DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

DAVE SCHUNKE

JOE CUSICK

DAVID SCOTT

WORKING FILE

FROM:WELDON STUTZMAN

DATE:APRIL 17, 1998

RE:CASE NO. USW-T-97-14

APPROVAL OF PROCESS FOR U S WEST SECTION 271 FILING.

On April 3, 1998, AT&T Communications of the Mountain States (AT&T) filed a Petition for Review regarding the tabling of AT&T’s previous petition to establish Section 271 procedures for U S WEST.  AT&T’s recent Petition was prompted by U S WEST’s filing  on March 30, 1998, of a proceeding in Montana to review its compliance with Section 271 of the Telecommunications Act.  It is pursuant to Section 271 that a Bell operating company (BOC) can request authorization from the Federal Communications Commission to enter the interlata, long distance telecommunications market.  In its filing before the Montana Commission, U S WEST stated it would file a Section 271 Application for Montana with the FCC on June 30, 1998.

AT&T initiated this Docket last June by a Petition requesting that the Commission determine a procedure for U S WEST to file a Section 271 proceeding prior to its filing of an application with the FCC.  Following the filing of a response by U S WEST and comments by MCI Telecommunications (MCI), the Commission tabled AT&T’s request.  Concerned that U S WEST’s filing in Montana indicated a similar filing for Idaho was imminent, AT&T renewed its request by its Petition filed on April 3.  Noting that the Commission “does not have pre-filing requirements established for U S WEST’s 271 filing,” AT&T asserts that “the Commission should establish both the 90 day pre-filing period and the procedures to be followed for evaluating the Application at the state level.”  AT&T requests that the Commission “establish substantive filing requirements to insure that U S WEST provides to the Commission and interested parties the information necessary for reviewing the Application.”

Following the filing by AT&T, the Commission Staff initiated discussions with U S WEST regarding the procedures for a Section 271 filing.  The Commission Staff and U S WEST subsequently entered into a Stipulation for processing U S WEST’s Section 271 filing, which establishes a procedural schedule.  In the Stipulation, U S WEST agreed that it would file an Application with the Commission no less than 90 days before it files a Section 271 Application with the FCC.  Time periods for the completion of discovery and the hearing are also set forth in the Stipulation.  The procedural schedule closely follows that established by the Iowa Commission by an Order issued last summer.

The Stipulation was executed and filed on April 13, 1998.  AT&T and MCI reviewed the proposed Stipulation before it was agreed to by U S WEST and the Commission Staff, but neither AT&T nor MCI determined to sign the Stipulation.  Although AT&T in its Petition suggested as one alternative the adoption of the Iowa procedures for a Section 271 proceeding, AT&T’s suggestion also included a recommendation that the Iowa procedure be “augmented by also requiring the filing of information outlined by the Department of Justice in documents entitled ‘Issues and Information to Consider and Evaluating BOC Section 271 Application for In-region Interlata Entry’ and ‘Further Issues and Information to Consider in Evaluating BOC Section 271 Applications for In-region Interlata Entry.’”  AT&T and MCI were invited to file comments regarding the Stipulation.

Staff recommends that the Stipulation entered into by U S WEST and the Staff be approved for processing U S WEST’s future Section 271 filing.

Commission Decision:

Should the Stipulation for processing U S WEST’s Section 271 filing be approved?  Should the Commission also establish specific filing requirements for a U S WEST Section 271 application?

                                                              Weldon Stutzman

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