

Service Date: February 3, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Application of)	UTILITY DIVISION
U S WEST Communications, Inc. to)	
Increase the Rates for Residential Local)	DOCKET NO. D96.8.131
Exchange Services to Reflect an increase)	
in Depreciation Rates.)	ORDER NO. 5937b

FINAL ORDER

Appearances

FOR THE APPLICANT:

John Alke, Hughes, Kellner, Sullivan and Alke, 406 Fuller Avenue, PO Box 1166,
Helena, MT 59624

FOR AT&T COMMUNICATIONS:

Richard S. Wolters, Staff Attorney, AT&T Communications, Mountain States, 1875
Lawrence Street, Room 1575, Denver, CO 80202

FOR THE MONTANA CONSUMER COUNSEL:

Mary Wright, Staff Attorney, 34 West Sixth Avenue, PO Box 201703, Helena, MT
59620-1703

FOR THE COMMISSION STAFF:

Robin A. McHugh, Staff Attorney and Ron Woods, Rate Analyst, 1701 Prospect Avenue,
PO Box 202601, Helena, MT 59620-2601

BEFORE:

DAVE FISHER, Chairman
NANCY MCCAFFREE, Vice Chair
BOB ANDERSON, Commissioner
DANNY OBERG, Commissioner
BOB ROWE, Commissioner

Introduction and Background

1. On August 2, 1996 the Montana Public Service Commission (Commission) received an application from US West Communications, Inc. (US West) to increase rates for residential local exchange service to reflect an increase in depreciation expense. US West contends in its application that it should be allowed to reflect in rates increased depreciation expense caused by using shorter equipment lives as prescribed for US West by the Federal Communications Commission in 1995. If the Commission were to approve the application as filed US West's basic residential rates would increase by \$1.56 per month. US West proposed to implement the increase in two \$0.78 increments, the first on February 1, 1997 and the second, assuming US West could meet certain service objectives, on May 1, 1998.

2. The US West application was filed pursuant to the settlement agreement (Agreement) of a lawsuit the Commission filed against US West over alleged violations of certain of the Commission's service standard rules. The State of Montana, Montana Department of Public Service Regulation, Montana Public Service Commission v. US West Communications, Inc., Lewis and Clark County, Cause No. CDV-94-1877. The Agreement, dated July 19, 1996, states in relevant part as follows:

U S WEST believes that the rates it is authorized to charge for telephone service in Montana should reflect the increased depreciation rates prescribed by the Federal Communications Commission (FCC) in 1995. U S WEST believes that that increase in depreciation rates should be reflected as an increase in the residential rate for local exchange service (1FR). The requested increase in the Company's authorized cost of service to reflect the new depreciation rates would be approximately \$4.4 million, and the requested increase in 1FR rate approximately \$1.50. U S WEST will propose to phase in the increase in 1FR rate, in two approximately equal increments, over the duration of this Agreement. The Commission may condition the reflection of the second increment in rates upon U S WEST meeting the objective specified in Part IV A of this Agreement. The Commission agrees to hear, on an expedited basis, in accordance with this part, an application by U S WEST to reflect the 1995 depreciation rates prescribed by the FCC, as an increase in the 1FR rate.

U S WEST will be allowed to present the filing described in this part as what is commonly referred to as a single issue filing. The single issue will be the propriety of the new depreciation rates prescribed by the FCC and the U S WEST proposal to increase the IFR rate to reflect that change in depreciation rates. The filing will not require a complete reexamination of the Company's total cost of providing telephone service in the State of Montana.

In order to allow a single issue filing by U S WEST, the Commission agrees to waive certain of its minimum filing requirements. The waiver shall include the provisions of ARM 38.5.2803 and 38.5.2087 - 2820.

The Commission agrees to hear the Company's application and issue a final decision upon it within six months of the date the application is filed.

If the application is opposed by the Montana Consumer Counsel or any other party to the proceeding, U S WEST may withdraw its filing under this part at any time.

The inducement offered by the Commission to U S WEST in this part is procedural only. The Commission does not, by its entry into this Agreement, agree it will authorize the rate increase to be requested by U S WEST. It is expressly understood by U S WEST that the Commission, in a reasonable exercise of its discretion, may grant all, part of, or none of the relief requested by U S WEST.

Agreement, Part VII, pp. 13-15.

3. In conformance with the Agreement the Commission waived ARM 38.5.2803 and 38.5.2807-2820 and agreed to consider US West's application as a single issue filing. In addition, the Commission pledged to expedite its consideration of the application and issue a decision by February 2, 1997.

4. On August 9, 1996 the Commission issued a Notice of US West's Application, and on August 30, 1996 issued Procedural Order No. 5937a, setting a tentative hearing date and deadlines for discovery and prefiled testimony. Intervention in this Docket was granted to the Montana Consumer Counsel (MCC), AT&T, and Sprint Communications Company. On October 29, 1996, the amended deadline for intervenor testimony, US West and the MCC filed a stipulation to settle issues raised in this Docket. Under the stipulation US West rates would increase to generate \$4,406,498 in annual revenue, the same as the initial Application. The revenue would be generated, however, using a different rate design. Under the stipulation residential rates would increase \$0.76 on March 2, 1997 (\$2,203,249 of revenue requirement)

and \$0.39 on June 1, 1998 (\$1,111,774 of revenue requirement); business rates would increase by \$1.15 on June 1, 1998 (\$1,091,475 of revenue requirement). The June 1, 1998 increases in rates are contingent on satisfactory service standard performance by US West pursuant to the Agreement. Neither AT&T nor Sprint participated in the discussions leading to the stipulation between US West and MCC. No intervenor filed testimony in this Docket.

5. On December 13, 1996 the Commission issued a Notice of Public Hearing, noticing both the original application and the stipulation. A hearing was held on January 9, 1997.

Discussion

6. Since there is no evidence on the record challenging the reasonableness of the increased depreciation expense, the Commission is bound to accept the annual revenue increase requested. The only issue is how best to reflect that increase in rates. The Application requests that the entire increase be reflected in residential rates. The stipulation requests that approximately three quarters of the increase be reflected in residential rates and approximately one quarter in business rates.

7. Absent an allocated cost of service study the usual ratemaking practice is to reflect revenue increases proportionately across all customer classes and services. In this case, there is no cost basis for applying the entire increase to the residential class, as initially proposed by US West. Similarly, there is no cost basis for the allocation contained in the stipulation. Of the two alternatives, however, the stipulation is preferable because it at least partially distributes the increase over more than one customer class. Therefore, the Commission approves the stipulated agreement between US West and the MCC.

Conclusions of Law

1. The Applicant, US West Communications, Inc., is a corporation providing regulated telecommunications services within the State of Montana and, as such, is a public utility within the meaning of §§ 69-3-101 and 69-3-803(3), MCA.

2. The Montana Public Service Commission properly exercises its jurisdiction in this Docket pursuant to §§ 69-3-102, 69-3-302 and 69-3-807(1).

3. The Commission has provided adequate public notice and opportunity for a public hearing in this matter, pursuant to the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

4. The rates established by this Order are just, reasonable and nondiscriminatory. Section 69-3-807(1), MCA.

Order

1. U S West is hereby authorized to increase rates, in the manner indicated below, to recover \$4,406,498 of annual revenue to reflect increased depreciation expense. US West is authorized to change rates as follows: on March 2, 1997 an increase of \$0.76 per month on residential local exchange rates; on June 1, 1998 an increase of \$0.39 per month on residential local exchange rates; on June 1, 1998 an increase of \$1.15 per month on business local exchange rates. The June 1, 1998 increases are contingent on satisfactory service standard performance pursuant to Part VII of the Settlement Agreement. The allocation of the increases are subject to change based on the results of a complete cost of service review of US West in another Commission docket.

Done and Dated this 30th day of January, 1997 by a vote of 4 - 1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner
(Voting to Dissent - Attached)

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

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DISSENT OF COMMISSIONER ROWE

This dissent is not intended as criticism either of the Commission's approach to this case or of the previous service quality litigation from which this case stemmed. I also do not minimize the efforts of two of the parties in reaching a stipulation in the present case. However, voting for the stipulation would be inconsistent with positions I took both in the service quality litigation and previously in this proceeding.

First, I support using appropriate depreciation schedules. In recent years the Montana Commission has tended to use depreciation rates somewhat faster than many other state commissions, although not so fast as to reward imprudent or unduly short-term decision-making. While using somewhat faster depreciation may result in slightly higher short-term rates, the Commission has recognized that it is fair, results in better matching of investment and recovery, and supports appropriate levels of investment. Reasonable depreciation is not the issue.

The issue is the appropriateness of treating a major depreciation adjustment as a single-issue rate filing.¹ Single issue filings are sometimes efficient and proper. However, they are problematic when they require making revenue, cost and rate decisions based on a narrow slice of information. This is a matching question. Single issue cases raise a real risk of adjusting revenue and rates to allow for an increase in one area without considering possible offsetting decreases in other areas. Single issue filings of any magnitude generally proceed after some level of informal or formal audit determines that a more complete review of costs is not required. The more remote from the last complete examination, the more possible change in costs since the last Commission-approved cost study, and the larger the proposed adjustment, the more inappropriate is a rate increase based on a single-issue filing.

¹ Single issue cases may be appropriate, for example, to compensate for a wholly exogenous change in revenue (e.g. PTI docket 95.9.143, recognizing reduced universal service funds or Pacificorp docket 95.8.114, passing through reduction in the BPA residential exchange credit), or for a small tariff change (e.g. PTI docket 96.11.185, allowing PTI to change for additional line extension labor or engineering where required).

In this case, the last adjudicated cost study occurred in Docket 90.12.86, which resulted in an order in December, 1992. One could list possible significant cost changes in both directions. However, for decision-making, more than speculation is required. Because this case is confined to only one corner of the jigsaw puzzle, we do not know what the entire picture looks like.

For these reasons I opposed the Commission's decision, as part of the customer service settlement, to agree to accept a single issue depreciation filing. I also opposed the Commission's decision in this case to grant U S WEST's objection to MCC data request 15, which sought to develop appropriate cost information, and stated at the time that such information would be important to me in deciding this case.²

For the reasons stated, I do not join in approving the stipulation.

RESPECTFULLY SUBMITTED this 30th day of January, 1997.

BOB ROWE, Commissioner

² MCC Data Request No. 015 asked for "the cost and current rate for each service provided in Montana."

A Notice of Commission Action (dated October 10, 1996) denied the Consumer Counsel's objection to U S WEST's failure to answer this data request, noting that, "In the Service Quality Settlement Agreement with U S West the Commission agreed that this filing, 'will not require a complete reexamination of the Company's total cost of providing telephone service in the state of Montana.'" (Rowe dissenting.)

I appreciate that the Commission considered itself bound by its prior commitment to accept this as a single issue case. I also appreciate that once its discovery request was denied the Consumer Counsel may have believed that it had little alternative to negotiating a settlement based on a somewhat different allocation of the rate increase than U S WEST had originally proposed.