BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF REVIEWING U S WEST COMMUNICATIONS’ SOUTHERN IDAHO REVENUE SHARING PLAN FOR THE COMPLETED 1994 SHARING YEAR. | )))))) | CASE NO. USW-S-95-1NOTICE OF HEARING ORDER NO.  26169 |

On August 25, 1995, the Commission convened a prehearing conference to examine the appropriate disposition of the 1994 revenue sharing funds.  At the prehearing conference, the Commission sought to determine whether there was general agreement among the parties concerning the amount of Title 61 sharing funds.  In addition, the Commission wanted to determine whether there was consensus concerning on the appropriate disposition of the revenue sharing funds.  Based upon the representations made at the prehearing conference, this matter is set for hearing as outlined in greater detail below.

THE TELECOMMUNICATIONS ACT

In 1988, the Idaho Legislature enacted the Telecommunications Act codified at Idaho Code §§ 61-622A and 62-601 et seq.  The Act is intended to maintain high-quality universal telecommunication services at just and reasonable rates and “to encourage innovation within the industry by a balanced program of regulation and competition.”  Idaho Code § 62-602.  Under the Act, a local exchange company (such as U S WEST) is given a choice.  On the one hand, a LEC may receive an exclusive franchise for the delivery of all of its telecommunication services at rates set by the Commission pursuant to its traditional rate-setting authority contained in Title 61.  Conversely, the Company may elect to have its non-basic local services(footnote: 1) removed from the Commission’s Title 61 authority and have the marketplace “set” the rates for telecommunication services subject to competition under Title 62.  Idaho Code § 62-605(2).  Under the latter option, the Commission continues to set the rates for local service for captive customers—those with five or fewer lines.

In March 1989, U S WEST elected to remove its non-basic local services from the Commission’s Title 61 ratesetting authority.  U S WEST is the only local exchange company that has elected to become a hybrid (Title 61 and Title 62) company.  U S WEST’s predominant Title 61 service is the provision of monthly local service to residential and business customers with five or fewer lines.  The Company’s Title 62 services include long-distance services, custom calling features, directory assistance, billing services, and the collection of access charges from other long-distance companies connecting to its local network.

THE REVENUE SHARING PLAN

In conjunction with U S WEST’s election to become a Title 61/62 company, the Commission authorized the implementation of a “Revenue Sharing Plan.”  The Plan was adopted as a method of allocating costs between the fully regulated (Title 61) and partially regulated (Title 62) portions of U S WEST Communications’ southern Idaho operations.  Idaho Code § 61-622A.  One goal of cost allocation is to ensure that Title 61 services are not subsidized Title 62 services.  Idaho Code § 62-613.

In simple terms, the operation of the sharing plan measures relative changes in the proportion of Title 61 and Title 62 revenues since 1987.  The sharing plan uses 1987 data to determine the average revenue per telephone access line served by U S WEST in southern Idaho.  This figure represents the base-year calculation.  In subsequent calendar sharing years (e.g., 1994), the same calculation is made using actual sharing year data to determine the average revenue per access line for the sharing year.  If the sharing year revenue per line is greater than the base-year revenue per line (i.e., comparing the years 1987 and 1994), a portion of the growth in revenue is “shared” or attributable to Title 61 regulated services.  If there is revenue to be shared, the Commission determines how this revenue is distributed to Title 61 customers.  Conversely, if the sharing-year revenue per line is less than the base-year revenue per line, then a portion of the revenue deficit is allocated to Title 61 services.  The Commission then determines how the deficiency is collected from Title 61 customers.

In the first two years of the plan’s operation, the Commission directed that available sharing funds be returned to Title 61 customers in the form of a one-time credit.  This resulted in credits of $5.49 and $7.96 for the 1989 and 1990 sharing years, respectively.  During the last three years, the Commission directed that approximately $14.2 million of Title 61 sharing funds be used to fund local network improvements in U S WEST’s small rural exchanges.  This infrastructure project, called Tech II, was completed in 1994.  The $14 million was part of a three-year project to improve the local network facilities of 30 small rural wire centers and 16 large urban wire centers.  The total cost of the Tech II project was approximately $40 million.  In addition to the modernization program, the Commission also used sharing funds to reduce by half the monthly zone charge of $3.19 for approximately 56,000 U S WEST rural customers.

THE PREHEARING CONFERENCE

1.  Parties.  The purpose of the prehearing conference was to determine whether there was general agreement concerning the calculation and distribution of the Title 61 revenue sharing amount for the 1994 sharing year.  The following parties entered appearances at the prehearing conference:  U S WEST, the Commission Staff, the Idaho Cable Telecommunications Association, the Idaho Consumer Affairs, and Idaho Telephone Association.  In addition, intervenors MCI Communications and AT&T of the Mountain States were previously unable to attend but did submit written comments.  The Association of Idaho Cities (AIC) and the Idaho Medical Information Consortium (IMIC) also attended.  On September 5 and 6, 1995, IMIC and AIC formally petitioned to intervene in this matter.  On September 8, 1995, the Idaho Association of Counties petitioned to intervene.  These post-hearing petitions were granted under separate Orders.

 2.  Calculation of the Sharing Amount.  The Notice of Prehearing Conference issued August 1, 1995, reported that the sharing plan produced $5,890,709 in Title 61 sharing funds.  The sharing plan also requires that interest accrue on the sharing amount until such time as the sharing funds are disbursed per Commission Order.  From January 1 to July 1, 1995, the sharing plan had accrued $350,497 in interest.  At the prehearing conference, the Staff asserted that the sharing amount totaled $6.35 million including accrued interest as of September 1, 1995.  No participant at the prehearing conference disputed the Staff’s calculation of the sharing amount.

3.  Disposition of the Title 61 Sharing Funds.  There was no consensus as to the appropriate disposition of the Title 61 revenue sharing funds.  U S WEST proposed that the Commission explore other alternative uses for revenue sharing funds rather than simply returning the funds to Title 61 customers.  The Company did not offer any particular infrastructure project but noted there were many worthwhile projects that might be considered such as distance learning, telemedicine, or improving access to public information.  Dr. Edmundson, representing the Idaho Medical Information Consortium, also urged the Commission to consider alternatives to refunds.  Although he acknowledged that returning revenue sharing funds to ratepayers is equitable, he suggested that there may be better uses for those funds.  Likewise, the Idaho Association of Cities asked the Commission to consider purchasing customer premise equipment for small cities to assist them in connecting to the information highway.

The Commission Staff, AT&T, MCI, and Idaho Consumer Affairs asserted that the sharing funds should be returned to Title 61 ratepayers.  The Cable TV Association urged the Commission to exercise caution in reviewing any infrastructure proposal.  It argued that the clearest way to directly benefit Title 61 ratepayer is to refund the money to them.  The Idaho Telephone Association did not take a position.

DISCUSSION

Given the parties’ statements at our prehearing conference, it appears that there is agreement concerning the calculation of the revenue sharing amount.  It is also apparent that there is not consensus on the appropriate disposition of the 1994 revenue sharing funds.  Some of the parties urged us to return the revenue sharing fund to Title 61 ratepayers, while others either proposed specific projects or urged us to generally consider infrastructure alternatives.  In light of these comments, it is appropriate to set this matter for hearing.

Although the Commission has previously directed that revenue sharing funds be returned to Title 61 customers, we have also authorized an extensive infrastructure modernization project.  As was noted at the hearing, the Commission has a long history of initiating and authorizing infrastructure projects that improve the telecommunications network and enhance the goal of universal service.  Given the comments offered at the prehearing conference, the Commission will again consider infrastructure projects as alternatives to returning revenue sharing funds to Title 61 customers. To facilitate this review, we believe it is appropriate to establish a set of standards for evaluating such alternatives.  Parties proposing infrastructure alternatives should be guided by the following criteria.

1.The infrastructure improvement should benefit the general body of U S WEST Title 61 ratepayers in southern Idaho and not just a particular group.

2.The cost of the infrastructure project should be reasonably related to the amount of Title 61 funds available for disposition.

3.Absent the existence of revenue sharing funds, the infrastructure alternative should possess sufficient merit to warrant a rate increase.  In other words, the public benefits of the proposal should be sufficient to justify a Commission finding that a rate increase is reasonable.

4.The project should enhance or promote universal service and be in the public interest.

5.The project should leverage revenue sharing funds with funds from other sources.

Parties that propose infrastructure alternatives shall indicate in testimony how their proposals meet the standards set out above or why such standards should not be applicable to their projects.

NOTICE OF HEARING

YOU ARE NOTIFIED that the Commission will convene a hearing in this matter on TUESDAY, NOVEMBER 21, 1995 AT 9:30 A.M. AT THE COMMISSION HEARING ROOM LOCATED AT 472 WEST WASHINGTON STREET, BOISE, IDAHO 83702 (208) 334-0300.  The purpose of the hearing will be to take evidence regarding the amount of revenue sharing funds and the appropriate disposition of such funds.  Based upon the agreement of the parties, the Commission implements the following schedule in this matter.

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| September 18, 1995September 25, 1995October 20, 1995November 8, 1995November 21, 1995 | Parties proposing infrastructure projects must provide a detailed written outline of their proposal to all other parties.Prehearing discovery conference for the parties to further explain their infrastructure projects and to answer questions.  Parties may also use this opportunity to engage in settlement discussions among themselves.File direct written testimony.File rebuttal written testimony.Hearing in Boise. |

YOU ARE FURTHER NOTIFIED that parties participating in the subsequent prehearing conference scheduled for September 25, 1995 may offer to settle some or all of the issues in this case.  All issues in this proceeding, including calculation of the sharing amount and its appropriate disposition, may be the subject of discussion and settlement offers at the prehearing conference.

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act.  Persons needing the help of a sign language interpreter or other assistance of the kind that the Commission is obligated to provide under the Americans with Disabilities Act in order to participate in or to understand the testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing.  The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0338  (TELEPHONE)

(208) 334-3151  (TEXT TELEPHONE)

YOU ARE FURTHER NOTIFIED that the Commission has jurisdiction over this matter pursuant to provisions of Title 61 and 62, and specifically Idaho Code § 61-622A.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

O R D E R

IT IS HEREBY ORDERED that the parties adhere to the hearing schedule set out in the body of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of  September 1995.

                                                             RALPH NELSON, PRESIDENT

                  MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**FOOTNOTES**

1:

“Basic local exchange service” is defined as the provision of access lines to residential and small business customers with five or fewer lines for the transmission of two-way, interactive switched voice communications within a local exchange area.  Idaho Code §§ 62-603(1), (5), and (8).