

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Negotiated
Interconnection Agreement between
U.S. WEST COMMUNICATIONS, INC.,
and NOW COMMUNICATIONS, INC.

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DOCKET NO. 99-049-29

ERRATUM

REPORT AND ORDER

ISSUED: October 7, 1999

SYNOPSIS

This Erratum Order replaces an Order issued October 4, 1999. The parties to the agreement, which is the subject of this proceeding, having submitted the same for Commission approval; and the agreement appearing to conform to the requirements of § 252(e)(1) of the Federal Telecommunications Act of 1996 and applicable Federal Communications Commission regulations; and the agreement appearing to conform to applicable Utah law and Commission regulations; and approval of the agreement appearing to be in the public interest, the Commission approved the agreement, subject to possible modification pending the outcomes in related dockets involving the same subject matter.

By The Commission:

PROCEDURAL HISTORY

U.S. WEST COMMUNICATIONS, INC., and NOW COMMUNICATIONS, INC., entered into a resale agreement (hereafter "the Agreement") dated June 23, 1999. The parties filed the Agreement with the Commission July 13, 1999, for review and approval in accordance with 47 USC § 252(e)(1), a part of the Federal Telecommunications Act of 1996 (hereafter "the Act"). The Administrative Law Judge, had reviewed the agreement and had entered a Report, containing proposed findings of fact, conclusions of law, and an Order based thereon. The Commission adopted and approved the Report and Order, which was issued

October 4, 1999. Since its issuance, the Commission has learned that the text of the October 4, 1999, Report and Order should be corrected. This Report and Order is to supercede the Report and Order issued October 4, 1999.

FINDINGS OF FACT

1. We find the instant agreement does not discriminate against any telecommunication carrier not a party to it.
2. The Agreement comports with the Act's § 251, and with currently effective Federal Communications Commission (FCC) regulations.
3. The Agreement comports with applicable Utah law and this Commission's rules.
4. The United States Congress and the Utah Legislature having established the fostering of competition in the telecommunications industry as sound public policy, the Agreement is in the public interest, since it comports with such policy.
5. The Division of Public Utilities, Utah Department of Commerce, recommends approval of the agreement, subject to possible later modification as set forth below.

6. Now Communications, Inc., has not been granted a certificate, but has pending an application for a certificate to operate in the State of Utah.

CONCLUSIONS OF LAW

We have previously determined that we will not approve an interconnection agreements involving non-certificated carriers, due to their discriminatory operation against other, certificated carriers. However, we have now concluded that administrative efficiency will be improved if we conditionally approve the interconnection agreement where the only objection is the lack of a certificate. This avoids the parties having to resubmit the agreement after the certificate is issued. The Agreement should be approved now as meeting the requirements of 47 USC § 252(e)(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The Resale/Interconnection agreement between U.S. WEST COMMUNICATIONS, INC., and NOW COMMUNICATIONS, INC., dated June 23, 1999, be and it hereby is, conditionally approved in conformance with 47 USC § 252(e)(1). The conditional nature of the approval will be removed, without further Commission action or order, upon the issuance of a certificate, under U.C.A. Title 54, to NOW COMMUNICATIONS, INC., to operate in the State of Utah as a telecommunications corporation.

Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 7th day of October, 1999.

/s/ A. Robert Thurman
Administrative Law Judge

Approved and Confirmed this 7th day of October, 1999, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary