DECISION MEMORANDUM

TO:COMMISSIONER NELSONBEVERLY BARKER

COMMISSIONER SMITH EILEEN BENNER

COMMISSIONER HANSENJIM LONG

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WORKING FILE

FROM: DON HOWELL

JOE CUSICK

DATE:FEBRUARY 16, 1996

SUBJECT:USW-S-96-1 AND USW-N-96-1; U S WEST COMMUNICATIONS’ REQUEST TO GRANDFATHER ITS CENTREX PLUS SERVICE IN SOUTHERN IDAHO AND CENTRON AND CENTRAFLEX SYSTEM 2 IN NORTHERN IDAHO.

BACKGROUND

On February 5, 1996, U S WEST Communications filed to restrict the availability of its Centrex Plus service in southern Idaho to customers of record as of February 5, 1996, and its Centron and Centraflex System 2 services in northern Idaho to customers of record as of March 11, 1996.

In its filings, the Company stated that it was sending notification letters to existing customers.  The Company also stated that these customers will be able to add to their existing systems under terms and conditions spelled out in the filing.  The Company stated that it plans to introduce a new product within six to nine months.

On February 14, 1996, the Commission received a formal complaint from MCI Telecommunications (MCI) concerning this filing.  In the complaint, MCI states that “[t]he attempted withdrawal prevents MCI from competing in the local exchange market since MCI has no present ability to practically or economically duplicate Centrex Plus service from any other source.”

MCI also states that the attempted withdrawal of Centrex Plus services with respect to new customers is discriminatory and contrary to state and federal law in, among others, sections 251 (b)(1), (c)(2), and (c)(4) of the Telecommunications Act of 1996.

On February 15,1996, the Commission received a formal complaint from AT&T concerning this filing.  In its filing, AT&T echoed the concerns raised by MCI and cites the statues referenced by MCI.

Also on February 16, the Commission received a complaint from Shared Communications Inc., expressing concerns about the withdrawal of these services and citing the provisions of Section 251 of the Telecommunications Act of 1996 as to why they believe this action on the part of U S WEST in anticompetitive.

These complaints point out the high levels of concern these companies have about this filing.  All of these companies state that they are interested in entering the market for local exchange service as resellers and that resale of central office based services is one of the primary vehicles used for this.  Absent this service or an effective substitute, their ability to compete in this market will be severely curtailed.

Staff also has concerns about these filings.  While not wanting to appear as obstructionists in this matter, Staff is nonetheless concerned that U S WEST may be moving too quickly and that the withdrawal of this service may be viewed by many in the industry as anticompetitive.

The Company has filed Tariff Advice No. 96-01-N requesting the Commission’s authority to discontinue its Centron and Centraflex System 2 services in northern Idaho.  The Centrex services offered in northern Idaho are subject to the Commission’s full regulatory jurisdiction under Title 61.  Under Idaho Code § 61-307, the Commission has authority to review changes in the provision of telecommunication services.  Accordingly, the Commission may stay the discontinuance of this service.

Turning to southern Idaho, Idaho Code § 62-605(5) provides that the Commission has the authority to review the availability of Title 62 telecommunication services available on July 1, 1988.  This section further provides that upon...

complaint to the commission and after notice to the telephone corporation providing such [Title 62] service in hearing, the commission finds that the ... general availability or terms and conditions for such service as adverse to the public interest, the commission shall have the authority to negotiate or require changes on how such telecommunication services are provided.  In addition, if the commission finds that such corrective action is inadequate, it shall have the authority to require that such telecommunication services be subject to the requirements of Title 61, Idaho Code, rather than the provisions of this chapter.

Consequently, the Commission is empowered to examine the availability of Title 62 services.

Based upon the allegations contained in the complaints and the Commission’s authority, Staff recommends that the withdrawal of the Centrex services in northern Idaho be suspended.  Staff further recommends that the Commission issue a summons to U S WEST requiring them to answer the complaint.  Given the imminent withdrawal of this service in southern Idaho, the Staff suggests that a response be required in a shorter time frame:  10 to 14 days.

COMMISSION DECISION

How does the Commission wish to proceed?

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Don Howell

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Joe Cusick

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