(Decision No. R92-1567)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY U S WEST COMMUNICATIONS, INC., FILED WITH ADVICE LETTER NO. 2253 AND ADVICE LETTER NO. 2253 (AMENDED).	DOCKET NO. 92S-295T RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE WILLIAM J. FRITZEL

Mailed Date: December 16, 1992

Appearances: Robert L. Connelly, Jr., Esq., Denver, Colorado, for U S WEST Communications, Inc.;

Neil L. Tillquist, First Assistant Attorney General for the Colorado Office of Consumer Counsel; and

Jeffrey A. Froeschle, Assistant Attorney General for the Staff of the Colorado Public Utilities Commission.

STATEMENT OF THE CASE

On April 22, 1992, U S WEST Communications, Inc. (U S WEST), filed Advice Letter No. 2253 with attached tariffs. On May 12, 1992, U S WEST filed Advice Letter No. 2253 (Amended) with attached tariffs.

U S WEST stated that the purpose of the filing is to reduce Toll Restriction monthly charge for residential customers from $5.00 to $2.00 and to increase the monthly charge for certain premium white page directory listings. U S WEST requested that the tariffs accompanying Advice Letter No. 2253 and Advice Letter No. 2253 (Amended) become effective on 30 days' notice or on June 22, 1992.

On May 27, 1992, in Decision No. C92-736 the Commission suspended the effective date of the tariffs for 120 days until October 20, 1992, and set this docket for hearing on September 8, 1992.

Notice of the Commission's decision suspending the tariffs and setting the matter for hearing was given to interested parties on June 2, 1992. Notices of intervention were filed by the Colorado Office of Consumer Counsel (OCC) and by the Staff of the Colorado Public Utilities Commission (Staff).

On September 2, 1992, OCC filed a Motion to Vacate the Hearing Scheduled for September 8, 1992. The motion was granted in Interim Order No. R92-1160-I. The hearing was rescheduled for November 10, 1992, at 1:00 p.m. at the Commission hearing room in Denver.

On October 7, 1992, the Commission in Decision No. C92-1287 further suspended the effective date of the tariffs for an additional 90 days or until January 18, 1993.

The hearing was held on November 10, 1992. Testimony was received from witnesses and Exhibit Nos. 1 through 9 were marked for identification and admitted into evidence. Several of the exhibits were designated as proprietary. As a preliminary matter, U S WEST requested that it be allowed to present rebuttal testimony which was granted. There were no members of the public present at the hearing to present public testimony, however, the Commission received approximately 70 letters from customers of U S WEST all opposed to the proposal to increase white page directory listings for businesses and residences. In addition, on November 9, 1992, the Commission received a letter from State Representative Jeanne Faatz, of the Colorado House of Representatives. Representative Faatz supports the proposal of U S WEST to reduce the recurring charge for Toll Restriction from the current $5.00 per month to $2.00 per month. Representative Faatz also expressed a concern with the recurring Toll Restriction charge offered by U S WEST in the context of a deposit alternative. Representative Faatz believes that for those customers who cannot afford a deposit on initial installation of phone service, that charging these customers a recurring Toll Restriction charge is inappropriate. The parties of record were informed of the protest letters received by the Commission and given an opportunity to inspect the letters.

At the conclusion of the hearing, the matter was taken under advisement. On November 30, 1992, U S WEST, OCC, and Staff filed statements of position.

Pursuant to § 40-6-109, C.R.S., the record and exhibits of the hearing together with a written recommended decision are transmitted to the Commission.

FINDINGS OF FACT AND CONCLUSIONS THEREON

Based upon all of the evidence of record, the following facts are found and conclusions drawn:

THE PROPOSAL OF U S WEST

U S WEST is a public utility subject to the jurisdiction of this Commission. The Commission has jurisdiction over the subject matter in this docket.

U S WEST filed Advice Letter No. 2253 and Advice Letter No. 2253 (Amended) proposing that it be allowed to reduce the Toll Restriction monthly charge for residential customers from $5.00 to $2.00. Businesses utilizing Toll Restriction would not be affected. In order to present a revenue neutral filing to the Commission, U S WEST proposes to increase the monthly charge for certain white page directory listings. U S WEST states that the proposed increase for directory listings is necessary to recover revenue loss as result of the proposed decrease in recurring residential Toll Restriction charges. U S WEST proposes in Advice Letter No. 2253 (Amended) to increase the residential rate from the current $.95 a month to $1.25 per month. The business rates would increase by $.12 from the current $1.60 to $1.72. The listings proposed for the increase are: Client Main; Additional; Foreign; Alpha; WATS; Mobile Radio; Mobile Unit Number; and Special Reversed Charge Long Distance Service Additional Listings.

Toll Restriction is a service offered by U S WEST which allows the customer to place local exchange calls but not long distance toll calls. When U S WEST initially introduced Toll Restriction, it was believed that the service would be obtained by people who had a vacation home and teen lines or for some other reason wanted to restrict long distance calls. In addition, it was anticipated that businesses who had a courtesy phone would be prime customers of Toll Restriction. The recent experience of U S WEST shows that two other types of customers have greatly increased the use of Toll Restriction. Customers are purchasing Toll Restriction as a budgeting device in order that they can control their use of long distance calls and establish predictability of their monthly telephone bill. In addition, U S WEST has offered Toll Restriction to customers as a deposit alternative for those customers who do not have sufficient funds to comply with the tariffed deposit requirements of the Company. Instead of placing a deposit with U S WEST, Toll Restriction is offered as an alternative so that these customers can receive local exchange service. By offering Toll Restriction as an alternative to the deposit requirement, it reduces the Company's risk by limiting the credit that U S WEST extends to these customers yet provides local exchange telephone service to people who may not otherwise have service due to the lack of funds for a deposit. The Commission approved Toll Restriction as a deposit alternative on November 5, 1992, in Decision No. C92-1414. As of July of 1992 there were approximately 42,000 people on Toll Restriction.

U S WEST believes that it is appropriate to reduce the recurring monthly charge for residential Toll Restriction from $5.00 to $2.00. U S WEST has provided a cost study which demonstrates that the $2.00 monthly charge is above the cost to provide the service. (Proprietary Exhibit No. 2) U S WEST formerly charged a $20 non-recurring charge for Toll Restriction which was the cost associated with setting up the service. U S WEST filed an application on April 23, 1992 (Exhibit No. 5), proposing to eliminate the $20 installation charge for residential Toll Restriction customers. This application was granted by the Commission on April 29, 1992, in Decision No. C92-592 (Exhibit No. 6). U S WEST now recovers the non-recurring cost associated with establishing the service in the monthly charge. U S WEST amortizes this cost of setting up the service over a 12-month period.

U S WEST has calculated the revenue impact which would result from the Toll Restriction recurring rate reduction proposed in this docket. U S WEST selected the period of January 1, 1991, through October 1991 using the average monthly quantities. The company selected this period of time because starting November 1, 1991, it started its deposit alternative offering of Toll Restriction which greatly increased the numbers of people on Toll Restriction. The approximate average number of Toll Restriction customers for the period January 1, 1991, through October 1991 was 7,300. U S WEST compared this quantity under the current $5.00 charge compared to the $2.00 proposed monthly charge and determined that the revenue impact by the proposed reduction in rates would amount to approximately ($264,000) (Exhibit 4A). Because of this anticipated revenue decrease, U S WEST proposes to increase the rates of selected premium white page directory listings to offset the revenue loss in order to make the total revenue impact zero. U S WEST decided to propose the rate increase of an optional service as opposed to increasing any basic exchange service.

THE POSITION OF OCC

OCC does not object to the proposed reduction of the Toll Restriction recurring cost. OCC does object to the proposal of U S WEST to increase rates for residential and business directory listings. OCC believes that the revenue impact calculations by U S WEST are faulty. OCC witness Robert J. Hix testified that the $264,000 revenue impact calculation of U S WEST does not accurately state the revenue impact. Mr. Hix offers an alternative approach. He believes that one should look at U S WEST's last rate case (Docket No. 90S-544T) where it was found that the Toll Restriction contribution to the company's revenue requirement was $217,020. This calculation was based on the test year volume of 3,617 x $5 x 12. Taking that figure and comparing it to the volumes that exist for the ten-month period used by U S WEST in this case of 7,337 quantities, multiplied by the $2 rate x 12 results in $176,088. The difference between this amount and 217,020 is (40,932). Mr. Hix believes that this is the correct approach to determine the revenue impact in that he compares the revenue that was anticipated to be recovered in the rate case with the revenues that will be recovered based on the $2 charge times the 7,337 units. The negative $40,932 is considered by OCC to be *de minimis*. Therefore U S WEST's request to increase its directory listing rates is unwarranted.

OCC also states that the Commission in Phase II of U S WEST's last rate case, allowed U S WEST to recover approximately $160,000 to $170,000 more than the revenue requirement established in Phase I of that docket. Since OCC believes that U S WEST is overearning its revenue requirement by $160,000 to $170,000, the revenue loss of $40,932 due to the reduction in charge for Toll Restriction is offset by this $170,000 overearning.

OCC believes that the request of U S WEST to increase charges for certain directory listings would constitute piecemeal regulation. OCC believes that the charges for directory listings should not be increased without a review of U S WEST's total costs and revenues in order to determine if the company is achieving its authorized rate of return. Thus OCC feels that there is no basis to determine whether the company needs an increase in directory listing services.

THE POSITION OF STAFF

Staff supports the proposal of U S WEST to reduce its monthly recurring charge for residential Toll Restriction to $2.00. Staff is opposed to the proposal of U S WEST to raise business and residential premium directory listings to offset losses in its revenue flow occasioned by the reduction in Toll Restriction rates.

Staff believes that the proposed $2.00 monthly Toll Restriction charge recovers the non-traffic sensitive loop costs for intrastate message toll service. Staff witness Warren Wendling testified that each customer is charged a subscriber line charge which recovers the non-traffic sensitive loop costs supporting interstate toll service. The intrastate service non-traffic sensitive loop costs are supported by assessing a per minute of toll use basis rather than a subscriber line charge. Since a Toll Restriction customer cannot make toll calls, U S WEST cannot recover intrastate non-traffic sensitive loop costs. Unless Toll Restriction customers are charged a monthly charge to recover these non-traffic sensitive loop costs, other customers subsidize the Toll Restriction customers. Mr. Wendling has calculated that the proposed $2.00 per month charge proposed to be assessed for Toll Restriction customers reflects their contribution to recover these non-traffic sensitive loop costs.

Staff agrees with the position of U S WEST in not charging a $20.00 non-recurring or installation charge for Toll Restriction at the time of initiation of service, however, it believes that a customer who subscribes to Toll Restriction at a later time should be charged a non-recurring charge of $3.00. U S WEST in its cost study, has determined its non-recurring cost of establishing Toll Restriction. U S WEST in lieu of charging a non-reoccurring charge amortizes the cost of establishing Toll Restriction over a 12-month period. Staff objects to recovering the cost over a 12-month period since customers who do not remain on Toll Restriction over the 12-month period do not fully cover this cost. Staff believes that a non-recurring charge is necessary to insure that the installation cost for Toll Restriction is fully recovered. Staff, however, believes that since the cost of establishing Toll Restriction at the time of initiation of telephone service is much less than the cost for the customer who orders Toll Restriction at a later date, only those customers who request Toll Restriction at a time subsequent to the initiation of service should be charged the $3.00 non-recurring fee.

Staff believes that the proposal of U S WEST to increase rates for certain directory listings is inappropriate and unnecessary to offset any loss of revenue by the company's proposal to reduce the charge for Toll Restriction. Staff believes that U S WEST will not experience any overall loss of revenues. Staff believes that because of the recent approval of offering Toll Restriction as a deposit alternative, U S WEST has and will greatly increase the number of customers opting for toll restriction. This will increase its revenues even at the reduced rate of $2.00 thereby offsetting any losses of revenue caused by the reduction in rate. *See* Proprietary Exhibit No. 3. Thus Staff believes that although on a unit basis, the company will receive less revenue due to the reduction in rates, Staff contends that U S WEST will not have any overall revenue losses. Staff also contends that even if the company's overall revenues decrease, the reduction in revenues is *de minimus*. Staff also argues that U S WEST is allowed to recover approximately $170,000 more in revenue then was established as the revenue requirement in Phase I of the company's last general rate case in Docket No. 90S-544T which more than offsets the alleged lost revenues of approximately $264,000 asserted by U S WEST.

Staff next argues that if the Commission finds that it is necessary for U S WEST to raise rates for some other services, Staff believes that the proposal of the Company to raise business and residential white page listings is inappropriate. Staff argues that there is no logical cost tie between Toll Restriction and the white page listings. Staff is of the opinion that as an alternative to raising rates for the premium listings proposed by the company, other services should be considered a possible offset. Staff believes that if it is necessary to raise rates for other services in order to offset a loss of revenue, white page directory listings, such as bold type the placing of a listing within a border, yellow highlighting and so forth could be examined. (*See* Exhibit No. 1.) Staff states that U S WEST is charging for these services but they are not tariffed at the present time. Staff recommends then that if a source of revenue to offset the loss of revenue is necessary, U S WEST should be ordered to file rates for these white page listing services and that the revenues from these services be quantified and used to offset loss of revenues from toll restriction.

DISCUSSION

The evidence of record establishes that the proposal of U S WEST to lower its monthly rate for Toll Restriction from the current $5.00 per month to $2.00 per month will result in a loss of approximately $264,000 of revenues to U S WEST based on the average volume of Toll Restriction subscribers for the test period of the first ten months of 1991 (Exhibit No. 4A page 3). U S WEST used this period because the toll restriction volumes of approximately 7,000 were in place prior to the stimulation caused by the introduction of Toll Restriction as a deposit alternative. The evidence establishes that the volumes of Toll Restriction subscribers greatly increased after Toll Restriction was offered as a deposit alternative. As of July 1992, approximately 42,000 subscribers are currently on Toll Restriction. The effect of this, as pointed out by U S WEST, means that the Company has understated its potential revenue loss if the reduction in monthly rates are reduced to $2.00. U S WEST estimates that based on the 42,000 volume, it would see a reduction in revenues of $1.5 million. In addition, because the 42,000 Toll Restriction subscribers cannot place toll calls, the revenue loss to U S WEST could potentially be greater. In order to offset this revenue loss, U S WEST in this filing proposes to offset approximately $264,000 by raising the rates for certain business and residential white page listings. OCC and Staff contend that U S WEST does not need an offset since the Commission's action on the Company's latest rate case allowed approximately $160,000 to $170,000 more revenue for the Company than its established revenue requirement. This argument is not convincing since there is no evidence of record to establish that <u>in fact</u> U S WEST is earning this amount. Staff also contends that because the volumes of Toll Restriction have and will greatly increase, U S WEST will realize equal or greater revenue at the proposed $2.00 monthly charge than it received at the lower volumes at $5.00 per month. This argument is also unconvincing. The fact is that if U S WEST reduces its monthly charge from $5.00 to $2.00 based on the current volume of Toll Restriction, its revenue realized from this service will decrease.

It is found and concluded that the potential loss of revenue to the Company without an offset is unacceptable. Not only is it unfair to the Company but it also could adversely impact basic exchange subscribers due to a potential increase in rates to cover this revenue loss. However, the proposal of U S WEST in this docket to raise rates for certain listing services is inappropriate. There is no cost study in the record to establish that the proposed increase in rates for directory listings is justified. The suggestion of Staff relating to non-tariffed white page directory listing services as an alternative revenue offset is well taken. Staff recommends that certain regulated white page services such as the bolding of listings, the placing of a listing within a border, the use of yellow highlighting and so forth could be used by the company to offset revenue losses from the reduction in rates of Toll Restriction.

It is found and concluded that the proposal of U S WEST to reduce its recurring charge for Toll Restriction from the current $5.00 to $2.00 is just and reasonable and in the public interest. The reduction proposed by U S WEST should be granted. It is further found that the proposal of U S WEST to increase rates for certain business and residential white page listings to offset loss of revenue due to the reduction of rates for Toll Restriction is unacceptable, and should not be approved. It is further found and concluded that U S WEST should file tariffs containing rates for Part 2 white page listing services such as the bolding, the use of larger type, yellow highlighting, the use of a logo and so forth and should quantify and use these revenues for the purpose of offsetting the revenue loss due to the lowering of the rate for Toll Restriction.

The recommendation of Staff that U S WEST charge a $3.00 non-recurring charge to residential Toll Restriction customers subsequent to the initiation of telephone service is rejected. Since U S WEST has not proposed this charge in the instant tariff filing, it is improper under the provisions of § 40-6-111(2)(a), C.R.S., to consider this suggestion.

The suggestion of Representative Jeanne Faatz concerning deposit alternative Toll Restriction customers and the desirability of waiving the recurring Toll Restriction fee should be addressed by U S WEST and ultimately the Commission. This proposal should be considered in a separate docket in order that all interested parties are noticed and given an opportunity to comment.

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

ORDER

THE COMMISSION ORDERS THAT:

1. The tariff sheets filed by U S WEST Communications, Inc., on April 22, 1992, and May 12, 1992, pursuant to Advice Letter Nos. 2253 and 2253 (Amended) are permanently suspended.

2. U S WEST Communications, Inc. shall within five days of the effective date of this Decision file with the Commission new tariff sheets containing the rates and charges consistent with this Decision.

3. The filing shall be accompanied by a new advice letter which references this Decision and may be made on one day's notice.

4. 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.

5. 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.**

6. 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.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge

WJF:srs