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

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| ROCKY MOUNTAIN COMMUNICATION, INC.                       COMPLAINANT,                                    vs.  U S WEST COMMUNICATIONS, INC. AND  U S WEST INTERPRISE AMERICA, INC.,                        RESPONDENTS. | )  )  )  )  )  )  )  )  )  )  ) | CASE NO. USW-T-96-12  NOTICE OF  PREHEARING CONFERENCE  ORDER NO.  26649 |

On September 24, 1996, Rocky Mountain Communications, Inc.  (Rocky Mountain) filed a Complaint against U S WEST Communications, Inc. and U S WEST Interprise America, Inc.  (U S WEST) alleging the “quality, general availability, terms and conditions of Title 62 telecommunications services provided by [U S WEST] to [Rocky Mountain] have been unreasonable, inadequate, discriminatory, arbitrary and adverse to the public interest.”  The Commission Secretary issued a summons directing U S WEST to respond to the Complaint within 21 days pursuant to the Commission’s Rule of Procedure 57.  The time for filing an Answer ended October 17, 1996.  Rocky Mountain also filed a Motion for Order to Show Cause requesting that the Commission either issue an order directing U S WEST to fill all held orders within ten days with respect to Rocky Mountain’s request for telephone access lines, T-1 facilities and ISDN single-line service, or schedule a hearing for U S WEST to show cause why such an order should not be issued.

On October 17, 1996, U S WEST delivered an Answer to the Complaint, as well as procedural motions, to the Commission.  Unfortunately, because the Commission offices were experiencing an electricity outage, the Commission’s filing room was totally dark and the clerical specialist was absent.  In the confusion, a state postal system employee removed U S WEST’s documents from the room.  On October 18, 1996, believing that U S WEST had not filed an answer the previous day, Rocky Mountain filed motions for entry of default.

Because U S WEST did in fact file an Answer with the Commission on October 17, 1996, Rocky Mountain’s Motion for Default on its Complaint will be denied.  Likewise, we regard U S WEST’s Answer as responsive to Rocky Mountain’s Motion for an Order to Show Cause, and thus deny Rocky Mountain’s Motion for Default on its request for a show cause order.

Nor are we convinced that the Commission should issue an Order to Show Cause based on the allegations and affidavit filed by Rocky Mountain.  The Commission’s procedural rules do not provide for the filing of motions for an Order to Show Cause by a complainant.  Nor do the statutes providing the Commission’s jurisdiction and authority address motions for orders to show cause filed by aggrieved utility customers.  Rocky Mountain’s Motion states that it is filed pursuant to a state court rule, Idaho Rule of Civil Procedure 6(c)(2).  However, sections of Idaho Code Title 61, Chapter 6 provide for the Commission’s review of complaints against utilities.  Section 61-616 requires a hearing be set on a complaint on no less than 20 days notice.

Rocky Mountain contends it is entitled to immediate relief and has alleged that significant damage has occurred as a result of its inability to resolve the issues with U S WEST.  Based on the pleadings filed to date, we find that the Commission should proceed as expeditiously as possible.  Accordingly, we will schedule a prehearing conference for this coming Friday, October 25, 1996 at 1:30 p.m. in the Commission’s hearing room.

We also note that  Rocky Mountain’s allegations relate to Title 62 services provided by U S WEST.  The Commission’s jurisdiction over Title 62 services is limited.  Idaho Code § 62-605(5) authorizes the Commission’s review of Title 62 services that U S WEST previously provided as Title 61 services.  Rocky Mountain has alleged that Section 62-605(5) is applicable to its Complaint.  At the prehearing conference, the parties should be prepared to discuss the applicability of Section 62-605(5) and its affect, if any, on the processing of this case.

O R D E R

IT IS HEREBY ORDERED that the Motions of Rocky Mountain for an Order to Show Cause and for Entry of Default are denied.  The Commission will convene a prehearing conference to discuss scheduling and further processing of Rocky Mountain’s Complaint as expeditiously as possible.

NOTICE OF PREHEARING CONFERENCE

YOU ARE HEREBY NOTIFIED that the Commission, after reviewing the Complaint has determined to convene a prehearing conference in this case for the purpose of reviewing case status, identifying issues and establishing further procedure and any other purpose as provided in the Commission’s Rule of Procedure 211.

YOU ARE HEREBY NOTIFIED that a prehearing conference is scheduled in this case for FRIDAY, OCTOBER 25, 1996 AT 1:30 P.M. IN THE HEARING ROOM OF THE PUBLIC UTILITIES COMMISSION, 472 WEST WASHINGTON STREET, BOISE, IDAHO (334-0300).

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission’s jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be conducted pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act.  Persons needing the help of a sign language interpreter or other assistance of the kind that the Commission is obligated to provide under the Americans with Disabilities Act in order to participate in or to understand the testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing.  The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0338  (TELEPHONE)

(208) 334-3151  (TEXT TELEPHONE)

(208) 334-3762  (FAX)

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

RALPH NELSON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

bls/O:uswt9612.ws

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

October 23, 1996