Service Date: June 28, 1996

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 U S WEST Communications, Inc. to Restructure its Carrier Common Line Charges for Intrastate access.	))))	UTILITY DIVISION DOCKET NO. D96.4.70 ORDER NO. 5925

PROCEDURAL ORDER

The Montana Public Service Commission (PSC or Commission) voted in a scheduled work session on June 18, 1996 to suspend the application of U S WEST Communications, Inc. (USWC) to restructure its carrier common line charges and to schedule a hearing in this matter. The Commission has delegated to Commission staff the duty to set the procedural schedule and issue the Order without a prehearing conference. The Commission has set forth a firm schedule in this Procedural Order. The Commission staff may amend the procedural schedule when the amendment does not alter the scheduled hearing date. The Commission will reconsider the date set for hearing only upon good cause shown and upon waiver of the nine-month requirement under § 69-3-302, MCA.

Introduction

On April 26, 1996, USWC filed a request with the Commission to revise the rate structure for Carrier Common Line (CCL) charges to intrastate access customers in Montana. The filing was designated Docket No. N96.4.70. CCL is the non-traffic sensitive rate element which access customers pay for using local loops to connect toll calls from end-users to the network. CCL is presently billed on a per minute of use basis. USWC proposes to change the CCL structure to a flat rate of $4.356 per residence access line based on each carrier's market share. Market share is calculated on the basis of minutes of use.

Within 30 days of the filing, the Commission received written objections from AT&T of the Mountain States, Inc. (AT&T) and MCI Telecommunications Corporation (MCI). AT&T

requested that the filing be rejected or, alternatively, that the Commission suspend the filing and set it for a hearing. MCI asked the Commission to suspend the filing and set it for a hearing.

By a vote of 5-0 at a work session held on June 18, 1996, the Commission voted to suspend USWC's CCL restructure filing and to set an early hearing date to consider the impacts of revising CCL charges. Therefore, under the authority of ARM 38.2.2702, the Commission enters this Procedural Order setting forth the procedure to be followed in Docket No. D96.4.70. This order is effective immediately and remains effective until modified by the Commission.

Intervention

1. In this order the term "parties" includes the applicant, USWC, and all intervenors. Individuals or entities are not parties unless they have been granted intervention by the Commission.

2. The deadline for filing Petitions to Intervene is July 8, 1996. Petitions to Intervene filed after that date must comply with ARM 38.2.2401 through 38.2.2406.

Service and Filing

3. Copies of all pleadings, motions, discovery requests and responses, prefiled testimony, briefs and all other documents shall be filed with the Commission and served on all parties and other entities and individuals on the attached service list. Service upon the parties shall be upon the parties' attorney of record and such other individuals as may be reasonably designated by the attorney of record. The parties may limit service of discovery responses to service on the party making the discovery request, the PSC, and parties specifically requesting service of discovery responses.

4. An original and seven (7) copies of all discovery must be filed with the PSC, and an original and eleven (11) copies of all other documents, except proprietary documents. Only one copy of proprietary documents shall be filed -- on yellow paper. Service to other parties and to the PSC shall be by overnight mail or hand-delivery in lieu of overnight mail. The dates included in the Procedural Schedule dates are for completion of service, not for mailing.

Schedule

5. The deadlines for service and filing of documents in this Docket (pursuant to the above requirements) and other pertinent dates, shall be those dates contained in Attachment "A" which is attached hereto and incorporated herein by this reference.

Discovery

6. The term "discovery" includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as "data requests" (informal interrogatories).

7. The Commission directs all parties to prepare data requests according to the following guidelines:

(a) Parties must assign their data requests a request number (e.g., MDU-001). Request numbers must be consecutive regardless of the party to whom the request is directed (e.g., the PSC might direct PSC-001 through 008 to MDU, PSC-009 through 016 to MCC, and PSC-017 through 019 to MDU).

(b) All data requests must include at the beginning of each request a description of five words or less explaining the subject of the data request. Other identifying information, such as the witness to whom the request is submitted, exhibit number, page number, etc., may be included in addition to, but not in lieu of, the subject of the request. This requirement will help to identify all data requests and responses addressing a particular subject or group of subjects. Subject descriptions will obviously vary from one party to another. However, each party should attempt to keep descriptions consistent from one request to another.

(c) Multi-part requests may be used, each part denoted by a lower case letter (a, b, c, d and e). Requests must be limited to five parts (a-e). If additional parts are necessary, additional requests must be made. A single part request should be denoted by the request number only.

(d) Examples of acceptable data requests are as follows:

PSC-500 RE: Purchased Gas Contracts
Witness - Burke, Page JBB-4, Lines 13-15.

Please provide the origination and expiration date for each contract.

PSC-501 RE: Bypass
Witness - Johnson, Page DAJ-14, Lines 11-14.

a. What risks of bypass would be avoided by the shareholders as a result of the Company's proposed treatment?

b. What risks of bypass would be avoided by the ratepayers as a result of the Company's proposed treatment?

8. The party receiving the written discovery or data request has three calendar days from receipt to file any objections it has to the request(s). Notice of the objection shall be served upon the Commission and all parties (as provided in the paragraph above). The Commission may dispose of such objections by prompt ruling or may schedule argument. Failure to timely object will be a waiver of objections.

9. Any requesting party dissatisfied with the response to any written discovery or data request and desiring PSC action to compel, must serve its written objection(s) within three calendar days after receipt of such response (as provided in the paragraph above). The PSC may dispose of such objection(s) by prompt ruling, or may schedule argument. The PSC will act either to sustain or overrule the objection(s), and if sustaining, set a deadline for a satisfactory response.

10. Parties are encouraged to attempt to resolve all discovery disputes between themselves, before filing objections. All motions regarding discovery should contain a statement explaining the efforts taken to resolve the issue informally, and a photocopy or restatement of the requests and responses.

11. Submission of written discovery after the deadline established will be allowed by leave of the PSC only. The PSC will not grant requests without a showing of good cause explaining why the request was not submitted within the time period allowed.

12. Unless excused by the PSC, failure by a party to answer data requests or other discovery from any party may result in: (a) action refusing to allow the failing party to support or oppose related claims; (b) action prohibiting introduction of related matters in evidence; (c) action striking pleadings, testimony or parts thereof; (d) action staying further proceedings until the request is satisfied; or (e) action dismissing the case, defense, proceeding or parts thereof.

13. Unless otherwise provided by this Order, PSC Rules or other PSC action, discovery procedures and requirements shall be governed by the applicable Montana Rules of Civil Procedure. *See* ARM 38.2.3301 through 38.2.3305.

Testimony and Evidence

14. The PSC contemplates a complete identification of issues before the hearing. The PSC will closely scrutinize new issues or data in new areas introduced at the time of hearing, and may disallow the issues or information unless reasonably related to issues earlier identified in the application, prefiled testimony, or proceedings.

15. At hearing, the PSC will admit into the record all prefiled direct, answer and rebuttal testimony upon motion of the proponent, without the necessity of the witness reading the testimony into the record. This testimony will be an exhibit and not otherwise entered into the transcript.

16. All proposed exhibits and prefiled written testimony shall be marked for the purpose of identification prior to the start of the hearing. Parties shall arrange in advance with the court reporter or at a prehearing conference, for the preferred manner of identifying exhibits.

17. When cross-examination is based on a document not previously filed with the Commission, copies of the document will be made available to the Commissioners, parties, and staff, unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each Commissioner, the PSC staff, and all parties. This last requirement may be waived if the documents to be introduced are bulky, or for other good cause, and if previous arrangements have been made with the PSC and all parties.

18. Parties may be permitted to present live rebuttal testimony only if it is in direct response to an issue raised for the first time in cross-examination or in the testimony of a public witness. Such testimony will be allowed only by leave of the PSC or presiding officer.

19. The PSC may allow citizens and citizen groups to make statements without having submitted prepared written testimony. In addition, if they have prepared written testimony they may read it or have it adopted directly into the record.

20. The Montana Rules of Evidence in effect at the time of the hearing will apply.

21. Any party to this proceeding responding to written discovery from any other party or the PSC shall have each person authorizing any response(s) present and available as a witness at the hearing to introduce the response(s) and be available for cross-examination. Parties may waive objection(s) to introduction absent the author, and the right to cross-examine. Upon PSC approval of such parties' agreement to waiver, the person responding to data requests need not be present to testify and the responses may be introduced into the record. Written discovery and data responses will be introduced at hearing only pursuant to applicable rules of evidence and through an appropriate witness subject to cross-examination, or upon stipulation approved by the PSC (except, *see* Rule 32, M.R.Civ.P. regarding admission of depositions).

Prehearing Motions and Conferences

22. Motions by any party, including motions to strike prefiled testimony and motions concerning any procedural matter connected with this Docket shall be raised at the earliest possible time. Prehearing motions shall be submitted on briefs, without oral argument, unless otherwise requested by a party and approved by the PSC. All parties are strongly encouraged to attempt to resolve procedural disputes informally.

23. The PSC may set prehearing conferences to discuss settlement of any issues in the proceeding, simplification of issues, possibility of obtaining admissions of fact and documents, distribution and marking of written testimony and exhibits prior to the hearing, and other procedural matters as may aid in the disposition of the proceeding.

24. Nothing in this order shall be construed to limit the legally established right of the PSC or its staff to inspect the books and accounts of USWC and other regulated utilities at any time.

Prehearing Memoranda

25. Each party and the Commission staff will serve a prehearing memorandum on the Commission and all formal parties in this Docket on or before July 30, 1996, containing the following information:

a. Each and every Data Response and all other exhibits that it intends to offer into evidence at the hearing;

b. The name of the witness responsible for the Data Response or through which the exhibit will be offered; and

c. The issue to which the Data Response or document is relevant.

In addition, all parties (but not the Commission staff) are required to include the following in their prehearing memoranda:

d. A list of all issues, contested and uncontested;

e. Witnesses the party will call to testify;

f. A proposed order of witnesses (including whether each witness would simultaneously offer both direct and rebuttal testimony);

g. A proposed order of cross-examination; and

h. Identification and explanation of any special scheduling or witness sequence needs which a party requests to accommodate scheduling conflicts.

Satellite Hearing

26. The PSC may schedule and notice public satellite hearings, at a later date.

Amendment

27. The provisions of this Order may only be amended by PSC action, or PSC staff action pursuant to delegated authority. The PSC shall maintain continuing jurisdiction of the matters encompassed by this Order during the course of this Docket.

DONE AND DATED this 28th day of June, 1996 by delegation to Commission staff as the Order of the Montana Public Service Commission.

BY THE MONTANA PUBLIC SERVICE COMMISSION

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

ATTACHMENT "A"

Procedural Schedule
Docket No. D96.4.70, Order No. 5925

Deadline*	Action
July 8, 1996	Intervention Deadline
July 12, 1996	Data Requests to USWC witness Barbara Wilcox due.
July 19, 1996	Answers to July 12 Data Requests due.
July 26, 1996	Testimony due from Intervenors.
July 30, 1996	Prehearing Memoranda due.
August 1, 1996	Hearing to Commence in Docket No. D96.4.70.

*** Service is to be completed by these dates.**