

DEC 16 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Inquiry into Policies and)
Programs to Assure Universal)
Telephone Service in a Competi-)
tive Market Environment)

RM-8388

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COMMENTS OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST"), through its undersigned counsel, hereby submits these Comments on the Petition of MFS Communications Company, Inc. ("MFS") for a Notice of Inquiry and En Banc Hearing on the issues relating to the funding of universal service ("MFS Petition" or "Petition").¹

U S WEST applauds MFS' recognition that it must share in the funding of universal service, along with all telecommunications providers. MFS' proposal of a notice of inquiry ("NOI") and en banc hearing, however, will serve only to delay necessary reform of existing universal service funding mechanisms. Instead, the Federal Communications Commission ("Commission") can and should expeditiously embark upon permanent rulemaking proceedings in both the universal service funding and access reform areas. Such rulemaking proceedings will provide ideal fora in which to debate and resolve the excellent questions raised in the MFS Petition, as well as to craft concrete solutions. In the face of fundamental change in the telecommunications marketplace, the

¹Petition of MFS Communications Company, Inc. for a Notice of Inquiry and En Banc Hearing filed Nov. 1, 1993.

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Commission has a unique opportunity to provide guidance and direction to the industry and other policymakers on these and other difficult subjects; U S WEST believes the Commission should take a leadership role.

I. AS COMPETITION INCREASES, UNIVERSAL SERVICE FUNDING OBLIGATIONS MUST BE SHARED

MFS strongly asserts that universal service and local competition are "highly compatible and not inherently inconsistent."² The MFS Petition also recognizes (albeit begrudgingly) that, to the extent existing local service providers shoulder the burden of the bulk of the subsidies required to maintain universal service, those providers will then continue to fear and resist the advent of competitors who do not shoulder such a burden. Thus, MFS argues that:

It is essential that the Commission lay these fears to rest by determining what form and amount of subsidy is really necessary to preserve universal service, and then establishing a secure, competitively neutral and equitable source of funding for that subsidy.³

Only if all telecommunications providers contribute to such a source of funding can competition in the local service arena unfold on a fair and equitable basis. U S WEST could not agree more.

²MFS Petition at 2.

³Id. at 2-3.

II. RESOLUTION OF CRITICAL UNIVERSAL SERVICE FUNDING AND ACCESS REFORM ISSUES SHOULD NOT BE DELAYED PENDING LENGTHY NOI AND EN BANC PROCEEDINGS

As the "largest provider of local competitive access telecommunications services in the United States,"⁴ "MFS recognizes its responsibility, shared with all other telecommunications providers, to contribute to the funding of universal service."⁵ U S WEST applauds this recognition, but it understands, of course, that MFS is only accepting what must inevitably come to pass. While U S WEST does not wish to imply that MFS' motives are anything but pure, it should be noted that:

(a) MFS currently does not participate in universal service funding or subsidies, while its local access competitors do; and

(b) the longer MFS can continue to price its services without covering such subsidies, the better it can establish its competitive position prior to the inevitable leveling of this playing field. The MFS Petition, while eloquently defining and describing a very real problem in the industry, could be read to have another purpose: to delay the resolution of that problem, so that MFS' competitive fortunes can be advanced in the interim. Hence, MFS proposes that the Commission conduct an NOI and en

⁴Id. at 3.

⁵Id. at ii.

banc hearing before any concrete action is taken on universal service funding and access reform.⁶

There is no reason to delay getting down to work. U S WEST agrees that universal service funding is an issue of "overarching significance" and that there are a "wide range of interested parties potentially affected" thereby.⁷ The Commission has stated its expectation "that a full examination of USF issues will be extremely complex, both in terms of balancing various public policy concerns and in terms of analyzing extensive data regarding current and proposed USF mechanisms."⁸ Yet, despite its understanding of the tremendous complexity and public policy

⁶Id. at 3, 7-8. Both universal service funding and access reform, taken together, should result in explicit and implicit subsidies currently shouldered by interexchange carriers and local exchange carriers ("LEC") being spread to other market participants. Moreover, access reform, as proposed by the United States Telephone Association ("USTA") (see In the Matter of Reform of the Interstate Access Charge Rules, RM 8356, Petition for Rulemaking, filed Sep. 17, 1993), would give LECs the flexibility to structure prices so as better to respond to competitive pressures. It is no wonder, then, that MFS wants these two initiatives delayed as long as possible.

⁷MFS Petition at 3. It should be noted that the National Telecommunications and Information Administration ("NTIA") is currently holding public hearings throughout the country on universal service issues, the first of which is to occur in Albuquerque, New Mexico, on December 16, 1993. (A copy of the presentation to be made at the December 16 hearing by Thomas A. Garcia, U S WEST Vice President-New Mexico, is attached hereto as Attachment A.) Perhaps some of MFS' concerns can be allayed, without the delay inherent in establishing an NOI and en banc hearing, if whatever transcripts are produced by the NTIA hearings are entered into the record of the Commission's universal service fund ("USF") rulemaking. U S WEST would have no objection.

