

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02S-517T

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY SUNWEST COMMUNICATIONS, INC. WITH ADVICE LETTER NO. 14.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION TO WITHDRAW
ADVICE LETTER NO. 14; VACATING
HEARING; AND PERMANENTLY
SUSPENDING TARIFF**

Mailed Date: January 14, 2003

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. This proceeding was initiated on August 23, 2002, when Sunwest Communications, Inc. (Sunwest), filed Advice Letter No. 14 for the purpose of revising rates contained in its Colo. P.U.C. No. 2-Access Service Tariff.

2. On September 25, 2002, the Colorado Public Utilities Commission (Commission) suspended the rates proposed by Sunwest in Advice Letter No. 14 and set the matter for hearing on January 17, 2003. *See*, Decision No. C02-1062.

3. The Staff of the Commission (Staff) filed its intervention in this matter on October 4, 2002.

4. On December 27, 2002, Staff filed a Motion for an Order Permanently Suspending Sunwest Communications, Inc. Advice Letter No. 14 and Vacating the Hearing and

Request for Shortened Response Time (Staff Motion to Suspend). By Decision No. R02-1467-I, the response time to the Staff Motion to Suspend was shortened to January 3, 2003.

5. On or about January 3, 2003, counsel for Sunwest and Staff jointly advised the undersigned administrative law judge that the parties had reached an agreement resolving the Staff Motion to Suspend. Under that agreement, Sunwest was to file an amendment to Advice Letter No. 14 extending its effective date, the hearing of this matter was to be continued to March 24 and 25, 2003.

6. On January 14, 2003, Sunwest filed a Motion to Withdraw Advice Letter 14, Vacate the Scheduled Hearing, and Permanently Close this Docket (Sunwest Motion to Withdraw). The Sunwest Motion to Withdraw represents that Staff does not oppose the relief requested therein.

7. Good grounds having been shown, the Sunwest Motion to Withdraw will be granted and Advice Letter No. 14 will be permanently suspended. This renders the Staff Motion to Suspend moot.

8. Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The Motion to Withdraw Advice Letter 14, Vacate the Scheduled Hearing, and Permanently Close this Docket filed in the captioned proceeding by Sunwest Communications, Inc., is granted.

2. The hearing of this matter, currently scheduled for January 17, 2003, is vacated.

3. The tariff filed by Sunwest Communications, Inc., on August 23, 2002, with Advice Letter No. 14 is permanently suspended and cancelled.

4. Docket No. 02S-517T is closed.

5. The Motion for an Order Permanently Suspending Sunwest Communications, Inc. Advice Letter No. 14 and Vacating the Hearing filed by the Staff of the Commission is denied as moot.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DALE E. ISLEY

Administrative Law Judge