

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the matter of the Petition of WWC HOLDINGS CO., INC., for Designation as an Eligible Telecommunications Carrier)))))	<u>DOCKET NO. 98-2216-01</u> <u>ORDER</u>
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ISSUED: September 16, 1999

By The Commission:

On August 24, 1999, the Division of Public Utilities (DPU) filed a Motion to change the schedule in this proceeding. The DPU provided a number of reasons for the changed schedule including a recommendation that certain legal issues be heard by the Commission prior to hearings. An informal hearing was noticed for August 26, 1999. At that hearing, with all parties present, a new schedule was submitted to the Commission for its approval. This new schedule requests the Commission to hear certain legal issues prior to the hearings. The Commission, by this Order, will hear certain legal issues prior to the hearings. At this point, the Commission will not commit to deciding those legal issues prior to hearing the evidence, and, therefore, by this Order, will establish a hearing schedule to hear evidence in this case. The following schedule is hereby established:

1. September 21, 1999 - DPU and CCS will file their direct testimony
2. September 29, 1999 - briefs on the legal issues
3. October 18, 1999 - reply briefs on the legal issues
4. October 25, 1999 - 10:00 a.m. hearing on the preliminary legal issues
5. November 19, 1999 - final testimony from all parties
6. Nov. 30 - Dec. 1, 1999 - 9:30 a.m. hearings on merits
7. The hearings set forth in the foregoing schedule shall be held in the Commission's main hearing room, room #426, Fourth Floor, Heber M. Wells Building, 160 East Third South, Salt Lake City, Utah unless otherwise noted.
8. In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during hearings should notify Julie Orchard, Commission Secretary, at 160 East 300 South, Salt Lake City, Utah, 84111, (801)530-6713, at least three working days prior to the hearing.

The parties have submitted the following legal issues to be briefed in a preliminary manner. These issues include:

1. Whether 47 U.S.C. § 214(e)(1) requires an applicant for ETC designation to be currently "offering" and "advertising" a universal service package throughout the service area as a prerequisite to obtaining ETC designation, or whether it simply requires an applicant to demonstrate its willingness and intent to offer and advertise throughout a service area if ETC status is granted.
2. Whether there is a "public interest" test under 47 U.S.C. § 214(e)(2) that applies to areas not served by a rural telephone company.
3. What factors are or should be included in the "public interest" analysis under 47 U.S.C. § 214(e)(2).

4. What are the Federal ETC criteria to be applied in this proceeding.
5. Are there additional state-imposed eligibility criteria for federal ETC designation, and if so, what are those criteria.
6. What restrictions or preemption does Section 332(c) impose on the Commission, i.e. regulation by the State for certificate or affordability.

DATED at Salt Lake City, Utah, this 16th day of September, 1999.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary