BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| McLEODUSA TELECOMMUNICATIONS SERVICES INC. (FORMERLY McLEOD TELEMANAGEMENT, INC.)          vs.U S WEST COMMUNICATIONS INC. | )))))))) | CASE NO. USW-T-97-5MTI-T-97-1ORDER NO.  27019 |

AT&T Communications of the Mountain States, Inc. (AT&T) on May 14, 1997, filed a Petition to Intervene in this McLeodUSA Telecommunications Services, Inc. v. U S WEST Communications, Inc. (Centrex) case, Case Nos. USW-T-97-5; MTI-T-97-1.  U S WEST filed an objection to AT&T’s Petition on the basis that “AT&T’s participation in the present action amounts to an attempt to relitigate issues already finally decided between U S WEST and AT&T” in an earlier case between those parties, Case No. USW-S-96-1.  U S WEST contends the issues to be decided in this case are solely between McLeod and U S WEST, and that AT&T’s intervention will “unfairly discriminate against U S WEST by forcing it to twice defend against an identical party on identical issues.”

In a response to U S WEST’s objection, AT&T states that it has a direct and substantial interest in the subject matter of the proceeding and that its involvement will not unduly broaden the issues, the standard for intervention provided in IPUC Rule of Procedure 74.  AT&T states that “U S WEST’s res judicata argument is premature because AT&T has not attempted to litigate issues in the McLeod proceeding it previously litigated in the first Centrex Plus withdrawal proceeding.”  AT&T contends that, “if it is granted intervenor status and attempts to litigate issues in the McLeod proceeding already resolved in the first Centrex proceeding, or to raise facts in the McLeod proceeding which it should have raised in the first proceeding, nothing prevents U S WEST from arguing that res judicata, collateral estoppel, or general notions of fairness should bar such attempts.”

FINDINGS OF FACT

According to the Commission’s Rules of Procedure on intervention, a petition will be granted if it “shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues.”  IDAPA 31.01.01.074.  This threshold for intervention traditionally has been liberally construed by the Commission to allow a fair opportunity to all interested parties to participate in a proceeding.  We find that AT&T by its pleadings has demonstrated it has a direct and substantial interest in the subject matter at issue in this case.

U S WEST does not argue that AT&T has not shown a direct interest in the subject matter at issue between McLeod and U S WEST, but does contend it should not be made “to relitigate issues already finally decided between U S WEST and AT&T.”  Thus, U S WEST is concerned that AT&T not be permitted to unduly broaden the issues in this case.

While the Commission liberally grants petitions to intervene, we are also concerned that the hearing process not be unduly or unfairly broadened by intervenors.  We cannot say that the granting of intervention to AT&T by itself will unduly broaden the issues in this case.  That decision must and will be made should U S WEST object to individual evidentiary matters submitted by AT&T.

We find based on the pleadings and other documents filed in this case, that intervention by AT&T would serve the purposes of intervention as described by Rule 74 of the Rules of Procedure.

O R D E R

IT IS THEREFORE ORDERED that the Petition to Intervene filed by AT&T Communications of the Mountain States, Inc. is hereby granted.

IT IS FURTHER ORDERED that all parties in this proceeding serve all papers hereafter filed in this matter on all parties of record.  This Intervenor is represented by the following for purposes of service:

Greg Harwood

  Davis Wright Tremaine, LLP

999 Main Street, Suite 911

  Boise, ID 83702

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

                                                                             DENNIS S. HANSEN, PRESIDENT

                                                                             RALPH NELSON, COMMISSIONER

                                                                              MARSHA A. SMITH, COMMISSIONER

ATTEST:

MYRNA J. WALTERS

COMMISSION SECRETARY

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