BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE PETITIONS REQUESTING EXTENDED AREA SERVICE (EAS) BETWEEN ARBON AND AMERICAN FALLS, ARBON AND POCATELLO, AND BETWEEN ROCKLAND AND AMERICAN FALLS.    IN THE MATTER OF THE PETITIONS FROM RESIDENTS IN BEAR LAKE COUNTY REQUESTING INCLUSION IN THE SOUTHEASTERN IDAHO EXTENDED CALLING AREA OF U S WEST COMMUNICATIONS, INC.    IN THE MATTER OF DIRECT COMMUNICA­TIONS ROCKLAND, INC.’S APPLICATION FOR AUTHORITY TO INCREASE RATES AND DISBURSEMENTS FROM THE IDAHO USF. | )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) | CASE NO.  GNR-T-96-5  CASE NO.  GNR-T-97-7  CASE NO. ROK-T-97-1  PROPOSED ORDER |

In the first two cases referenced above customers have petitioned the Commission for toll-free, extended area service (EAS) from their exchanges to other exchanges included in U S WEST Communications’ eastern Idaho local calling region.  In Case No. GNR-T-96-5, Direct Communications Rockland (“Rockland”) customers in Arbon and Rockland requested EAS calling to U S WEST’s local calling region.  In Case No. GNR-T-97-7 Direct Communications Lakeside (“Lakeside”) customers in the Paris exchange requested EAS calling to the U S WEST local calling region.  Rockland has approximately 310 customers and Lakeside has about 825 customers.  The last case is Rockland’s recently filed general rate case where the Company is seeking an increase to its annual revenues of $121,428.

Evidentiary and public hearings in the EAS cases were held in American Falls and Paris on November 5-6, 1997.  On February 12, 1998, the Staff, Rockland and Lakeside filed a Joint Motion that the Commission adopt a Stipulation and Settlement Agreement resolving the disputed EAS issues and Rockland’s revenue request in the rate case.  After reviewing the technical testimony and exhibits, public comments, and the Stipulation and Settlement, we grant the EAS requests and dispose of the rate case as outlined below.

PROCEDURAL HISTORY

The Commission consolidated the two EAS cases and scheduled public hearings.  The Commission convened public hearings on November 5-6, 1997 in American Falls and Paris.  The purpose of the public hearings was to receive the technical evidence from the parties and comments from members of the public.

A.  The Parties

The following parties made appearances at the hearings or were granted intervention:

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| U S WEST Communications:  Rockland and Lakeside:  Commission Staff:  Petitioner (Case No. GNR-T-96-5):  Petitioner (Case No. GNR-T-97-7): | Mary Hobson, Esq.  Peter Butler, Esq.  Conley Ward, Esq.  Leonard May  Brad M. Purdy  Deputy Attorney General  Hans Hayden  Jackie Kildew  Virginia Ballantyne |

Prefiled testimony and exhibits were submitted by the Staff, Rockland, Lakeside, and U S WEST.  The parties filed separate prefiled testimonies and exhibits for the two cases.  Given the similarity of the technical testimony, the parties asked the Commission to take official notice of the Rockland testimony and incorporate it into the Lakeside case.  The Commission granted the request.  Tr. at 76-77.  More than 65 customers testified at the public hearings, all supporting the requests for EAS.

ISSUES AND DISCUSSION

A.  Community-of-InterestStandards

The companies witness Ray Hendershot originally testified that the costs of providing EAS to the two Rockland exchanges was $100,659 and the cost of the Paris EAS was $97,144.  Rockland, Tr. at 17; Lakeside, Tr. at 93.  These cost estimates were subsequently reduced to $89,215 and $51,891, respectively.  Rockland Exhibit 6; Lakeside Exhibit 1.  He also testified that Rockland was seeking an annual increase in its revenues of $121,428 in its rate case.  Tr. at 13.  Staff witness Birdelle Brown generally agreed with the companies’ methodology to calculate EAS costs except for “stimulation” and “lost growth potential” discussed below.

In each EAS case, the petitioners stated that there is a strong community-of-interest among the three exchanges and the U S WEST exchanges in the eastern Idaho calling region.(footnote: 1)  The petitions state that many customers call the requested areas for work, medical, government, school, and community needs.  Staff witness Birdelle Brown testified that many of the community-of-interest standards used to evaluate EAS requests are met in these cases.  Rockland, Tr. at 100-115; Lakeside, Tr. at 152-158.  She recommended that the two Rockland exchanges be granted EAS to American Falls and Pocatello but recognized that the public testimony may offer better supporting evidence for both petitions.  Rockland, Tr. at 30; Lakeside, Tr. at 180-82.  At the technical hearings, none of the parties opposed the EAS requests from the three exchanges to the U S WEST area.

Testimony from the public witnesses strongly supported the EAS requests.  The Power County Commissioners and the American Falls School District supported the Rockland petition.  Tr. at 97-98.  The Bear Lake Commissioners supported the Lakeside request.  Tr. at 9-10.  Representative Tippets testified at the Paris hearing that customers who contacted him overwhelming supported EAS. Tr. at 13.  Others testified that they would save $40-$70 per month if EAS were granted.  Tr. at 26.   U S WEST witness Ron Lightfoot 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 all the exchanges in the U S WEST calling region.  Tr. at 132.

Commission Findings:  Given the lack of opposition among the parties and considering the testimony at our public hearing, we find sufficient evidence to meet the community-of-interest standards for granting EAS as set out in Order No. 26311.  As Staff witness Brown testified, the community-of-interest evidence overwhelmingly supports granting EAS for the Rockland exchanges.  Tr. at 105; Exhibits 101 and 102.  While the community of interest standards may not be as strong for the Paris exchange, we find sufficient evidence to justify granting EAS.  We also agree with U S WEST that the EAS routes 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, Rockland and Lakeside 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 addressed the following issues.

1.Stimulation Factor.  Initially, Staff witness Brown proposed that the Commission utilize a 200% stimulation factor to calculate the shift in calling traffic and the necessary facility improvements.  Rockland, Tr. at 119; Lakeside, Tr. at 173.  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’ witness utilized a 400% stimulation factor.  Rockland, Tr. at 32; Lakeside, Tr. at 108-09.  Citing his experience with other small rural exchanges, Hendershot argued that the 400% stimulation was the more appropriate factor to use.  Id.  In the Settlement, the parties agreed that the appropriate stimulation factor should be at a “3 times” (3x) rate.  Settlement at 3.

2.Revenue Growth Potential.  In the Lakeside EAS case, Company witness Hendershot argued that if the Commission grants EAS, Lakeside should be compensated for the lost revenue growth attributable to increased calling traffic that it otherwise would have received.  Tr. at 81-82, 91.  When Lakeside purchased the Paris exchange from U S WEST in 1996, Lakeside calculated that access charges and billing and collection revenues would grow 6 percent per year during the three years that rates were frozen.  Consequently, the Company included approximately $10,000 in “lost revenue growth in its EAS revenue requirement.”  Lakeside Exhibit 1.

Staff witness Brown opposed the inclusion of this revenue attributable to the lost growth potential.  She argued that including such future revenue was speculative and the Company could always seek additional revenue.  Tr. at 169, 184-85.  Following the settlement conference, Lakeside agreed with the Staff and withdrew its request to include the “lost growth potential” in its revenue requirement.  Settlement at 3.

3.Idaho USF Disbursements.  The companies’ witness Hendershot offered three rate proposals for Rockland and Lakeside to recover the costs of implementing EAS.  Under his first proposal, he recommended that the Commission set uniform rates for residential and business service at $17.51 per month.  Rockland Exhibit 7A; Lakeside Exhibit 2A.  Under his 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.  Rockland Exhibit 7B; Lakeside Exhibit 2B.  In Rockland’s third rate proposal, Hendershot recommended that monthly residential rates be set at $17.51 and monthly business rates be set at $26.75.  Exhibit 7C. Lakeside’s third proposal was to set monthly residential rates at $18.66 and business rates at $26.27.  Exhibit 2C.

If the Commission were to adopt Rockland’s local rate proposals, Hendershot calculated that 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 $84,000 to $96,400 depending on the option selected.  Exhibits 7A, B, C.  He proposed that this residual revenue requirement be obtained by increasing the disbursements Rockland receives from the Idaho Universal Service Fund (USF).  Id.  Hendershot originally calculated that adoption of the proposed rates for Paris would leave a residual revenue requirement ranging from $30,600 to approximately $52,000.  Lakeside, Tr. at 95-96; Exhibits 2A, B, C (Revised).  This range was subsequently reduced to about $7,000 at hearing.  Exhibit 2A (Revised).  He suggested that any residual revenue requirement be met by increasing disbursements from the Idaho USF.

Staff witness Brown opposed the companies’ first rate option and argued that it was inappropriate to set business rates identical to residential rates.  Tr. at 119-21.  She proposed increasing monthly rates for Rockland residential and business customers to $17.51 and $36.57, respectively (the Company’s second rate rate alternative).  Tr. at 122.  Even with these increases, she calculated that there would be a residual annual revenue requirement associated with granting EAS of $59,865.  Id. at 122.   Turning to Lakeside’s rates, she observed that the existing rate freeze presented a dilemma.  To maintain the “frozen” rates, she recommended that the Commission impose an EAS surcharge of $4.38 per month for all customers.  Tr. at 180.

Following the settlement conference, the parties agreed that neither Rockland nor Lakeside will seek any increased distribution from the Idaho USF unless the Commission orders an alteration in their existing access charges.(footnote: 2)  Settlement at 3-4.  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 had offered various rate design alternatives for the Commission to consider.  Given the parties’ agreement not to seek new or additional Idaho USF disbursements, the companies must look to other revenue sources to defray the substantial cost of implementing EAS.  Consequently, in the Settlement 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 Lakeside will also be eliminated.  Settlement at 3-4.  The parties asserted that adoption of these rates on a combined company basis will eliminate the need to seek additional USF disbursements, except as noted above.  Id.

5.Additional Revenues and Rockland Rate Case.  If the Commission adopts the rates proposed in the Settlement, the companies will withdraw their request for additional revenues from the Idaho USF.  In addition, Rockland will withdraw its pending rate case.  Although Company witness Hendershot testified at the hearing that Rockland’s EAS costs and the rate case revenue request totaled approximately $216,000 ($89,000 and $121,000, respectively).  For Lakeside, he testified at the hearing that the costs of EAS are about $52,500.  Exhibit 1.  The Settlement contemplates that the companies will receive about $69,000 less revenue on a combined basis than requested.  Tr. at 13, 17.   Finally, the companies declared that they will not seek any rate relief until calendar year 1998 financial results are available—Spring 1999 at the earliest.

6.Measured Service.  Given the rate increases proposed in the Settlement, the parties agreed that the companies will offer their residential customers a measured service option to mitigate the projected local rate increase.  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 3-4.

7.Implementation.  Finally, Rockland and Lakeside 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 Arbon/Rockland and Paris.  Id. at 2-3.  At the hearings, the companies’ witness Hendershot testified that they are prepared to implement EAS calling “within a matter of days.”  Rockland, Tr. at 13; Lakeside, Tr. at 88.

Commission Findings:  We begin our examination of the Stipulation and Settlement entered into by the Staff, Rockland and Lakeside 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 and the withdrawal of the rate case 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 Rockland case was the apparent reliance on the existing Idaho USF to fund the residual EAS costs totaling nearly $150,000.  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.  For example, in the proposed order recently issued for the Silver Star and Teton Telecom EAS cases, those companies originally proposed increased annual USF disbursements of up to $379,000.  We believe that it is prudent to minimize or restrict actions which would result in increased USF distributions, and the accompanying increased USF surcharges.  This is especially so when these cases are the first of more than 15 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, Rockland and Lakeside customers unanimously requested inclusion in the U S WEST local calling area and exhibited a strong willingness to pay for this expanded local calling.  The increase in residential rates proposed in the Stipulation and Settlement for Rockland customers is $9.10 while the increase for Lakeside residential customers is $13.49.(footnote: 3)  These increases result in a uniform rate design and effectively combine the operating companies as contemplated by the parties to the settlement.  Several witnesses estimated saving many times that amount in toll charges and even exceeding $100 per month. Lakeside, Tr. at 26, 46.  Granting these EAS petitions allows Rockland and Lakeside 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 residential customers will help mitigate the rate increases.  We find that when implementing the EAS, and the new rates, the companies should waive their nonrecurring charge for a period of 60 days, so that customers may switch from flat rate service to measured service and vice versa.

In summary we grant the joint Motion, adopting the Settlement and authorizing the withdrawal of the rate case.  We now turn to the remaining issues in this case.

C. Recovery of U S WEST Lost Toll Revenue

U S WEST witness Lightfoot testified that U S WEST should be compensated for its lost toll revenue when the Commission grants EAS.  Rockland, Tr. at 81; Lakeside, Tr at 145.  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.  Id. at 75; 139.  “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.” Id.

Lightfoot calculated that U S WEST lost “retail” toll revenue for calls originating in the Rockland exchanges was approximately $65,000 while the lost toll from the U S WEST exchanges to the Rockland exchanges was about $50,000 annually.  Tr. at 63-64, 73.  For Lakeside, he testified that the lost toll from U S WEST exchanges to Paris was about $21,000 annually but did not have the data for lost toll revenue from Paris to the U S WEST exchanges.  Tr. at 134-35.  In both cases he testified that the access charges U S WEST pays “may or may not exceed U S WEST toll revenues for the calls originating within [Rockland’s and Lakeside’s] territor[ies] and terminating within U S WEST local exchange communities.”  Rockland, Tr. at 75; Lakeside, Tr. at 139. No party addressed 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 some of its toll revenues are on the requested routes, it has not developed a sufficient record concerning the amount of access charges it would “set off” against its toll revenue.  The Company did not enter into evidence the access costs.  In fact, U S WEST stated that the access charges it pays to Rockland and Lakeside “may or may not exceed” its toll revenues.  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.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

Direct Communications Rockland and Direct Communications Lakeside 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.   We further find that the rates and charges necessary to recover the costs of implementing EAS are just and reasonable.

We further find that the Stipulation and Settlement entered into between the Commission Staff, Rockland and Lakeside to be fair, just and reasonable and in the public interest we adopt the Settlement.  Given our adoption of the Settlement, we authorize Rockland to withdraw its pending rate case.

O R D E R

IT IS HEREBY ORDERED that the petitions requesting EAS between the affected exchanges and U S WEST’s eastern Idaho calling region are granted. We also grant the joint Motion of Staff, Rockland and Lakeside.  Rockland’s request to withdraw its rate case is approved.

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

IT IS FURTHER ORDERED that Rockland and Lakeside notify its customers of the impending service and rate changes in an appropriate manner.  The companies shall waive their nonrecurring charge for customers to move from flat rate service and vice versa to measured service for a period of 60 days following implementation of EAS.

IT IS FURTHER ORDERED that Rockland and Lakeside 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-96-5, GNR-T-97-7 and ROK-T-97-1  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-96-5, GNR-T-97-7 and ROK-T-97-1.  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 March 1998.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**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 Paris exchange to Lakeside in 1996, Lakeside customers’ rates were “frozen” as a condition of the sale.  Consequently, these customers have had rates lower than Rockland customers.