

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of a Proceeding to Adopt an	)	<u>DOCKET NOS. 00-999-04 &amp; 00-R352-01</u>
Aggregate Price Index or Price Indices	)	
Pursuant to U.C.A. 54-8b-2.4(5)	)	<u>ORDER</u>

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ISSUED: June 15, 2001

By The Commission:

In the 1995 General Session of the Utah State Legislature, H.B. 364 ended traditional rate of return regulation for U.S. West Communications, Inc. (now Qwest), and established price regulation as a transition to competition in the telecommunications industry. The legislation prevented any additional price increases for three years following a final, traditional rate case. The legislature charged the Commission to develop an aggregate price index or indices to set new prices for services that remained tariffed at the conclusion of the three-year period.

In the 2000 General Session, the legislature passed H.B. 338 which became U.C.A. 54-8b-2.4 (5)(c) and (d). The amendment excluded services from the price index priced below a statutorily-defined price floor. The principal service that may be exempt from the index today is residential dial tone. The Commission opposed H.B. 338 before the legislature, but the bill passed nevertheless.

Pursuant to the statute, the Commission published a proposed price index rule on October 16, 2000, February 14, 2001, and March 14, 2001. We took written comment each time and oral comment at a hearing on November 7, 2000, required by U.C.A. 54-8b-2.4 (5)(a). A dispute arose between Dr. George Compton and Qwest over the application of the price index after passage of H.B. 338. Qwest maintains the index should apply to the services priced above the price floor, without considering revenues from the services where the price floor is in effect. Dr. Compton argues that the adjustment should be based on revenues from all tariffed services, including revenues from services priced below the statutory floor. Under this method, if the aggregate price index suggests a four percent price reduction, the services priced above the floor would go down more than four percent, to compensate for the service prices constrained by the price floor.

Though we are not unsympathetic to Dr. Compton's argument, we interpret the statutory price index to apply to the prices of telecommunication services, without consideration for revenues generated by services priced below the floor. The index is a price index, not a revenue index. By passing H.B. 338, the legislature emphasized that those services and their associated revenues are not part of the price index equation. Applying the index as Dr. Compton advocates, appears to negate the provision allowing the Commission to impose indices to separate baskets or categories of services. Were we to develop separate indices rather than one aggregate index, we would have to make adjustments to them that are not warranted by factors used to calculate the index. That would distort the index applicable to one category in order to address the revenues from services priced at or below the price floor in another category, subject to a separate price index. We do not believe the legislature intended to eliminate multiple, independent indices, as one of the alternatives available to us. As a result, we will make the March 14, 2001 version of R746-352 effective.

Given the length of time it has taken to finalize this rule, we are foregoing any further proceedings in this matter for this year, and will simply require that Qwest uniformly reduce the prices of all tariffed services according to the price index calculated for this year. For example, if the aggregate index is a four percent reduction, we will require that all tariff service prices above the price floor be reduced by four percent. For the year 2001, the Commission will not permit price change offsets within baskets or categories. These price adjustments are to be effective as of February 17, 2001. The new service prices must be set so that customers receive the full benefit for 2001. Thus Qwest shall prorate the price adjustments to account for the delay, from February 17, 2001 to the actual 2001 price change effective date, over the remaining time period for 2001 (the 2001 price change effective date to July 1, 2002).

Dated at Salt Lake City, Utah, this 15th day of June, 2001.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary