**DONALD L. HOWELL, II**

**DEPUTY ATTORNEY GENERAL**

**SUSAN E. HAMLIN**

**DEPUTY ATTORNEY GENERAL**

**472 W. WASHINGTON**

**PO BOX 83720**

**BOISE, ID 83720-0074**

**Telephone: (208) 334-0312**

**(208) 334-0318**

**FAX: (208) 334-3762**

**Attorneys for Commission Staff**

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

|  |  |  |
| --- | --- | --- |
| **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.** | **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)** | **CASE NO. USW‑S‑96‑5**  **MOTION TO COMPEL**  **MOTION FOR**  **EXTENSION OF TIME**  **REQUEST FOR EXPEDITED ORAL ARGUMENT/ PREHEARING CONFERENCE** |

The Commission Staff, by and through its attorneys of record, Donald L. Howell, II and Susan E. Hamlin, respectfully move the Commission to direct U S WEST to answer outstanding Production and Audit Requests in this case. More specifically, the Company has not answered Staff’s Fourth Production Request No. 269; Staff’s Fifth Production Request Nos. 286, 292, 294, 295, 296, 297, 298, 302, 313-2, 316, 317, 318, 320, 351, 356, 357, 358, 386, 389, 391, 392, 394, 400, 405, 407, 409, 410, 412, 413, 415, 416, 419, 420, 424, 428, 436, 437, 438, 439, 440, 446, 448, 449, 450, 451, 452, and 453; Staff’s Sixth Production Request Nos. 455-471; Staff’s Eighth Production Request Nos. 477-480; and Staff’s Audit Request Nos. 149, 152, 157, 159, 160-162, 170-179. Staff also moves to extend the time for Staff and Intervenors to file surrebuttal in this matter from Friday, February 21, 1997 to Thursday, February 27, 1997 at 4:00 p.m. Finally, Staff asks for Expedited Oral Argument on these motions. Given the urgency of this matter, Staff recommends that it be set for Thursday, February 20, 1997 after the 1:30 p.m. Commission Decision Meeting.

**DISCUSSION**

In Order No. 26739 issued December 31, 1996, the Commission set the discovery and testimony deadlines for all parties in this case. In that Order, the Commission granted US WEST’s Motion for Extension of Time (42 days) to prepare its rebuttal testimony given the extensive Staff testimony. The Commission also recognized the “tight” schedule in this case and established specific discovery deadlines for the parties to adhere to, including U S WEST. The Order stated that “U S WEST must answer discovery requests within eleven days of receiving the requests (e.g., received January 31, 1997  answers delivered February 11, 1997; received February 3, 1997 delivered February 14, 1997).” Order No. 26739 at 3. U S WEST has not answered Staff’s Productions Requests within the time frame set out in the Commission’s Order.

As of the date of this Motion, U S WEST is eight days late in answering 47 Production Requests, four days late in answering 16 more, and 12 days late in answering one. Additionally, U S WEST has not answered 17 of the Staff’s audit requests during the Denver audit conducted February 3-6, 1997. Staff’s Production Requests to U S WEST and the due dates for answers are as follows. (See attached copies of Staff’s Production Requests and Audit Requests to U S WEST).

Staff’s Fourth Production Request was served on January 28, and due on February 7.

Request No. 269 is still outstanding.

Staff’s Fifth Production Requests were served on January 31, and due February 10.

Request Nos. 286, 292, 294, 295, 296, 297, 298, 302, 313-2, 316, 317, 318, 320, 351, 356, 357, 358, 386, 389, 391, 392, 394, 400, 405, 407, 409, 410, 412, 413, 415, 416, 419, 420, 424, 428, 436, 437, 438, 439, 440, 446, 448, 449, 450, 451, 452, and 453 are still outstanding.

Staff’s Sixth Production Requests were served on February 3, and due on February 14. Request Nos. 455-471 are still outstanding.

