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

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| IN THE MATTER OF U S WEST COMMUNICATIONS, INC.’S FILING  OF TARIFF ADVICE NO. 96-01-N | )  )  )  ) | CASE NO. USW-N-96-1  ORDER NO.  26549 |

On February 5, 1996, U S WEST Communications, Inc. (U S WEST) filed Tariff Advice No. 96-01-N (Case No. USW-N-96-1) restricting the availability of its Centron and Centraflex System 2 services in its north Idaho service territory to customers of record as of March 11, 1996.  Tariff Advice No. 96-01-N was filed by U S WEST at the same time it filed Tariff Advice No. 96-03-SC (Case No. USW-S-96-1) to restrict a similar service, Centrex Plus, in the south Idaho portion of its service territory.  The Commission thereafter received a formal complaint from MCI Telecommunications (MCI) and AT&T Communications, Inc. (AT&T) alleging that the withdrawal of these services prevents the complainants from competing in the local exchange market by preventing the resale of the services by MCI and AT&T.

The Commission adopted a hearing schedule to process the tariff filing and complaints regarding the proposed withdrawal of Centrex Plus in southern Idaho.  However, upon an initial determination that the public interest may not require a hearing in this case, the Commission on July 1, 1996, issued a Notice of Modified Procedure to process Tariff Advice No. 96-01-N.  The comment period terminated on July 22, 1996.  Comments were filed only by AT&T Communications.

In its comments, AT&T stated that the federal Telecommunications Act of 1996 contains exclusive provisions relating to the resale of local exchange services.  According to AT&T, any restriction on resale creates a bias against new entrants and should be considered a violation of Section 251(b)(1) of the Act, which requires local exchange carriers to not prohibit and not impose unreasonable or discriminatory conditions on the resale of its telecommunications services.  AT&T also noted that Section 251(c)(4) creates a duty by a carrier to offer for resale at wholesale rates any service that the carrier provides at retail to subscribers.  According to AT&T, the Centrex type service provides more features and functionality to smaller scale customers, which is in the public interest.  AT&T conceded that U S WEST intends to provide a replacement service in the future, but argues the replacement service will be to satisfy large customers, thus eliminating options for the small and medium business customers.

AT&T requested a hearing, but suggested the decision on the necessity of a hearing in this case might be delayed until the conclusion of the hearing process for the tariff  (Centrex Plux) relating to southern Idaho.  Staff also recommended, as AT&T suggested, that the Commission delay a decision on the necessity for a hearing in this case until the outcome of the hearing on the Centrex Plus tariff advice.

We agree with AT&T and Staff that a decision whether a hearing is necessary in this case should await completion of the hearing on the southern Idaho tariff, Case No. USW-S-96-1.  That hearing is set for August 27-28, 1996, in Boise.  Resolution of the proposed tariff withdrawal for U S WEST’s southern Idaho service territory may well resolve some or all of the issues in this case.

O R D E R

IT IS HEREBY ORDERED that further processing of this case is suspended pending completion of the hearing in Case No. USW-S-96-1.  At that time, the parties should inform the Commission whether a hearing is desired or necessary in this case.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of August 1996.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, 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

August 2, 1996