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

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| IN THE MATTER OF THE APPLICATION OF U S WEST COMMUNICATIONS, INC.  TARIFF ADVICE 96-10-N TO RESTRUCTURE LOCAL TRANSPORT CHARGES. | )  )  )  )  ) | CASE NO. USW-T-97-3  ORDER NO.  27266 |

On October 9, 1997, AT&T Communications of the Mountain States (AT&T) filed a Petition for Reconsideration of Order No. 27145 issued by this Commission on September 18, 1997.  On October 17, 1997, the Commission issued Order No. 27177 granting U S WEST Communica­tions, Inc.’s (U S WEST) Motion for extension of time in which to file a cross-petition for reconsideration in this matter.  Rather than filing a cross-petition for reconsideration, however, U S WEST simply filed an answer to AT&T’s Petition for Reconsideration on October 30, 1997.  In addition, the Commission Staff filed an answer to the Petition on October 16, 1997.  Having fully considered the foregoing Petition and Answers, the Commission hereby denies AT&T’s Petition as set forth below.

AT&T’s Petition for Reconsideration

AT&T argues that the changes to the structure of U S WEST’s access charges are not just and reasonable and discriminate against one customer class; interexchange carriers.  Petition at p. 1. AT&T contends that it is inequitable to require only interexchange customers to compensate U S WEST for the lost revenue allegedly incurred as a result of the restructuring of the Company’s access charges.  AT&T suggests that local access service customers should be required to recompense U S WEST for part of the revenue shortfall.

Along these lines, AT&T suggests that the revised access charge structure violates prior Commission Orders limiting the amount of local loop costs that can be recovered through access charges.  Petition at 2.

AT&T also complains that there is no justification for the discontinuation of the 40% off-peak discount formerly offered through U S WEST’s tariff.  AT&T suggests that it is a violation of prior Commission Orders to not maintain such a discount.

AT&T further alleges that U S WEST will collect significantly  more revenue through its restructured CCL charges.  AT&T suggests that U S WEST will collect in excess of its authorized revenue requirement under the restructured CCL charges.

AT&T contends that U S WEST has failed to “demonstrate any need to recover the transport rate restructure-caused revenue decrease.”  Petition at p. 5.  To the contrary, AT&T asserts, U S WEST is earning sufficient revenue.  Consequently, AT&T asserts that the Commission has violated Idaho Code § 61-301 requiring that all rates be just and reasonable and Idaho Code § 61-315 prohibiting any discrimination in rates among customer classes.  AT&T argues that it cannot compete effectively against U S WEST rates in southern Idaho “when AT&T’s average rate has to recover the high operating costs to serve customers in northern Idaho and rural areas.”  Petition at p. 7.

AT&T urges the Commission to conduct an evidentiary hearing to determine whether U S WEST will not earn its last authorized rate of return if the transport rate restructure occurs without a corresponding increase in revenue from other rates.  Finally, AT&T argues that the Commission’s Order violates House Bill 313, codified as Idaho Code § 62-623, requiring that the Commission identify and quantify implicit telephone rate subsidies.  AT&T reasons that the Commission’s decision to allow an increase in the CCL rate is contrary to the explicit intent expressed in the aforementioned legislation requiring the removal of implicit subsidies from rates.

U S WESTAnswer

Initially, U S WEST notes that its northern Idaho operations are fully regulated pursuant to Title 61 of the Idaho Code.  Consequently, the Company cannot set access charge levels or adjust the revenue streams flowing from the sale of any of its services in northern Idaho without Commission approval.  U S WEST objects to AT&T’s characterization of the access charge restructuring as a “rate increase.”

U S WEST refutes AT&T’s contention that the access charge restructuring discriminates against interexchange characters.  To the contrary, as a revenue neutral filing it can collect no more revenue than the previous configuration.  As U S WEST notes: “nothing in the filing affects the position of interexchange carriers as a group in comparison with any other class of customer.”  Answer at pp. 2-3.

U S WEST posits that pursuant to Title 61, “the Commission has the discretion to create a rate design for the production of the overall revenue requirement unfettered by detailed study of individual service incremental cost studies.”  Answer at p. 3.  U S WEST contends that, contrary to AT&T’s Petition, the Commission’s decision is quite consistent with prior decisions.  Nothing in the intrastate cost allocation process previously approved by the Commission, U S WEST notes, requires that the only contribution to the recovery of network costs covered by carrier access charges should be confined to the CCL component.  U S WEST argues that there is no authority, whether  in the form of Commission precedent or law, requiring that the various components of the access charge remain static.

U S WEST notes that there are several reasons why its access revenues have increased over the years.  First, the 1991 data contained only a portion of the increase ordered by the Commission in Order No. 23347 to pay for the Company’s extensive infrastructure program.  Second, between 1991 and 1995, U S WEST gained 5,391 access lines according to its annual line reports.  Consequently, U S WEST argues that it is not over-earning as suggested by AT&T.

Finally, regarding AT&T’s suggestion that the Commission’s Order violates House Bill 313, U S WEST contends that it is not possible for the Commission’s Order to have created any type of implicit subsidy because it does not affect the level of revenue recovered by U S WEST.

