

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of a Contract Amendment)
to Toll Service Pricing Plan Agreement)
U21224 Between US WEST and)
WASHINGTON MUTUAL)

DOCKET NO. 98-049-47
ORDER APPROVING AMENDMENT

ISSUED: February 4, 1999

By the Commission:

On or about December 17, 1998, US WEST COMMUNICATIONS (USWC) filed a proposed contract amendment to its contract to provide certain toll services to Washington Mutual. The Division of Public Utilities reviewed the proposed contract amendment and, by memorandum dated January 4, 1999, recommended that we approve the amendment. We so approve it, with some modifications as noted hereinbelow. We note that the generic protective order established in Docket 87-049-11 is no longer controlling precedent with respect to the rates, terms and conditions of special contracts.

FINDINGS OF FACT

1. The Commission finds that this contract, with the proposed amendments, should be approved because comparable service is available; the proposed rates are reasonable and in the general range of prices offered by competitors; the proposed rates exceed cost and are compensatory; and approval will not adversely affect quality and reliability of USWC service or that of other telecommunications corporations.
2. In Docket No. 96-049-17, a similar competitive contract, USWC submitted certain information pursuant to a generic protective order (established in Docket No. 87-049-11). In the Order, the Commission approved that contract, and but also requested further information to justify the broad protective order. USWC's response, referring to the rates, terms and conditions of the contract, stated, in part, that: "**...USWC does not now contend that any part of the ...contract should be kept proprietary.**" [Emphasis added.]
3. Also in its response in 96-049-17, USWC asserted that with respect to other types of information which are competitively sensitive, particularly cost studies, facilities inventories, and forecasts of use, a protective order still would be appropriate. USWC stated that:

...in retrospect, ... the...contract should not have been designated as subject to the Protective Order; instead, that designation should have been limited to the cost studies USWC submitted along with the contract. If USWC was remiss, it was in not amending the transmittal letter to remove the designation of the contract as proprietary.... USWC will endeavor in the future to implement the proper limits of designation under the Protective Order.
4. Since the date of the Order in 96-049-17, it appears that USWC did not in fact change the language in its request for proprietary treatment of special contracts, and continued, from that date to today, to file requests for approval under an over broad protective order. Contrary to representations of USWC, requests for approval of special contracts continued to be filed under a blanket protective order, asserting that the entire contract was proprietary.
5. We emphasize, again, to avoid any further possible misunderstanding: *the generic protective order in Docket 87-049-11 can no longer be cited to assert proprietary treatment for contract rates, terms and conditions.* That order was entered before today's competitive market, before the Utah Public Telecommunications Reform Act of 1995, the Federal Telecommunications Act of 1996, and the FCC's order in CC Docket No. 96-98.
6. After the date of this Order, USWC is reminded of its undertaking to file requests for approval which conform with

the above and its earlier representations. That is, any requests for a proprietary treatment of information will not include rates, terms or conditions but may continue to request it for supporting evidence such as cost studies and forecasts.

CONCLUSIONS OF LAW

1. The proposed contract as amended meets the requirements of Section 54-8b-4.5 and should be approved.
2. The general Protective Order in Docket No. 87-049-11 does not apply to the contract itself and the contract will not be treated by the Commission as a proprietary document. Similarly, all special contracts submitted for approval after the date of this order will be presumed to be public information.
3. Supporting cost studies, forecasts and other competitively sensitive information submitted with this application will continue to receive proprietary treatment. In all future applications for special contracts, such information also will be similarly treated, when submitted under an appropriately limited request.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that

The contract between USWC and Washington Mutual is hereby approved effective immediately.

The contract on file with the Commission is a public document. The supporting cost studies will continue to receive proprietary treatment.

Any person may file a protest to this order within 20 days of its issuance. If the Commission finds such protest to be meritorious, the effective date shall be suspended pending further proceedings. Review or rehearing of this order may be made pursuant to U.C.A. §§54-7-15 and 63-46b-12.

DATED at Salt Lake City, Utah, this 4th day of February, 1999.

/s/ Stephen F. Mecham, Chairman

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

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary