

P-421/EM-91-1002;P-421/EM-91-1000; P-421/EM-91-328 ORDER  
ACCEPTING AND ADOPTING STIPULATION, RESCINDING ACCEPTANCE OF  
FILING AS COMPLETE, AND ESTABLISHING PROCEDURAL FRAMEWORK

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of the Request of U S WEST Communications, Inc. to Restructure and Reprice Centron and to Reprice and Restructure PBX Trunk and Private Line Rates	ISSUE DATE: March 25, 1993 DOCKET NO. P-421/EM-91-1002
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In the Matter of U S WEST Communications, Inc.'s Filing to Obsolete Centrex Rate Stability Plan	Docket No. P-421/EM-91-1000
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In the Matter of U S WEST Centron Price Change	Docket No. P-421/EM-91-328
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ORDER ACCEPTING AND ADOPTING STIPULATION, RESCINDING ACCEPTANCE OF FILING AS COMPLETE, AND ESTABLISHING PROCEDURAL FRAMEWORK

**PROCEDURAL HISTORY**

**I. Proceedings to Date**

**A. Initial Proceedings Before the Commission**

On December 20, 1991 U S WEST filed a petition to restructure and reprice Centrex, Centron, PBX Trunk, and Private Line services. On December 23, 1991, US WEST filed notice of its intent to terminate the Centrex Rate Stability Plan, approved by the Commission in 1984, as contracts under the Plan expired.<sup>1</sup>

In an Order dated April 9, 1992 the Commission consolidated both filings, found that they were governed by Minn. Stat. §§ 237.63, subd. 4c and 237.075, subds. 1 and 2 (1990), and found that they were not complete. Since the Company said the proposed rate changes were necessary to comply with Federal Communication

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<sup>1</sup> In the Matter of U S WEST Communications, Inc.'s Filing to Obsolete Centrex Rate Stability Plan, Docket No. P-421/EM-91-1000.

Commission directives and current interpretations of the Modified Final Judgment, entered at the divestiture of AT&T, the Commission required the Company to make the filing whole within 45 days.

The Company made a new filing within 45 days, as required. The new filing, however, failed to include certain financial data required under the April 9 Order. The Commission again found the filing incomplete. The Commission also incorporated into the proceeding consideration of certain Centron price changes, which had gone into effect subject to Commission revision and were part of the base rates in the Company's new filing.<sup>2</sup>

On October 30, 1992 the Company made another filing intended to replace the first two. On December 22, 1992 the Commission issued an Order accepting that filing and suspending most of the rate changes it proposed. The Order also denied the Company's request to withdraw the first two filings; granted the Company's request to implement, conditionally, two of the rate changes proposed; continued the consolidation of the related filings with the October 30 filing; and granted interim discovery rights to commenting parties. On December 22, 1992 the Commission also referred the case to the Office of Administrative Hearings for contested case proceedings. (NOTICE AND ORDER FOR HEARING, this docket.)

#### **B. Initial Proceedings Before the Administrative Law Judge**

The Office of Administrative Hearings assigned Administrative Law Judge Allen Giles to the case. Judge Giles conducted a prehearing conference, established discovery procedures, issued a Protective Order governing the treatment of proprietary information, and established filing and hearing schedules.

He also granted intervention petitions from the following persons, making them parties to the case: Minnesota Department of Public Service; Minnesota Department of Administration; City of Minneapolis; Hennepin County; Telecommunications Consortium of Olmsted County (made up of the City of Rochester, Olmsted County, and Independent School District No. 535); Minnesota Business Utility Users Council; MCI Telecommunications Corporation; Enhanced Telemanagement, Inc.; and Centex Telemanagement, Inc.

#### **C. The Company's Motion**

The intervenors filed direct testimony in late February 1993. On March 3, 1993 the Company filed its Emergency Motion for a Continuance, or in the Alternative, Motion for Withdrawal of the Centrex Plus Filing of U S WEST Communications, Inc. The Company

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<sup>2</sup> In the Matter of U S WEST Centron Price Change, Docket No. P-421/EM-91-328.

stated the direct testimony of the Department of Administration exposed serious flaws in the revenue impact calculations contained in the filing. The Company also stated the rate design recommendations in the testimony of the Departments of Administration and Public Service raised serious legal, business, and revenue issues that required thorough analysis.

The Company requested a continuance and suspension of the procedural schedule to allow it to conduct new revenue studies and explore the two departments' rate design recommendations. The Company claimed the statutory ten-month deadline for acting on the filing<sup>3</sup> could be suspended at the request and with the acquiescence of the Company.

On March 11, 1993 the Administrative Law Judge certified the Company's motion to the Commission under Minn. Rules, part 1400.7600. He noted that all parties recommended either a continuance or dismissal; no one believed the case should continue with the filing in its present form. He recommended that the Commission grant a continuance, toll the ten-month time period, and accept the Company's affirmative waiver of its right to implement new rates ten months from the date of filing. He favored a continuance over dismissal because dismissal would prolong the parties' uncertainty about Centrex, Centron, PBX, and Private Line rates, and would result in expensive duplication of procedural steps already completed.

#### **D. The Parties' Stipulation**

On March 16, 1993 most of the parties signed and filed a stipulation recommending and requesting specific procedures for dealing with the filing in light of the Company's motion. Those parties were the Company; the Departments of Administration and Public Service; Enhanced Telemanagement, Inc.; Minnesota Business Utility Users Council; the City of Minneapolis; and Hennepin County. The stipulating parties informed the Commission that all parties had been informed of the stipulation and none objected.<sup>4</sup>

The stipulation, copy attached, asked the Commission to take the following actions:

- a. Reconsider and rescind its December 22, 1992 finding that the Company's filing is complete and ready for determination on the merits; require the Company to correct and complete the filing within ten weeks;

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<sup>3</sup> Minn. Stat. § 237.075, subd. 2 (1992)

<sup>4</sup> The remaining parties, MCI Telecommunications Corporation and the Telecommunications Consortium of Olmsted County, signed the stipulation on March 17 and 18 respectively.

- b. When the filing is complete, return it to Administrative Law Judge Giles for contested case proceedings, calculating the ten-month deadline from receipt of the corrected filing, but considering requests for expedited treatment;
- c. Order that the Protective Order issued by Administrative Law Judge Giles remain in effect and existing discovery rights continue;
- d. Require the Company to continue honoring Centrex Rate Stability Plan contracts on a month-to-month basis as set forth in the April 9 Order; allow continued early implementation of contract pricing of Private Line and PBX Trunk services under the terms and conditions of the December 22 Order;
- e. Accept the Company's affirmative waiver of any right to implement new rates in this case before a final Commission determination on the merits, not subject to rehearing or reconsideration;
- f. Accept the Company's commitment to honor all existing Centron, Centron XL, and Centrex contracts and to continue any such contracts which expire during this proceeding at the rates and under the terms and conditions set forth in the contracts, until 90 days from the date of the Commission's final Order, not subject to rehearing or reconsideration.

The Company's motion and the parties' stipulation came before the Commission on March 18, 1993.

### FINDINGS AND CONCLUSIONS

#### **II. Commission Action**

Having reviewed the entire record herein, the Commission finds that the parties' stipulation offers the most efficient and appropriate procedural vehicle for moving forward with this case. Dismissing or withdrawing the filing would delay the resolution of issues that must be resolved, and would increase the cost of resolving them. A continuance would require tolling the ten-month statutory deadline, an extraordinary step that should be considered only in the absence of viable alternatives.

Finding the filing incomplete and suspending proceedings while it is completed is a straightforward, procedurally sound approach. It removes the ten-month deadline for acting on the existing

filing without the contrivance of a Company waiver. It avoids duplicating procedural steps unaffected by errors in the filing (e.g., the Commission's referral for contested case proceedings; the ALJ's rulings on intervention petitions, discovery rights, and the treatment of proprietary information). It conserves resources, builds on what has been accomplished to date, and holds the potential for expedited resolution of the complex issues raised by this filing. The Commission will accept and adopt the stipulation as submitted by the parties.

#### ORDER

1. The Commission accepts and adopts the stipulation of the parties to this proceeding, copy attached. The actions below are intended to implement the stipulation.
2. The Commission hereby rescinds its December 22, 1992 acceptance of U S WEST's October 30, 1992 filing to restructure and reprice Centrex, Centron, PBX Trunk, and Private Line services as being in proper form and substantially complete.
3. The Company shall complete its filing within ten weeks of the date of this Order, or shall file a detailed written explanation of its failure to do so.
4. Within 20 days of submission of the filing required in paragraph 3, parties shall file any comments on its adequacy or completeness, and any requests or recommendations for shortening the ten-month statutory time frame for decisionmaking.
5. Discovery rights established by the Administrative Law Judge in his Prehearing Order shall remain in effect.
6. The Protective Order issued by the Administrative Law Judge shall remain in effect.
7. The Company shall continue to honor Centrex Rate Stability Plan contracts on a month-to-month basis as set forth in the April 9 Order.
8. The Company may continue early implementation of contract pricing of Private Line and PBX Trunk services under the terms and conditions of the December 22 Order.
9. The Commission accepts the Company's affirmative waiver of any right to implement new rates in this case before a final Commission determination on the merits, not subject to rehearing or reconsideration.

10. The Commission accepts the Company's commitment to honor all existing Centron, Centron XL, and Centrex contracts and to continue any such contracts which expire during this proceeding at the rates and under the terms and conditions set forth in the contracts, until 90 days from the date of the Commission's final Order, not subject to rehearing or consideration, in this case.
11. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)