U S WEST takes exception to AT&T’s suggestion that this proceeding is appropriate to conduct a full earnings analysis of U S WEST.  U S WEST notes that this is a revenue neutral filing and does not trigger the need to investigate the Company’s earnings any more than leaving the tariff unchanged would.  Moreover, U S WEST notes that AT&T has not offered any evidence that U S WEST’s earnings in northern Idaho are above the Company’s authorized level.  U S WEST concludes that “rather than being error for the Commission to decline to delve into those issues for U S WEST’s northern Idaho operations in this case, it is simply good judgment and administrative economy to combine those issues in a generic docket.”  Answer at p. 10.

FINDINGS

Rule 331 of the Commission’s Rules of Procedure (IDAPA 31.01.01) provides that Petitions for Reconsideration must specify the grounds upon which the Petitioner contends that the Commission’s Order is “unreasonable, unlawful, erroneous or not in conformity with the law.”  The rule goes on to require that the Petitioner provide a statement of the nature and quantity of evidence it would offer if reconsideration were granted.  We find that nothing in AT&T’s Petition for Reconsideration convinces us that Order No. 27145 is in any way unreasonable, unlawful, erroneous or not in conformity with the law.  In fact, AT&T’s Petition is based entirely upon two mistaken contentions; that CCL rates and overall access rates are one and the same and that the changes approved by the Commission have a revenue effect on interexchange carriers, as a class.  It is upon this untenable foundation that all of the many facets of AT&T’s arguments are based.  What AT&T apparently fails to accept is the fact that the tariff changes approved by the Commission are revenue neutral to interexchange carriers as a class.  While the Commission did approve changes in the manner in which U S WEST’s access rates are structured, i.e., it allowed an increase in CCL rates while approving a corresponding decrease in transport charges, the ratio of revenue derived by U S WEST from its total access charges to that of other services remains unchanged.

AT&T repeatedly infers that the Commission allowed U S WEST to establish a new revenue requirement.  Again, this is simply not true.  AT&T’s observations that U S WEST’s CCL rates will recover more revenue than they did in the past overlook the fact that because of decreases in other components of the Company’s access charges, the overall revenue collected from the class of interexchange carriers that pay access charges remains unchanged.  Consequently, nothing in the approved tariff constitutes an overall rate increase nor does it discriminate against interexchange carriers as a class.

AT&T suggests that the Commission erred in approving a restructuring of U S WEST’s access charges without a cost of service study.  There is nothing in the Commission’s rules nor is there any legal requirement that every rate design change approved by the Commission be supported by a cost-of-service study.

AT&T’s arguments that the percentage of loop costs recovered through access charges has changed is equally misguided.  Only the components of the access charges have changed.  Our final Order in this case is not inconsistent with prior Commission rulings.  In any event, the Commission is not bound in perpetuity to a given percentage.  In fact, as AT&T notes, in Order No.21788, the Commission found “that the allocation of non-traffic sensitive (NTS) costs to toll services may be reduced to 15% or subscriber line usage whichever is greater, or may be allowed to vary between 15% or subscriber line usage whichever is greater and 25% in order to permit reasonable rate design for both toll and local services.”  Id.at p.14.  Moreover, in Order No.23347, the Commission ordered the recovery of the cost of rural upgrades, part of which would represent NTS costs, to be recovered through increases in the local switching component as well as MTS rates.  Finally, in Order No.21949, the Commission found that the reduction in NTS costs from 19% to 15% should be implemented by a reduction in access charges, MTS and WATS rates.

The fact that U S WEST’s access revenues have increased, as AT&T notes, can be largely explained by the fact that the Company has experienced a growth in its number of access lines.  This fact does not warrant the need for a general rate case nor does it somehow render a restructuring of U S WEST’s access rates inappropriate.  In Order No. 27145, we stated our support for the changes proposed by U S WEST on the basis that those changes begin to more closely align U S WEST rate structure with the FCC interstate rate structure outlined in Docket No. 96-262.  AT&T’s Petition does not dispute this fact.

Finally, AT&T’s contention that our Order violates the spirit and intent of House Bill No. 313 is equally untenable.  That legislation requires that the Commission “identify” and “quantify” implicit subsidies in telephone rates.  It also mandates that we determine a mechanism for the removal of subsidies from rates. As noted in Order No. 27145, as well as the “Telecommunications Report” presented to the Governor and the Legislature pursuant to House Bill No. 313, we will examine U S WEST North’s access rates to fulfill our responsibilities in that regard. In any event, there was no evidence presented during the course of this proceeding establishing that the restructuring of U S WEST’s access charges approved by Order No. 27145 will create, exacerbate or in any way affect any implicit subsidies that may be extant in U S WEST’s rates.

O R D E R

IT IS HEREBY ORDERED that AT&T’s Petition for Reconsideration is denied as set forth above.

THIS IS A FINAL ORDER ON RECONSIDERATION.  Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. GNR-T-97-22 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules.  See Idaho Code § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of December 1997.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:USW-T-97-3.bp4

(text box: 2)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)

U S WEST COMMUNICATIONS, INC. TARIFF)CASE NO. USW-T-97-3

ADVICE 96-10-N TO RESTRUCTURE LOCAL)

TRANSPORT CHARGES)

)ERRATUM NOTICE

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On December 24, 1997, IPUC Order No. 27266 was issued by this Commission.  The following change(s) should be made to that Order:

Page 5, Order Section, Final Order paragraph

READS:

“Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. GNR-T-97-22 may . . .”

SHOULD READ:

“Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. USW-T-97-3 may . . .”

DATED at Boise, Idaho, this             day of  December 1997.

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

Text Box 2:

**TEXT BOXES**

Office of the Secretary

Service Date

December 24, 1997

Office of the Secretary

Service Date

December 30, 1997