CHERI C. COPSEY

DEPUTY ATTORNEY GENERAL

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE,  IDAHO  83720-0074

(208) 334-0314

Street Address for Express Mail:

472 W WASHINGTON

BOISE ID  83702-5983

Attorney for the Commission Staff

BEFORE  THE  IDAHO  PUBLIC  UTILITIES  COMMISSION

IN THE MATTER OF THE APPLICATION OF)CASE  NO.  USW-T-97-19

U S WEST COMMUNICATIONS, INC. TO )

BE DESIGNATED AS AN ELIGIBLE )COMMENTS OF THE

TELECOMMUNICATIONS CARRIER. )COMMISSION STAFF

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Cheri C. Copsey, Deputy Attorney General, in response to Order No. 27234, the Notice of Application and Notice of Modified Procedure in Case No. USW-T-97-19, issued December 2, 1997, submits the following comments.

BACKGROUND

On November 14, 1997, U S WEST Communications, Inc. (U S WEST) filed an Application requesting that the Commission designate U S WEST as an eligible telecommunications carrier (ETC) pursuant to the Telecommunications Act of 1996 for the purposes of receiving federal universal service support and other benefits in accordance with the federal Telecommunications Act.  U S WEST further requested the Commission apply the ETC designation at each of its serving wire centers in its certificated service area as reflected in

U S WEST’s Certificates of Public Convenience and Necessity for both its southern Idaho and northern Idaho operations.  In the Application, U S WEST claimed that with the exception of

toll control, it meets the criteria of ETC designation.  U S WEST requested the Commission suspend or waive any requirement that it provide “toll control.”

On December 2, 1997, the Commission issued Order No. 27234 which gave public notice of the Application and notice that the proceeding would be conducted according to the Commission’s Rules for Modified Procedure.

STAFF ANALYSIS

1.  Designation as an “Eligible Telecommunications Carrier.”

Before a telecommunications carrier may receive federal Universal Service Fund support, it must be designated as an eligible telecommunications carrier by the state regulatory commission.  47 U.S.C. § 214(e)(2).  Federal universal service support includes high-cost support, reimbursement for discounts provided to low-income customers in the Lifeline and  Link Up programs, and support for schools, libraries and health care providers.

To be designated as an eligible telecommunications carrier, a LEC must offer “services that are supported by federal universal service support mechanisms under Section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services” and “advertise the availability of such services and the charges therefore using media of general distribution.”  47 U.S.C. § 214(e).  In its Order released May 8, 1997, the FCC designated the following services as required “core” services “supported by universal service support mechanisms under Section 254(c)” that must be provided by the LEC in order to qualify as an ETC:

single-party service

voice grade access to the public switched network

touch-tone service

access to emergency services, including 911 and E911

access to operator services

access to interexchange service

access to directory assistance

toll limitation services for qualifying low-income consumers

FCC’s Universal Service Order, CC Docket No. 96-45, FCC 97-157 at ¶¶ 61-82 (codified at 47 C.F.R. § 54.101).  In its Application, U S WEST claims that, with the exception of toll control, it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area.

Staff confirmed that U S WEST offers the above-listed services using its own facilities and generally advertises the availability of these services with the possible exception of toll control as defined by the FCC’s Universal Service Order, (FCC 97-157), at ¶ 383, codified at 47 C.F.R. 54.400(c) (effective January 1, 1998).

U S WEST requests the Commission grant it a waiver of the toll control requirement, and as explained more fully below, Staff recommends granting a waiver.  Therefore, Staff finds

U S WEST meets the minimum criteria for designation as an eligible telecommunications carrier and recommends granting this request.

2.  ETC Service Area.

In designating a telephone carrier as an ETC, the Commission must also designate the appropriate service and support areas.  47 U.S.C. § 214 (e)(2) and 47 U.S.C. § 214 (e)(5).

U S WEST requested the ETC designation apply at the wire center level in both its north Idaho and south Idaho operations.  The Telecommunications Act of 1996 Act defines the ETC “service area” as the “geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms.”  47 U.S.C. § 214 (e)(5).

In its Universal Service Order (FCC 97-157), the FCC recommended that a designated ETC service area should at least be “sufficiently small to ensure accurate targeting of high cost support and to encourage entry by competitors.”  It further advised against simply designating service areas that fit the contours of the existing provider, because new entrants, especially commercial mobile radio service-based providers, might find it difficult to conform their signals or service areas to the precise contours of the incumbent’s area.  This would give the incumbent an advantage and, thus, undermine competition.

Staff generally agrees with the FCC’s concerns.  However, there are a number of specific issues, particularly the nature of the federal Universal Service Fund support program and competition in general, that remain unresolved.  These issues have significant implications for ETC service area designations.  Therefore, Staff does not have sufficient information at this time to make a fully informed recommendation as to what smaller ETC service areas would be most appropriate for U S WEST.  Neither U S WEST nor its competitors becomes eligible for USF payments under the revised Universal Service Fund program until January 1999.  Therefore, Staff recommends granting U S WEST’s request that the ETC designation apply to each wire center at this time and further recommends revisiting the issue prior to January 1999.  At that time, Staff anticipates many of the uncertainties surrounding the implementation of the Universal Service Fund program, telecommunications competition, and the implications of such a service area designation, will be resolved.  With that information, Staff will have a basis for determining whether the wire center level is the most appropriate choice.  Designating at the wire center level now will allow the State and U S WEST to comply with the January 1, 1998 deadline, yet not preclude a more thorough examination of the issues before January 1999.

Staff therefore concurs with U S WEST’s request for ETC designation at the wire center level in the exchanges identified in its Certificates of Public Convenience and Necessity for

U S WEST’s northern Idaho and southern Idaho operations.

3.  Suspension of Toll Control Requirement.

Toll limitation is one of the services that must be provided in order to be eligible for the federal universal service support mechanisms.  FCC’s Universal Service Order (FCC 97-157), ¶82.  The FCC’s definition of toll limitation includes both toll blocking, which allows customers to block toll calls, and toll control, which allows customers to limit in advance their toll usage per month or billing cycle.  Id. at ¶ 383; 47 C.F.R. 54.400(a)(4) (effective January 1, 1998).  In its Application, U S WEST claims it has the ability to provide toll blocking, but not toll control.     U S WEST, therefore, requests the Commission suspend or waive any toll control requirement.

The FCC authorized state commissions to grant a waiver of the requirement of providing toll control or other toll limitation services “upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing . . . toll limitation.”  FCC’s Universal Service Order (FCC 97-157), ¶388; codified at 47 C.F.R. 54.101(c).  The FCC also suggested that any waiver period be limited to the existence of those exceptional circumstances and not extend beyond the time necessary for that eligible telecommunications carrier to complete network upgrades.  Id.

Providing toll control requires substantial integration between the central office switch and the billing records of the customer.  To provide toll control services will require significant upgrades to the equipment and/or procedures used by U S WEST, because U S WEST does not currently have this ability.  Such upgrades cannot reasonably be expected to be implemented in a short period of time.  In addition, previous experience demonstrates that significant customer education is required for an effective toll control program.  Implementing such a complex effort without ensuring that all the procedures are in place and that proper staff and customer education have been completed invites customer confusion, rather than acceptance.  Therefore, Staff finds these circumstances to be exceptional and recommends granting a waiver of the requirement to provide toll control to U S WEST.

Staff’s experience with the provision of toll control by GTE Northwest, Inc. demonstrates that a period of two to three years is appropriate for the introduction of such a complex service.  U S WEST stated that toll blocking is being provided and did not seek a waiver for this feature.  Because at least one form of toll limitation will be available to U S WEST’s customers, there is no need to rush the implementation of toll control.  Rather, it should be implemented in a controlled and orderly manner.  Staff, therefore, recommends the waiver be granted for a three-year period.

SUMMARY OF STAFF RECOMMENDATIONS

1.  The Commission designate U S WEST as an “Eligible Telecommunications Carrier.”

2.  The service area for the ETC designation be each wire center in U S WEST’s northern Idaho and southern Idaho operations, as reflected in U S WEST’s Certificates of Public Convenience and Necessity.

3.  U S WEST be granted a waiver of the requirement to provide toll control for a period of three years.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cheri C. Copsey

Deputy Attorney General

Technical Staff:  Wayne Hart

CC:WH:gdk/umisc/comments/cent971.ccw