

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Filing by U S WEST)	<u>DOCKET NO. 98-049-T11</u>
COMMUNICATIONS, INC. of a)	<u>ORDER ON RECONSIDERATION</u>
Revised Tariff to Offer Centrex PRIME)	<u>LIFTING SUSPENSIONS AND</u>
Service)	<u>CONDITIONALLY APPROVING</u>
	<u>ADVICE LETTER 98-11</u>

ISSUED: June 11, 1998

APPEARANCES:

Gregory B. Monson

Stoel Rives LLP

For

U S WEST Communications, Inc.

Laurie L. Noda

Assistant Attorney General

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Division of Public Utilities

Mark P. Trincherro

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McLeodUSA Telecommunications Services, Inc.

BY THE COMMISSION:

On March 12, 1998, U S WEST Communications, Inc. ("U S WEST") filed Advice Letter 98-11 proposing to offer Centrex PRIME ("PRIME"). The Advice Letter stated that PRIME is a multi-media platform to deliver integrated video, voice, image and data as a competitive alternative to private branch exchange ("PBX") systems and that it provides technological alternatives not currently available through Centrex Plus ("Plus"). PRIME is principally a detariffed service.⁽¹⁾ However, certain components and features included with PRIME are tariffed.

On April 2, 1998, the Division of Public Utilities ("Division") recommended to the Commission that the offering of

PRIME be suspended for consideration in connection with the hearing scheduled in Docket No. 96-049-T05 on the petition of McLeodUSA Telecommunications Services, Inc ("McLeodUSA") to remove a restriction on sale of Plus. On April 14, 1998, we issued our Report and Order and Notice of Hearing temporarily suspending the PRIME tariff filing pending the hearing in the Plus docket.

On April 20, 1998, U S WEST filed a Motion for Reconsideration requesting that we reconsider our April 14, 1998 Order and that we lift the suspension of the offering of PRIME and, if approval of Advice Letter 98-11 were required, that we approve it. The basis for the motion urged by U S WEST was that no valid basis had been given for suspending the offering of PRIME. U S WEST argued that the fact that the offering of PRIME might have some impact on the issues in the Plus docket was not a valid basis for suspending the offering of PRIME. A hearing on the motion was noticed for May 5, 1998. The Division and McLeodUSA filed responses in opposition to U S WEST's motion raising issues regarding the PRIME Advice Letter and the relationship between the PRIME and Plus issues.

A hearing was held on May 5, 1998, at which counsel appeared and presented argument on the motion. In addition, Laura Scholl of U S WEST and Larry Fuller of the Division provided information in response to questions raised during the hearing.

During the course of the hearing, U S WEST represented that certain potential customers had expressed interest in PRIME. U S WEST also agreed that if the suspension on offering PRIME were lifted, it would abide by our decision on the restrictions on sale of Plus in the Plus docket with respect to the offering of PRIME. Based upon further discussion, it appeared that certain of the disputed issues between the Division and U S WEST might be resolved by agreement of the parties or by further analysis of the cost studies submitted by U S WEST. Accordingly, we directed the Division to conduct further review and report back to us.

On May 6, 1998, the Division filed a memorandum advising us that it had resolved its concerns regarding the offering of PRIME. First, the Division's concern that the rates for extended area service ("EAS") included in PRIME did not correspond with the EAS rates ordered in our Report and Order in Docket No. 97-049-08 was resolved by U S WEST's agreement to remove \$3.00 from the station line charges for PRIME and to indicate that EAS must be purchased separately at tariffed rates. Second, the Division's concern with combining intraoffice usage services in station line charges was resolved by U S WEST's agreement to impute and track local usage cost and revenue to PRIME in amounts set forth in the memorandum. Third, the Division's concern that detariffed elements of PRIME were offered below cost was resolved based upon further review of the cost studies. Based on the foregoing, the memorandum advised us that the Division had no legal basis to continue to recommend suspension of the PRIME service offering.

DISCUSSION

Having reviewed the arguments and filings of the parties and being fully informed in the matter, the Commission has determined that no basis exists for continuing the suspension of the offering of PRIME. U S WEST has acknowledged on the record that it will abide by our decision on the restrictions on the sale of Plus with respect to the sale of PRIME. The Division has found that the offering of PRIME does not violate the price floor restrictions of Utah Code Ann. § 54-8b-3.3(3). As a result of U S WEST's agreement to remove EAS from the PRIME package, no issue remains regarding whether EAS is priced in the PRIME offering in accordance with the EAS rates established in our Report and Order in Docket No. 97-049-08. As a result of U S WEST's agreement to impute and track local usage costs, no issue remains regarding combination of local usage in the PRIME package.

McLeodUSA's objections to the offering of PRIME relate principally to the impact of the offering of PRIME on issues in the Plus docket. The fact that our decisions on the removal of restrictions on the sale of Plus and U S WEST's request that we reconsider the grandfathering of Plus may be affected by the availability of PRIME (we have made no determination that they will be) is not a basis for suspending the offering of PRIME. McLeodUSA's other objections are addressed above or relate to a claim of potential discrimination. McLeod contends that PRIME may be offered in a discriminatory manner, but points to no aspect of the tariff indicating that this is likely. U S WEST represented that PRIME will be available to all similarly situated customers on the same terms and conditions. Given that representation, we find no basis to suspend the offering of PRIME based upon a possibility that it might be offered in a discriminatory manner. This possibility exists with any tariffed or detariffed service offered by U S WEST or any other

telecommunications corporation. Should PRIME be offered in a manner that McLeodUSA or any other person believes is unlawfully discriminatory, we have the ability to consider the issue at that time in the context of actual facts and circumstances.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The motion of U S WEST for reconsideration of our April 2, 1998 Report and Order temporarily suspending the offering of PRIME is granted and the temporary suspension in the April 2, 1998 Report and Order is lifted in accordance with the following provisions.
2. U S WEST's Advice Letter 98-11 is approved subject to removal of EAS charges in the amount of \$3.00 from the station line charges for PRIME. U S WEST is free to commence offering Centrex PRIME effective immediately upon its filing of revised tariff pages implementing this change and indicating that EAS must be purchased at tariffed rates.
3. U S WEST shall impute and track local usage costs and revenues to PRIME sold in the State of Utah in accordance with its agreement with the Division as memorialized in the memorandum from the Division to the Commission dated May 6, 1998.

Any person aggrieved by this order may file a written request with the Commission for review within 20 days in accordance with Utah Code Ann. §§ 54-7-15 & 63-46b-13 and Utah Admin. Code R746-100-11.F. If such request is denied in writing within 20 days, or deemed denied by failure to grant review, the aggrieved party has 30 days following such denial within which to petition the Supreme Court for review.

DATED at Salt Lake City, Utah, this 11th day of June, 1998.

/s/ Stephen F. Mecham, Chairman

(SEAL) /s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

1. *In the Matter of the Petition of THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY for Exemption from Regulation of Various Central Office Based Services, Case No. 86-049-17 (PSC Utah, Report and Order, Jan. 25, 1988). See also, In the Matter of the Request of U S WEST COMMUNICATIONS (USWC) for Approval of its Amended Tariff 91-049-T29, Docket No. 91-049-T29 (PSC Utah, Order, Mar. 10, 1992).*