

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

**IN THE MATTER OF THE FILING BY U S WEST) FINDINGS OF FACT AND
COMMUNICATIONS, INC. FOR REVISIONS TO ITS) CONCLUSIONS OF LAW;
EXCHANGE AND NETWORK SERVICES CATALOG) NOTICE OF ENTRY OF ORDER

) TC96-206**

On December 23, 1996, the Public Utilities Commission (Commission) received a filing from U S WEST Communications, Inc. (U S WEST) for approval to introduce a new optional dialing capability for the completion of calls. Under the proposal, customers would be able to call a special 1-800 number to reach an interactive voice response platform. After reaching the platform, customers would be given the following options to bill their call: 1-800 U S WEST Calling Card, Third Number, or Collect. An effective date of January 15, 1997, was requested by U S WEST.

On December 26, 1996, the Commission electronically transmitted notice of the filing and the intervention deadline of January 10, 1997, to interested individuals and entities. The Commission granted intervention to TCIC Communications, Inc. (TCIC), MCI Telecommunications Corporation (MCI), and AT&T Communications of the Midwest, Inc. (AT&T).

The Commission issued an Amended Order for and Notice of Hearing by Order dated April 11, 1997. The hearing on U S WEST's application was held as scheduled on April 15, 1997, in Pierre, South Dakota.

A June 3, 1997, meeting, the Commission unanimously voted to approve U S WEST's new optional dialing capability for the completion of calls.

Based on the evidence of record, the Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

I

On December 23, 1996, the Commission received a filing from U S WEST for approval to introduce a new optional dialing capability for the completion of calls. Under the proposal, customers would be able to call a special 1-800 number to reach an interactive voice response platform. After reaching the platform, customers would be given the following options to bill their call: 1-800 U S WEST Calling Card, Third Number, or Collect.

II

Intervention in this docket was granted to TCIC, MCI, and AT&T and a hearing was held on U S WEST's application on April 15, 1997, in Pierre, South Dakota.

III

AT&T, MCI, and U S WEST all submitted post-hearing briefs. On May 9, 1997, AT&T submitted a Motion to Reopen the Record for Admission of Certain Highly Relevant New Evidence. A May 28, 1997, meeting, the Commission voted to allow AT&T to reopen the record for the purposes of submitting Exhibits 9-11. On May 30, 1997, AT&T submitted a Motion to Reopen the Record for Admission of Relevant Evidence. A June 3, 1997, meeting, the Commission denied AT&T's request to again reopen the record due to the untimeliness of the request.

IV

U S WEST's proposed optional dialing capability for the completion of calls consists of a calling card with an 800 number. By dialing the 800 number, a customer will have five different options: (1) the customer can make an intraLATA, interLATA, or international call by using a calling card; (2) the customer can make a collect call; (3) the customer can reach directory assistance; (4) the customer can utilize speed dial where the customer sets up his own speed dialing number; or (5) the customer can talk to a customer service representative. Tr. at 15-16.

V

When a customer dials the 800 number the call goes from the central office to a platform. There the call is identified as either an interLATA or intraLATA call, whether it is an interstate or intrastate call, and whether it is an in-region U S WEST call or an out-of-region U S WEST call. If the call is an intrastate, intraLATA call, the customer is notified that U S WEST Communications will handle the call. If the call is an interLATA call, and is in-region in whole or in part, the customer is notified that Frontier Communications, Inc. (Frontier) will handle the call. If the call is wholly out-of- region, the customer is notified that U S WEST Long Distance will handle the call. Tr. at 42.

VI

Frontier is a telecommunications company that has a Certificate of Authority to provide long distance telecommunications services in South Dakota as Allnet Communications Services, Inc., d/b/a Frontier Communications Services. Exhibit 7. Frontier is not an affiliate of U S WEST nor is it owned by U S WEST. Tr. at 19.

VII

U S WEST Communications does not transport any calls or carry any telecommunications traffic across LATA boundaries. Tr. at 18.

VIII

AT&T's witness, Howard Bell, questioned whether U S WEST was in compliance with the 47 U.S.C. § 271 "prohibition on providing in-region interLATA calling." Tr. at 83. Mr. Bell also requested that the Commission monitor U S WEST's marketing to ensure that customers do not believe that U S WEST is

authorized to provide in-region, interLATA calling. Tr. at 85.

IX

In order to comply with a previous Commission Order, U S WEST changed its tariff to time the first minute at a \$.20 rate and thereafter to bill in six second intervals. Tr. at 19.

X

The Commission finds that U S WEST has the burden of proving, pursuant to SDCL 49- 31-12.5, that optional dialing capability is fair and reasonable as it is used for intrastate calling. AT&T's and MCI's concerns relate to the provisioning of interstate services and therefore are more appropriately made to the Federal Communications Commission (FCC).

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49- 31. Specifically, the Commission has jurisdiction over the intrastate provisioning of its new optional dialing capability for the completion of calls.

II

The Commission concludes that U S WEST's provisioning of intrastate toll services under its optional dialing capability is fair and reasonable. AT&T's and MCI's objections to this filing appear to revolve around the involvement of Frontier. However, Frontier's participation is limited to interLATA activities and South Dakota is considered to be a single LATA state. Therefore, AT&T's and MCI's objections would appear to be more appropriately made to the FCC since the issues essentially involve interstate matters.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the ____ day of July, 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 2nd day of July, 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: _____

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

Date: _____

(OFFICIAL SEAL)

LASKA SCHOENFELDER,
Commissioner

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