

In the Matter of the Investigation into the
Reasonableness of the Rates and)
Charges of the MOUNTAIN STATES)
TELEPHONE AND TELEGRAPH)
COMPANY)

DOCKET NO. 88-049-18
NOTICE OF HEARING ON AMENDED
RELEASE AND SETTLEMENT AGREEMENT

ISSUED: March 23, 1999

By The Commission:

You are hereby given notice that the Commission will hold a hearing on approval of the Release and Settlement Agreement dated November 13, 1998 between the Division of Public Utilities, the Committee of Consumer Services, and US WEST Communications, Inc. as amended by the Conditional Amendment to Release and Settlement Agreement dated March 22, 1999 between the same parties commencing at 9:00 a.m. on April 8, 1999 and continuing thereafter until completed at its hearing room, Heber M. Wells Building, Room 426, 160 East 300 South, Salt Lake City, Utah 84111.

AGREEMENT AS AMENDED

On November 13, 1998, the Division of Public Utilities ("Division"), the Committee of Consumer Services ("Committee"), and US WEST Communications, Inc. ("US WEST") jointly moved the Commission for approval of the Release and Settlement Agreement between the parties dated November 13, 1998 ("Agreement"). Notice of a hearing on December 17, 1998 on approval of the Agreement was published in the Salt Lake Tribune and the Deseret News on November 20 and 21, 1998. On December 10, 1998, a Joint Position Statement of NEXTLINK UTAH, Inc. and Electric Lightwave, Inc. in Opposition to Proposed Settlement was filed. (NEXTLINK UTAH, Inc. and Electric Lightwave, Inc. will be referred to collectively herein as the "CLECs".) The basis of the CLECs' opposition was their allegation that a refund paid over three years to customers of US WEST as provided in the Agreement would have an impact on the development of competition in the local exchange market. At the hearing on December 17, 1998, the parties to the Agreement presented testimony and argument in support of approval of the Agreement, and the CLECs presented testimony and argument in opposition to approval of the Agreement. Following the hearing, the Commission requested that the parties to the Agreement attempt to modify the Agreement in some manner to address the concern of the CLECs.

On March 23, 1999, the parties to the Agreement filed a Joint Motion for Approval of Amended Release and Settlement Agreement and Issuance of Notice. A Conditional Amendment to Release and Settlement Agreement dated March 22, 1999 between the parties ("Conditional Amendment") was attached to the Joint Motion. In the Conditional Amendment, the parties agreed to amend the Agreement as provided in the Conditional Amendment if the CLECs agree not to appeal a Commission order approving the Agreement as amended, the Commission enters an order approving the Agreement as amended, and if they have the option to withdraw from the Conditional Amendment if an appeal of the Commission's order approving the Agreement as amended, is filed.

The Agreement as amended by the Conditional Amendment provides for dismissal of this matter and all claims against US WEST arising out of the earnings of its predecessor in interest, The Mountain States Telephone and Telegraph Company ("Mountain Bell"), in excess of its authorized rate of return on equity ("over earnings") in 1987, 1988 and 1989 based on US WEST's agreement to refund \$43,200,000 to its customers in the form of a single monthly bill credit. The manner of making the refund and determining the monthly credit against customer bills is set forth in the Conditional Amendment. The precise amount of the bill credit to each customer will be determined based upon the number of access lines estimated to be in place during the month the refund will be made. If the refund were based upon

the number of access lines as of December 1998, a typical residential customer would receive a bill credit of \$35.95 per line and a typical business customer would receive a bill credit of \$63.27 per line.

Any person wishing to review the Agreement and the Conditional Amendment in their entirety may do so by contacting the Public Service Commission, 160 East 300 South, #400, Box 45585, Salt Lake City, Utah 84145-0585, Telephone: (801) 530-6716; the Division of Public Utilities, 160 East 300 South, 4th Floor, Box 146751, Salt Lake City, Utah 84114-6751, Telephone: (801) 530-6652; the Committee of Consumer Services, 160 East 300 South, #408, Box 146782, Salt Lake City, Utah 84114-6782, Telephone: (801) 530-6674; or US WEST, 250 East 200 South, #1603, Salt Lake City, Utah 84111, Telephone: (801) 237-5906.

REASONS FOR SETTLEMENT

Litigation of this case has already consumed over 10 years and substantial resources of the parties. The parties anticipate that continued litigation of the case would consume substantial additional resources and would be highly adversarial. All of the parties and the Commission are involved in complex matters, including a number of matters related to the development of competition in the telecommunications market. The parties believe continued litigation of this matter would consume resources that would more appropriately be devoted to those matters. The parties believe it is highly likely that there would be an appeal or appeals of any Commission decision in the case and that litigation might be initiated in other forums regarding the subject matter of the dispute. Thus, the parties believe it is likely that this matter would not be resolved for a substantial period of time. In addition, the subject matter of the litigation involves actions and omissions that occurred many years ago. The parties have represented that many individuals involved have changed employment or are no longer available and that others who were involved find that their memories of the relevant events are growing dim. Accordingly, the parties believe litigation would be difficult and would become more difficult with the passage of time. All parties agree that the outcome of the litigation is uncertain.

The parties have concluded that it is in the public interest to resolve their differences and settle the disputes which are the subject of Commission Docket No. 88-049-18 and Utah Supreme Court Case Nos. 890251 and 890252. In reaching this conclusion, the Division is representing the public interest and the Committee is representing the interests of a majority of residential and small commercial customers. It is the position of the parties that resolution of this matter in the manner set forth in the Agreement as amended by the Conditional Amendment is in the public interest and is consistent with the intent of the remand of the Utah Supreme Court.

US WEST has agreed to publish this notice for two consecutive days in two newspapers of general circulation in the state as soon as is reasonably possible.

NOTICE OF HEARING

NOW, THEREFORE, YOU ARE HEREBY GIVEN NOTICE THAT a hearing will be held before the Commission for the purpose of considering approval of the Agreement as amended by the Conditional Amendment on April 8, 1999 at 9:00 a.m. at the Commission's main hearing room, room #426, Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah 84111, and will be continued thereafter until completed.

The Commission has already received substantial evidence regarding the Agreement at its hearing on December 17, 1998 and the public and all parties were given notice of that hearing and an opportunity to participate in the hearing and present evidence on the Agreement. Therefore, the focus of the hearing on April 8, 1999 will be the amendments to the Agreement that will result from the Conditional Amendment. At the hearing, the Commission will hear brief evidence from the parties in support of approval of the Agreement as amended by the Conditional Amendment and will then hear from any interested person including public witnesses. Public witnesses may make sworn or unsworn statements; however, if a person wishes the Commission to rely on their statement as a basis for any finding, they must testify under oath and submit to cross examination. Any person wishing to formally oppose approval of the Agreement as amended by the Conditional Amendment should be prepared to present any evidence and argument which they wish the Commission to consider at the hearing on April 6, 1999.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during Commission hearings should notify Julie Orchard, Commission

Secretary, at 160 East 300 South, Room 400, Box 45585, Salt Lake City, Utah 84145-0585, Telephone: (801) 530-6713, at least three working days prior to the hearing.

DATED at Salt Lake City, Utah, this 23rd day of March, 1999.

/s/ Julie Orchard
Commission Secretary