

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of	)	
	)	DOCKET NO. UT-971689
UNITED TELEPHONE COMPANY OF	)	
THE NORTHWEST d/b/a SPRINT,	)	
	)	ORDER GRANTING PETITION
for Competitive Classification of its	)	
IntraLATA Toll Services.	)	
. . . . .	)	

**SUMMARY**

**PROCEEDINGS:** On November 26, 1997, United Telephone Company of the Northwest, d/b/a Sprint ("United") filed for competitive classification of its intraLATA (local access and transport area) toll services pursuant to RCW 80.36.330 and WAC 480-120-022. Specifically, the services subject to this investigation are listed in United's Tariff WN U-2.

On December 18, 1997, a Notice of Formal Investigation and Fact-Finding and Notice of Opportunity to Intervene and File Comments was served on all telecommunications companies registered in the State of Washington. The Notice invited interested persons to file a written petition to intervene and written comments not later than January 21, 1998; objections to use of the formal investigation and fact-finding process were to be filed with petitions to intervene. No petitions for intervention were filed and no public hearings were necessary to develop the facts relevant to the proceeding.

**COMMISSION:** The Commission grants competitive classification to the intraLATA services of United listed in Tariff WN U-2, as conditioned in this Order.

**MEMORANDUM**

**I. COMMISSION DISCUSSION AND DECISION**

RCW 80.36.330 authorizes the Commission to "classify a telecommunications service provided by a telecommunications company as a competitive telecommunications service" if it finds that the service is "subject to effective competition." The statute defines "effective competition" to mean that "customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base."

In determining whether a particular service is a competitive service, the Commission should consider, among other factors, the following:

- (1) the number and size of alternative providers of services;
- (2) the extent to which services are available from alternative providers in the relevant market;
- (3) the ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (4) other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

Once a service is classified as a competitive telecommunications service, the Commission may reclassify any such service if reclassification will protect the public interest.

#### **A. Effective Competition**

United provided a list of telecommunications companies registered to provide service in the state of Washington which they postulate as a meaningful indicator of the number and size of alternative service providers. United also provided a list of alternative toll providers currently providing "1+" intraLATA toll services in United's service territory. Many of these alternative service providers are of sufficient size to be capable of offering customers both intraLATA and interLATA toll service from a single source. The Commission is satisfied with the number and size of alternative providers and the availability of alternative service to that of United.

United stated that all telecommunications companies providing intraLATA toll services file tariffs or price lists containing their rates, terms, and conditions of service, and generally offer service priced on a per minute basis and calling plans offering volume discounts. Also routinely offered are operator services, directory assistance services, calling card services, and toll free "800/888" services. Their conclusion therefore is that functionally equivalent or substitute services are readily available at competitive rates, terms, and conditions.

The Commission will scrutinize rigorously United's timely and efficient provision of service to interconnecting companies competing with it in the intraLATA toll market. Any degradation of the quality of service provided to consumers taking intraLATA toll services from alternative providers will be interpreted as jeopardizing the public interest and thereby prompting the Commission to revisit United's competitive classification as provided in RCW 80.36.330(7). The Commission also notes that

should United engage in inappropriate practices in the toll market, under RCW 80.36.360 its actions would be subject to the state Consumer Protection Act, Chapter 19.86 RCW.

The current rates for United's intraLATA toll services and various calling plans were supported by cost studies demonstrating rates were above costs of providing the services, and, after investigation, were approved by the Commission. Further, United's intraLATA toll rates are subject to an imputation test so designed as to prevent United from pricing toll service in relation to its wholesale exchange access service thereby creating a "price squeeze" on toll competitors purchasing the "bottleneck" switched access service.

The Commission incorporates as the appropriate cost standard for determining whether United's prices for intraLATA toll service cover its costs the imputation analysis provided by United Primary Toll Carrier filings in Docket Nos. UT-961262, UT-961263, and UT-961264; revisions to its Tariff WN U-2, IntraLATA Toll Services. The December 18, 1997 Notice of Formal Investigation and Fact-Finding on this filing notes at page 1:

Imputation

United is required to demonstrate that its rates do not create a "price squeeze" for its toll competitors, who must buy access from United. United has provided its imputation analysis as a confidential cost support exhibit with their Primary Toll Carrier filings in Docket Nos. UT-961262, UT-961263, and UT-961264. Commission Staff believes the proposed toll rates do not result in a price squeeze, because the average rates under each toll plan are sufficiently high to cover the access charges that United would incur and the incremental cost of toll service. The only exception to this is the Toll-Pac offering, which has been grandfathered as of the date of this and related filings are approved.

It is the "imputation analysis" there referenced which the Commission adopts for prices for intraLATA toll services in this proceeding. The initial price lists developed pursuant to competitive classification of these services should mirror the tariffed rates approved in Docket Nos. UT-961262, UT-961263 and UT-961264. Thereafter, any rate changes must continue to meet the imputation analysis here adopted. Commission Staff must review price list changes to ensure that United's prices cover costs consistent with that imputation test.

The Commission will condition competitive classification of United's intraLATA toll services on the requirement that rates continue to satisfy the imputation test discussed above until otherwise directed by the Commission.

**B. Other Issues****1. Termination of Service for Non-payment of Toll Charges**

The Commission believes WAC 480-120-181 to prohibit termination of local exchange service for non-payment of toll charges. This is a long-standing policy in this state and the Commission will condition competitive classification of United's intraLATA toll services by prohibiting the termination of local exchange service for non-payment of charges for inter-exchange service.

**2. Notice of Price List Changes**

The Commission will prescribe the same notice requirement as has appeared in all orders granting competitive service or competitive company classifications.

**3. Review of Competitive Service Classification**

The Commission has the authority to undertake a review of competitive classifications pursuant to RCW 80.36.330(7) in order to protect the public interest.

Based upon the entire record and file in this matter, the Commission makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including telecommunications companies.

2. United is registered as a telecommunications company providing service within the state of Washington as a public service company.

3. On November 26, 1997, the company on its own motion filed a petition to requesting competitive classification of its intraLATA toll services pursuant to RCW 80.36.330 and RCW 480-120-022. The services subject to Commission investigation are contained in United's Tariff WN U-2.

4. On December 18, 1997, the Commission issued a Notice of Formal Investigation and Fact-Finding and Notice of Opportunity to Intervene and File Comments.

5. The relevant product market is intraLATA intrastate switched inter-exchange message toll service offered on an "equal access" basis where customers

choose a primary inter-exchange carrier to which all "1+" intraLATA toll calls are directed, and the relevant geographic market is the state of Washington.

6. There are alternative providers of the telecommunications services to those United offers in the relevant market.

7. There are no regulatory barriers to entry into the relevant market, and entry is occurring.

8. The intraLATA intrastate switched inter-exchange message toll services offered by United are subject to effective competition.

9. United's prices for intraLATA intrastate switched inter-exchange message toll service are subject to the imputation test described fully in the text of this Order until otherwise ordered by the Commission.

10. United should report bi-annually on the status of competition in the relevant market for its intraLATA intrastate switched inter-exchange message toll service, addressing at a minimum the factors contained in RCW 80.36.330(1) until otherwise ordered by the Commission.

### CONCLUSIONS OF LAW

1. United's intraLATA intrastate switched inter-exchange message toll service meets the requirements of RCW 80.36.330. The Commission should grant the petition of United.

2. United should be permitted to intraLATA intrastate switched inter-exchange message toll service under price list.

3. Pursuant to WAC 480-120-181, United is prohibited from terminating local exchange service for non-payment of inter-exchange service.

### ORDER

#### THE COMMISSION ORDERS:


1. The petition of United Telephone Company of the Northwest d/b/a Sprint for an order granting competitive telecommunications service classification for its intraLATA toll services is granted.

2. United Telephone Company of the Northwest d/b/a Sprint's prices for intraLATA intrastate switched inter-exchange message toll service are subject to the imputation test described fully in the text of this Order until otherwise ordered by the Commission.

3. United Telephone Company of the Northwest d/b/a Sprint is to file with the Commission every six months a report on the status of competition in the relevant market for its intraLATA intrastate switched inter-exchange message toll service, addressing at a minimum the factors contained in RCW 80.36.330(1), until otherwise ordered by the Commission.

4. United Telephone Company of the Northwest d/b/a Sprint may not terminate local exchange service for non-payment of inter-exchange service.

5. United Telephone Company of the Northwest d/b/a Sprint is authorized to offer services under price list, the format of which is subject to prior approval by the Commission, to be effective after ten days notice to the Commission and to customers. In the event of a price reduction or a change in terms or conditions which do not have rate impact, personal notice to customers is not required. Although the Commission does not have authority to waive this notice requirement, petitioner does have the option to publish notice of price reductions by a display advertisement in such newspaper or newspapers as are geographically situated so as to be circulated over the company's service area.

DATED at Olympia, Washington, and effective this  day of January 1998.

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ANNE LEVINSON, Chair



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner