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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RON McDOUGALL, assignee, and PAYTEL	)	
NORTHWEST, INC.,	)	
	)	UT-970112
Complainant,	)	
	)	U S WEST'S ANSWER TO COMPLAINT
vs.	)	FOR DAMAGES AND/OR
	)	DECLARATORY ORDER
U S WEST Communications, Inc.,	)	
	)	
Respondent.	)	
	)	

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I. ANSWER

1.1 U S WEST admits that Exhibit A purports to be a series of assignments of claims to the Complainant. U S WEST has no knowledge of the Complainant’s residence. U S WEST denies the remaining allegations of Paragraph 1.1.

1.2 U S WEST admits both paragraphs which are numbered 1.2.

2.1 U S WEST denies that RCW 80.04.220, .230, and .240 are applicable. U S WEST states that Exhibit B speaks for itself.

2.2 U S WEST denies that the Commission has jurisdiction to enter a declaratory order

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pursuant to RCW 34.05.240 and WAC 480-09-230.

3.1 U S WEST admits paragraph 3.1 of Complainants' Complaint.

3.2 U S WEST admits paragraph 3.2 of Complainants' Complaint.

3.3 U S WEST admits paragraph 3.3 of Complainants' Complaint.

3.4 U S WEST admits paragraph 3.4 of Complainants' Complaint.

3.5 U S WEST admits that after April 6, 1995 it charged payphone companies in accordance with its lawful and approved tariffs then in effect.

3.6 U S WEST admits that Exhibit D speaks for itself. U S WEST denies the remaining allegations in paragraph 3.6 of Complainants' Complaint.

3.7 U S WEST admits that it sought an emergency motion for stay of final order from the Commission on April 7, 1995. U S WEST denies the remaining allegations in paragraph 3.7.

3.8 U S WEST admits that on June 30, 1995 the WUTC issued its Fifth Supplemental Order. U S WEST further admits that Exhibit E speaks for itself. U S WEST denies the remaining allegations in paragraph 3.8.

3.9 U S WEST admits that it filed its revised PAL tariffs on July 11, 1995 with a stated effective date of July 15, 1995. U S WEST denies the remaining allegations in that paragraph. U S WEST further states in response to paragraph 3.9 that although the tariffs became effective on July 15, 1995, the rate revisions contained therein were effective on September 1, 1995.

3.10 U S WEST admits that Exhibit F appears to be a copy of the Commission's order of July 14, 1995 which speaks for itself.

3.11 U S WEST states that it implemented the revised tariff on September 1, 1995 as set

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forth in the approved tariff filing referenced above.

3.12 U S WEST is without sufficient knowledge or information to form a belief as to the truth of paragraph 3.12 and therefore denies the same.

3.13 U S WEST admits paragraph 3.13 of Complainants' Complaint.

4.1 Answering paragraph 4.1, U S WEST restates its answers to paragraphs 1.1 through 3.13.

4.2 U S WEST denies paragraph 4.2 of Complainants' Complaint.

4.3 U S WEST denies paragraph 4.3 of Complainants' Complaint.

4.4 U S WEST denies paragraph 4.4 of Complainants' Complaint.

4.5 U S WEST denies paragraph 4.5 of Complainants' Complaint.

4.6 U S WEST denies paragraph 4.6 of Complainants' Complaint.

4.7 U S WEST denies paragraph 4.7 of Complainants' Complaint.

4.8 U S WEST denies paragraph 4.8 of Complainants' Complaint.

5.1 Answering paragraph 5.1, U S WEST denies that the Commission can grant an award of monetary damages.

5.2 Answering paragraph 5.2, U S WEST denies that the Commission has authority to grant an award for attorneys fees.

5.3 Answering paragraph 5.3, U S WEST denies that it violated the Fourth Supplemental Order of the Commission. U S WEST does not object to an order determining that the tariff revisions should have become effective no later than April 6, 1996. In fact, those tariff revisions became effective in July of 1995 as set forth in the tariff filing and in accordance with

1  
2 the approved tariff, the changed rates went into effect on September 1, 1995.

3 5.4 U S WEST denies that the Complainants were entitled to any relief in this matter.

4 IV. AFFIRMATIVE DEFENSES

5 6.1 Complainants fail to state a claim upon which relief can be granted.

6 6.2 Complainants' claim is time-barred as to RCW 80.04.220. RCW 80.04.240  
7 requires any complaint brought under 80.04.220 to be filed with the Commission within six  
8 months. U S WEST's new tariffs were approved and effective July 15, 1995 and the new rates  
9 themselves were effective September 1, 1995. Any complaint claiming that the rates collected  
10 between April 6, 1995 and September 1, 1995 was completely time-barred after March 1, 1996.

11 6.3 The PAL rates in effect from April 6, 1995 through September 1, 1995 were lawful  
12 rates.

13 6.4 Any action for damages pursuant to RCW 80.04.440, and any determinations as to  
14 willfulness must be brought in Superior Court.

15 6.5 The Commission's Fourth and Fifth Supplemental Orders in UT-920174 did not  
16 specify an effective date for the tariff or rate revisions.

17 6.6 Complainants' request for an earlier effective date for the PAL rate revisions was  
18 rejected by the Commission. That denial was not appealed and complainants are bound by that  
19 Order. Complainants' claim is barred by estoppel, waiver, and laches.

20 DATED this \_\_\_\_ of February, 1997.

21 U S WEST Communications, Inc.

22 By: \_\_\_\_\_  
23 Lisa A. Anderl, WSBA No. 13236

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