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

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE PETITION FROM RESIDENTS OF SWAN VALLEY, IRWIN AND PALISADES REQUEST­ING EXTENDED AREA SERVICE (EAS) TO ALL OF BONNEVILLE COUNTY, AND THE TOWNS OF RIRIE, VICTOR AND DRIGGS. | )  )  )  )  )  ) | CASE NOS.  GNR-T-96-6                       GNR-T-97-3                       GNR-T-97-8 |
|  | ) |  |

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE PETITION FROM RESIDENTS OF GRAY’S LAKE, WAYAN AND FREEDOM REQUESTING INCLUSION IN THE U S WEST COMMUNICATIONS EASTERN IDAHO CALLING REGION.    IN THE MATTER OF THE PETITION FROM RESIDENTS OF TETON COUNTY REQUEST­ING EXTENDED AREA SERVICE (EAS) TO THE GREATER IDAHO FALLS AREA | )  )  )  )  )  )  )  )  )  )  ) | PROPOSED ORDER |

In these cases customers have petitioned the Commission for toll-free, extended area service (EAS) from their exchanges to other nearby exchanges or to U S WEST Communications’ eastern Idaho local calling region. In Case No. GNR-T-96-6, residents of Swan Valley requested EAS calling to the communities of Idaho Falls, Ririe, Victor and Driggs.  In Case No. GNR-T-97-3 customers living in the Gray’s Lake, Wayan, and Freedom, Idaho areas petitioned to be included in the U S WEST eastern calling area.  In Case No. GNR-T-97-8 customers located in or near the communities of Victor, Driggs, Tetonia and Felt petitioned for EAS to the greater Idaho Falls area. Silver Star Telephone Company provides local exchange service to the communities of Swan Valley, Irwin, Palisades, Gray’s Lake, Wayan, and Freedom, Idaho.  U S WEST provides local exchange service to many communities in eastern Idaho(footnote: 1)and Teton Telecom Company provides local exchange service to the communities of Victor, Driggs, Tetonia and Felt.  The petitioning customers primarily reside in three exchanges: Driggs, Irwin and Wayan.  Some of the requests contained in the three petitions overlap.

In each of the three cases, the petitioners stated that there is a strong community-of-interest among the three exchanges and other exchanges or areas they wish to call toll-free.  The petitions state that many customers call the requested areas for work, medical, government, school, and community needs.  After public hearings, the Commission Staff, Silver Star and Teton Telecom filed a Stipulation and Settlement Agreement resolving their differences on February 12, 1998.  Based upon our review of the original Petitions, the testimony and exhibits, the Stipulation and Settlement Agreement, we find that the Petitions seeking EAS should be granted as outlined in greater detail below.

PROCEDURAL HISTORY

In Order No. 27150 issued September 24, 1997, the Commission consolidated these three cases and scheduled public hearings.  The Commission convened public hearings on November 6 and 18-19, 1997 in Soda Springs, Driggs, and Swan Valley.  The purpose of the public hearings was to receive the technical evidence from the parties and comments from the members of the public.

A.  The Parties

The following parties made appearances at the hearings:

|  |  |
| --- | --- |
| U S WEST Communications:  Silver Star and Teton:  Commission Staff:  Petitioner (Case No. GNR-T-96-6):  Petitioner (Case No. GNR-T-97-3):  Petitioner (Case No. GNR-T-97-8): | Mary Hobson, Esq.  Peter Butler, Esq.  Conley Ward, Esq.  Allen Hoopes, Vice-president  Donald L. Howell, II  Deputy Attorney General  Juanita Bitton  Connie Christensen  Roy C. Moulton, Esq. |

Prefiled testimony and exhibits were submitted by the Staff, Silver Star, Teton, and U S WEST.  Except for U S WEST, the parties filed separate testimony and exhibits for the two Silver Star cases (GNR-T-96-6 and GNR-T-97-3) and the Teton case (GNR-T-97-8).  More than 50 customers testified at our public hearings; nearly all supporting the requests for EAS.

ISSUES AND DISCUSSION

A.  Community-of-Interest

At our technical hearings, all of the parties conceded that there was a community-of-interest to support the EAS requests.  Teton, Tr. at 45, 62, 66; Silver Star, Tr. at 103, 158.  These observations were also supported by the comments from many public witnesses. U S WEST witness John Souba testified that if the Commission finds that there is a community-of-interest among the requested exchanges, the Commission should grant two-way EAS calling to the entire U S WEST eastern Idaho calling region.  Tr. at 120.  As outlined in great detail in Staff witness Hall’s testimony, many of the community-of-interest standards used to evaluate EAS requests are met in these cases.  Teton, Tr. at 59-66; Silver Star, Tr. at 152-158.

Commission Findings:  Given the agreement among the parties and considering the testimony at our public hearing, we find sufficient evidence to meet the community-of-interest standards set out in Order No. 26311.  As Staff witness Carolee Hall testified, the calling data distribution generally supported granting EAS from the three petitioning exchanges to other exchanges.  Tr. at 153-54.  “The community of interest standards support the granting of EAS to some of the requested exchanges.”  Tr. at 158.  We also agree with U S WEST that the EAS routes in these cases should be two-way and include all of the exchanges within the U S WEST eastern Idaho calling region.

B.  The Settlement Agreement

After notice to all parties, a settlement conference was convened on February 4, 1998.  On February 12, 1998, the Staff, Silver Star and Teton filed a Joint Motion requesting the Commission adopt a Stipulation and Settlement Agreement.  The parties to the Settlement Agreement advised the Commission that they had resolved all of the disputed issues among themselves.  The parties further requested in their Joint Motion that the Commission issue a proposed order adopting the Settlement Agreement and tentatively decide all remaining issues in the cases.  U S WEST was not a party to the Settlement.  The Stipulation and Settlement resolved the following issues.

1.Stimulation Factor.  Initially, Staff witness Hall proposed that the Commission utilize a 200% stimulation factor to calculate the shift in calling traffic and the necessary facility improvements.  Silver Star, Tr. at 164; Teton, Tr. at 69-70.  It is generally assumed that when toll routes are converted to free local calling routes, the number of calls over a given route will increase, i.e., there will be call stimulation.  The companies’ witnesses utilized a 400% stimulation factor.  Teton, Tr. at 64, 74-76; Silver Star, Exhibits 6-10.  Citing his experience with other small rural exchanges, Silver Star witness Ron McCue argued that the 400% stimulation was the more appropriate factor to use. In the Settlement, the parties agreed that the appropriate stimulation factor should be at a “3 times” (3x) rate.  Settlement at 2.

2.Revenue Growth Potential.  In the Teton GNR-T-97-8 case, Company witness Ray Hendershot argued that if the Commission grants EAS, “it [should] compensate Teton for the lost revenue growth that it otherwise would have received.”  Tr. at 16.  When Teton purchased the Driggs exchange with the Victor and Tetonia wire centers from U S WEST, Teton “contemplated” that access charges and billing and collection revenues would grow “7 percent per year during the three years the [rate freeze] commitment was in place.”  Id.  Consequently, the Company included approximately $26,250 in “lost revenue growth in its EAS revenue requirement.”  Teton Exhibit 1.

Staff witness Hall opposed the inclusion of this revenue attributable to the lost growth potential.  She argued that including such future revenue is speculative at best and argued that it was contrary to the public interest “to grant compensation for revenue that the Company has never received.”  Tr. at 73.  Following the settlement conference, Teton agreed with the Staff and withdrew its request to include the “lost growth potential” in its revenue requirement.  Settlement at 2-3.

3.Idaho USF Disbursements.  Silver Star witness Kelly and Teton witness Hendershot both offered three rate proposals to recover the costs of implementing EAS.  Under their first proposal, they recommended that the Commission set uniform rates for residential and business service at $17.51 per month.  Silver Star Exhibit 2A (Revised) and Teton Exhibit 4A.  Under their second rate proposal, residential rates would be set at $17.51 per month and the business rate would be set at $36.57 per month.  Silver Star Exhibit 2B (Revised) and Teton Exhibit 4B.  In Teton’s third rate proposal, Hendershot recommended that monthly residential rates be set at $20.38 and monthly business rates be set at $26.48.  Exhibit 2C (Revised). Silver Star witness Kelly’s third proposal was to set monthly residential rates at $17.51 and business rates at $26.27.  Exhibit 4C.

If the Commission were to adopt Silver Star’s local rate proposals, Kelly calculated these proposed rates would not recover the entire cost of implementing EAS.  He estimated that there would be a residual annual revenue requirement ranging from approximately$154,200 to $179,000.  Exhibits 4A, B, C.  He proposed that this residual revenue requirement be obtained by increasing Silver Star’s disbursements from the Idaho Universal Service Fund (USF).  Id.  Likewise, adoption of Teton’s rates as proposed by its witness Hendershot would leave a residual revenue requirement ranging from $61,500 to approximately $200,000.  Exhibits 2A, B, C (Revised).  He too suggested that this residual revenue requirement be met by increasing disbursements from the Idaho USF.  Id.

Staff witness Hall proposed increasing monthly rates for Teton residential and business customers by $6.00 to $17.25 and $32.48, respectively.  Exhibit No. 103.  She opposed the companies’ first rate option and argued that it was inappropriate to set business rates identical to residential rates.  Tr. at 75.  Turning to Silver Star rates, she offered two rate proposals for the Commission’s consideration.  First, she recommended that the Commission adopt Silver Star’s second option to increase residential rates to $17.51 per month and business rates to $36.57 per month.  Tr. at 177.  Her alternative recommendation was to increase business rates to $36.57 per month and also increase residential rates for Irwin by $6.00 per month and increase residential rates of Wayan customers by $7.00 per month.  Even with these increases, she calculated that there would be a residual annual revenue requirement associated with granting EAS of $63,656.  Tr. at 168; Exhibit No. 105.

Following the settlement conference, the parties agreed that neither Silver Star nor Teton will seek any increased distribution from the Idaho USF unless the Commission orders an alteration in Silver Star or Teton’s existing access charges.(footnote: 2)  Given the agreement not to seek additional disbursements from the Idaho USF, the parties subsequently agreed and proposed new local rates as discussed in greater detail below.

4.Residential and Business Rates.  As set out above, the parties offered various rate design alternatives for the Commission to consider.  Given the parties’ agreement not to seek additional Idaho USF disbursements, the companies must look to other revenue sources to defray the substantial cost of implementing EAS.  Consequently, the parties recommended new local rates for our consideration.  The parties proposed that one-party local exchange service rates (including EAS costs) be set at $24.10 per month for residential service and $42.00 for business service.  Monthly rural zone charges of $3.19, with a $1.60 credit, currently imposed by Teton will also be eliminated.  Settlement at 3.

The parties asserted that adoption of these rates will eliminate the need to seek additional USF disbursements, except as noted above.  In addition, Silver Star and Teton withdrew their request for additional revenue in these EAS cases.  The companies declared that they will not seek any rate relief until calendar year 1998 financial results are available—Spring 1999 at the earliest.

5.Measured Service.  Given the rate increases proposed in the Settlement, the parties agreed that Teton will offer its residential customers a measured service option to mitigate the projected local rate increase.  Teton residential customers will be offered measured service at a rate of $16.00 per month to include 90 free minutes of usage.  All calls in excess of the 90 free minutes will be billed at a rate of $.03 per minute.  The parties recommended that measured service be offered only for residential customers and that the mixing or combining of flat and measured service at a single customer premise be prohibited.  Settlement at 3.

6.Implementation.  Finally, Silver Star and Teton declared that they will implement EAS for their local exchange customers to the entire U S WEST eastern Idaho local calling region “as soon as reasonably practical following the Commission’s entry of a final order approving this Stipulation and Settlement.”  Settlement at 2.  EAS will also be provided between any exchanges connected with the calling region, e.g., between Wayan/Irwin and Driggs.  Id.  At the hearings, the companies’ witness McCue testified that they are prepared to implement EAS calling within 45 days.  Silver Star, Tr. at 64; Teton, Tr. at 39.

Commission Findings:  We begin our examination of the Stipulation and Settlement entered into by the Staff, Silver Star and Teton by observing that we are not bound by the parties’ settlement.  However, after reviewing the parties’ testimony, the terms of the settlement, the issues resolved and the public testimony in general, we find the settlement of the issues to be fair and reasonable, and in the public interest.  IDAPA 31.01.01.276.  As noted above, both the Staff and the companies conceded issues to one another.

Of particular concern to us in the testimony filed in this case was the apparent reliance on the existing Idaho USF to fund the residual EAS costs.  Given the changes occurring within the industry and the pending legislation that will create a new state USF mechanism, we find that increasing reliance upon the existing USF funding would be ill-placed.  We believe that it is prudent to minimize or restrict actions which would result in increased USF distributions, and accompanying, increased USF surcharges.  This is especially so when these cases are the first of more than 20 EAS cases still pending.

We recognize that restricting increased distributions from the Idaho USF results in the need in these particular cases to increase rates.  However, as was clearly evident at both our technical and public hearings, Silver Star and Teton customers requesting inclusion in the U S WEST local calling area exhibited a strong willingness to pay for this expanded local calling.  The increase in residential rates proposed in the Stipulation and Settlement for Silver Star customers is $9.10 while the increase for Teton residential customers is $12.85.(footnote: 3)  Several witnesses estimated saving many times that amount in toll charges. Granting these EAS petitions allows Silver Star and Teton customers a greatly expanded local calling area and the ability to call toll-free to more than 100,000 customers in eastern Idaho.

Although we find that the proposed business and residential rates are reasonable, we are also pleased to see that the parties recognized that these local rate increases may be too high for some customers.  We find that the implementation of measured service for Teton customers will help mitigate the rate increases.(footnote: 4)  We find that upon implementation of EAS and the new rates, Teton should waive its nonrecurring charge for a period of 60 days, for customers to switch from flat rate service to measured service and vice versa.  The Staff and Silver Star should monitor subscriber levels in the Wayan and Irwin exchanges and advise us if customers appear to be discontinuing telephone service.

In summary we grant the Joint Motion.  We now turn to the remaining issues in this case.

C. Other Issues

1.EAS to Freedom, Idaho.  The petition in Case No. GNR-T-97-3 also requested that customers in Freedom, Idaho be included in the U S WEST local calling region.  The local exchange company serving Freedom, Silver Star, did not support this request.  Silver Star witness McCue testified that these customers already have EAS to Afton and Alpine, Wyoming.  Tr. at 81.  In addition, these customers are actually located in the Wyoming LATA.  Mr. McCue was concerned that granting them EAS to the eastern Idaho calling area might necessitate eliminating their local calling to Afton and Alpine, Wyoming.  This would result in “making it long distance to call across the street or into Afton where their school and hospitals are.”  Tr. at 82.

Commission Findings:  Based upon Mr. McCue’s testimony and the lack of public support, we find it reasonable to deny the EAS request of customers located in Freedom, Idaho.  As indicated above, these customers have EAS with other nearby communities in Wyoming which constitute their existing community-of-interest.

2.Recovery of U S WEST Lost Toll.  U S WEST witness Souba testified that U S WEST should be compensated for its lost toll revenue when the Commission grants EAS.  He proposed that U S WEST would net the difference between access charges it pays to local exchange companies where EAS is granted and U S WEST’s toll revenues.  “If the toll revenues exceed the access charges then U S WEST should be allowed to recover the net revenue loss in rates to its customers through adjustments to its ‘in-region’ local service rates.”  Tr. at 128.  No other parties supported U S WEST’s request.

Commission Findings:  We decline U S WEST’s request to compensate it for its lost toll revenue.  As we have previously stated,

we believe that the appropriate level of compensation . . . when converting a toll route to a local EAS route . . . is to allow the effected LEC to recover the reasonable and prudent cost of implementing EAS. . . . As we have stated in prior orders, we believe that it is not appropriate to allow U S WEST to recover its lost toll revenue because that is a competitive service.  Order Nos. 25826 at 8; 25923 at 5.

EAS Order No. 26311 at 11.

As indicated above and consistent with our revenue sharing Order No. 25826, we have permitted and will continue to permit U S WEST to use available revenue sharing monies to defray the cost of installing facilities to implement EAS.  However, we continue to adhere to our previous position that it is unreasonable to allow U S WEST to recover lost toll revenues.

We believe that there are several significant and distinguishing reasons for this.  First, as we noted in Order No. 25826, one of the primary problems with the revenue sharing plan was that it provided for the payment of lost toll revenue to U S WEST, but other toll carriers were not allowed to recover similar revenues.  At the time that we found this practice to be inequitable and anti-competitive.  Second, although U S WEST has indicated what its toll revenues are on the routes in these cases, it has not developed a sufficient record concerning the amount of access charges it would “set off” against its toll revenue.  Finally, U S WEST’s toll services are subject to our Title 62 jurisdiction and are not rate regulated by this Commission.   We continue to believe that the appropriate measure of compensation should be to allow the LECs to recover the costs of implementing EAS.

3.Access Charges.  In her testimony, Staff witness Hall said that Silver Star would need to increase its access rates to 100% of the statewide average to maintain eligibility for USF funding.  She did not recommend that Teton’s access rates be adjusted to the statewide average because all Teton rates had been frozen for three years as a condition of the purchase of the exchange by Teton from U S WEST.  The Stipulation and Settlement did not address this issue.

Commission Findings:  We find that the access rates should not be changed at this time for either company.  We recently approved a substantial reduction in Citizens’ access rates and anticipate more access rate reductions in the future.  Once the other expected changes have been made we will examine the access rates of Silver Star and Teton.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

Silver Star Telephone Company and Teton Telecom are telecommunications corporations subject to our regulatory jurisdiction pursuant to Title 61.  The Commission has jurisdiction over this matter as authorized by Idaho Code § 61-502.

Having fully reviewed the record in this proceeding we find that there is a sufficient community-of-interest to substantiate the granting of the EAS petitions except for the Freedom exchange.

We further find that the Stipulation and Settlement entered into between the Commission Staff, Silver Star and Teton to be fair, just and reasonable and in the public interest.  We further find that the rates and charges necessary to recover the costs of implementing EAS are just and reasonable.

O R D E R

IT IS HEREBY ORDERED that the petitions generally requesting EAS between the effected exchanges and U S WEST’s eastern Idaho calling region are granted.  The request to extend Freedom, Idaho EAS calling to the eastern Idaho EAS is denied.  We also grant the Joint Motion of Staff, Silver Star and Teton.

IT IS FURTHER ORDERED that Silver Star, Teton, and U S WEST take the necessary actions to implement EAS as authorized by this Order and advise us of proposed cut over dates.

IT IS FURTHER ORDERED that Silver Star and Teton notify its customers of the impending changes in an appropriate manner.  Teton shall waive its nonrecurring charge for customers to move from flat rate service to measured service for a period of 60 days following implementation of EAS in the Driggs exchange.

IT IS FURTHER ORDERED that Silver Star and Teton file local service tariffs in conformance with the rates set out in this Order.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case Nos. GNR-T-96-6, GNR-T-97-3 and GNR-T-97-8  may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case Nos. GNR-T-96-6, GNR-T-97-3 and GNR-T-97-8.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of February 1998.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:gnrt966.dh3

**FOOTNOTES**

1:

Customers in the U S WEST eastern Idaho calling region may make toll-free calls to the exchanges of American Falls, Bancroft, Blackfoot, Dayton, Downey, Firth, Franklin, Grace, Idaho Falls, Inkom, Lava Hot Springs, Louisville-Menan, McCammon, Montpelier, Pocatello, Preston, Rexburg, Rigby, Ririe, Riverside, Roberts, Shelley, Soda Springs, and Thatcher.

2:

The parties also contemplated that the companies might seek USF relief if their revenues are substantially reduced by unforeseen changes in federal or state legislation or regulatory actions not related to this docket.

3:

Following the sale of U S WEST’s Driggs exchange to Teton, Teton customers rates were “frozen” as a condition of the sale.  Consequently, these customers have had rates lower than Silver Star customers.

4:

At our decision meeting on February 19, 1998, the parties to the settlement advised us that instituting measured service for Silver Star customers in the Wayan and Irwin exchanges would be cost prohibitive.  They indicated that the costs for equipping the central office switches would be in excess of $80,000.  The parties also noted, and we agree, that proposed changes in the Idaho Telephone Assistance Program, if enacted by the Legislature, will provide a credit to eligible low-income customers in an amount of $10.50 per month.

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

February 27, 1998