

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
BY U S WEST COMMUNICATIONS, INC.,)
TO PROVIDE GUARANTEED RATE)
CALLING CONNECTION SERVICE ON)
AN INDIVIDUAL CONTRACT BASIS)
PURSUANT TO NMSA 1978, § 63-9A-9)**

Utility Case No. 3343

FINAL ORDER ON VERIFIED APPLICATION

THIS MATTER comes before the New Mexico Public Regulation Commission (“Commission”) upon the Verified Application filed by U S WEST Communications, Inc. (“U S WEST”) on April 19, 2000 to provide Guaranteed Rate Calling Connection service to Albertson, Inc. pursuant to an individual contract. Having considered the record in this case, and otherwise being fully advised, the Commission **FINDS** and **CONCLUDES**:

1. U S WEST is a Colorado corporation which provides telecommunications services in areas throughout New Mexico, is a certificated provider of public telecommunications services, as defined in NMSA 1978, Section 63-9A-3 (1985), and is a telephone company as defined in N.M. Const. Art. XI, Sec. 2 and NMSA 1978, Section 63-9A-3.
2. The Commission has jurisdiction over U S WEST and the subject matter of this docket pursuant to N.M. Const. Art. XI, Sec. 2, the New Mexico Telecommunications Act, NMSA 1978, Section 63-9A-1 et seq., and the Public Regulation Commission Act NMSA 1978, Section 8-8-1 et seq.
3. The Verified Application was filed pursuant to NMSA 1978, Section 63-9A-9, and Section 15 of the Rules and Regulations for Competitive Telecommunications

Service of the New Mexico State Corporation Commission, issued in Docket No. 1099 on June 25, 1985.

4. On April 26, 2000, the Commission issued a procedural order in this docket establishing up to sixty days to review the Verified Application pursuant to NMSA 1978, Section 63-9A-9(C). In that Order, the Commission provided that the sixty-day review period would commence at the time U S WEST files a complete Verified Application.

5. On May 1, 2000, U S WEST filed a Motion for Protective Order.

6. On May 5, 2000, the Commission issued a Protective Order.

7. On May 9, 2000, U S WEST filed proprietary documents subject to the protective order entered in this case.

8. NMSA 1978, Section 63-9A-9 governs the regulation of individual contracts and provides in pertinent part:

(A) In accordance with the provisions of this section, the commission shall regulate the rates, charges and service conditions for individual contracts for public telecommunications services in a manner which facilitates effective competition and shall authorize the provision of all or any portion of a public telecommunications service under stated or negotiated terms to any person or entity that has acquired or is preparing to acquire, through construction, lease or any other form of acquisition, similar public telecommunications services from an alternate source.

(B) At any time, the provider of public telecommunications services may file a verified application with the commission for authorization to provide a public telecommunications service on an individual contract basis. The application shall describe the telecommunications services to be offered, the party to be served and the parties offering the service, together with such other information and in such form as the commission may prescribe. Such additional information shall be reasonably related to the existence of a competitive offer. A determination of effective competition pursuant to Section 63-9A-8

NMSA 1978 shall not be necessary to file an application or to have an application granted by the commission pursuant to this section.

- (C) The commission shall approve or deny any such application within ten days or such other period as shall be established by the commission, not to exceed sixty days, giving consideration to the requirements of any contract negotiations. If the commission has not acted on any application within the time period established, the application shall be deemed granted. The commission shall deny the application only upon a finding that the application fails to set forth prescribed information or that the subject or comparable services are not being offered to the customer by parties other than the applicant or that the contract fails to cover the costs of the service.

9. In addition, Section 15 of the Rules and Regulations for Competitive Telecommunications Services in Docket No. 1099, which sets forth certain information that must be included as part of a Verified Application, applies to individual contract cases.

10. The Verified Application states in pertinent part that U S WEST is requesting approval of a contract with Albertson, Inc. for an intraLATA intrastate toll service known as Guaranteed Rate Calling Connection to be in effect for thirty-six (36) months from the first installation date of service. Five proprietary and confidential exhibits are attached to the Verified Application.

11. The Verified Application summarizes the exhibits as follows: Exhibit 1 contains an affidavit reflecting the competitive environment involved in the provision of the Guaranteed Rate Calling Connection toll service, Exhibit 2 contains a copy of the Agreement between Albertson, Inc. and U S WEST, Exhibit 3 explains the revenue impact of the proposed contract, and Exhibit 5 contains cost study information.

12. According to U S WEST, the proprietary exhibits demonstrate that the proposed contract prices are above costs, that the contract price, terms and conditions are

otherwise just, reasonable, and lawful, and that there are other competitive entities offering similar services to Albertson, Inc.

13. On May 18, 2000, Staff of the Utility Division (“Staff”) of the Commission filed the Affidavit of José R. Martínez, II (“Staff Affidavit”). The Staff Affidavit in pertinent part states that after reviewing the Verified Application pursuant to NMSA 1978, Section 63-9A-9 and the Rules and Regulations for Competitive Telecommunications Services in Docket No. 1099, Staff concludes that the rates, charges and service conditions for the individual contract facilitate effective competition, that the proposed contract prices are above costs, and that the rates, terms and conditions are in compliance with applicable statutes and rules. The Staff Affidavit further notes that the service offered under the contract is an intraLATA, intrastate toll service under the jurisdiction of the Commission.

14. In accordance with the requirements of NMSA 1978 Section 63-9A-9, and Section 15 of the Rules and Regulations for Competitive Telecommunications Service of the New Mexico State Corporation Commission, Docket No. 1099, the Verified Application should be approved.

IT IS THEREFORE ORDERED:

- A. The Verified Application is **APPROVED**.
- B. The proposed contract and the rates set forth therein shall become effective no sooner than the date of this Order.
- C. This docket is closed.

Issued under the seal of the Commission at Santa Fe, New Mexico, this 6th
day of June, 2000.

NEW MEXICO PUBLIC REGULATION COMMISSION

BILL POPE, CHAIRMAN

HERB H. HUGHES, VICE-CHAIRMAN

JEROME D. BLOCK, COMMISSIONER

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