

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of
U.S. WEST COMMUNICATIONS, INC.,
for Exemption of Directory Assistance
Services from Regulation

)
)
)
)

DOCKET NO. 99-049-10

ORDER GRANTING DIRECTORY
ASSISTANCE SERVICE EXEMPTION
FROM TARIFF REQUIREMENTS

ISSUED: October 19, 1999

By The Commission:

On March 9, 1999, U.S. WEST COMMUNICATIONS, INC. (US WEST), commenced this docket by filing its Application for Exemption of Directory Assistance Services from Regulation ("Application"). The Application was supported by the testimony of

David L. Teitzel filed concurrently with the Application. In the Application, US WEST sought an exemption from all provisions of Title 54 and all rules and regulations of the Commission for its directory assistance services consisting of Directory Assistance, National Directory Assistance, Complete-A-Call and Business Complete-A-Call.

On March 25, 1999, the Commission issued a Notice of Hearing setting a prehearing, scheduling conference for April 8, 1999. Prior to or at the scheduling conference, AT&T Communications of the Mountain States, Inc. ("AT&T"), and Nextlink Utah, Inc. ("Nextlink"), sought and were granted intervention in this docket. As a result of the scheduling conference, the Commission established a procedural schedule that was memorialized in the Scheduling Order issued on April 19, 1999.

Pursuant to the Scheduling Order, a Technical Conference was held on

April 20, 1999. Present at the Technical Conference, either in person or via telephone, were representatives from US WEST, the Division of Public Utilities ("Division"), the Committee of Consumer Services ("Committee"), AT&T, and Nextlink. During the Technical Conference, the Division outlined its position on the Application. The Division proposed that US WEST's directory assistance services be exempted only from the tariff requirements of Title 54 and rules and regulations of the Commission dealing with tariff requirements and be subject to the pricing flexibility requirements of U.C.A. § 54-8b-2.3 in lieu of tariff requirements. In addition, the Division proposed that the current price for basic local directory assistance be maintained as a ceiling for the remainder of the three-year period specified in U.C.A. § 54-8b-2.4(4)(a). Among the reasons the Division did not favor full exemption from regulation was because many residential customers may only have access to directory assistance alternatives which are more expensive than US WEST's, and not to the more attractive alternatives that do exist. The parties engaged in extensive discussions during and following the Technical Conference and on

May 14, 1999 submitted a Stipulation to the Commission.

STIPULATION

In the Stipulation, the parties stipulated that the market for directory assistance services is subject to competition sufficient to justify granting US WEST an exemption from tariff requirements consistent with the Stipulation. The parties also stipulated that granting US WEST an exemption from tariff requirements for its directory assistance services consistent with the Stipulation is in the public interest.

Specifically, the Stipulation provided that US WEST should receive an exemption from Title 54 and the rules and

regulations of the Commission to the limited extent necessary to accomplish the following:

1. Directory Assistance Service:

a. Directory Assistance Service, which is currently listed in the Exchange and Network Services Tariff, Section 6.2.4(A), will cease being a "tariffed" service and may be offered by US WEST through a price list or competitive contract pursuant to U.C.A. § 54-8b-2.3. US WEST shall be exempt from the procedures and conditions of § 54-8b-2.3(2)(b) with regard to its current Directory Assistance Service.

b. With regard to Directory Assistance Service:

i. Absent Commission order, US WEST shall continue to offer Directory Assistance Service on a unitary (i.e. per call) during the three-year period specified in U.C.A. § 54-8b-2.4(4)(a).

ii. Absent Commission order, US WEST shall not increase the per call charge for Directory Assistance Service, currently found in the Exchange and Network Services Tariff, Section 6.2.4(A)(3)(a), during the three-year period specified in U.C.A. § 54-8b-2.4(4)(a).

iii. US WEST shall include in its initial price list the Directory Assistance Service charge exemptions currently found in the Exchange and Network Services Tariff, Section 6.2.4(A)(2)(a). Absent Commission order, US WEST shall not modify or eliminate the Directory Assistance Service charge exemptions.

2. National Directory Assistance Service: National Directory Assistance Service, which is currently listed in the Exchange and Network Services Tariff, Section 6.2.4(B), will cease being a "tariffed" service and may be offered by US WEST through a price list or competitive contract pursuant to U.C.A. § 54-8b-2.3. US WEST shall be exempt from the procedures and conditions of § 54-8b-2.3(2)(b) with regard to its current National Directory Assistance Service.

3. Complete-A-Call and Business Complete-A-Call Services are currently price listed services. Their regulatory status is not affected by the Stipulation.

4. Except as specifically provided in the Stipulation, US WEST's directory assistance services are subject to the provisions of Title 54 and the rules of the Commission.

5. The Stipulation applies only to retail directory assistance services and does not change the terms, conditions or pricing of wholesale directory assistance services offered by US WEST pursuant to contract or interconnection agreement. The Stipulation does not alter any state or federal obligation to make the subject retail directory assistance services available to competitive local exchange carriers.

Based on the foregoing, the parties requested that the Commission enter an order approving the Stipulation.

DISCUSSION

US WEST originally sought a complete exemption from regulation for its directory assistance services under U.C.A. § 54-8b-3. After negotiation, the relief stipulated for US WEST was authorization to flexibly price Directory Assistance Service, which is currently listed in the Exchange and Network Services Tariff, Section 6.2.4(A), and National Directory Assistance Service, which is currently listed in the Exchange and Network Services Tariff, Section 6.2.4(B). Complete-a-Call and Business Complete-a-Call Services, the other directory assistance services which were the subject of the Application, are already priced flexibly. Accordingly, the Stipulation proposes no modification of the regulatory treatment currently afforded those services.

The law favoring settling disputes over litigating them is as applicable to regulatory proceedings as it is to civil litigation. *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613 (Utah 1983). Statutorily, "[i]nformal resolution, by agreement of the parties, of matters before the [C]ommission is encouraged. The Commission may approve any agreement after considering the interests of the public and other affected persons." U.C.A. § 54-7-1. That section of the code enables the Commission to approve the Stipulation without making the finding of effective

competition required by U.C.A. § 54-8b-3. As a result, we will address the Stipulation pursuant to U.C.A. § 54-7-1.

In considering the interests of the public, we recognize the Utah Legislature's declarations of state policy, found in U.C.A. § 54-8b-1.1, to:

- (2) facilitate access to high quality, affordable public telecommunications services to all residents and businesses in the state;
- (3) encourage the development of competition as a means of providing wider customer choices for public telecommunications services throughout the state;
- (4) allow flexible and reduced regulation for telecommunications corporations and public telecommunications services as competition develops; . . .
- (8) encourage new technologies and modify regulatory policy to allow greater competition in the telecommunications industry; . . . and
- (10) endeavor to protect customers who do not have competitive choice.

We find that the Stipulation fosters the public policies enumerated above. Directory assistance services are available from alternative telecommunications providers. In addition, directory assistance services are available on the Internet. Some alternative telecommunications providers have the ability to offer competing directory assistance services that are functionally equivalent or substitutable to those offered by US WEST. In some cases, alternative telecommunications providers may offer directory assistance call-completion services that US WEST cannot, given that US WEST is not currently allowed to complete interLATA calls. There are alternative providers in the market. Competition in the directory assistance services market has provided customers with a greater variety of providers and new services. We find approval and implementation of the pricing flexibility terms to be an appropriate means to further the public policy goals numbered (4) and (8) in Section 54-8b-1.1.

Where appropriate, the public interest is served by allowing competition among competitors on more equal terms in the provision of directory assistance services. We find that the advent of pricing flexibility for US WEST, relative to the Directory Assistance Service and National Directory Assistance Service, likely will increase competition in the provision of these services. As US WEST's pricing flexibility would be subject to the provisions of Sections

54-8b-2.3, 54-8b-3.3, 54-8b-6, and Commission Rule R746-349-6, we will be able to adequately deal with possible problems if US WEST misuses pricing flexibility. Therefore, we find that customers should benefit from a wider array of services at better prices if competition between competitors goes forward with competitors having similar pricing capabilities for directory assistance services. This furthers the policy goals numbered (2), (3) and (8) in Section 54-8b-1.1.

While the evidence presented indicates that customers can obtain directory assistance services from multiple providers, there may be situations where a specific US WEST customer may not be aware of how to obtain access to these alternative providers or may find such access inconvenient. With regard to the potential effect on these customers, we find that the Stipulation's requirement that US WEST continue to offer Directory Assistance Service on a per call basis absent Commission order, its prohibition against U S WEST increasing the per call charge for Directory Assistance Service during the three-year period specified in

U.C.A. § 54-8b-2.4(4)(a) absent Commission order, its requirement that US WEST include in its initial price list the Directory Assistance Service charge exemptions currently found in the Exchange and Network Services Tariff, Section 6.2.4(A)(2)(a), and its prohibition against US WEST modifying or eliminating the charge exemptions absent Commission order provides sufficient protection to customers that pricing flexibility will not be used to increase their rates. These provisions provide customers with exactly the same protection provided to them as in the existing statutory provisions enacted by the Legislature. We find that this is consistent with the policy goal numbered (10) in Section 54-8b-1.1.

We also note that except as specifically provided in the Stipulation, US WEST's directory assistance services will remain subject to the provisions of Title 54 and the rules and regulations of the Commission. The Stipulation applies only to retail directory assistance services and does not change the terms, conditions or pricing of wholesale directory assistance services offered by US WEST pursuant to contract or interconnection agreement. The Stipulation does not propose to alter any state or federal obligation to make the subject retail directory assistance services available to competitive local exchange carriers.

Based upon the foregoing, we find and conclude that the public interest will be served by granting the relief contemplated by the Stipulation.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Stipulation of the parties is approved.

2. Directory Assistance Service, which is currently listed in the Exchange and

Network Services Tariff, Section 6.2.4(A), shall cease to be a "tariffed" service upon the filing by US WEST of a price list for the service. Thereafter, Directory Assistance Service may be offered through price list or competitive contract pursuant to U.C.A. § 54-8b-2.3. US WEST shall be exempt from the procedures and conditions of § 54-8b-2.3(2)(b) with regard to its current Directory Assistance Service.

3. With regard to Directory Assistance Service:

a. Absent Commission order, US WEST shall continue to offer Directory

Assistance Service on a unitary (i.e. per call) during the three-year period specified in

U.C.A. § 54-8b-2.4(4)(a).

b. Absent Commission order, US WEST shall not increase the per call charge

for Directory Assistance Service, currently found in the Exchange and Network Services Tariff, Section 6.2.4(A)(3)(a), during the three-year period specified in U.C.A. § 54-8b-2.4(4)(a).

c. US WEST shall include in its initial price list the Directory Assistance

Service charge exemptions currently found in the Exchange and Network Services Tariff, Section 6.2.4(A)(2)(a).

Absent Commission order, US WEST shall not modify or eliminate the Directory Assistance Service charge exemptions.

4. National Directory Assistance Service, which is currently listed in the Exchange

and Network Services Tariff, Section 6.2.4(B), shall cease to be a "tariffed" service upon the filing by US WEST of a price list for the service. Thereafter, National Directory Assistance Service may be offered by US WEST through a price list or competitive contract pursuant to U.C.A. § 54-8b-2.3. US WEST shall be exempt from the procedures and conditions of

§ 54-8b-2.3(2)(b) with regard to its current National Directory Assistance Service.

5. Complete-A-Call and Business Complete-A-Call Services are currently price listed

services. Their regulatory status is not affected by this Order.

6. Except as specifically provided in this Order, US WEST's directory assistance

services are subject to the provisions of Title 54 and the rules and regulations of the Commission.

7. This Order applies only to retail directory assistance services and does not change

the terms, conditions or pricing of wholesale directory assistance services offered by US WEST pursuant to contract or interconnection agreement. This Order does not alter any state or federal obligation to make the subject retail directory assistance services available to competitive local exchange carriers.

8. Any party aggrieved by this Order may file a petition for rehearing or

reconsideration with the Commission within 20 days following the date the Order is issued. If the petition is denied or deemed denied by failure of the Commission to act on it within 20 days of the date of filing, the party may file a petition for review with the Utah Supreme Court within 30 days.

DATED at Salt Lake City, Utah, this 19th day of October, 1999.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary