(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE  PETITION OF AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC. FOR INTRALATA EQUAL ACCESS AND CARRIER PRESUBSCRIPTION IN THE SERVING TERRITORY OF U S WEST COMMUNICATIONS, INC. | )  )  )  )  )  )  ) | CASE NO. GNR-T-94-5  ORDER NO. 27965 |

The Commission issued Order No. 27837 in this case on December 18, 1998, and MCI Telecommunications Corporation (MCI) subsequently filed a Petition to Review or Clarify the Order.  The Order directs U S WEST Communications, Inc. (U S WEST) to file “on or before June 1, 1999, a plan to implement intraLATA dialing parity in its Idaho service area.”  Order No. 27837, p. 9.  By its Petition to Review or Clarify, MCI asked the Commission to move up the date by which U S WEST must file its implementation plan.  We decline to review or clarify Order No. 27837.

As explained in the previous Order, toll dialing parity, sometimes called 1-plus equal access or carrier presubscription, “allows a customer to preselect a carrier for in-state, intraLATA toll calls and then access its chosen carrier simply by dialing 1-plus the telephone number.”  Order No. 27837, p. 1.  The Commission in Order No. 27837 concluded, although federal statutes do not mandate in-state toll dialing parity by a specific date, that the “interest of consumers overwhelmingly weighs in favor of requiring U S WEST to expeditiously implement in-state, intraLATA toll dialing parity in its service territory.”  Order No. 27837, p. 8-9.  The Commission directed U S WEST to file a plan to implement toll dialing parity within Idaho “as expeditiously as possible.”  Order No. 27837, p. 9.

In its Petition MCI, noting the Commission’s public policy findings, argued that “granting U S WEST until June 1, 1999 to even file an implementation plan appears inconsistent with the conclusion that dialing parity is presently in the public interest and that it should be implemented expeditiously.”  Petition to Review or Clarify, p. 2.  MCI asked the Commission to clarify its Order to require U S WEST “to file an implementation as soon as possible” and to “establish a date by which dialing parity should be implemented.”  Id.  MCI was joined in its request in responsive pleadings filed by Sprint Communications and AT&T of the Mountain States, Inc.  U S WEST stated its opposition to MCI’s Motion in its Response to Petition to Review or Clarify.

After MCI’s Petition was filed, the Supreme Court issued a decision in AT&T Corp. v. Iowa Utilities Board, \_\_\_\_ U.S. \_\_\_\_ (No. 97-826, issued January 25, 1999).  The Court’s decision in part reversed an appellate court’s decision invalidating Federal Communications Commission rules on intrastate dialing parity.  The FCC rules had required implementation of intrastate dialing parity by February 8, 1999.  Because the Commission was aware the Iowa Utilities Board decision affects the authority of state commissions regarding intrastate dialing parity, the parties were provided an opportunity to discuss the Supreme Court decision at the oral argument on MCI’s Motion.

We conclude that it is not necessary to clarify Order No. 27837 to move up the date by which U S WEST must file its implementation plan.  The Commission provided adequate time for U S WEST to prepare its plan so that actual implementation can occur without delay once the plan is filed.  U S WEST correctly perceives that the Commission, by requiring implementation as expeditiously as possible,

intended to convey the Commission’s expectations as to the characteristics of the plan U S WEST is ordered to file on or before the deadline.  In other words, U S WEST is to file a plan which will permit it to implement toll dialing parity ‘as expeditiously as possible.’

U S WEST Response, p. 4.  The Commission expects the plan filed by U S WEST to provide for rapid implementation.  Accordingly, the Commission concludes that it is not necessary to alter the schedule provided in Order No. 27837.

Nor does the Supreme Court decision issued January 25, 1999, in AT&T Corp. v. Iowa Utilities Board require a clarification to Order No. 27837.  The Supreme Court reversed a lower court decision that invalidated rules promulgated by the FCC—rules that had required toll dialing parity to be implemented in all states by February 8, 1999.  With the reversal of the court decision invalidating those rules, the FCC undoubtedly will revisit its rules, most probably resulting in a new deadline for intrastate toll dialing parity to be implemented.  If the FCC moves quickly and establishes a schedule that precedes this Commission’s, U S WEST will be required to adhere to the FCC’s scheduled.  If not, the Commission expects U S WEST to file its plan pursuant to this Commission’s Order, and implement intrastate, intraLATA toll dialing parity without delay.

O R D E R

IT IS HEREBY ORDERED that the Petition of MCI to review or clarify Order No. 27837 is denied.

THIS IS AN INTERLOCUTORY ORDER.  Any person interested in this Order may file a petition for review within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order.  A petition to review may request that the Commission: (1) rescind, clarify, alter, amend; (2) stay; or (3) finalize this Interlocutory Order. After any person has petitioned for review, any other person may file a cross-petition within seven (7) days.  See  Rules 321, 322, 323.03, 324, 325 (IDAPA 31.01.01.321 -325.)

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of March 1999.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

PAUL KJELLANDER, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

March 15, 1999