DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

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COMMISSIONER SMITH

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FROM:CHERI C. COPSEY

DATE:DECEMBER 17, 1997

RE:IN THE MATTER OFU S WEST COMMUNICATIONS, INC.’S APPLICATION TO BE DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER- CASE NO. USW-T-97-19.

U S WEST requests the Commission designate it as an eligible telecommunications carrier (ETC) and grant it a waiver of toll control requirements in accordance with the federal Telecommunications Act. If the Commission designatesU S WEST Communications, Inc.as an ETC, then U S WEST will be eligible to receive federal universal service support.

In Order No. 27234, issued December 2, 1997, the Commission found that U S WEST’s Application could be processed under Modified Procedure and requested interested persons file written comments regarding this Application no later than December 16, 1997.  Only the Commission Staff filed written comments.

BACKGROUND

Before a telecommunications carrier may receive federal universal service support, it must be designated as an “eligible telecommunications carrier” (ETC) by the appropriate state regulatory commission.  Federal universal service support includes high-cost support, reimbursement for discounts provided to low-income customers in the Lifeline and Link Up programs,(footnote: 1) and federal support for health care providers.

To be designated as an ETC, each company must offer “services that are supported by federal universal service support mechanisms . . ., 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 Universal Service Order released in May 1997, the FCC designated the following services as “core” universal services and must be provided by the carrier 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).  U S WEST certifies that it meets the requirements for designation as an eligible telecommunications carrier for its Idaho service area with the exception of toll control services discussed below.

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).  Any waiver period should 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.

The Universal Service Order also requires that the Commission designate the ETC service area.  An ETC service area is defined as a “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, 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.

U S WEST’S APPLICATION

On November 14, 1997, U S WEST filed an Application requesting that the Commission designate it as an 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 serves eight wire centers and approximately 30,662 access lines in its northern Idaho operations pursuant to Certificate of Public Convenience and Necessity No. 313; and in its southern Idaho operations, it serves 59 wire centers and approximately 438,578 lines pursuant to Certificate of Public Convenience and Necessity No. 255.

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 its 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.”

STAFF COMMENTS

Staff confirmed that U S WEST offers the above-listed services with the exception of toll control as defined by the FCC’s Universal Service Order, at ¶ 383, codified at 47 C.F.R. 54.400(c) (effective January 1, 1998).

U S WESTalso requested the Commission grant it a waiver of the FCC toll control requirement.  Staff noted that upon a finding that exceptional circumstances exist which might preclude an otherwise eligible carrier from being designated as an ETC, the FCC authorized state commissions to grant a waiver of the requirement of providing toll control for limited periods.  FCC’s Universal Service Order, ¶388; codified at 47 C.F.R. 54.101(c).  Staff found that providing toll control would require substantial integration between the central office switch and the billing records of the customer and significant upgrades to the equipment and/or procedures used by U S WEST because it does not currently have this ability.  Given the complexity of toll control services and the time carriers need to evaluate the technical feasibility of such program, Staff found these circumstances are exceptional within the meaning of the FCC Universal Service Order and recommended granting U S WEST a waiver of the requirement to provide toll control.  Staff recommended the waiver be granted for a three-year period, because Staff’s experience with the provision of toll control by GTE Northwest Incorporated demonstrates that a period of two to three years is appropriate for the introduction of such a complex service.

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.  Staff stated it 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 recommended granting U S WEST’s request that the ETC designation apply to each wire center at this time and further recommended 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 stated it 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 and  not preclude a more thorough examination of the issues before January 1999.  Staff therefore concurred 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.

Staff recommended the Commission grant U S WEST’s Application for designation of ETC status to apply to each wire center and to waive any toll control requirement for three years.

Commission Decision

Does the Commission want to grant ETC status to U S WEST?  Does the Commission want to waive the toll control requirement?  Does the Commission want to designate the ETC service area as its serving wire centers in both its north Idaho and south Idaho operations as described in their respective Certificates of Public Convenience and Necessity?

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Cheri C. Copsey

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**FOOTNOTES**

1:

The FCC Lifeline program currently reduces charges for low-income consumers in those states participating in the program.  Link Up assists low-income subscribers to acquire new telephone service by paying half of the first $60.00 charge for the installation of service.  Idaho participates in both programs.