

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

<b>IN THE MATTER OF THE PETITION FOR AN</b>	)	<b>ORDER DENYING PETITION</b>
<b>ORDER DIRECTING U S WEST</b>	)	<b>FOR RECONSIDERATION</b>
<b>COMMUNICATIONS, INC. TO FILE UPDATES</b>	)	
<b>TO ITS EXCHANGE AND NETWORK</b>	)	<b>TC98-187</b>
<b>SERVICES CATALOG, ACCESS SERVICE</b>	)	
<b>CATALOG, ADVANCED COMMUNICATIONS</b>	)	
<b>SERVICES CATALOG AND PRIVATE LINE</b>	)	
<b>TRANSPORT SERVICES CATALOG</b>	)	

On October 26, 1998, Staff of the Commission petitioned the Public Utilities Commission (Commission) to issue an Order requiring U S WEST Communications, Inc. (U S WEST) to file updates to its Exchange and Network Services Catalog, Access Service Catalog, Advanced Communications Services Catalog, and Private Line Transport Services Catalog. On November 3, 1998, the Commission received from U S WEST an Affidavit of Colleen Sevold concerning Staff's Petition. The Commission issued an Order for and Notice of Hearing on February 18, 1999, stating that the issue at the hearing was whether U S WEST shall file updates to its Catalogs with the Commission and, if so, in what format. On February 24, 1999, the Commission received a letter from U S WEST requesting a more detailed and definite statement of the matters to be heard at the hearing. Based on this request, the Commission issued an Amended Order for and Notice of Hearing which stated that the hearing shall determine whether U S WEST shall file revised and updated tariffs in hard copy form or some type of electronic form when changes are made to fully competitive service offerings. The Commission limited the proceeding to fully competitive services based on Ms. Sevold's affidavit, referenced above, which stated that U S WEST would continue to file tariff pages for noncompetitive and emerging competitive services.

On March 5, 1999, the Commission received a Deposition Subpoena and Subpoena to Produce Documents from U S WEST. On March 5, 1999, the Commission received a letter from U S WEST stating that Ms. Sevold's affidavit relied on by the Commission "no longer reflects the position of U S WEST." U S WEST went on to state that "U S WEST is or will be offering products designed to meet competition that are within the statutory classification of emerging competitive and noncompetitive services, and it is U S WEST's view that these competitive rate offerings do not have to be filed." On March 9, 1999, Commission Staff filed an Objection to Amended Order for and Notice of Hearing and a Motion to Quash the subpoenas. On March 10, 1999, the Commission received a Motion for Continuance from U S WEST.

At its March 11, 1999, meeting, the Commission considered these matters. After listening to the arguments of the parties, the Commission voted to amend the Notice of Hearing in order to clarify the issues and to grant U S WEST's Motion for Continuance. (Commissioner Nelson, dissenting). The parties came to an agreement on the Deposition Subpoena and Subpoena to Produce Documents so the Motion to Quash became moot. A Second Amended Order for and Notice of Hearing was issued on March 18, 1999. The issues listed in the order were as follows: whether U S WEST shall file changes to all of its catalogs or tariffs with the Commission and, if so, in what format; whether U S WEST has failed to properly file changes to its tariffs or catalogs, and if so, what is the remedy; whether product or service offerings designed to meet competition that are within the statutory classifications of fully competitive, emerging competitive, and noncompetitive services shall be filed with the Commission; and how is it determined whether product or service offerings are designed to meet competition.

A hearing on all issues raised in this docket was held on April 27, 1999. Briefs were submitted following the hearing by U S WEST and Staff. By order dated August 26, 1999, the Commission voted to defer action on this docket indefinitely pending completion of a new docket to reclassify U S WEST's intraLATA toll and wide-area telephone services from emerging competitive to fully competitive. (Commissioner Schoenfelder, dissenting). On September 17, 1999, Commission Staff filed a Petition for Reconsideration. On October 6, 1999, U S WEST filed an answer to Staff's petition.

In Docket TC99-099, the Commission reclassified U S WEST's intraLATA toll and wide-area telephone services from emerging competitive to fully competitive. *In the Matter of the Inquiry of Whether to Reclassify U S WEST Communications, Inc.'s IntraLATA Toll and Wide-Area Telephone Services*, Docket TC99-099, issued December 8, 1999. In addition, U S WEST petitioned the Commission to reclassify directory assistance and related services from noncompetitive to fully competitive. In Docket TC99-098, the Commission reclassified directory assistance services arising from the utilization of the 411 and 555-1212 numbers from noncompetitive to fully competitive. *In the Matter of the Petition of U S WEST Communications, Inc. to Reclassify U S WEST's Directory Assistance Service*, Docket TC99-098, issued December 8, 1999.

At its January 18, 2000, meeting, the Commission considered how to proceed with this docket following the reclassification of toll and directory assistance services. The Commission decided as follows: (1) with respect to the issue of whether updates to tariffs and catalogs should be filed as paper copies with the Commission, the Commission finds that U S WEST's offer to furnish the Commission with paper copies of all tariff and catalog changes that it posts on its website within 30 days of the effective date of that rate change or service offering is an acceptable solution; (2) with respect to the issue of whether U S WEST is required to submit for pre-approval its tariffs and catalogs regarding the grant of discounts, incentives, services, or other business practices necessary to meet competition, the Commission finds that U S WEST is not required to submit them for pre-approval. The Commission recognizes that this allows U S WEST to make the initial determination of whether the tariff or catalog change is necessary to meet competition, however, the Commission finds that Commission Staff, other interested persons, or the Commission on its own motion may open a docket to determine whether the tariff or catalog change or addition is necessary to meet competition; (3) with respect to the issue of how new services are classified, the Commission finds that if U S WEST does not request a different classification, intraLATA new products and services not functionally required to provide local exchange service will remain classified as noncompetitive pursuant to Docket F-3743; and (4) with respect to promotions that last ninety days or less, U S WEST shall inform the Commission of the beginning and ending date of the promotion in accordance with the public notice requirement of SDCL 49-31-86. The Commission also ruled to sustain Staff's objection to U S WEST's motion to admit the deposition of Harlan Best to the record in its entirety, a motion it had taken under advisement at the hearing.

On March 21, 2000, U S WEST filed a Petition for Reconsideration. At its October 17, 2000, meeting, the Commission considered U S WEST's Petition for Reconsideration. The Commission voted unanimously to deny the petition. The Commission finds U S WEST has failed to provide the Commission with sufficient reason for reconsideration. If U S WEST believes its intraLATA new products and services should be reclassified, it can file a petition for reclassification. It is therefore

ORDERED, that U S WEST's Petition for Reconsideration is denied.

Dated at Pierre, South Dakota, this 9th day of November, 2000.

**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: \_\_\_\_\_

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

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner

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LASKA SCHOENFELDER, Commissioner