MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

FROM:WELDON STUTZMAN

DATE:AUGUST 22, 1996

RE:WITHDRAWAL OF CENTREX PLUS SERVICES BY U S WEST COMMUNICATIONS; FCC ORDER

The First Report and Order regarding local competition issued by the Federal Communications Commission on August 8, 1996, contains a short discussion of the withdrawal of services by an incumbent LEC.  In the preceding Notice of Proposed Rulemaking, the FCC had invited comment on whether an incumbent LEC can avoid making a service available at wholesale rates by ceasing to offer the service on a retail basis.  In its Order, the FCC expressed concern that the withdrawal of services by an incumbent LEC may have anti-competitive effects where resellers are purchasing such services for resale in competition with the LEC.  To ensure that grandfathered customers are not denied the benefits of competition, the FCC concluded that “when an incumbent LEC grandfathers its own customers of a withdrawn service, such grandfathering should also extend to reseller end users.”  However, the FCC declined to issue general rules addressing the withdrawal of a service where no reseller is providing the service to customers.  The FCC concluded that that is best left to state commissions, noting that many state commissions have rules regarding the withdrawal of retail services and experience regulating such matters.  The FCC only stated that “states must ensure that procedural mechanisms exist for processing complaints regarding incumbent LEC withdrawals of services.”

The withdrawal by U S WEST of Centrex Plus does not affect customers of resellers because it is not currently purchased by resellers.  Thus, it is the situation in which the FCC declined to provide general rules, other than to ask states to ensure procedural mechanisms exist to process complaints.  The Commission does have “procedural mechanisms” to process complaints regarding the withdrawal of services by U S WEST.  See Commission’s Rules of Procedure 34, 54, 57.

Weldon Stutzman

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