

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF U S)	ORDER RECLASSIFYING
WEST COMMUNICATIONS, INC. TO)	DIRECTORY ASSISTANCE
RECLASSIFY U S WEST'S DIRECTORY)	AS FULLY COMPETITIVE;
ASSISTANCE SERVICE)	ORDER APPROVING
)	SETTLEMENT AGREEMENT
)	TC99-098

On September 22, 1999, U S WEST Communications, Inc. (U S WEST) filed with the Public Utilities Commission (Commission) a Petition to Reclassify U S WEST's Directory Assistance Service. In its petition, U S WEST requests that directory assistance and related services be reclassified from noncompetitive services to fully competitive services. Pursuant to SDCL 49-31-3.2, when determining how a telecommunications service is to be classified, the Commission shall consider the following:

- (1) The number and size of alternative providers of the service and the affiliation to other providers;
- (2) The extent to which services are available from alternative providers in the relevant market;
- (3) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions of service;
- (4) The market share, the ability of the market to hold prices close to the cost, and other economic measures of market power; and
- (5) The impact on universal service.

The Commission has jurisdiction over this matter pursuant to SDCL 49-31-3.2 and 49-31-3.4. Pursuant to SDCL 49-31-3.4, in any proceeding to reclassify a telecommunications service, the person initiating the petition has the burden of proving that the existing classification is inappropriate. U S WEST filed its testimony along with its petition. No parties filed to intervene. A hearing was scheduled for November 23, 1999. On November 3, 1999, U S WEST and Commission Staff filed a Stipulation and Settlement Agreement.

In the Stipulation and Settlement Agreement, U S WEST and Commission Staff agreed that U S WEST's directory assistance services and related services are fully competitive. At its November 15, 1999, meeting, the Commission considered the Stipulation and Settlement Agreement. The Commission questioned the inclusion of "related services" and the Commission Staff stated that "related services" should have been deleted. The Commission deferred action.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED
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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION
OF U S WEST COMMUNICATIONS, INC.
TO RECLASSIFY DIRECTORY
ASSISTANCE SERVICE AS FULLY
COMPETITIVE

TC 99-098

STIPULATION AND SETTLEMENT
AGREEMENT

U S WEST Communications, Inc. ("U S WEST") and the Staff of the South Dakota Public Utilities Commission ("Staff"), collectively referred to as the "Parties," hereby state that they have resolved all issues relevant to U S WEST's Application to Reclassify Directory Assistance Service as Fully Competitive that have or could have been contested in the above captioned proceedings. The Parties respectfully submit this Stipulation and Settlement Agreement ("Stipulation" or "Agreement") for approval by the South Dakota Public Utilities Commission ("Commission").

I. RECITALS

A. On September 22, 1999, U S WEST filed its application to reclassify Directory Assistance and related services as fully competitive. U S WEST included with its application the prefiled testimony of David Teitzel and Marti Gude.

B. On September 23, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of October 8, 1999 to interested parties and entities. No party filed a petition to intervene.

C. The Parties have engaged in settlement negotiations in an attempt to resolve any differences they may have regarding U S WEST's application. This Agreement reflects the

results of those negotiations and resolves all of the issues which were or could have been contested among the Parties concerning U S WEST's application.

WHEREFORE, the Parties agree and stipulate to the following:

II. SPECIFIC PROVISIONS

The Parties agree that U S WEST's Directory Assistance services ~~and related services~~ arising from the utilization of the 411 and 555-1212 numbers are fully competitive. Thus, such Directory Assistance ~~and related~~ services should be reclassified from non-competitive to fully competitive pursuant to SDCL 49-31-1.3 and 49-31-3.2 and ARSD 20:10:24:11 et seq. The factual basis for this agreement is set forth below.

III. FACTUAL BASIS FOR THIS AGREEMENT

A. U S WEST petitioned the Commission to find that its directory assistance and related services are fully competitive pursuant to SDCL 49-31-1.3, 49-31-3.2 and ARSD 20:10:24:11 et.seq. In making that determination, SDCL 49-31-1.3 requires that alternative services be available to over fifty percent of the company's customers. SDCL 49-31-3.2 specifies that the Commission, in determining how a telecommunications service be classified, shall consider the following:

- (1) The number and size of alternative providers of the service and the affiliation to other providers;
- (2) The extent to which services are available from alternative providers in the relevant market area;
- (3) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions;
- (4) The market share, the ability of the market to hold prices close to cost, and other economic measures of market power; and

(5) The impact on universal service.

B. Based on SDCL 49-31-1.1, U S WEST's Directory Assistance Service and related services are presently classified as non-competitive services.

C. As set forth in the prefiled testimony of David Teitzel (at pages 5-10), there are numerous alternative providers of Directory Assistance service in South Dakota. There are currently at least 35 alternatives to U S WEST's service. These alternatives include Directory Assistance products from interexchange carriers (IXCs), wireless companies, Internet Service Providers (ISPs) and others. These alternative providers have made themselves known to customers in South Dakota. They have spent millions of dollars nationally in advertising their Directory Assistance products. There are also numerous web sites offering such products for free on the Internet. Moreover, the alternative providers appear to be financially sound companies, and are often very large companies, who are sometimes affiliated with each other.

D. Further, as set forth in the prefiled testimony of David Teitzel (at pages 10-12), Directory Assistance services are reasonably available to South Dakota customers from many alternative providers, which alternative providers serve customers throughout South Dakota. Further still, South Dakota customers are not captive customers for U S WEST, as all South Dakota customers have at least three alternatives to U S WEST, including AT&T's 10-10-288-00 Directory Assistance service, MCI's 10-10-9000 Directory Assistance service, and numerous "dial-around" Directory Assistance services. These alternative providers have established themselves in all segments of the telecommunications market in South Dakota.

E. In addition, as set forth in the prefiled testimony of David Teitzel (at pages 12-16), these numerous alternative providers have the ability to make functionally equivalent or substitute services readily available at competitive terms and conditions. Interexchange carriers

offer nation-wide directory assistance services, whereby a South Dakota customer may obtain a telephone number for someone across the street or across the country and have that call completed. This type of directory assistance may actually be considered to provide increased functionality over U S WEST's directory assistance service. Customers of competing local service providers are able to access directory assistance from their competitive local exchange carrier as easily as they would from U S WEST. Wireless providers offer directory assistance at very comparable rates with attractive enhancements and features such as maps, directions, neighborhood information, phone numbers and addresses of neighbors, reverse look-up, and e-mail addresses. Internet directory assistance providers offer even greater options to South Dakota consumers desiring information, most of which are available at no charge. Competitive providers of directory assistance are offering services that are functionally equivalent or substitutable at comparable prices, terms and conditions. The offerings of most directory assistance providers are more advanced than U S WEST's. Services equivalent to those provided by U S WEST have been deployed and are being used by South Dakota consumers.

F. With respect to market share, and as set forth in the prefiled testimony of David Teitzel (at pages 15-18), U S WEST does not dominate market share in South Dakota. U S WEST has further shown that its market share has been declining, and that it expects to continue to lose market share as competition escalates. U S WEST has further shown that the Directory Assistance market in South Dakota is fully competitive.

G. Finally, as set forth in the prefiled testimony of David Teitzel (at pages 18-19), a finding that Directory Assistance service and related services is fully competitive in South Dakota is in the public interest for South Dakota customers. This public interest includes that U S WEST will be able to respond creatively and in a much more timely manner to meet the

needs of its South Dakota customers in a competitive environment, as well as that South Dakota will benefit in the form of innovative product offerings and enhancements. Reclassification will bring greater choices to customers in South Dakota by all directory assistance providers, spurred on by the marketplace.

H. Finally, there is no impact on universal service because Directory Assistance is a discretionary, vertical service unrelated to maintaining universal service.

I. The Parties stipulate that the prefiled testimony in this case may be reviewed by the Commission in considering this Agreement.

J. The Parties agree that U S WEST Communications, Inc.'s Answers to Staff Data Requests dated October 25, 1999 will also be submitted to the Commission in consideration of this Agreement.

IV. GENERAL PROVISIONS

A. This Agreement is made for settlement purposes only. No Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly in this Agreement. Furthermore, this Agreement does not constitute agreement, by any Party, that any principle or methodology contained within this Agreement may be applied to any situation other than the above-captioned case in South Dakota. Notwithstanding, this Agreement does not preclude informal consultation by representatives of the Parties to consider using the same or a similar settlement approach in similar dockets in other states. No precedential effect or other significance, except as may be necessary to enforce this agreement or a Commission order concerning the Agreement, shall attach to any principle or methodology contained in the Agreement.

B. The Parties expressly reserve the right to advocate positions different from those stated in this Agreement in any proceeding other than the one necessary to enforce this Agreement or a Commission order concerning the Agreement. Nothing in this Agreement shall constitute a waiver by any Party with respect to any matter not specifically addressed in this Agreement.

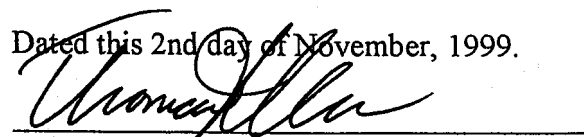
C. This Agreement shall not become effective and shall be of no force and effect until issuance of a final Commission order approving it in its entirety or which contains modification(s) of the terms and conditions that are acceptable to all of the Parties hereto. In the event the Commission modifies this Agreement in any manner unacceptable to any Party hereto, that Party may withdraw from the Agreement and shall so notify the Commission and the other Parties within ten (10) days of the date of the order. In the event a Party exercises its right to withdraw from the Agreement, this Agreement shall be null and void and of no effect and no force in this or any other proceeding in South Dakota. Should the Commission reject the Stipulation, the Parties will proceed to litigate the entire matter before the Commission as if the Agreement had not been presented.

D. In the event this Agreement becomes null and void or in the event the Commission does not approve this Agreement, this document, as well as the negotiations or discussions undertaken in conjunction with the Agreement, shall not be admissible into evidence in these or any other proceedings or dockets.

E. The Parties state that the results of the compromises and settlements reflected in this Agreement are just, reasonable and in the public interest.

F. This Agreement may be executed in separate counterparts. The counterparts taken as a whole shall constitute the entire agreement.

Dated this 2nd day of November, 1999.

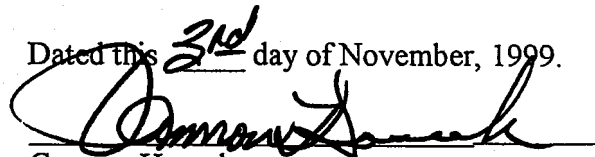


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Dated this 3rd day of November, 1999.



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