BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING BY WESTERN TELEPHONE COMPANY FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER	)))))	FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER AND NOTICE OF ENTRY OF ORDER TC97-089

On June 17, 1997, the Public Utilities Commission (Commission) received a request for designation as an eligible telecommunications carrier (ETC) from Western Telephone Company (Western Telephone). Western Telephone requested designation as an eligible telecommunications carrier within the local exchange areas that constitute its service area.

The Commission electronically transmitted notice of the filing and the intervention deadline to interested individuals and entities. No person or entity filed to intervene. By order dated November 7, 1997, the Commission set the hearing for this matter for 1:30 p.m. on November 19, 1997, in Room 412, State Capitol, Pierre, South Dakota.

The hearing was held as scheduled. At the hearing, the Commission granted Western Telephone a one year waiver of the requirement to provide toll control service within its service area. At its December 11, 1997, meeting, the Commission granted ETC designation to Western Telephone and designated its study area as its service area.

Based on the evidence of record, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

On June 17, 1997, the Commission received a request for designation as an ETC from Western Telephone. Western Telephone requested designation as an ETC within the local exchange areas that constitute its service area. Western Telephone serves the following exchanges: Cresbard (324); Faulkton (598); and Orient (392). Exhibit 1.

II

Pursuant to 47 U.S.C. § 214(e)(2), the Commission is required to designate a common carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission.

III

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

IV

The Federal Communications Commission (FCC) has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a).

V

As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

VI

Western Telephone offers voice grade access to the public switched network to all consumers throughout its service area. Exhibit 1.

VII

Western Telephone offers local exchange service including an amount of local usage free of per minute charges to all consumers throughout its service area. Id.

VIII

Western Telephone offers dual tone multi-frequency signaling to all consumers throughout its service area. Id.

IX

Western Telephone offers single party service to all consumers throughout its service area. Exhibit 2.

X

Western Telephone offers access to emergency services to all consumers throughout its service area. Exhibit 1.

XI

Western Telephone offers access to operator services to all consumers throughout its service area. Id.

XII

Western Telephone offers access to interexchange services to all consumers throughout its service area. Id.

XIII

Western Telephone offers access to directory assistance to all consumers throughout its service area. Id.

XIV

One of the services required to be provided by an ETC to qualifying low-income consumers is toll limitation. 47 C.F.R. § 54.101(a)(9). Toll limitation consists of both toll blocking and toll control. 47 C.F.R. § 54.400(d). Toll control is a service that allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle. 47 C.F.R. § 54.400(c). Toll blocking is a service that lets consumers elect not to allow the completion of outgoing toll calls. 47 C.F.R. § 54.400(b).

XV

Western Telephone offers toll blocking to all consumers throughout its service area. Exhibit 1.

XVI

Western Telephone does not currently offer toll control. Id. In order for Western Telephone to provide toll control, additional usage tracking and storage capabilities will have to be installed in its local switching equipment. Western Telephone is attempting to determine whether the necessary software has been developed and when it might become available. Id.

XVII

Western Telephone stated that it is faced with exceptional circumstances concerning its ability to make toll control service available and requested a one year waiver from the requirement to provide such service. Id. Prior to the end of the one year period, Western Telephone will report back to the Commission with specific information indicating when the network upgrades can be made in order to provide toll control. Id.

XVIII

With respect to the obligation to advertise the availability of services supported by the federal universal service support mechanism and the charges for those services using media of general distribution, Western Telephone stated that it advertises the availability of its local exchange services in media of general distribution throughout its service area. However, Western Telephone has not generally advertised the prices for these services. Id. Western Telephone stated its intention to comply with any advertising standards developed by the Commission. Id.

XIX

Western Telephone currently offers Lifeline and Link Up service discounts in its exchanges recently purchased from U S WEST Communications, Inc. Exhibit 2. Western Telephone will offer the Lifeline and Link Up service discounts in all of its service area beginning January 1, 1998, in accordance with 47 C.F.R. §§ 54.400 to 54.417, inclusive, and any Commission imposed requirements. Exhibit 2.

XX

The Commission finds that Western Telephone currently provides and will continue to provide the following services or functionalities throughout its service area: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling; (4) single-party service; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll blocking for qualifying low-income consumers.

XXI

The Commission finds that pursuant to 47 C.F.R. § 54.101(c) it will grant Western Telephone a waiver of the requirement to offer toll control services until December 31, 1998. The Commission finds that exceptional circumstances prevent Western Telephone from providing toll control at this time due to the difficulty in obtaining the necessary software upgrades to provide the service.

XXII

The Commission finds that Western Telephone intends to provide Lifeline and Link Up programs to qualifying customers throughout its service area consistent with state and federal rules and orders.

XXIII

The Commission finds that Western Telephone shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor throughout its service area using media of general distribution once each year. The Commission further finds that if the rate for any of the services supported by the federal universal service support mechanism changes, the new rate must be advertised using media of general distribution.

XXIV

Pursuant to 47 U.S.C. § 214(e)(5), the Commission designates Western Telephone's current study area as its service area.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 214.

II

Pursuant to 47 U.S.C. § 214(e)(2), the Commission is required to designate a common carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission.

III

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

IV

The FCC has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator

services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a).

V

As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

VI

Western Telephone has met the requirements of 47 C.F.R. § 54.101(a) with the exception of the ability to offer toll control. Pursuant to 47 C.F.R. § 54.101(c), the Commission concludes that Western Telephone has demonstrated exceptional circumstances that justify granting it a waiver of the requirement to offer toll control until December 31, 1998.

VII

Western Telephone shall provide Lifeline and Link Up programs to qualifying customers throughout its service area consistent with state and federal rules and orders.

VIII

Western Telephone shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor using media of general distribution once each year. If the rate for any of the services supported by the federal universal service support mechanism changes, the new rate shall be advertised using media of general distribution.

IX

Pursuant to 47 U.S.C. § 214(e)(5), the Commission designates Western Telephone's current study area as its service area.

X

The Commission designates Western Telephone as an eligible telecommunications carrier for its service area.

It is therefore

ORDERED, that Western Telephone's current study area is designated as its service area; and it is

FURTHER ORDERED, that Western Telephone shall be granted a waiver of the requirement to offer toll control services until December 31, 1998; and it is

FURTHER ORDERED, that Western Telephone shall follow the advertising requirements as listed above; and it is

FURTHER ORDERED, that Western Telephone is designated as an eligible telecommunications carrier for its service area.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 17th day of December, 1997. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 17th day of December, 1997.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Delaine Kolbo

Date: 12/18/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg

JAMES A. BURG, Chairman

Pam Nelson

PAM NELSON, Commissioner

Laska Schoenfelder

LASKA SCHOENFELDER, Commissioner