

Decision No. C02-899

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

APPLICATION NO. 36247

IN THE MATTER OF THE APPLICATION OF THE MOUNTAIN STATES
TELEPHONE AND TELEGRAPH COMPANY TO OBTAIN AUTHORIZATION
FOR THE TRANSFER OF CERTAIN ASSETS ASSOCIATED WITH DIRECTORY
ADVERTISING.

**ORDER GRANTING JOINT MOTION TO
REOPEN THE RECORD, APPROVE STIPULATION AND
AGREEMENT FOR CONTINUATION OF DIRECTORY
IMPUTATION, AND TO WAIVE RESPONSE TIME**

Mailed Date: August 20, 2002

Adopted Date: August 7, 2002

I. BY THE COMMISSION

A. Statement

1. On July 22, 2002, Qwest Corporation (Qwest), the successor in interest to U S WEST, Inc., U S WEST Communications, Inc. (USWC), and to Mountain States Telephone and Telegraph Company (Mountain States), together with the Staff of the Colorado Public Utilities Commission (Staff), and the Office of Consumer Counsel (OCC) filed three joint motions: Joint Motion to Re-open the Record Pursuant to 4 CCR 723-1-91(b) to Review Stipulation and Agreement for Continuation of Directory Imputation to Approve Stipulation and Agreement for Continuation of Directory Imputation and to Waive Response Time.

2. These joint motions were filed because Qwest Communications International, Inc. (QCII), the parent company of Qwest, recently announced its intention to sell its Qwest Dex (Dex) directory publishing affiliate to an unaffiliated third-party and to transfer the directory publishing assets of Dex to the purchaser as part of the sale. Now, being duly advised in the premises, we grant the joint motions.

B. Findings of Fact

1. On April 2, 1984, Mountain States filed Application No. 36247 seeking the Commission's approval of the transfer of certain assets associated with the publication of its telephone directories. In Decision No. C85-781 the Commission established that it maintained jurisdiction over the transfer of the directory assets and ordered Mountain States to re-transfer the directory assets. The Colorado Supreme Court affirmed that order in *Mountain States Telephone and Telegraph Co. v. Public Utilities Commission of the State of Colorado*, 763 P.2d 1020 (Colo. 1988).

2. On March 24, 1989, USWC filed its Plan to comply with the Commission's order in Decision No. C85-781 which required it to file a detailed plan setting forth how it intended to comply with the directives of the Decision. The directive required the return of directory assets from USWC to

Mountain Bell and re-entry into the directory publishing business at the company's own expense.

3. Subsequent to the filing of this Plan, the Commission entered into an agreement with USWC and U S WEST Direct, USWC's directory publishing affiliate and predecessor in interest to Dex. This agreement resolved the litigation from the improper transfer of directory assets and among other matters, provided for the stipulated continuation of directory imputation and equity infusions from U S WEST, Inc. In accordance with the 1989 Agreement, the Commission implemented directory imputation in USWC's general rate case, Docket No. 90S-544T.

4. QCII, the parent company of Qwest, has publicly announced its intention to sell its Dex directory publishing affiliate -- one of its subsidiaries -- to an unaffiliated third-party and to transfer the directory publishing assets of Dex to the purchaser as part of the sale. As a result of QCII's announced intention, Qwest, Staff, and OCC filed a Stipulation and Agreement on July 22, 2002.

5. According to the joint motion, the intent of the Stipulation is to confirm and adjust the rights and responsibilities of Qwest and the Commission to maintain the *status quo* with respect to directory imputation and Qwest's other directory obligations in the event of a sale of Dex. The

parties intend that the Stipulation replaces the 1989 Agreement and continue the regulatory principle of directory revenue imputation at a redefined base amount, \$91.7 million.

6. At the Commission's Weekly Meeting of July 24, 2002, we ordered a ten-day notice period of the parties' joint motions. No party filed comments or filed for intervention during the notice period.

7. The parties maintain the stipulation is in the public interest and request that the Commission approve the Stipulation and Agreement for Continuation of Directory Imputation.

C. Analysis

1. We find that the Stipulation and Agreement is in the public interest and maintains the *status quo* regarding imputation. We agree with the parties that the Stipulation and Agreement affirms and adjusts the rights and responsibilities of the parties under the 1989 Agreement and provides for the possible sale of Dex, while maintaining the *status quo* with respect to imputation and Qwest's other directory obligations. We further find that the Stipulation and Agreement adequately provides for imputation until the principle of imputation is revisited in the next general rate case, show cause, or other proceeding in which revenue requirement is at issue. We note

that, in the interim, the continued imputation of directory revenue will not affect the regulated rates of Qwest.

2. We further find that a hearing is not necessary in this matter. The Stipulation was jointly filed and supported by Qwest, Staff, and the OCC. As we noted, *supra*, the Stipulation will not affect the regulated rates of Qwest until the next general rate case, show cause, or other proceeding in which revenue requirement is at issue. At such time, the parties have reserved their right to make any arguments regarding the appropriateness of continuing imputation or how it should be calculated. Further, despite placing the joint motions on notice for ten days, no party responded.

3. We are fully aware of the current challenges facing Qwest in financial markets and believe that the time required to conduct a hearing in this matter could contribute, however marginally, to those challenges. We therefore, find that the costs certainly outweigh the benefits of conducting a hearing in this matter.

II. ORDER

A. The Commission Orders That:

1. The Joint Motion filed by Qwest Corporation, successor in interest to U S WEST Communications, Inc., and to Mountain States Telephone and Telegraph Company, the Staff of

the Colorado Public Utilities Commission, and the Office of Consumer Counsel to Re-Open the Record Pursuant to 4 CCR 723-1-91(b) to Review Stipulation and Agreement for Continuation of Directory Imputation is granted.

2. The Joint Motion filed by Qwest Corporation, successor in interest to U S WEST Communications, Inc., and to Mountain States Telephone and Telegraph Company, the Staff of the Colorado Public Utilities Commission, and the Office of Consumer Counsel to Approve Stipulation and Agreement for Continuation of Directory Imputation is granted.

3. The Joint Motion filed by Qwest Corporation, successor in interest to U S WEST Communications, Inc., and to Mountain States Telephone and Telegraph Company, the Staff of the Colorado Public Utilities Commission, and the Office of Consumer Counsel to Waive Response Time for Joint Motion to Re-Open the Record Pursuant to 4 CCR 723-1-91(b) to Review Stipulation and Agreement for Continuation of Directory Imputation and to Shorten Response Time for Motion to Approve Stipulation and Agreement for Continuation of Directory Imputation Pursuant to 4 CCR 723-1-22 is granted.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 7, 2002.**

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



RAYMOND L. GIFFORD

POLLY PAGE

ATTEST: A TRUE COPY

Bruce N. Smith
Director

JIM DYER

Commissioners