

P-421/EM-91-1002; P-421/EM-91-1000; P-421/EM-91-328 ORDER
APPROVING STIPULATION AND CLOSING DOCKETS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Marshall Johnson	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner

In the Matter of the Request of
USWC Communications, Inc. to
Restructure and Reprice Centron
and to Reprice and Restructure
PBX Trunk and Private Line Rates

ISSUE DATE: August 30, 1993

DOCKET NO. P-421/EM-91-1002

In the Matter of USWC
Communications, Inc.'s Filing to
Obsolete Centrex Rate Stability
Plan

DOCKET NO. P-421/EM-91-1000

In the Matter of USWC Centron
Price Change

DOCKET NO. P-421/EM-91-328

ORDER APPROVING STIPULATION AND
CLOSING DOCKETS

PROCEDURAL HISTORY

On December 20, 1991, U S West Communications, Inc. (USWC) filed a petition to restructure and reprice Centrex, Centron, PBX Trunk, and Private Line services. The matter was assigned to Docket No. P-421/EM-91-1002.

On December 23, 1991, USWC filed notice of its intent to terminate the Centrex Rate Stability Plan (originally approved by the Commission in 1984), as contracts under the Plan expired. This matter was assigned to Docket No. P-421/EM-91-1000.

On April 9, 1992 the Commission issued its ORDER FINDING FILING INADEQUATE AND REQUIRING SUPPLEMENTAL FILINGS. In this Order, the Commission consolidated the two filings (the 1000 and the 1002 Dockets), found that they were both governed by Minn. Stat. §§ 237.63, subd. 4c and 237.075, subds. 1 and 2 (1992), and found that they were not complete. The Commission directed the Company to make the filing whole within 45 days.

On May 12, 1992, the Company made a supplemental filing, as required by the April 9, 1993 Order. In that filing the Company requested authority to implement immediately proposed decreases in specified elements of its PBX and Private Line rates. Docket

1002. The Company also requested the return of all copies of its December filings, a request it later withdrew.

On May 15, 1992 the Commission issued a notice of comment period on the supplemental filing. All parties who had commented on the original filings responded in writing, appeared at the meeting to consider the supplemental filing, or both.

On June 12, 1992, the Commission issued its ORDER REQUIRING FURTHER FILINGS, CONSOLIDATING FILINGS, AND DENYING MOTION FOR CLARIFICATION. In the Order, the Commission found that the May 12 filing was still incomplete and directed the Company to complete the filing. In addition, for administrative convenience, the Commission consolidated into this matter a third docket that dealt with certain Centron price changes which had gone into effect subject to Commission revision and were part of the base rates in the Company's May 12, 1993 filing. In the Matter of USWC Centron Price Change, Docket No. P-421/EM-91-328.

On October 30, 1992, USWC made another filing. The Company stated that this filing was intended to replace the earlier ones and asked that its previous filings be withdrawn.

On November 5, 1992 the Commission solicited comments on the Company's October 30 filing. The Commission requested comments on its completeness and the appropriate procedural vehicle for acting on it. The Commission received comments from the following persons: USWC; the Minnesota Department of Public Service (the Department); Enhanced Telemanagement, Inc.; Centex Telemanagement, Inc.; the Minnesota Department of Administration; the Telecommunications Consortium of Olmsted County, made up of Olmsted County, Rochester Public Schools, and the City of Rochester; MCI Telecommunications, Inc.; the Minnesota Business Utility Users Council; and the City of Minneapolis.

On December 22, 1992, the Commission issued two Orders in this consolidated matter. In its ORDER FINDING FILING COMPLETE, SUSPENDING RATES, ALLOWING CONDITIONAL IMPLEMENTATION OF SPECIFIED RATES, DENYING REQUEST TO WITHDRAW PREVIOUS FILINGS, AND GRANTING DISCOVERY RIGHTS, the Commission accepted the Company's October 30 filing and suspended 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.

In its second December 22, 1992 Order in this matter, the Commission referred the case to the Office of Administrative Hearings for contested case proceedings. NOTICE AND ORDER FOR HEARING.

In proceedings conducted by the Office of Administrative Hearings, the Administrative Law Judge 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.

In late February 1993, the intervenors filed direct testimony.

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. (USWC). The Company stated the direct testimony of the Department of Administration exposed serious flaws in the revenue impact calculations contained in the November 5, 1992 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.

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 and that 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.

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.¹

The stipulation asked the Commission to take the following actions:

¹ The remaining parties, MCI Telecommunications Corporation and the Telecommunications Consortium of Olmsted County, signed the stipulation on March 17 and 18 respectively.

- 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;
- 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.

On March 25, 1993, the Commission issued its ORDER ACCEPTING AND ADOPTING STIPULATION, RESCINDING ACCEPTANCE OF FILING AS COMPLETE, AND ESTABLISHING PROCEDURAL FRAMEWORK. The Commission directed the USWC to complete its filing within ten weeks of the date of this Order or file a detailed written explanation of its failure to do so.

On June 4, 1993, USWC filed testimony which included notice that it intended to finalize its filing within six weeks with either a new rate design (if it received approval from the MFJ review committee) or (if it did not) a statement that it would not be altering its June 4, 1993 filing. The Company stated that it expected the 10 month statutory deadline to begin with the filing of its revised rate design or statement of intent to maintain the June 4, 1993 filing unchanged.

On June 11, 1993, the Commission issued a notice to all parties interested in this matter that it had tentatively determined that USWC's June 4, 1993 filing was incomplete and that it expected the Company to complete its filing on or before July 16, 1993, i.e. six weeks after the June 4 filing as indicated by USWC. The Commission advised all parties to withhold their comments regarding the completeness of the filing until that time. Any party objecting to the Commission's tentative determination was given until June 21 to file their comments.

On June 21, 1993, the Department of Administration filed comments on USWC's June 4, 1993 filing requesting that the Commission 1) reject USWC's filing at once, without waiting for the Company's promised supplemental filing, 2) find that the reasonable rates for those USWC services affected by the three consolidated dockets are those in effect prior to the initiation of those dockets, and 3) order USWC to refrain from submitting any additional filings on those services for a period of at least one year.

On June 25, 1993, the Commission invited comments from the parties on the Department of Administration's requests and indicated that any comments should be filed by July 2, 1993.

On July 2, 1993, the Department, the Minnesota Business Utility Users Council (MBUUC), and USWC filed comments.

On July 9, 1993, the Department of Administration filed Reply Comments.

On July 13, 1993, the Commission met to consider the June 4, 1993 filing and the parties' comments. The Commission indicated its serious consideration of dismissing USWC's Centrex Plus filing but did not vote on the matter. Instead, the Commission directed its Staff to collect information on the ramifications of closing the dockets in this matter.

On July 14, 1993, the Commission issued a Notice seeking comments on six questions related to closing the dockets.

On July 27, 1993, the parties filed a stipulation in response to the questions posed in the Commission's July 14, 1993 Notice.

On August 17, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

At its agenda meeting of July 13, 1993, the Commission indicated its serious consideration of dismissing USWC's Centrex Plus

filing and closing all dockets associated with the proceeding. In a Notice issued July 14, 1993, the Commission sought information from the parties relating to closing the dockets. The Commission posed the following questions:

1. What is the best method for treating customers of Centrex, the obsolete central office based service?
2. What action should the Commission take regarding the PBX and private line discounts, in effect on an interim basis?
3. What action should the Commission take regarding existing PBX and private line contracts which incorporate the discounts?
4. What action should the Commission take with respect to Centron contracts signed subsequent to the PBX and private line discounts?
5. What action should the Commission take regarding Centron contracts signed prior to the implementation of the PBX and private line discounts?
6. What action should the Commission take regarding any other customers or rates affected by the close of the three dockets?

In response, the parties filed a stipulation on July 27, 1993, stating their desire to amicably resolve issues identified by the Commission in its July 14, 1993 Notice and other issues attendant to the dismissal of the Centrex Plus filing. The parties agreed to be bound by the terms and conditions of the stipulation (copy attached) and jointly recommended Commission approval of those terms and conditions.

Having reviewed the terms and conditions proposed in the stipulation in light of the applicable law and the entire record herein, the Commission finds that the parties' stipulation reasonably resolves each issue addressed. Accordingly, the Commission will accept and adopt the stipulation as submitted by the parties as the primary resolution of this matter.

Among the effects of the Commission's adoption of the stipulation are the following:

- a. Docket No. 91-1002 regarding Centron, PBX and Private Lines is dismissed. The impact on Centron, PBX and Private Line customers is as set forth in the attached stipulation.

- b. Docket No. 91-1000 regarding the Centrex service is closed. USWC will honor all existing Centrex Rate Stability Plan (RSP) contracts until expiration but renewals of Centrex RSP contracts are permanently suspended. With respect to Centrex customers whose contracts expired while this matter was pending or whose contracts will expire after July 27, 1993 (the date of the Stipulation), USWC will continue to provide Centrex service at the contract rates, terms and conditions of service on a month to month basis until the later of July 1, 1995 or 90 days following the Commission's final Order in the proceeding to address the Company's subsequent Centrex Plus filing.
- c. Docket No. 91-328 regarding certain changes in Centron rates is closed. The Centrex Plus rates proposed in that filing are permanently approved.

The substantial efforts occasioned by this matter are attested to by the extensive procedural history of this matter presented above. It is regrettable that there is not more to show for all the efforts collectively put forth in this matter by the parties and the regulatory resources in response to repeated inadequate filings from USWC.

On the other hand, given the specific conditions of this filing, the Commission finds that the stipulation represents a reasonably productive resolution of the matter at this time. For example, the stipulation's proposed resolutions of the various rates and service contracts affected by the filing are reasonable in view of the unique circumstances of this case. Further, when USWC makes its next Centrex Plus filing, certain preliminary matters such as protective orders and discovery rights will already be resolved.

Given the circumstances of this case, the requirement that USWC review its next Centrex Plus filing with the Department and the Department of Administration prior to filing will be approved with the clarification that such approval does not diminish the utility's on-going responsibility to deploy adequate internal resources to assure the quality of its filings on its own.

To assure that affected customers are made aware of the decisions reached in this matter, the Commission will require USWC to notify all such customers of the substance of the Commission's Order, particularly with respect to the service which they currently receive.

Finally, USWC has indicated that it may make its next Centron Plus filing as early as mid-November 1993. In the event that the Company does not make such a filing prior to May 1, 1995, it will be required to file a letter notifying the Commission of its intentions regarding the matter.

ORDER

1. The Commission accepts and adopts the stipulation of the parties to this proceeding, copy attached. The terms and conditions set forth in that stipulation are hereby ordered. The parties to the stipulation shall adhere to the terms and conditions set forth in the stipulation and shall have responsibility to implement them as indicated in the stipulation.
2. USWC shall notify all affected customers of the substance of this Order, particularly with respect to the service which they currently receive. Notification shall be mailed to each affected customer and shall be in a form approved by Commission Staff. USWC shall submit a draft Notice to Commission Staff within 30 days of this Order and complete the mailing of an approved Notice within 15 days after Commission Staff has approved it.
3. In the event that the Company does not file its next Centrex Plus rate case prior to May 1, 1995, it shall file a letter notifying the Commission of its intentions regarding the matter.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Susan Mackenzie
Acting Executive Secretary

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