

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\* \* \*

RE: U S WEST COMMUNICATIONS, INC.'S )  
TARIFF FILING REQUIREMENTS ADOPTED )  
IN RULE 4 CCR 723-2-24 AVAILABILITY ) DOCKET NO. 96C-137T  
OF SERVICE - ADEQUACY OF FACILI- )  
TIES. )  
)

ORDER TO SHOW CAUSE AND NOTICE OF HEARING

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Mailed Date: April 11, 1996  
Adopted Date: April 3, 1996  
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**I. BY THE COMMISSION:**

The Commission hereby issues this order to show cause and notice of hearing. As grounds therefore, we state:

**A. Findings of Fact**

1. Respondent U S WEST Communications, Inc. ("USWC"), is a telephone utility corporation operating within the State of Colorado.

2. The Commission adopted held order rules in Decision No. C95-966 and Decision No. C95-1090, Docket No. 95R-053T.

3. Those rules established new requirements for regulated telephone utilities relating to held service orders. See 4 Code of Colorado Regulations ("CCR") 723-2, Rules 6 and 24.

4. The Staff of the Commission ("Staff") requested that USWC file tariffs reflecting its policies and procedures with respect to implementation of the new held service rules. USWC has maintained that no tariffs are required.

5. On February 14, 1996, the Commission sent a proposed order to

show cause, requesting a response from USWC as to why the Commission should not initiate proceedings to compel the filing of tariffs as requested by Staff. USWC responded on March 14, 1996. In that response, USWC still maintains that it is not legally required to file tariffs to implement the new held service order rules.

6. Staff has reviewed its records and determined that as of March 28, 1996, USWC had not submitted a tariff reflecting the provisions of the *Rules Regulating Telecommunications Service Providers and Telephone Utilities* found at 4 CCR 723-2, Rules 6 and 24. Accordingly, it appears that USWC may not have complied with 40-3-103 and 40-3-105, C.R.S., which provide:

**40-3-103. Utilities to file rate schedules.** Under such rules and regulations as the commission may pre-scribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, and shall print and keep open to public inspection, schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected and enforced, together with all rules, regulations, contracts, privileges, and facilities which in any manner affect or relate to rates, tolls, rentals, classifications, or service; except that the commission may not prescribe by rule or regulation the lease rate that is charged to a driver of a motor vehicle by a common or contract carrier. Changes in such lease rates shall not be subject to the notice provision of section 40-3-102.

**40-3-105. Free and reduced service or transportation prohibited - exceptions.** (1) No public utility shall, directly or indirectly, issue, give, or tender any free service, ticket, frank, free pass, or other gratuity of services or any free or reduced rate transportation for passengers or property between points within this state unless a tariff so providing is first filed with and approved by the commission.

(2) Except as otherwise provided in this section, no public utility shall charge, demand, collect, or receive a greater or lesser or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals, and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time,

nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals, and charges so specified, nor extend to any corporation or person any form of contract or agreement or rule or regulation or any facility or privilege except those which are regularly and uniformly extended to all corporations and persons and except in the case of a rail carrier, a contract authorized under section 40-3-106 (1) (b), which shall become effective in accordance with the provisions of such section; but the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility.

(3)(a) Nothing in this article shall prohibit or restrict any public utility from furnishing its service, product, or commodity to, or the receiving of its service, product, or commodity by, its employees, pensioners, officers, directors, or board members at no charge or at charges less than those prescribed in the utility's published schedules or tariffs.

(b) No revenue shall accrue or be credited in the accounts of such utility with respect to such service, product, or commodity furnished at no charge nor with respect to any amounts by which charges for such service, product, or commodity are less than those prescribed in the utility's published schedules or tariffs.

## **B. Conclusions**

The Commission finds that USWC may be in violation of 40-3-103 and 40-3-105, C.R.S., in that USWC has not yet filed a tariff reflecting the provisions of the *Rules Regulating Telecommunications Service Providers and Telephone Utilities* found at 4 CCR 723-2-24, Rules 6 and 24. Accordingly, sufficient cause exists for the holding of a hearing to determine the facts of the matter, to hear material arguments, to receive evidence and testimony from Staff and any others, and to determine what order or requirement, if any, shall be imposed by the Commission, including but not limited to, a cease and desist order and any appropriate District Court sanctions for failure to comply. This matter will be assigned to a Commission Administrative Law

Judge.

II. **ORDER**

A. **The Commission Orders That:**

1. This matter is assigned to a Commission Administrative Law Judge. U S WEST Communications, Inc., shall appear before an Administrative Law Judge of the Commission on June 18, 1996 as set in ordering paragraph 2, to show cause why the Commission should not take action and enter an order.

2. Docket No. 96C-137T is set for hearing before an Administrative Law Judge of the Colorado Public Utilities Commission at which time and place evidence may be introduced and material arguments may be presented:

DATE: June 18, 1996  
TIME: 9:00 a.m.  
PLACE: Colorado Public Utilities Commission  
Commission Hearing Room  
1580 Logan Street, Office Level 2  
Denver, Colorado

3. The Staff of the Public Utilities Commission shall file at least 30 days before hearing, two copies of a list containing the name, address, and title of each of its witnesses, and two copies of each of the exhibits which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding, unless otherwise ordered by the Commission.

4. The Respondent, U S WEST Communications, Inc., shall file, at least 20 days before hearing, two copies of a list containing the name, address, and title of each of its witnesses, and two copies of each of the

exhibits which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding, unless otherwise ordered by the Commission.

5. No witness shall be permitted to testify nor shall any document be received in evidence, except in rebuttal, unless served and filed as provided in this Order.

6. If the Staff of the Commission or the Respondent, U S WEST Communications, Inc., does not meet the above requirements, the Public Utilities Commission may dismiss the proceeding or any defense, upon motion filed by any other party, unless good cause for non-filing is shown.

7. No motion for continuance shall be granted if filed within 20 days before the first day of hearing, except for good cause shown.

8. No exception to the procedures in this Order shall be made, except upon timely motion showing good cause.

9. This Order is effective on its Mailed Date.
- B. ADOPTED IN OPEN MEETING April 3, 1996.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER CHRISTINE E. M. ALVAREZ  
ABSENT.

VP:srs