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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF U S WEST COMMUNICATIONS, INC. FOR AUTHORITY TO INCREASE ITS RATES AND CHARGES FOR REGULATED TITLE 61 SERVICES.                                                                                     U S WEST COMMUNICATIONS, INC.,Appellant,v.IDAHO PUBLIC UTILITIES COMMISSION,Respondent. | )))))))))))))))) | SUPREME COURT  DOCKET NO.  24349IPUC CASE NO. USW-S-96-5STAFF’S ANSWER AND OBJECTION TO U S WEST’S MOTION AND SECOND AMENDED NOTICE OF APPEAL TO INCLUDE NON-EVIDENTIARY DOCUMENTS IN THE RECORD ON APPEALREQUEST FOR HEARING |

COMES NOW the Commission Staff in the above entitled action through its attorney of record, Donald L. Howell, II, Deputy Attorney General, and submits the following Answer to U S WEST Communications’ Motion to Limit Clerk’s Record on Appeal as referenced in the Company’s Second Amended Notice of Appeal filed February 19, 1998.  The Staff objects to U S WEST’s request to include several documents in the record on appeal.  The Commission should not include documents in the appellate record which were not introduced or considered by the Commission in its evidentiary hearing in Case No. USW-S-96-5.  The Staff also requests that the Commission make two corrections to the record and add one document to the record.  Finally, the Staff also moves the Commission to delete a reference in U S WEST’s Petition for Reconsideration that is not supported by the evidence.  The Staff requests that the Commission convene a hearing in this matter on April 1, 1998.

BACKGROUND

A.  Appeal History

On December 16, 1997, U S WEST Communications filed a Notice of Appeal in the Company’s completed rate case, No. USW-S-96-5.  Attached to the Notice of Appeal was a Motion to Limit Clerk’s Standard Record on Appeal.  The Motion requested that the Commission limit the administrative record on appeal to a single issue: toll restriction.  As part of its Notice of Appeal, the Company attached “Addendum A” requesting that the Commission augment the record on appeal with many documents not previously placed into evidence or considered by the Commission in its decision.

On December 30, 1997, the Commission Staff filed an unopposed Motion for Extension of Time to Answer U S WEST’s Motion.  Although the Staff generally agreed with the Company’s intention to limit the agency record on appeal, the Staff stated that it intended to oppose several of the items set out in Addendum A to U S WEST’s Notice of Appeal.  The Staff asserted that “several of the items mentioned in Addendum A lack the requisite identification necessary for the Commission Secretary to include these items in the record.  In addition, Staff intends to file other objections to the inclusion of certain items.”  Staff Motion for Extension of Time at 2 (footnote omitted).  Given the problems with identifying the actual documents that U S WEST requested be included in the record on appeal, the Staff stated its understanding that U S WEST “intends to make subsequent filings specifically identifying documents that the Company requests be compiled in the appellate record.”  Id.  Based upon the Company’s expressed intention to make a subsequent filing specifically identifying the documents in question, the Staff requested an extension of time so that it might file a single answer to both U S WEST’s December 16 Motion and the Company’s subsequent filing.  Id.

In Order No. 27316 issued January 13, 1998, the Commission granted the Staff’s Motion for Extension of Time.  The Commission directed the Staff to file its answer addressing U S WEST’s December 16 Motion and the Company’s subsequent request to include specific documents in the appellate record.

On January 21, 1998, U S WEST filed an Amended Notice of Appeal.  The Company noted that the purpose of the Amended Notice was to “designat[e], with specificity, certain supplemental documents previously requested to be included in the Clerk’s Record on Appeal.”  Amended Notice of Appeal at 2.  Although the Amended Notice more clearly identified several documents that the Company desired to be included in the record, questions remained about other documents.  After further discussions among the Staff, the Commission Secretary and the Company, U S WEST filed a Second Amended Notice of Appeal on February 19, 1998.  The Second Amended Notice contained a listing and copies of the documents U S WEST requested be included in the appellate record.  Second Amended Notice at 3-4, Exhibits A, C1, C2, C3, C4, C5, C6, C7, C8, G, and various Commission Orders.

On February 25,1998, the Commission Secretary served the proposed appellate record on the parties.  Pursuant to Idaho Appellate Rule 29, parties have 21 days or until March 18, 1998 to file objections to the record, “including requests for corrections, additions or deletions.”  I.A.R. 29(a).  Any objection must be accompanied by a notice setting the objection for hearing and “shall be heard and determined by the . . . administrative agency from which the appeal is taken.” Id.

B.  The Proceedings Below

1.  The Final Order.  In final Order No. 27100 issued August 12, 1997, the Commission found that toll restriction should be classified as a Title 61 service.  Order No. 27100 at 58-59 (Proposed Record Vol.  II, pp. 326-27).  The Commission found that there was “no difference between toll restriction other toll-blocking services [(976 or 900)] that are classified as Title 61 services.”  Id. at 58 (Proposed Record Vol. II, p. 326).

The Commission also rejected U S WEST’s argument that the Commission “accepted” toll restriction as a Title 62 service when the Company submitted its Title 62 price list “for filing.”  The Commission stated that “‘accepting’ price lists for filing is an administerial function that should not and does not imply Commission approval.  Order No. 25933 at 14.”  Order No. 27100 at 59 (Proposed Record Vol. II, p. 327).

2.  U S WEST’s Petition for Reconsideration.  In its Petition for Reconsideration, U S WEST made several arguments.  In particular, the Company argued that the Commission cannot exercise Title 61 authority over toll restriction services pursuant to the “claw-back” authority found in Idaho Code § 62-605(5).(footnote: 1)  The Company argued that this statute only allows the Commission to re-regulate services “which were subject to Title 61 regulation on July 1, 1988.”  U S WEST Petition for Reconsideration at 38 (Proposed Record Vol. III, p. 441).  The Company argued that the “Commission’s [sic] own tariff and catalog filings demonstrate that Toll Restriction was not offered by U S WEST until September, 1992.  Re-regulation of Toll Restriction is outside the scope of the Commission’s statutory authority and is therefore unlawful.”  Id.

3.  Final Order on Reconsideration.  In its final Order on Reconsideration the Commission rejected the Company’s toll restriction argument regarding the claw-back authority of Idaho Code § 62-605(5).  In Order No. 27152, the Commission directed the Company’s attention to Case Nos. U-1000-63 and U-1000-86 as well as Orders issued in those two cases.(footnote: 2)  In the -63 case, the Commission investigated the feasibility of implementing toll restriction.  Order No. 27152 at 33 (Proposed Record Vol. II, p. 376).  In its Order, the Commission noted the Staff’s observation that the Commission had previously approved toll restriction service as part of a package of service implemented by U S WEST’s predecessor, Mountain Bell, in April 1986 in Order No. 20349.  Id. at 32 (Proposed Record Vol. II, p. 375, citing Order No. 20349 at 1 (Proposed Record Vol. IV, p. 682)).  Given these prior cases, the Commission found that it was disingenuous for the Company to claim that toll restriction did not exist or that the Commission did not regulate this service prior to the effective date of the Idaho Telecommunications Act of 1988 (i.e., July 1, 1988).  Order No. 27152 at 33 (Proposed Record Vol. II, p. 376).

LEGAL STANDARDS

The standards for review are well settled.  “No new or additional evidence may be introduced in the Supreme Court, but the appeal shall be heard on the record of the commission as certified by it.”  Idaho Code § 61-629 (emphasis added); Rosebud Enterprises v. Idaho Public Utilities Commission, 128 Idaho 624, 917 P.2d 781 (1996).  It is a basic tenet of administrative law that a reviewing court is bound by the evidence placed into the record and presented to the agency.  B. Schwartz, Administrative Law, 2d Ed.§ 10.2 (1984).  As our Supreme Court has stated many times, judicial review must be confined to the record presented to the finder of facts.  Greenfield Village Apartments v. Ada County, 130 Idaho 207, 938 P.2d 1245 (1997); Von Jones v. Board of County Comm’rs, 129 Idaho 683, 931 P.2d 1201 (1997).

In addressing the analogous standard of review for appeals under the Idaho Administrative Procedures Act, the Court held that “[i]n an appeal from an agency decision, our review is limited to the record” considered by the agency.  Dovel v. Dobson, 122 Idaho 59, 831 P.2d 527 (1992).  Documents not introduced into evidence at trial cannot be included in the record on appeal for a reviewing court’s consideration.  Golden Condor v. Bell, 106 Idaho 280, 678 P.2d 72 (Ct. App. 1984), aff’d, 112 Idaho 1086 n.3, 739 P.2d 385 n.3 (1987).  In U S WEST’s Second Amended Notice of Appeal, the Company requests that the Commission include in the appellate record materials which were not introduced into evidence, presented to the Commission, or considered by the Commission.  Consequently, it is unlawful to now include these materials in the appellate record.  The Staff’s objections to U S WEST’s requests are discussed in greater detail below.

OBJECTION TO DOCUMENTS

1.  Staff Data Request No. 444.  In its Second Amended Notice of Appeal, the Company requests that the Commission include in the record on appeal an interrogatory and the answer to the interrogatory identified as Staff Production Request No. 444.  Second Amended Notice, Exhibit A (found in Proposed Record Vol. III, p. 400 (attached)).  The Staff opposes the introduction of this new evidence into the appellate record for several reasons.  First, this interrogatory was not introduced into evidence by any party in the proceeding and the Commission did not consider this interrogatory in its deliberations.  The Commission’s Procedural Rule 283 provides that “requests for discovery, answers to discovery and other documents filed with the Commission Secretary and served on the parties, whether or not discussed at hearing, are not part of the hearing records unless introduced as exhibits at the hearing.”  IDAPA 31.01.01.283 (emphasis added).  The Commission’s Procedural Rule 281 states that the Commission bases its decisions and issues its orders “on the hearing record (excluding exhibits denied admission), the Commission’s record and items officially noted.”  IDAPA 31.01.01.281.  The Procedural Rules make a distinction between the Secretary’s official file and the hearing record.  While discovery and other related materials are included in the Secretary’s official file, discovery items are not included in the hearing record “unless introduced as exhibits at hearing.”  Compare Rules 282 and 283, IDAPA 31.01.01.282, 283.

Second, U S WEST may argue that a Staff witness’s reference to this interrogatory should be a sufficient reason to introduce the interrogatory itself into the record.  However, such an argument would be ill-founded.  In his prefiled surrebuttal testimony, Staff witness Wayne Hart referenced this interrogatory in his testimony as the source for a portion of his testimony.  Tr. at 1214.  Despite this reference, the Company did not move for the introduction of this interrogatory into evidence.  Moreover, it did not cross-examine the Staff witness on the subject of toll restriction much less his reference to production request No. 444.  As previously stated, Procedural Rule 283 provides that discovery documents “whether or not discussed at hearing are not part of the hearing record unless introduced as exhibits at the hearing.”  IDAPA 31.01.01.283 (emphasis added).  The Company waived its opportunity to introduce this production request into the record.

Finally, Idaho Appellate Rule 28(b) limits the introduction of documents into the appellate record to only those documents “considered by the court or administrative agency in the trial of the action or proceeding. . . .”  I.A.R. 28(b).  This interrogatory was not considered by the Commission in its administrative hearing and the Company’s attempt to introduce it at this time constitutes the introduction of new evidence.  Introduction of this evidence is clearly prohibited by Idaho Code § 61-629, Appellate Rule 28(b), and the Commission’s own rules.

2.  Tariff Advices and Transmittals.  In its Second Amended Notice, the Company also requested that the Commission include in the record approximately 10 different tariff advices and tariff transmittals totaling more than 150 pages of documents not previously introduced or considered by the Commission.(footnote: 3)  Second Amended Notice at 3, ¶ c; Exhibits C1, C2, C3, C4, C5, C6, C7, C8 (Proposed Record Vol. III, pp. 450-601).  The tariff advices and tariff/price list transmittals date from December 1985 to September 1993.  The Staff strenuously opposes the introduction of these documents into the appellate record for several reasons.

These documents were never considered by the Commission in its hearing record.  No party, including U S WEST, introduced these tariffs and transmittals into the record.  This material clearly represents additional evidence and should not be placed into the appellate record pursuant to Idaho Code § 61-629.  SeeCastaneda v. Brighton Corporation, \_\_\_\_ Idaho \_\_\_\_ n.1, 950 P.2d 1262 n.1 (1998).

Idaho Appellate Rule 28(b) provides that only documents which have actually been considered by the Commission in its administrative proceeding may properly be entered into the appellate record.  I.A.R. 28(b).  Given the use of prefiled testimony, the Company was aware of Staff’s position on this subject and had ample opportunity to support its position on the disputed issue, including the introduction of such tariff advices and transmittals.

Allowing U S WEST to introduce these documents into the record now also violates another tenet of appellate practice.  Courts will not consider issues raised on appeal for the first time that were not first presented to the Commission.  Rosebud Enterprises v. Idaho Public Utilities Commission, 128 Idaho 624, 917 P.2d 781 (1996).  Because U S WEST did not introduce these tariff and transmittal documents at hearing, the introduction of these documents at this time may allow U S WEST to raise new issues that were not considered by the Commission.  The Company could have introduced these materials at hearing but it did not do so.

The Commission’s Rules concerning matters that may be officially noticed also provide no basis for the introduction of these documents.  The Commission’s Procedural Rule 263 provides that the Commission may officially take notice in its Orders of its “own orders, notices, rules, certificates and permits, and (2) those of any other regulatory agency, state or federal.”  IDAPA 31.01.01.263.  Tariffs may be officially noticed but only after submitted to the Commission.  Id.  A review of the record reveals that the Company did not introduce these tariff advices and transmittals as exhibits or request that the Commission take official notice of these documents.  It is inappropriate and unlawful to now include these documents in the record.  Idaho Code § 61-629.

Finally, Staff maintains that the tariff advice and transmittal documents should not be entered into the appellate record because they are irrelevant, voluminous, and immaterial.  I.R.E. 401 and 402.  For example, the Company’s Exhibit C1 enclosed with its Second Amended Notice of Appeal is comprised of 13 pages found at Proposed Record Vol. III, pp. 450-62.  A review of these pages reveals that “toll restriction” is available as part of a service package for “Teen Link.”  Proposed Record Vol. III, pp. 457, 459, 461.  However, only three pages of Exhibit C1 contains any reference at all to toll restriction.  The Company’s Exhibit C2 contains 19 pages.  Second Amended Notice (Proposed Record Vol. III, pp. 463, 481).  Staff’s review of these pages reflects that the Company merely requests that its Title 61 tariff for the Teen Link optional service package be continued “on a detariffed basis.”  Proposed Record Vol. III, p. 464.  Staff’s review of these pages indicates that toll restriction is only mentioned as one of a package of services for Teen Link on two pages out of 19.  Id. pp. 474 and 475.

The Company’s proposed Exhibit C4 purports to merely suspend the offering of Teen Link service from June 1, 1992 through November 30, 1992.  Proposed Record Vol. III, p. 488.  Company Exhibit C4 contains 19 pages.  Company Exhibit C5 comprising of about 20 pages purports to continue suspension of Teen Link from November 30, 1992 to May 31, 1993.  Proposed Record Vol. III, pp. 506-25.  Exhibit C6 extends the suspension of Teen Link (and its package service of toll restriction) from May 31, 1993 until October 31, 1993.  Proposed Record Vol. III, p. 527.  Most of the pages in Exhibits C4, C5, and C6 do not mention toll restriction and consequently are not relevant.

Finally, Company Exhibit C8 is 59 pages.  Proposed Record Vol. III, pp. 543-601.  This exhibit contains many duplicate pages because the Company normally is required to submit price lists showing both the proposed changes to each page and a “clean copy” of each page.  In other words, these canceled price list pages contain many duplicates.  Compare Proposed Record pages 546 and 554; 547 and 555; 548 and 556; 549 and 557; 550 and 558; 551 and 559, etc.  Not only does this material represent new evidence, but much of it is irrelevant, redundant, and immaterial.  I.R.E. 401 and 402.  These are sufficient reasons why this material should not be entered into the appellate record.

3.  Notice of Election.  In the Company’s Second Amended Notice, it requested that the Commission include in the appellate record Order No. 22416 “and the election filing by U S WEST in Case No. MTB-T-89-1 listing the products and services for which the Company sought regulation under Title 62.”  Second Amended Notice at 4.  While the Staff does not oppose the inclusion in the record of Order No. 22416, the Staff does object to including the Company’s Notice of Election.  As is the case for the documents discussed above, the Company’s Notice of Election in the 89-1 case was never made a part of the record or considered by the Commission in this rate case proceeding.  The Company could have but did not introduce this material into evidence at the hearing. Consequently, this material constitutes new evidence and cannot be included in the record on appeal.  Idaho Code § 61-629; Idaho Power & Light Co. v. Blomquist, 26 Idaho 222, 141 P. 1083 (1922); I.A.R. 28(b); IDAPA 31.01.01.263.

4.  Order No. 22839.  In the Company’s Second Amended Notice it requested that the Commission include in the appellate record “Order No. 22938 [sic] dated November 9, 1989.”  Second Amended Notice at 4.  The Staff (and apparently the Commission Secretary) assume that the Company is actually referring to Order No. 22839 issued November 9, 1989, in Case No. MTB-T-89-4.  (Proposed Record Vol. IV, pp. 760-67).  The Commission Staff objects to the introduction of this Order in the record.  A review of the substantive Orders in this case does not reveal any instance where the Commission has cited or mentioned Order No. 22839 in its Orders in this case.  In addition, at no time in this proceeding did the Company request that the Commission take official notice of this Order.  IDAPA 31.01.01.263.  Because Order No. 22839 was neither placed into the record nor cited by the Commission, it is inappropriate to add this Order to the appellate record.  Idaho Code § 61-629.

5. “Toll Restriction” Decision Memorandum and Decision Minutes.  Finally, the Company requested in its Second Amended Notice of Appeal that the Commission include in the appellate record a 1992 decision memorandum pertaining to toll restriction and the Commission’s minutes from its decision meeting where that decision memorandum was considered.  Second Amended Notice at 4.  The Company supplied copies of the requested decision memorandum and the minutes from the Commission’s decision meeting held on November 23, 1992 as Exhibit G (Proposed Record Vol. IV, pp. 768-780 (attached)).  The decision memorandum, prepared by Belinda Anderson, purportedly analyzed a Title 62 price listing for toll restriction services “for residential customers to be effective November 23, 1992.”  Proposed Record Vol. IV, p. 768.   The Commission’s discussion of this item at the decision meeting is contained on Proposed Record Vol. IV, pp. 776-78 (attached).

At the hearing below, Company witness John Souba testified that toll restriction service was approved by the Commission as a Title 62 unregulated service in September 1992.  Tr. at 3247.  Under cross-examination, he acknowledged that the current toll restriction price list was “accepted for filing” and not approved by the Commission.  Tr. at 3300.

The Staff objects to the introduction of this new material in the appellate record.  Although U S WEST argued that toll restriction was “approved” by the Commission, it offered no evidence to substantiate this testimony.  Attempts by U S WEST to now introduce new evidence on appeal clearly violates the proscription of Idaho Code § 61-629 and rulings of the Idaho Supreme Court.  For whatever reason, U S WEST did not introduce this material as evidence in the rate case proceeding despite ample opportunity to do so.  It is inappropriate and unlawful for this material to now be placed in the appellate record when it was not introduced as evidence or considered by the Commission when issuing the substantive Orders in this case.

Where there are objections to the record on appeal, it is the Commission’s responsibility to “settle” the record.  I.A.R. 13(e), 29(a); Littler v. Jeffries, 35 Idaho 27, 202 P.2d 602 (1922); see alsoIdaho Code § 13-203 (the clerk’s record in an appeal shall contain documents of the proceeding).  As the Commission is well aware, the materials objected to above were not presented as evidence in the rate case and the Commission did not consider this material in its deliberations in this proceeding.  Allowing this material to be introduced into the record at this time would allow the introduction of new evidence—a proposition that is contrary to the clear mandates of both statute and Idaho case law.  Jensen v. U.S. Fidelity & Guaranty Co., 76 Idaho 351, 283 P.2d 185 (1955); Idaho Code § 61-629.

REQUEST FOR ADDITION TO RECORD

Once the Commission Secretary has prepared and served the proposed agency record, parties have 21 days to request corrections, additions or deletions.  I.A.R. 29(a).  Pursuant to Appellate Rule 29(a), the Staff requests that the Commission include in the appellate record the “Third Settlement and Stipulation” entered into between U S WEST and the Staff in the rate case proceeding.  This Settlement and Stipulation was filed with the Commission on October 17, 1997 and served as the basis for the issuance of the Commission’s final Order on Reconsideration, Order No. 27204 issued November 5, 1997, (Proposed Record Vol. II, pp. 385-93).  The Third Settlement and Stipulation was introduced by U S WEST and was considered by the Commission in the rate case proceeding below.  Consequently, this document was in the record, considered by the Commission and should automatically be included in the record on appeal.  I.A.R. 28.

REQUEST FOR CORRECTION

As previously mentioned, Appellate Rule 29(a) provides that parties may request “corrections” be made to the record on appeal.  In this particular case, the Commission has issued two Errata Notices to Order Nos. 27204 and 27152.  (Proposed Record Vol. II, pp. 396 and 399, respectively).  To avoid confusion by having to refer to the two Errata Notices, Staff respectfully requests that the Commission direct the Commission Secretary to make the corrections identified in the Errata Notices to the respective Orders.

REQUEST FOR DELETION

Finally, the Staff requests that the Commission make one deletion from the proposed appellate record.  In its Petition for Reconsideration, U S WEST claimed that “[t]he evidence on file in this case reflects” the revenues associated with toll restriction in the 1995 test year.  U S WEST Petition for Reconsideration at 35, footnote 17 (Proposed Record Vol. III, p. 438).  U S WEST did not cite to the evidence allegedly supporting this footnote’s assertion.  Contrary to U S WEST’s assertion, the Staff maintains that the evidence contained in the record does not reflect the annual revenues associated with toll restriction.  A review of the transcript and exhibits entered in this case does not reveal this information.  U S WEST for the first time in its Petition for Reconsideration alleged a fact not contained in evidence—the revenue associated with toll restriction.  If this information was contained in a response of a discovery production request, the information was never introduced into evidence by the Company.  As previously mentioned, the Commission’s Procedural Rule 283 provides that requests for discovery and answers to discovery “are not part of the hearing records unless introduced as exhibits at hearing.”  IDAPA 31.01.01.283.   The Company’s characterization of alleged evidence does not convert such a characterization into evidence.  The arguments made in briefs or petitions are not evidence.  Viveros v. State Dept. of Health and Welfare, 126 Idaho 714, 889 P.2d 1104 (1995).  Footnote 17’s reference to toll restriction revenue should be deleted from the record on appeal.

REQUEST FOR HEARING

Once the Commission Secretary serves the proposed appealable record on the parties, they have 21 days to file objections to the record, including requests for corrections, additions, or deletions.  I.A.R. 29(a).  Given the Staff’s objections and its other requests, the Staff respectfully requests that the Commission set this matter for hearing.  The Staff requests that the Commission schedule a hearing to commence at 1:30 p.m. on Wednesday, April 1, 1998 in the Commission’s Hearing Room.  IDAPA 31.01.01.241.

CONCLUSION

Based upon the reasons set out above, the Staff requests that the Commission deny U S WEST’s request to add certain materials to the appellate record as set out in greater detail above.  The Staff also requests that the Commission include in its record the Third Stipulation and Settlement entered into between U S WEST and the Staff filed on October 17, 1997.  The Staff also requests that the Commission make corrections to the appellate record as contained in the two Errata Notices discussed above.  Finally, the Staff requests that the Commission delete footnote 17 contained in the Company’s Petition for Reconsideration at page 35 (Proposed Record Vol. III, p. 438) or at a minimum that the first sentence of this footnote be deleted.

RESPECTFULLY submitted this 18th day of March 1998.

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Deputy Attorney General

vld/N:USW-S-96-5.dh3

**FOOTNOTES**

1:

This subsection states:  For any telecommunication service that was subject, on the effective date of this act, to title 61, Idaho Code, and which at the election of the telephone corporation became subject to this chapter, the commission shall have continuing authority to review the quality of such service, its general availability, and terms and conditions under which it is offered.  Upon complaint to the commission and after notice to the telephone corporation providing such service and hearing, the commission finds that the quality, general availability or terms and conditions for such service are adverse to the public interest, the commission shall have authority to negotiate or require changes in 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 requirement of title 61, Idaho Code, rather than the provisions of this chapter.

2:

On December 3, 1997, the Commission issued an Errata to Order No. 27152 correcting the references to the two cases and adding another cite to the listing of Orders issued in those two cases.  See Proposed Record Vol. II, p. 399.  As addressed infra, the Staff requests that Order No. 27152 be corrected as reflected in the Errata Notice.

3:

In its initial Notice of Appeal, U S WEST originally requested that the Commission add to the record “[a]ll tariff and catalog submissions made by U S WEST and on file at the Idaho Public Utilities Commission (IPUC), including all original versions of same and all amendments and revisions thereto that deal with the U S WEST products and offerings known as ‘Toll Restriction,’ ‘Teen Link’ and ‘Custom Solutions’.”  U S WEST Notice of Appeal, Addendum A-1.  This request has subsequently been modified as reflected in the Second Amended Notice of Appeal.