEST filed testimony in response to the staff report.

On June 7, 2000, a public hearing was held on Case No. PU-314-99-419 and Case No. PU-314-99-420 at the conclusion of the hearing on Case No. PU-314-99-119, in the Commission hearing room at Bismarck.

Findings of Fact

1. U S WEST increased the price of residential local exchange service in North Dakota to \$15.50 per month effective August 20, 1999. The estimated increase in annual revenue from this price change is \$6,266,895.00. Also effective August 20, 1999, U S WEST reduced the prices of intrastate intraLATA message toll service and intrastate switched access service, in aggregate, by an estimated annual amount of \$6,726,663.00.
2. U S WEST estimated the percentage reductions in toll and switched access prices to be 23.2 percent and 24.5 percent respectively. Based upon these estimates, U S WEST reduced its toll and access charges by a combined annual amount of \$458,786.00 beyond that required by SB 2420.
3. In conjunction with increases in the price of its residential local exchange services, U S WEST reduced the prices of its 1FC/LN and RIF/AGE services. U S WEST intended to eliminate these classes of service and transition the customers of these services to the residential rate class. Prior to the rebalancing, two of the three 1FC rate groups were above the \$18.00 rate that U S WEST now charges for residential services. Those two rate groups were lowered to \$18.00. The rate for the third rate group was not changed in the first phase but was raised to \$18.00 in the second phase of the company's rebalancing. In its report, U S WEST deducted the revenue decreases resulting from the price reductions for the two 1FC rate groups from the overall revenue increase generated by the rate increases to residential local exchange service.
4. Staff argued that the revenues should not be offset, but rather that the annual revenue increase should only include the additional revenue from the increased price of residential service. U S WEST agrees with staff that the offsetting of these revenue reductions was an error in the calculation of the annual revenue impact of U S WEST's local exchange price changes for purposes of the report required under SB 2420. The amount of this offset for the price reductions was \$40,949.00.
4. The residential price filings resulted in the following specific price changes. The fixed monthly rate for single party residential service was increased statewide to \$15.50, two and four party residential service rates were increased statewide to \$13.00, the fixed monthly charge for residential measured service was increased statewide to \$11.00, the fixed monthly charge for measured residence/business combination service was lowered statewide to \$13, and the residence/business combination rate was lowered statewide to \$18.00.
5. Contemporaneously with reductions in the prices of its toll and switched access services, U S WEST restructured and simplified its toll and switched access prices to make them more consistent with current industry practice and customer demand. U S WEST eliminated the mileage bands from its message toll prices. It restructured its intrastate switched access prices consistent with the rate structure for interstate

switched access charges by changing the price for local transport from a usage sensitive charge to a fixed charge.

6. The access filing lowered the average per minute rate for switched access from \$.076443 to \$.059384. The filing also included decreases in some non-recurring charges. The access rates were also redesigned. These price changes would reduce annual revenue by \$4,289,717, of which \$385,230 was related to the reductions in the non-recurring charges.

7. The toll filing lowered the average per minute rate for intraLATA toll from \$.2205 to \$.1694. The toll rates were also redesigned. These price changes would reduce annual revenue by \$2,436,946.

8. Specifically, U S WEST's calculations of its new intraLATA toll rates include (1) an assumed loss of toll traffic due to the implementation of 1+ equal access in North Dakota, (2) redesigned toll rates, and (3) the deletion and addition of various toll rate programs.

9. Specifically, U S WEST's calculations of its new intrastate switched access rates include (1) an assumed gain in access traffic associated with the implementation of 1+ equal access in North Dakota, (2) an assumed change in access traffic due to U S WEST's change in carrier of last resort status, and (3) redesigned intrastate switched access rates.

10. Mr. Smith testified that based upon average line counts for the months August 1999 through December 1999, U S WEST would have received more annual revenue than the amount estimated by U S WEST. U S WEST based its estimates upon the number of access lines in February 1999. Mr. Smith recommended in his testimony that the Commission require U S WEST to make further reductions in its toll and access revenues in the amount of \$70,905.00 to reflect the offsets for the local service price reductions as well as additional revenues from the increased number of access lines.

11. U S WEST states that the estimates of annual revenue impact were prepared by U S WEST from the most recent information available at the time the estimates were prepared in connection with implementation of the price changes.

12. U S WEST argues that further reductions to reflect the difference between estimated and actual revenues are inappropriate if the estimates were prepared in a reasonable manner based upon the most recent information available at the time the reductions were planned.

13. U S WEST's 1999 toll and access reductions already exceeded its estimated revenue increases by \$458,786.00.

14. Even with the adjustments for the offsetting price reductions in other services, and the use of access line counts from September through December 1999, U S

WEST's toll and access price reductions exceeded the revenue increases from local exchange price increases.

15. U S WEST has reasonably demonstrated that it has reduced the prices of intrastate intraLATA message toll service and intrastate switched access, as such prices existed on January 1, 1999, in aggregate by an annual amount not less than the annual revenue increase resulting from the local service price changes filed on July 30, 1999 to be effective August 20, 1999.

16. U S WEST has reasonably demonstrated that it has reduced the prices of intrastate intraLATA message toll service and intrastate switched access by similar percentages in a competitively neutral manner.

Conclusions of Law

1. The Commission has jurisdiction over the parties to and the subject matter of these proceedings.

2. U S WEST has reasonably demonstrated that it has reduced the prices of intrastate intraLATA message toll service and intrastate switched access, as such prices existed on January 1, 1999, in aggregate by an annual amount not less than the annual revenue increase resulting from the service price increases filed on July 30, 1999 to be effective August 20, 1999.

3. U S WEST has reasonably demonstrated that it has reduced the prices of intrastate intraLATA message toll service and intrastate switched access by similar percentages as to be accomplished in a competitively neutral manner.

Order

The Commission Orders that Case Nos. PU-314-99-419 and PU-314-99-420 be closed.

PUBLIC SERVICE COMMISSION

Susan E. Wefald
Commissioner

Bruce Hagen
President

Leo M. Reinbold
Commissioner