DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

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WORKING FILE

FROM:DON HOWELL

DATE:MARCH 22, 1996

RE:U S WEST’S MOTION TO WITHDRAW THE AFOR PROPOSAL AND STAFF’S RESPONSE, CASE NO. USW-S-95-4

On February 7, 1996, MCI Telecommunications filed a Motion requesting that the Commission issue an Order to reject the joint proposal to adopt an Alternative Form of Regulation (AFOR) submitted by U S WEST Communications and Commission Staff.  On March 5, 1996, the Commission issued Order No. 26354 granting U S WEST additional time in which to answer MCI’s Motion.  U S WEST filed a timely answer on March 7, 1996.  See attached.

Although it did not agree with the assertions or characterizations contained in the MCI Motion, U S WEST requested that the Commission allow the Company to voluntarily withdraw the proposal.  U S WEST Motion at 2.  Allowing the Company to withdraw the proposed regulatory plan “will render the MCI Motion moot.” Id.

U S WEST’S ANSWER

Given the recent passage of the federal Telecommunications Act, U S WEST asserted that the provisions of the regulatory plan would inappropriately bind U S WEST’s residential rates which are now subject under the Act to immediate competition.  U S WEST argued that its residential rates are currently below-cost in reselling local service to new local service competitor is “a recipe for financial ruin.”  Id. at 4.

In light of the federal legislation, U S WEST also asserted that adoption of service quality standards applicable to only itself coupled with the proposed five-year duration of the regulatory plan are now unrealistic.  If the Commission were to grant U S WEST’s Motion to Withdraw, the Company stated that it would begin to take “the necessary steps to separate its deregulated operations within the state and proceed under the laws of the state to invoke the Commission’s ratemaking authority as it pertains to those services which remain under economic regulation.”  Id. at 7.  In other words, the Company is apparently signaling that it intends to prepare a rate case filing for submission to the Commission.  U S WEST noted that the passage of the Telecommunications Act will intensify competition

in all of [U S WEST’s] markets including the intraLATA toll market.  The proposed regulatory plan’s provisions which require [toll] price reductions at specified times and in pre-set amounts does not accord the Company the flexibility to respond in a market of ever increasing competition.  It is no longer possible for U S WEST to guarantee revenue neutrality as the historical anomalies of regulated service prices are being redressed.  Id. at 4.

STAFF RESPONSE

On March 21, 1996, the Commission Staff filed a Response to U S WEST’s Motion to Withdraw the Joint Proposal. In its comments, the Staff agreed with both MCI and U S WEST “that the Plan will not be workable as drafted and it should be withdrawn.” Staff Response at 2. The Staff noted that withdrawal of the joint proposal would rendered MCI’s Motion to Dismiss moot. The Staff’s comments also clarified two issues addressed in U S WEST’s Motion.

First, Staff took issue with the statement contained in the Company’s Motion that the plan was a “good faith effort on the part of the Commission Staff and the Company to address . . . the need to rebalance U S WEST’s rates so that prices charged for regulated services come closer to covering the costs of provision.”  Staff noted that it had not conducted any cost-of-service study or accepted any such study from U S WEST.

The second concern addressed by the Staff involve the issue of service quality standards. The Staff lamented that one problem caused by withdrawal of the joint proposal was that service quality measurements are left unaddressed. Staff noted that developing service quality standards within the context of the plan “made sense at the time because it provided some incentive for the Company to improve its performance.” Id. at 3.  To address this adverse consequence, the Staff suggested that the Commission initate a case to implement service quality rules applicable to all local exchange providers as soon as possible.

Commission Decision

1.  Does the Commission grant permission for U S WEST to withdraw the joint AFOR proposal?

2.  Does the Commission agree that withdrawal of the joint proposal will render MCI’s Motion to Dismiss moot?

3. Does the Commission wish to address any other issues?

4.  Does the Commission desire to vacate the hearing date in this matter?

Don Howell

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