

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

<b>IN THE MATTER OF THE FILING BY U S WEST COMMUNICATIONS, INC. FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER</b>	<b>)</b>	<b><u>AMENDED</u> FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER AND NOTICE OF ENTRY OF ORDER</b>
	<b>)</b>	<b>TC97-163</b>
	<b>)</b>	
	<b>)</b>	

On October 10, 1997, the Public Utilities Commission (Commission) received a request for designation as an eligible telecommunications carrier (ETC) from U S WEST Communications, Inc. (U S WEST). U S WEST requested designation as an eligible telecommunications carrier for all areas in which it is authorized to provide service in South Dakota.

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 its December 12, 1997, meeting, the Commission granted ETC designation to U S WEST, granted waivers for the provisioning of toll control and single party service, and designated each of its exchanges as a separate 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 October 10, 1997, the Commission received a request for designation as an ETC from U S WEST. U S WEST requested designation as an ETC within the following local exchange areas: Aberdeen; Arlington; Belle Fourche; Canton; Cavour; Chamberlain; Colman; Deadwood; DeSmet; Elk Point; Flandreau; Fort Pierre; Harrisburg; Hill City; Huron; Iroquois; Lake Preston; Lead; Madison; McIntosh; Milbank; Miller; Mitchell; Morristown; Pierre; Rapid City; Redfield; Sioux Falls; Sisseton; Spearfish; Sturgis; Tea; Timber Lake; Vermillion; Volga; Watertown; Whitewood; and Yankton. Exhibits 1 and 2.

#### 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

U S WEST offers voice grade access to the public switched network to all consumers throughout its local exchanges service areas. Tr. at 70.

### VII

U S WEST offers local exchange service including an amount of local usage free of per minute charges to all consumers throughout its local exchange service areas. Tr. at 71.

### VIII

U S WEST offers dual tone multi-frequency signaling to all consumers throughout its local exchange service areas. Id.

### IX

As of October 31, 1997, U S WEST offers single party service to all but 612 consumers throughout its local exchange service areas. Tr. at 67. U S WEST requested a waiver of the requirement to provide single party service to all but 48 of those customers until June 30, 1998. Late-filed affidavit dated December 1, 1997; late-filed affidavit dated December 11, 1997. U S WEST requested a waiver of the requirement to provide single party service to the remaining 48 customers until December 31, 1999. Id. U S WEST stated that most of the 48 customers are located a long distance from the serving switch and facilities are not available to provide single party service. Late-filed affidavit dated December 11, 1997. U S WEST estimated the average cost to upgrade the remaining customers is \$45,000 per customer. Id.

### X

U S WEST offers access to emergency services to all consumers throughout its local exchange service areas. Tr. at 71.

#### XI

U S WEST offers access to operator services to all consumers throughout its local exchange service areas. Id.

#### XII

U S WEST offers access to interexchange services to all consumers throughout its local exchange service areas. Id.

#### XIII

U S WEST offers access to directory assistance to all consumers throughout its local exchange service areas. 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). In its initial order, the FCC found that 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). However, in its Fourth Order on Reconsideration, the FCC revised its definition of toll limitation and defined it as toll control or toll blocking. Thus, unless a carrier is capable of providing both toll blocking and toll control, it may offer either toll blocking or toll control. If a carrier is capable of providing both toll blocking and toll control, it must offer qualifying consumers a choice between the two. Fourth Order on Reconsideration, CC Docket No. 96-45, ¶ 115 (December 30, 1997).

#### XV

U S WEST offers toll blocking to all consumers throughout its local exchange service areas. Exhibit 1.

#### XVI

U S WEST does not currently offer toll control. Id.

#### XVII

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, U S WEST stated that it advertises the availability of its local exchange services in media of general distribution throughout its local exchange service areas. Id.

#### XIII

U S WEST currently offers Lifeline and Link Up service discounts in all of its local exchange service areas. Id.

## XIX

The Commission finds that U S WEST currently provides and will continue to provide the following services or functionalities throughout its local exchange service areas: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling; (4) single-party service to all but 612 customers; (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.

## XX

The Commission finds that pursuant to 47 C.F.R. § 54.101(c) it will grant U S WEST a waiver of the requirement to offer single party service for all but 48 of the remaining 612 multi-party customers until June 30, 1998. The Commission further finds that it will grant U S WEST a waiver of the requirement to provide single party service for the remaining 48 customers until November 1, 1998. The Commission finds that exceptional circumstances prevent U S WEST from meeting the single party service requirement and will allow the waivers.

## XXI

The Commission finds that pursuant to 47 C.F.R. § 54.101(c) it will grant U S WEST a waiver of the requirement to offer toll control services until December 31, 1998. The Commission finds that exceptional circumstances prevent U S WEST from providing toll control at this time. Since U S WEST is able to offer toll blocking, the Commission finds that U S WEST meets the requirements of providing toll limitation services pursuant to the FCC's Fourth Order on Reconsideration, CC Docket 96-45, ¶ 115 (released December 30, 1997).

## XXII

The Commission finds that U S WEST intends to provide Lifeline and Link Up programs to qualifying customers throughout its local exchange service areas consistent with state and federal rules and orders.

## XXIII

The Commission finds that U S WEST shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor throughout its local exchange service areas 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 must establish service areas for the purpose of determining universal service obligations and support mechanisms. U S WEST requested that the Commission designate each of U S WEST's exchanges as a separate service area. The Commission finds this to be reasonable and thus designates each of U S WEST's current exchanges listed in Finding of Fact I as a separate 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

U S WEST has met the requirements of 47 C.F.R. § 54.101(a) with the exception of the ability to offer toll control and the ability to offer single party service to all of its customers. Pursuant to 47 C.F.R. § 54.101(c), the Commission concludes that U S WEST has demonstrated exceptional circumstances that justify granting it a waiver of the requirement to offer toll control until December 31, 1998. The Commission further concludes that U S WEST has demonstrated exceptional circumstances that justify granting it a waiver of the requirement to offer single party service for all but 48 of the 612 multi-party customers until June 30, 1998, with the remaining 48 customers receiving a waiver until November 1, 1998.

## VII

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

## VIII

U S WEST 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 each of U S WEST's 38 exchanges as listed in Finding of Fact 1 as separate service areas.

### X

The Commission designates U S WEST as an eligible telecommunications carrier for each of its service areas.

It is therefore

ORDERED, that each of U S WEST's 38 exchanges as listed in Finding of Fact I are designated as separate service areas; and it is

FURTHER ORDERED, that U S WEST shall be granted a waiver of the requirement to offer single party service to all but 48 of the 612 multi-party customers until June 30, 1998, with the remaining 48 customers receiving a waiver until November 1, 1998; and it is

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

FURTHER ORDERED, that U S WEST shall follow the advertising requirements as listed above; and it is

FURTHER ORDERED, that U S WEST is designated as an eligible telecommunications carrier for each of its service areas.

### NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Amended Order was duly entered on the 10th day of March, 1998. 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 10th day of March, 1998.

#### **CERTIFICATE OF SERVICE**

BY ORDER OF THE COMMISSION:

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.

JAMES A. BURG, Chairman  
 \_\_\_\_\_

By: \_\_\_\_\_

PAM NELSON, Commissioner

Date: \_\_\_\_\_

\_\_\_\_\_

(OFFICIAL SEAL)

LASKA SCHOENFELDER, Commissioner