

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	DOCKET NO. UT-950200
	)	
Complainant,	)	
	)	TWELFTH SUPPLEMENTAL ORDER
v.	)	
	)	
U S WEST COMMUNICATIONS, INC.,	)	ORDER DENYING PETITIONS
	)	FOR INTERVENTION;
Respondent.	)	LIMITING ISSUES
	)	
.....	)	

This proceeding involves a requested increase in rates and charges for the respondent's services within Washington State. In its rebuttal presentation, one Company witness suggested increasing the Company's rate for ISDN services.<sup>1</sup> Upon learning the magnitude of the suggested increase, Intel Corporation and The Commercial Internet eXchange Association ("CIX") petitioned for limited intervention for the purpose of exploring the suggested increase. They also asked for a limited continuance on that issue, to allow for their preparation and participation.

Several parties answered the petitions. TRACER<sup>2</sup>, Commission Staff, and Public Counsel supported the petitions; US WEST answered in opposition.

Commission Staff and Public Counsel support petitioners' argument that the company's notice to the public was insufficient under WAC 480-80-125 to give reasonable notice to ISDN users of an increase of the magnitude proposed. Notice being insufficient, the petitioners argue, they are to be forgiven the late date of their petitions and are to be afforded time to prepare. In the alternative, petitioners ask that the matter of ISDN rates be deferred to another proceeding in which they have opportunity to participate fully.

US WEST opposes the petitions, contending that legal notice is sufficient and that the customer notice is not intended to be a legal notice affording rights to potential intervenors. The Company urges rejection of the petitions, but states that it would have no objection to the Commission considering the matter on its own motion and deferring consideration of ISDN rates to another proceeding.

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<sup>1</sup>ISDN stands for Integrated Services Digital Network. Using dual loops, such a line can permit enhanced data transmission. No tariff sheets were filed to effect an increase, but Respondent's witness Jenson, in rebuttal filed October 3, 1995, suggested increasing the rate from about \$63 to about over \$180.

<sup>2</sup>Telecommunications Ratepayers Association for Cost-based and Equitable Rates.

The Commission believes that US WEST's arguments are persuasive. The petitions should be denied, as there is no legal notice failure justifying late intervention and the petitioners admit that the information that concerns them has been available for longer than three months. On its own motion but with the consent of all parties, the Commission rules that it will not consider the proposed ISDN rate increase in this proceeding.

The Commission has complied with the pertinent legal notice requirements. The Commission's requirement of customer notice is intended to give customers notice that a significant rate increase is pending and reasonable notice of its general scope and magnitude so they may participate in the decision to suspend, which the Commission may make without hearing. It is not intended to amplify the legal requirements for notices of hearing or to grant additional procedural rights, nor is it intended -- nor can it in practice -- list every potential rate change. Rates of telephone and other utility companies may be so complicated that only publication of the entire tariff might be sufficient to provide actual notice of a specific proposal. The principle that petitioners seek to apply could unnecessarily and improperly open many filings to challenge.

The Commission's purpose in requiring utilities to illustrate the effect of their proposals is intended to give the majority of customers an idea of the nature and magnitude of proposed rate changes and to allow them to participate in suspension discussions or make further inquiry. The Company's customer notice does not give any person substantive or procedural rights. Petitioners have no right to redress for failure of the notice to specify any one possible rate increase.

The Commission must retain the option to make rate adjustments different from the Company's proposal. If it finds that the Company has demonstrated a revenue requirement, it must retain the power to spread that requirement in a different manner from that proposed by the Company in a given case. Doing so may require it to impose a greater or a lesser increase on a particular class than the Company has proposed. The Commission retains the right to spread any revenue deficiency or surplus appropriately among the Company's services by allowing it to refile a new tariff incorporating the Commission's recommendations.

Intel and CIX ask the Commission to reject both Mr. Jenson's June 1, 1995 suggestion of a \$69 rate and his October 3, 1995 suggestion of a \$184 rate. We read the Company's answer to the petition as its assent to abandon both requests, although the former was expressly diverted into this proceeding from Docket No. UT-941562 in a manner fully consistent with procedural requirements and was subject to a Commission commitment to hear it in this proceeding.

We do find it problematic, however, that the Company is suggesting a 200% increase in a specific rate only late in the case, on rebuttal, and without filing a tariff revision to support it. The company's suggestion is merely that, a suggested, and is not a proposal. We need not determine whether the large increase suggestion is sufficiently compliant with law and rule that the Commission could order its implementation.

The Commission agrees with all of the commenting parties that the suggested 200% increase for ISDN rates may be properly removed from consideration in this proceeding. The Commission cannot order its conversion into another proceeding, as there is no tariff filing to effect the increase. If the Company wishes to pursue such an increase, it is free to file for a rate change. The proposal then would be subject to an appropriate level of post-filing scrutiny.

Finally, the Commission reiterates that it does have the power to apportion responsibility for a general rate increase equitably among the utility's customers. Doing so may involve apportionment of revenue increases among customers in a manner not proposed by the company and even to customers for whom the Company proposed no increase. The Commission's ruling does not guarantee petitioners that the proceeding will have absolutely no impact upon the service they are interested in. It does guarantee that the Company's specific 200% increase proposal will not be considered.

### ORDER

THE COMMISSION DENIES the petitions for intervention of Intel Corporation and Commercial Internet eXchange Association to intervene in this proceeding. The Commission rules on its own motion that the Commission will not consider US WEST's suggestions to increase ISDN rates. The Commission does not by this ruling foreclose itself from assigning a reasonable proportion of any general rate change as a function of the spread of rates resulting from the Commission's decision on the merits.

DATED at Olympia, Washington, and effective this 18<sup>th</sup> day of January 1996.

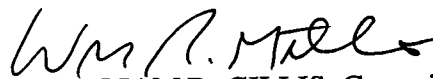
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner