

-BEFORE THE UTAH PUBLIC SERVICE COMMISSION-

In the Matter of the Request by U.S. WEST )  
COMMUNICATIONS, INC., for Declaration )  
of Compliance with R746-365-4(B)(2)(c)(iv) )  
or Alternative Temporary Exemption )

DOCKET NO. 99-049-05

ORDER

ISSUED: April 28, 2000

By The Commission:

On February 1, 1999, U.S. WEST COMMUNICATIONS, INC. ("U S WEST"), petitioned for rehearing and filed an alternative motion for temporary exemption from R746-365, service standard rules, that became effective January 11, 1999. The Utah Public Service Commission ("Commission") denied the motion for rehearing and took up the issue of temporary exemption in this docket. Further, the Commission instructed that all requests for temporary exemptions from R746-365 be addressed in this docket. On August 27, 1999,

U S WEST submitted a list of eight general exemptions requested. The Commission hereby grants all requested exemptions for the period between the effective date of the applicable section of the Rule and the date when U S WEST became able to provide the measurement. Since August 27, 1999, there have also been other U S West exemption requests that will be addressed in this Order.

U S West has shown that at the time of the rule making it was technically impossible to comply with the reporting requirements, and also showed that it was making reasonable efforts to develop the in-house record keeping and reporting capabilities to comply in the future. Further, U S West provided estimated dates of reporting compliance ability. The Commission, therefore, grants U S West exemptions from the reporting requirements running from the time of the rule making to the estimated date of reporting ability, but, with the exception of items 6-9 below, does not grant any exemption to the quality of service standards themselves.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Commission grants the temporary exemptions as follows:

- R746-365-5(C)(3)(d)(ii) Percentage Missed Repair Appointments. Exemption granted from January 13, 1999, through July 31, 1999. (Ex. USW SR 1.1)
- R746-365-5(C)(3)(c)(iii) Percentage Missed Installation Appointments. Exemption granted from January 13, 1999, through July 31, 1999. (Ex. USW SR 1.1)
- R746-365-5(C)(3)(b)(ii) Reject Time Lines. Exemption granted from January 13, 1999, through March 31, 1999. [\(1\)](#)
- R746-365-5(C)(3)(b)(iv) Timeliness of Order Completion Notification. Exemption granted from January 13, 1999, through October 31, 1999. (Ex. USW SR 1.1, date estimated, subject to U S WEST check as to the date the service was technically available.)
- R746-365-7(B)(2) Service Interruption Billing Credits. Exemption granted from January 13, 1999, through October 31, 1999. (Ex. USW SR 1.1, date estimated, subject to

U S WEST check as to the date the service was technically available.) U S WEST requested exemption until the date of decision by Supreme Court or other court on U S WEST's appeal of this provision. (Ex. USW SR 1.1) The Commission declines to grant such a broad exemption and reaffirms the applicability of the Rule's requirements.

- R746-365-4(B)(2)(c)(iv) Physical Collocation Provisioning Interval. Exemptions were requested in five separate filings for sixteen collocation installations involving Brooks Fiber/MCIWorldcom, Electric Lightwave, TCG/AT&T, and Sprint.

A. The filing February 12, 1999, concerning Brooks Fiber/MCIWorldcom, sought exemption for collocations at Salt Lake East, Holladay, and Kearns offices from March 1, 1999, until two weeks after MCIWorldcom notifies U S WEST that the intra-office connecting cable is ready for delivery to the central offices. MCIWorldcom filed a response indicating it did not oppose this relief. The Commission grants this requested exemption.

B. The filing February 23, 1999, concerning Electric Lightwave, sought exemptions for collocations at Orem, Provo Main, and Ogden Main offices from February 22, 1999, until March 12, 1999, or such later date as required if U S WEST's suppliers fail to meet the scheduled materiel delivery date of February 25, 1999. Electric Lightwave filed a response indicating it did not oppose this relief. The Commission grants this requested exemption.

C. The filing February 24, 1999, concerning TCG/AT&T, sought exemptions for collocations at Salt Lake South, Midvale, Provo Main, and Ogden Main offices from March 8, 1999, until the connection by AT&T of its fiber optic cable to the points of interconnection at the respective central offices. AT&T filed a response indicating it did not oppose this relief. The Commission grants this requested exemption.

D. The joint filing June 24, 1999, by U S WEST and Sprint, sought exemptions for collocations at the Salt Lake South, Murray West, Salt Lake West, and Salt Lake Main offices from June 21, 1999, until December 3, 1999. The Commission grants this requested exemption.

E. The filing June 25, 1999, concerning TCG/AT&T, sought exemptions for collocations at the Murray and Salt Lake West offices from June 28, 1999, until AT&T connects its fiber optic cable to the U S WEST points of interconnection at the respective central offices. AT&T has not filed a response to this request. The Commission grants this requested exemption.

- R746-365-4(B)(1)(a) and R746-365-5(C)(3)(a) Access to Network Engineering and Administration Systems. This issue was resolved in the Joint Petition for Declaratory Ruling and Amendment of Rule filed with the Commission in docket number 99-R365-03 on August 10, 1999. Based on the agreement of the joint petitioners, the Commission granted the relief requested in the joint petition, i.e., to interpret the rule as the joint petitioner's request in an order issued September 15, 1999, in docket number 99-R365-03. Having granted relief there, the U S West request in this docket is moot.
- R746-365-5(C)(2) Detailed Narrative Description of ILEC Customer Contact Procedures. Exemption was requested from January 13, 1999, until the date the Supreme Court or other court decides U S WEST's appeal of this guideline. The request first appeared in the Motion for Stay and Alternative Petition for Temporary Exemption filed March 8, 1999, at p. 1. This issue was resolved in the Joint Petition for Declaratory Ruling and Amendment of Rule filed with the Commission in docket number 99-R365-03. Based on the agreement of the joint petitioners, the Commission granted the relief requested in the joint petition, i.e., to interpret the rule as the joint petitioner's request. Having granted the relief there, the U S West request in this docket is moot.
- On November 24, 1999, U S West submitted a request for a temporary exemption from the forty-five-day completion interval requirement in R746-365-4(B)(2)(c)(iv) for collocations that are in progress for NorthPoint Communications Group, Inc. ("NorthPoint"), in the U S WEST Draper, Bountiful, Kaysville, and Salt Lake City East central offices due to circumstances beyond the companies' control related to standby power generation capacity. NorthPoint submitted a response to the Commission that stated they would not oppose the requested temporary exemption from the forty-five-day completion interval requirement in R746-365-4(B)(2)(c)(iv) for the specific collocations that are in progress for them in the U S WEST Draper, Bountiful, Kaysville, and Salt Lake City East central offices. On March 27, 2000, US West submitted an affidavit specifying that the anticipated service dates for the Draper, Bountiful, and Kaysville offices are May 30, 2000, and, for the Salt Lake City East office, April 30, 2000. The Commission grants the requested exemptions to be in accordance with the anticipated service dates listed above, but, stresses that the exemption is only with respect to the standby generation portion of the construction process. The Commission finds that NorthPoint's request, that "U S WEST continue to work on these collocation cages, and allow NorthPoint access to these offices in order to deploy its equipment so that

when the power augmentation is finally provisioned, NorthPoint can *immediately* begin to offer service out of these central offices," is reasonable and so orders.

- On December 21, 1999, U S West requested a temporary exemption from the forty-five-day completion interval requirement in R746-365-4(B)(2)(c)(iv) for two collocations, one each for NorthPoint Communications Group and New Edge Communications, Inc. In both cases, ordering and delivery errors were the cited cause of the missed deadlines. U S West represents that installations are completed and that, in the case of NorthPoint, there is no objection to granting the temporary exemption. The due date for both installations was December 19, 1999. U S West completed one on December 20, 1999, and represents in its request that the second would be completed on December 21 or 22, 1999. The Commission finds the benefit of granting an exemption outweighs the potential benefit of enforcing the Rule and grants a three-day temporary exemption for the collocations cited in the request.

An additional issue in this docket is whether the guidelines, contained in the rule, supercede the terms of contrary provisions of previously (prior to the adoption of the Rule) approved agreements, where the agreements do not by their terms incorporate future determinations in the rule making docket. Given that the previously approved agreements have limited periods of applicability, the Commission finds that allowing their contrary terms and conditions to remain in force for installations already scheduled and agreed upon by the parties to the transaction, prior to the adoption of this rule, will not cause undo hardship upon the parties. However, all future installations and agreements must be in conformity with the Rule, and any that are proposed in a manner that is inconsistent with the Rule will be considered to be superceded. Given that Competitive Local Exchange Carriers may now adopt any provision of an existing interconnection agreement in accordance with the FCC rulings on the matter, and given that there are approved interconnection agreements that contain the 45-day interval, it would be impossible to enforce any other policy than the one adopted herein.

DATED at Salt Lake City, Utah, this 28th day of April 2000.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary