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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In Re:) DOCKET NO. UT-
)
U S WEST's Petition to Modify the) U S WEST's Petition
Requirements of U-85-23 to Discontinue)
U S WEST's Designation as the IntraLATA Toll)
Carrier for Independent Companies)
_____)

NATURE OF THE PROCEEDING

U S WEST Communications, Inc. (U S WEST), hereby submits this petition requesting the Commission to issue an order modifying the requirements of U-85-23, and determining that U S WEST no longer has an obligation to act as the designated carrier of intraLATA toll traffic and private line services for the independent telephone companies. U S WEST requests that the Commission determine that U S WEST is not obligated to serve as the "carrier of last resort" for intraLATA toll traffic.

DISCUSSION

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A. Background

Pursuant to the 17th and 18th Supplemental Orders in Cause No. U-85-23, U S WEST is the designated carrier for intraLATA toll in its own service territory as well as for the customers of the independent telephone companies. U-85-23 was the Washington Commission proceeding relating to the question of how local exchange companies would be compensated for the joint provision of intraLATA toll service in the state.

Prior to the divestiture by AT&T of the Bell Operating Companies in 1983, the industry began working to develop an IntraLATA Telecommunications Plan (ITP) to replace the settlement processes that had been administered by AT&T through its operating companies such as Pacific Northwest Bell.¹ The ITP also contained certain terms regarding the provision of intraLATA toll, which the Commission restated in its 18th Supplemental Order as follows:

I. In the two Washington LATAs and the Washington portion of the Portland, Oregon, LATA, PNB [Pacific Northwest Bell, now U S WEST] shall be designated the carrier for switched intraLATA toll, (Bell to Bell, B-B), (Bell to Independent, B-I), and (Independent to Independent, I-I).

It is PNB's responsibility to:

A. Design and develop the intraLATA toll rates. PNB will continue to serve in its present role as the designated carrier of intraLATA toll among its own exchanges, among its exchanges and those of other local exchange companies and among the exchanges of the other local exchange companies, and to continue to serve as "carrier of last resort" for intraLATA toll customers not served by other intraLATA carriers. These roles do not preclude other carriers from the intraLATA toll market, or preclude the other local exchange companies from becoming the carrier of toll traffic to or from their exchanges. As designated carrier, PNB will file toll tariffs in which other local exchange companies may, but are not

¹ U-85-23 established Intrastate Access Charges and the current Universal Service Fund. The access charges were developed using FCC Parts 36 and 69 allocation procedures for Non-Traffic Sensitive (NTS), Traffic Sensitive (TS), and Special access charges. In addition, it authorized a USF Administrator and USF methodology.

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2 obligated, to concur. These responsibilities of PNB are in the public
3 interest and are not anti-competitive.

4 Those obligations have remained unchanged until recently. Since 1994, some local
5 exchange carriers have elected to become their own toll carrier. U S WEST does not act as the
6 designated carrier or the carrier of last resort for those local exchange carriers, which include GTE
7 and Sprint. In addition, as competitive local exchange carriers have entered the market beginning
8 in 1994, U S WEST has not acted as the intraLATA toll carrier for those carriers either.

9 **B. Present Circumstances in Washington**

10 **1. IntraLATA Toll**

11 U S WEST's historic role as the "designated" carrier for intraLATA toll is no longer
12 necessary, nor is it appropriate in a competitive environment. All exchange carriers in the state
13 were recently required to provide customers the ability to presubscribe to the intraLATA
14 interexchange carrier of their choice. The ability to select an intraLATA carrier other than
15 U S WEST on a presubscribed basis, without dialing extra digits, is known as dialing parity.
16 Dialing parity is required by the Telecommunications Act of 1996, as well as by this Commission.

17 In an environment where customers have a choice of multiple carriers, there is no longer a
18 need for any one company to bear the intraLATA toll designated carrier responsibility.
19 Furthermore, the designated carrier requirement is consistent with this state's pro-competitive
20 policies. RCW 80.36.300.

