

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of a Commission
Initiated Investigation into U S
WEST Communications, Inc.'s
Costs Related to Provision of Line
Sharing Service.

PREHEARING ORDER

The above-entitled matter came on for prehearing conference before Administrative Law Judge Steve M. Mihalchick on December 22, 1999, in the Minnesota Public Utilities Commission's Large Hearing Room, 121 Seventh Place East, Suite 350, St. Paul, Minnesota.

The following persons appeared at the prehearing conference:

Kevin Saville and William Ojile, Attorneys at Law, 200 South Fifth Street, Room 395, Minneapolis, MN 55402, appeared for and on behalf of U S WEST Communications.

Mark J. Ayotte, Attorney at Law, Briggs and Morgan, P.A., 2200 First National Bank Building, 332 Minnesota Street, St. Paul, MN 55101, appeared for and on behalf of Covad Communicaitons, New Edge Networks and NorthPoint Communications.

W. Clay Deanhardt, Attorney at Law, 2330 Central Expressway, Santa Clara, California 95050, appeared for and on behalf of Covad Communications.

Christine Mailloux, Attorney at Law, 303 Second Street, San Francisco, California 94107, appeared for and on behalf of Northpoint Communicaitons.

Patrick M. Green, Attorney at Law, 1099 18th Street, Suite 2200, Denver, Colorado 80202, appeared for and on behalf of JATO Communications.

Joan Volz, Attorney at Law, 13525 265th Street, Welch, Minnesota 55089, appeared for and on behalf of Rythms Links, Inc.

Paul J. Mahoney, Attorney at Law, 10405 Sixth Avenue North, Third Floor, Plymouth, Minnesota 55441, appeared for and on behalf of Onvoy.

Dan Lipschultz, Assistant Attorney General 445 Minnesota Street, 1200 NCL Tower, St. Paul, MN 55101-2130, appeared for and on behalf of the Residential Utilities Division of the Office of Attorney General (RUD).

Steve Alpert, Assistant Attorney General 525 Park Street, Suite 200, St. Paul, MN 55103-2126, appeared for and on behalf of the Department of Commerce.

Kevin O'Grady, Analyst, Minnesota Public Utilities Commission, 350 Metro Square Building, St. Paul, MN 55101, appeared on behalf of the staff of the PUC.

PARTIES

1. The parties to this proceeding named in the Commission's Notice and Order for Hearing of December 8, 1999 are U S WEST Communications, Inc., the Minnesota Department of Commerce, the Residential and Small Business Utilities Division of the Office of the Attorney General, Covad Communications, Inc., North Point Communications, Inc., Rythms Links, Inc., Sprint Communications Company, and Onvoy, Inc. Any additional entities who have opted to become parties to this Stipulation in this matter by December 15, 1999 are also parties to this matter. The ALJ has been informed that New Edge Network, Inc. and JATO Operations Corp. have opted in and are thus parties.
2. The final date for filing Petitions to Intervene is January 10, 2000. Any person petitioning to intervene after that date may be restricted as to the scope of their participation.
3. Any person allowed to intervene in this proceeding after the date of this Order shall be bound by the terms of this Order.

SCHEDULE

4. The existing parties have agreed to the following schedule, which is hereby adopted. All dates that require the service of documents are the dates the document is to be received by the person being served:

- a) January 3, 2000—Discovery begins.
- b) January 10, 2000—Petitions to Intervene due.
- c) January 28, 2000—Joint Proposal by U S WEST and DLECs regarding elements/services to be priced.
- d) February, 2000—Line Sharing Workshop, exact date to be established later.
- e) February 21, 2000—Direct Testimony and Cost Study Proposals (with supporting papers).
- f) April 7, 2000—Rebuttal Testimony and Rebuttal Cost Studies.
- g) April 19, 2000—Discovery Cutoff.
- h) April 25, 2000—Reply Testimony.
- i) May 8-12, 2000—Hearing (5 days if necessary).
- j) June 2, 2000—Initial Briefs.
- k) June 9, 2000—Reply Briefs.
- l) July, 2000—ALJ's Report; Exceptions to ALJ's Report within 10 days, replies within 5 days thereafter.
- m) August, 2000—Commission Decision.

FILING OF DOCUMENTS

5. All prefiled testimony sponsored by all parties shall be filed with the Administrative Law Judge and served upon the parties in accordance with the schedule above. Except for good cause shown, all prefiled testimony shall be in question and answer format.

6. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

- a) Prior to the issuance of the Report of the Administrative Law Judge, the original and one copy of all documents other than discovery shall be delivered or mailed to the Administrative Law Judge.

b) Following the Report of the Administrative Law Judge, the original of all documents shall be filed with the Executive Secretary of the Commission.

c) Copies of all documents shall be served on the persons listed on the most current service list provided to the parties by the Administrative Law Judge. Parties shall advise the Administrative Law Judge as soon as possible of any corrections or updates.

d) Service and filing shall be effective upon receipt. Service and filing by e-mail or fax shall be followed promptly by service of a hard copy.

e) Proof of service shall be filed with each filed document or within three business days thereafter.

7. One copy of any document or information filed with or supplied to the Commission or the Commission staff shall be served upon every party.

DISCOVERY

8. All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request mailed to all parties of record and the Administrative Law Judge. The party responding to the information request shall provide the information requested to the requesting party and all other persons on the service list within ten calendar days after receipt of the request until the direct testimony has been filed. Thereafter, the information shall be provided within five business days. There shall be a continuing obligation to update and supplement information responses. Information requests received after 3:00 p.m. on business days or on weekends or State holidays shall be considered to be received on the following business day, except that any U.S. Mail received during business hours shall be considered to be received on the same day.

9. In the event the information cannot be supplied within the time required, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Such motion may be made by telephone conference among the Administrative Law Judge and affected parties.

10. Parties asked to provide "Protected Data" may require the requesting party to comply with the terms of a Protective Order and Agreement to be issued in this matter.

11. Further discovery may be had in accordance with Minn. R. 1400.6700 - 1400.6900 insofar as these provisions do not alter the special process for this proceeding established by this Order.

PREFILED TESTIMONY AND ORDER OF TESTIMONY

12. Prefiled direct and rebuttal testimony shall not be bound into the record, but shall be received as exhibits. Prefiled testimony that is amended or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties by facsimile no later than three days prior to commencement of the evidentiary hearing.

13. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct or rebuttal evidence shall not be offered in rebuttal or surrebuttal testimony and exhibits. However, the parties may raise in rebuttal or surrebuttal testimony affirmative matters in response to new issues that arise on cross-examination during the course of the evidentiary hearing.

14. The order of testimony in the evidentiary hearing shall be determined at a later time.

EXAMINATION OF WITNESSES

15. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

16. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states in writing its objection with particularity to the Administrative Law Judge and serves a copy of such objections on the Commission and all other parties prior to commencement of the evidentiary hearing. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony which is not objected to

shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

Dated this 7th day of January, 2000.

STEVE M. MIHALCHICK
Administrative Law Judge

January 7, 2000