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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

APR 01 1999

JIM IRVIN
Commissioner - Chairman
TONY WEST
Commissioner
CARL J. KUNASEK
Commissioner

DOCKETED BY *[Signature]*

IN THE MATTER OF THE APPLICATION
OF U S WEST COMMUNICATIONS, INC.
TARIFF FILING TO INTRODUCE A NEW
PROVISIONING AGREEMENT FOR NEW
HOUSING DEVELOPMENTS

DOCKET NO. T-01051B-98-0708

IN THE MATTER OF THE PETITION
OF U S WEST COMMUNICATIONS, INC.
FOR APPROVAL OF CIVANO LAND
DEVELOPMENT AGREEMENT

DOCKET NO. T-01051B-98-0731

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC. PETITION
FOR APPROVAL OF THE ANTHEM ARIZONA
LAND DEVELOPMENT AGREEMENT

DOCKET NO. T-01051B-99-0057

DECISION NO. 61626

ORDER

Open Meeting
March 30 and 31, 1999
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

A. Tariff Filing To Introduce The Provisioning Agreement For Housing Development

1. U S WEST Communications, Inc. (USWC) is certified to provide telephone service as a public service corporation in the State of Arizona.

2. On December 11, 1998, USWC submitted tariff revisions to introduce their Provisioning Agreement for Housing Development (PAHD):

Exchange And Network Services Tariff

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3. These revisions introduce a new process for providing distribution facilities in new housing developments and replace USWC's existing Land Development Agreement (LDA).

4. The present tariff requires that the developer pay the up-front costs to have outside plant facilities placed. The money collected by USWC is refunded annually to the developer on the basis of the number of lots taking service from USWC.

5. Under the proposed tariff, USWC does not require up-front payments unless the per lot cost exceeds a Company determined cap, which shall equal the distribution and drop portion of the average exchange loop investment times the number of lots in the development.

6. USWC states that the current LDA that places all of the risk on the developer is no longer workable in a competitive market where others are willing to provide the facilities at no cost to the developer.

7. Staff has determined that other service providers are installing facilities that can be used to provide telecommunications services at no cost to the developer.

8. Staff agrees that USWC needs the latitude to meet competitive challengers in residential developments where alternative service providers exist. However, Staff is concerned that the PAHD tariff could result in investment in unused facilities by USWC, thereby creating the potential for ratepayers to be asked to pay for these unused facilities in a future rate application.

9. Staff recommends approval of the tariff with the modification that USWC be required to identify and keep records of all PAHD projects in such a manner that will allow Staff to review the details of these projects in a future USWC rate filing.

10. In addition, Staff recommends that a decision on how these projects should be handled for rate making purposes not be made until the future rate proceeding.

11. In addition, Staff recommends that USWC modify its proposed PAHD tariff as follows:

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1 a. In Section 4.1B the last sentence should read, "The Company may, at its
2 discretion, modify requirements and charges pertaining to supporting structures
3 which includes, but is not limited to, pipes, conduits, poles, trenches, and
4 backboards for the placement of telephone facilities in housing developments
5 where an alternative provider is available."

6 b. Section 4.4.B.8 should read, "The PAHD may vary terms and conditions as
7 appropriate to respond to developer needs in those developments where an
8 alternative provider is available."

9 **B. Petition For Approval Of Civano Land Development Agreement**

10 12. On December 18, 1998, USWC filed an application for the approval of a LDA
11 between USWC and The Community of Civano LLC (Civano).

12 13. Civano plans to construct a development known as the Community of Civano (the
13 Community), which consists of approximately 1,100 acres of land in Pima County.

14 14. Pursuant to A.A.C. R14-2-506 and its tariff governing construction charges
15 (Section 4, USWC Exchange and Network Services Tariff) USWC has entered into an agreement
16 with Civano for the construction of feeder and distribution facilities, which would serve the
17 Community.

18 15. USWC tariffs require developers or builders in new housing developments to pay
19 USWC in advance its cost for installing facilities in new housing developments. In its filing,
20 USWC is requesting that the Commission waive the normal LDA requirement for prepayment.

21 16. Under the agreement, Civano would endorse USWC as the preferred provider of
22 telecommunications service to the Community's residents and businesses.

23 17. The term of the agreement is ten years, during which time the developer agrees
24 not to enter into a similar agreement with another service provider. However, the agreement does
25 not preclude other carriers from serving the development.

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1 18. The agreement also contains a provision for USWC to recoup its investment if t
2 number of projected Access Lines does not meet or exceed the total number of lots in the
3 development build out schedule at the end of each three year period.

4 19. In summary, the proposed agreement introduces a new process for providing
5 facilities to serve new housing developments.

6 20. Staff has reviewed USWC supporting information and recommends approval of
7 the agreement because the proposed Civano LDA does not preclude other service providers from
8 serving potential customers and the agreement contains a provision for USWC to recoup its
9 investment if the development does not build out as planned.

10 **C. Petition For Approval Of The Anthem Arizona Land Development Agreement**

11 21. On February 9, 1999, USWC filed an application for approval of a LDA between
12 USWC and the Anthem Arizona, L.L.C. (Anthem).

13 22. Anthem plans to construct a development known as "Del Webb Anthem Phoenix"
14 ("Development"), which consists of 13 parcels of land in Maricopa County.

15 23. Pursuant to A.A.C. R14-2-506 and its tariff governing construction charges
16 (Section 4, USWC Exchange and Network Services Tariff) USWC has entered into an agreement
17 with Anthem for the construction of feeder and distribution facilities, which would serve the
18 Development.

19 24. USWC tariffs require developers or builders in new housing developments to pay
20 U S WEST in advance its cost for installing facilities in new housing developments. In its filing
21 USWC is requesting that the Commission waive the normal LDA requirement for prepayment.

22 25. Under the agreement, Anthem would endorse USWC as the preferred provider of
23 telecommunications service to the Development's residents and businesses.

24 26. The term of the agreement is ten years, during which time Anthem agrees not to
25 enter into a similar agreement with another service provider. However, the agreement does not
26 preclude other carriers from serving the development.

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1 27. The agreement also contains a provision for USWC to recoup its investment if the
2 number of Access Lines does not meet or exceed 95% of the total number of lots within each Plat
3 at the end of five years.

4 28. In summary, the proposed agreement introduces a new process for providing
5 facilities to serve new housing developments.

6 29. Staff has reviewed USWC supporting information and recommends approval of
7 the agreement because the proposed Anthem LDA does not preclude other service providers from
8 serving potential customers and the agreement contains a provision for USWC to recoup its
9 investment if the development does not build out as planned.

10 CONCLUSIONS OF LAW

11 1. U S WEST is an Arizona public service corporation within the meaning of Article
12 XV, Section 2, of the Arizona Constitution.

13 2. The Commission has jurisdiction over U S WEST and over the subject matter of
14 the application.

15 3. Approval of the filing does not constitute a rate increase as contemplated by
16 A.R.S. 40-250.

17 4. The Commission, having reviewed the tariff pages (copies of which are contained
18 in the Commission tariff files) and Staff's Memorandum dated March 22, 1999, concludes that the
19 tariff modified as suggested in the body of this Order is reasonable, fair, and equitable, and is
20 therefore in the public interest.

21 5. The Commission, having reviewed the Civano and Anthem Agreements and
22 Staff's Memorandum dated March 22, 1999, concludes that both Agreements are reasonable, are
23 not anti-competitive because they do not prevent other carriers from serving potential customers in
24 the developments, and are therefore in the public interest.

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ORDER

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THEREFORE, IT IS ORDERED that the tariff be and hereby is approved subject to the modifications discussed in the body of this Order.

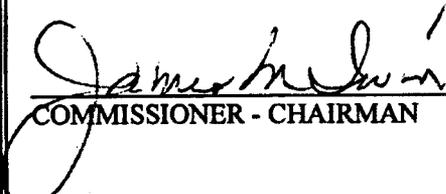
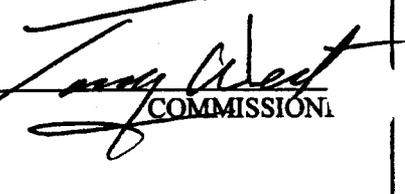
IT IS FURTHER ORDERED that USWC shall identify and keep records of all PAHD projects as outlined by Staff in Finding of Fact No. 9.

IT IS FURTHER ORDERED that USWC shall file a revised tariff in compliance with Finding of Fact No. 11.

IT IS FURTHER ORDERED that the Civano and Anthem Land Development Agreements be and are hereby approved.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

		
COMMISSIONER - CHAIRMAN	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, STUART R. BRACKNEY, Acting Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 1 day of April 1999.


STUART R. BRACKNEY
Acting Executive Secretary

DISSENT: _____

RTW:DWS:LSS:sjs/JMA

Decision No. 61626