21 On January 27, 1999, in Docket No. UT-990021, the Commission granted U S WEST's
22 petition for competitive classification of its intraLATA toll service. The Commission made the
23 following findings of fact and conclusions of law which are relevant for consideration in this
proceeding:

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FINDINGS OF FACT

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4. The relevant product market is the intraLATA toll market in the state of Washington

5. There are alternative providers of the telecommunications services to those U S WEST offers in the relevant market

6. There are no regulatory barriers to entry into the relevant market.

7. The intraLATA toll services offered by U S WEST are subject to effective competition.

8. The petition should be granted subject to certain conditions as listed in Conclusion of Law No. 4. These conditions shall remain in effect until U S WEST comes before the Commission in a separate proceeding and carries the burden of proving to the Commission that the conditions are no longer necessary to protect the public interest.

CONCLUSIONS OF LAW

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4. The Commission concludes that U S WEST's petition for competitive classification should be granted, subject to the following conditions:

(1) U S WEST shall continue charging state-wide, averaged toll rates; and

(2) U S WEST shall continue providing intraLATA toll service in all the exchanges where it currently provides intraLATA toll service and/or serving as a primary toll carrier within the state.

Thus, the order held that intraLATA toll is a competitive service in the state. The order specifically stated that U S WEST's obligation as a designated carrier was not affected by the ruling. U S WEST's petition here seeks to remove the condition established in Conclusion of Law No. 4 (2), because that condition is no longer necessary to protect the public interest.²

It is no longer necessary, nor fair, to impose the intraLATA toll designated carrier obligation on a single company when all customers have a choice of multiple intraLATA carriers, including all of the customers served by independent companies. Thus, as contemplated by the

² U S WEST is only seeking to modify Conclusion of Law No. 4(2) as it relates to the responsibility to provide intraLATA toll services in independent telephone company territory and not in the exchanges where it provides local exchange service.

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2 Commission and the legislature in RCW 80.36.300, the competitive market will protect the public
3 interest, and it is no longer necessary to impose regulatory conditions upon a single carrier.

4 Further, it should be noted that each independent telephone company, today, functionally
5 provisions intraLATA toll originating in its own territory, and that no physical changes in the
6 routing or service would be required, only a change in the payment scheme between the
7 companies.³ Furthermore, there are certainly no barriers to entry, as all of these markets are
8 currently being served by other carriers for inter and intraLATA toll services. There are simply no
9 legal or policy reasons to continue to require U S WEST to operate as the default carrier.

10 2. Private Line

11 Private line services were not included in the competitive classification for intraLATA toll.
12 They are, however, included in U S WEST's designated carrier obligation under U-85-23 – an
13 obligation that U S WEST also seeks to have modified in this proceeding. There are no technical,
14 legal, or policy reasons that U S WEST continue in its role as the designated carrier of jointly
15 provided private line services with independent telephone companies.

16 Similar to the rationale that supports releasing U S WEST from its designated carrier
17 responsibility for intraLATA toll, it is not appropriate in a competitive environment to require that
18 one company serve as the designated carrier for a particular product. In the past, when carriers in
19 Washington have begun providing their own intraLATA toll (such as GTE and Sprint have) those
20 carriers have also assumed responsibility for their own portion of jointly provided private line

21 ³ U S WEST believes that it is not currently recovering its costs of providing intraLATA toll in independent territory.
22 However, whether or not U S WEST covers its costs in the provision of this intraLATA toll service is irrelevant to the
23 granting of this petition. While the fact that U S WEST is losing money serving these exchanges lends urgency to this
matter from U S WEST's perspective, the petition should be granted even if the service were not being provided at a
loss. The toll market in the exchanges in which U S WEST is petitioning to exit is a competitive market. There are
multiple carriers currently serving the market and more carriers will likely enter once U S WEST's removes it below-
cost service as an alternative.