Additionally, on February 11, 1997, U S WEST submitted its partial response to Staff’s Fifth and Seventh Production Requests indicating that additional information was needed to respond to several of Staff’s production requests. On February 14, Staff submitted the supplemental information in the form of its Eighth Production Request to U S WEST and requested that this information be provided on or before February 18, 1997. Request Nos. 477-480 are still outstanding.

Finally, Staff conducted two audits of particular rate base and expense accounts as a follow-up to the January 14, 1997 settlement conference and subsequent agreement with U S WEST on these particular accounts. One audit occurred in Seattle during January and one in Denver in early February. During the audits Staff asked through Audit Requests for copies of identified records and documents relating to those accounts. Although Staff was assured by the Company that these documents would be immediately forthcoming, Staff has still not received all of the documents relating to these audit requests. Staff’s Audit Request Nos. 149, 152, 157, 159, 160-162, 170-179 are still outstanding.

Staff believes that answers to these Production and Audit Requests are critical for Staff to adequately prepare and file its surrebuttal testimony. The Commission set February 21, 1997 as the deadline for Staff and Intervenors to file surrebuttal testimony. Staff believes that it is practically impossible for Staff to meet that deadline given the fact that U S WEST has not answered approximately 80 of the Staff’s Production and Audit Requests. Staff therefore asks the Commission to compel U S WEST to immediately answer the outstanding Production and Audit Requests. Staff also asks the Commission to extend the deadline for filing Staff and Intervenor surrebuttal testimony by six days to February 27, 1997 at 4:00 p.m. Staff believes that this will give Staff and Intervenors enough time to receive and analyze the Production Requests yet to be received from U S WEST.

Staff asks for expedited oral argument on the Motion to Compel and Motion for Extension of Time. Staff requests that oral argument be set on Staff’s Motions and AARP’s Motion to Compel U S WEST for Thursday, February 20, 1997 after the 1:30 Commission Decision Meeting in the Commission Hearing Room. The Commission may also desire to consider AT&T’s Motion to Consolidate this rate case with Case No. USW-T-97-2.[[1]](#footnote-1)

Staff has attempted to contact all parties to the case by telephone to give notice of this Motion. AT&T, MCI, ITA, Idaho Citizens Coalition, Century Telephone, Idaho Consumer Affairs, David Hoffman, Idaho Cable Telecommunications Association, and AARP support the Staff’s Motion for Extension of Time. U S WEST does not consent to the extension. Staff was unable to reach a representative for GTE. Staff did leave a message of the Motions and time for oral argument with Fred Logan, representative for GTE, and will attempt to reach him by phone again and by FAX. All parties will also receive a copy of this Motion by mail or FAX. Staff does not foresee a need to adjust the hearing scheduled to begin March 10, 1997.

Pursuant to Commission Rules of Procedure Rule 256, IDAPA 31.01.01.256, the Commission may grant a Motion on fewer than 14 days notice when all parties have received actual notice of the Motion by telephone or personal delivery of the Motion, or continued efforts are being made to reach those parties who have not been contacted. Staff has complied with Rule 256 and will continue to try to contact the remaining parties to give notice of the Motion.

**PRAYER FOR RELIEF**

Staff moves the Commission to direct U S WEST to immediately answer the outstanding Production and Audit Requests in this case.

Staff further moves the Commission to extend the Staff/Intervenor’s surrebuttal deadline to Thursday, February 27, 1997 at 4 p.m..

Staff requests an expedited oral argument be set for Staff’s Motions and AARP’s Motion to Compel for Thursday, February 20, 1997 after the 1:30 p.m. Decision Meeting. The Commission or the parties may also address other procedural or substantive issues at that time.

Respectfully submitted this 19th day of February 1997.

Donald L. Howell II

Deputy Attorney General

cm/n:usws965.sh3

1. AT&T’s local counsel could not agree to the scheduling of oral argument on AT&T’s Motion to Consolidate the Interconnection Cost Adjustment Mechanism (ICAM) case (Case No. USW-T-97-2) without talking to his client. [↑](#footnote-ref-1)