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services. U S WEST has retained responsibility for its own portion of those jointly provided services. Customers who obtain jointly provided private line receive a bill from each carrier on a meet-point-billing basis. Alternatively, customers may also obtain inter or intrastate private line services from other carriers who offer those services, such as AT&T or MCI.

The move to a meet-point-billing arrangement does not interrupt a customer's service, nor does it change the physical network arrangements that are in place for the provision of such service. The only difference is that each carrier bills its own portion of the circuit, as opposed to the independent carrier billing U S WEST and U S WEST billing the customer. As will be discussed below, this billing arrangement is already in place in all 13 of the other states in which U S WEST operates.

Thus, with regard to private line, there clearly does not need to be a designated carrier. If private line services are currently offered in the territory of an independent carrier, that carrier has facilities in place over which those services are provisioned. The only change that will result from removal of the designated carrier obligation on U S WEST is a billing change. Any price changes that customers experience will be based on Commission-approved rates.

C. U S WEST's Experience in Other States

U S WEST understands that the Commission may wish to understand the nature and extent of U S WEST's designated carrier obligation in other states. U S WEST therefore sets forth the following information in that regard.

U S WEST does not serve as the designated carrier or the carrier of last resort for intraLATA toll in Iowa, Idaho, New Mexico, South Dakota and North Dakota. U S WEST is the default carrier in Nebraska. U S WEST provides intraLATA toll for some, but not all, of the

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2 independent companies in Arizona (U S WEST serves one company), Montana (U S WEST serves
3 three companies), Utah (U S WEST serves one company), and Wyoming (U S WEST serves all
4 except four companies). U S WEST does serve as the designated carrier in Colorado (per state
5 statute), Minnesota, Oregon (U S WEST is requesting toll deregulation and expects the designated
6 carrier issue to be raised in that proceeding), and Washington.

7 For private line services, U S WEST operates under a meet-point-billing arrangement with
8 all independent telephone companies in its 13 other states. Furthermore, all interLATA (intrastate
9 and interstate) private line circuits in all jurisdictions are billed on a meet-point basis. Most of
10 these meet-point-billing arrangements have been in place since divestiture. U S WEST has had
11 meet-point billing with Sprint and GTE in Washington since those carriers elected to carry their
12 own toll. U S WEST's meet point billing arrangements are set forth in its private line transport
13 tariff, WN U-33, Section 2.4.4, which is included as Attachment A to this petition.

14 **D. Implementation**

15 U S WEST understands that there may be some brief period of time may be necessary for
16 transition and implementation, including time necessary to establish meet-point billing
17 arrangements for private line services. Thus, U S WEST proposes that it be relieved of its
18 obligation immediately, but that it will implement the order and exit the market no later than six
19 months after the Commission order is entered. U S WEST also commits to work with the carriers
20 to transition to meet point billing for up to six months from the date of the order granting this
21 petition.

22 U S WEST believes that conditions in the market are such that the Commission may be
23 assured that no customers will be left unserved. These conditions include the existence of multiple

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interexchange carriers for inter and intraLATA toll, as well as the conditions cited by the Commission in UT-990021 when it concluded that the market was competitive statewide. However, should the Commission be concerned about the lack of a “designated carrier”, the six month period could be used to conduct a rulemaking or other proceeding whereby the Commission could establish a competitively neutral obligation to serve.

III.RELIEF REQUESTED

WHEREFORE, U S WEST respectfully requests that the Commission issue an order modifying the requirements of U-85-23 and determining that U S WEST is no longer obligated to

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act as the designated carrier for intraLATA toll or private line for the independent telephone companies, and is no longer the “carrier of last resort” for customers who desire intraLATA toll.

Respectfully submitted this 3rd day of August, 1999.

U S WEST Communications, Inc.

Lisa Anderl, WSBA No. 13236