⁸In the Matter of Amendment of Part 36 of The Commission's Rules and Establishment of a Joint Board, Notice of Proposed Rulemaking, 8 FCC Rcd. 7114 ¶ 3 (1993).

significance of these issues, the Commission nonetheless is proceeding with rulemaking (first interim, and then permanent).⁹ Obviously, the Commission prefers action to inaction and delay. This is as it should be.¹⁰ The specific thoughtful and thought-provoking issues raised in the MFS Petition, "relating both to the definition of the Commission's universal service goals, and particular means of achieving those goals,"¹¹ can and should be thoroughly debated in the concrete contexts of universal service funding and access reform rulemakings.¹²

⁹Id. at 7114 ¶ 2-3. The Federal-State Joint Board has recommended that "a permanent USF rulemaking . . . should commence as soon as reasonably feasible." In the Matter of Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Recommended Decision, rel. Dec. 10, 1993, ¶ 64.

¹⁰U S WEST has urged the Commission towards action (in the form of establishing a rulemaking proceeding) in the access reform area as well. See In the Matter of Reform of the Interstate Access Charge Rules, RM 8356, U S WEST's Statement in Support of the USTA Petition for Rulemaking, filed Nov. 1, 1993, at 1. Contrary to MFS' assertions, there is no good reason to resolve universal service issues before access reform proceeds; much of access reform deals with how rates are structured, and, as MFS concedes, matters of "rate design . . . [are] separate from universal service policy concerns." MFS Petition at 15.

¹¹Id. at 9.

¹²U S WEST is not proposing that "resolution of critical policy issues concerning universal service . . . await the outcome of a lengthy access charge reform docket" or of a USF docket. Id. at 8. U S WEST believes that Commission consideration of these "critical policy issues" will benefit from being resolved in the concrete context of USF and access rules, rather than being endlessly debated in the abstract.

III. MFS RAISES CERTAIN QUESTIONS OF IMPORT THAT SHOULD BE
ADDRESSED IN THE UPCOMING RULEMAKING PROCEEDINGS

While MFS' transparent efforts to delay the inevitable should not be rewarded, its Petition does make some excellent points that can and should be addressed in the Commission's rulemaking dockets.

A. USF Assistance can be Better Targeted

MFS raises a question as to whether the existing USF mechanism carries with it "perverse incentives" and "rewards LECs for having high costs."¹³ U S WEST has raised the same question in the context of the Commission's interim rulemaking, noting that "it is time to re-target USF assistance so it is available only in those exchanges where the preservation and expansion of universal service is in real jeopardy" and, to that end, refine eligibility standards to include loop density and other relevant factors in addition to loop costs.¹⁴ MFS also suggests targeting assistance based on end-user need, rather than telephone company costs. How best to target universal service subsidies is clearly an issue for serious exploration in the Commission's rulemaking.

¹³Id. at 11.

¹⁴In the Matter of Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, U S WEST Reply Comments filed Oct. 18, 1993, at 6.

B. Access to the Network, not to Particular Services,
Should be Subsidized

MFS suggests that "[t]he universal service goal should be designed to allow all Americans to be connected to the . . . public switch network; it should not subsidize particular services offered over that network."¹⁵ To that end, MFS argues that subsidy programs be limited to POTS access with DTMF (touch-tone) signaling.¹⁶ U S WEST agrees that universal service subsidies should focus on connecting customers to the network -- and that, once customers are so connected, the market will provide sufficient incentives for the offering of other communications and information services thereupon.

C. The Commission Should Take a Nationwide Leadership
Role in Resolving These Infrastructure Issues

MFS asserts that "as other policymakers, on both a federal and state level, begin considering these issues, it is important that the Commission maintain its leadership role [.]"¹⁷ Indeed, different facets of MFS' "Attachment 1" proposal -- e.g., "elimination of entry barriers for all telecommunications services . . . including basic local dialtone"¹⁸ and replacement

¹⁵MFS Petition at 10.

¹⁶See id.

¹⁷Id. at 8.

¹⁸Id. at Attachment 1 at 3. By premising its proposal on the elimination of entry barriers, MFS underscores the seamless linkage between issues of universal service, entry barriers, interconnection, and competition generally.

of "[a]ll existing FCC- and similar State-mandated subsidy programs"¹⁹ -- presume a national system, with the Commission taking a strong leadership (and even a preemptive) role.

U S WEST agrees that the Commission should take such a role.

Developments in telecommunications are increasingly moving to a national scale.²⁰ It is becoming clear that regulatory strictures on local entry and interconnection, for example, in one state are no longer limited in impact to that state -- but can create market ripples in other states, as competition gravitates elsewhere due to regulatory anomalies rather than market forces. This growing interstate impact of intrastate regulation may mean that the federal regulatory role ought to become more pronounced as well.

Moreover, as competition evolves (where state regulatory regimes permit), local networks will proliferate. True universal service (and true competition) will not come to pass unless multiple local networks can be interconnected and transparently provide service to all comers. National guidelines for local entry and interconnection may well be needed to ensure continued universal service in the future.

U S WEST strongly suggests that the Commission consider the increasingly national nature of the telecommunications

¹⁹Id. at Attachment 1 at 4.

²⁰Recent transactions in the industry -- the AT&T/McCaw merger, the recently announced joint venture of virtually all cable companies in the nation to set up a national communications system -- highlight this trend.

marketplace -- not just in the USF context, but also in its examinations of all competitive issues as the new information infrastructure develops -- and be aggressive in taking a "leadership role in the ensuing dialogue."²¹

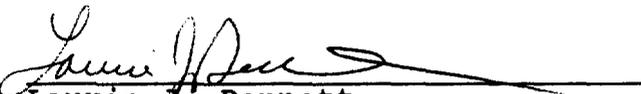
IV. CONCLUSION

U S WEST urges the Commission to consider the issues raised by the MFS Petition in the context of rulemaking proceedings in the USF and access reform arenas, and to take a leadership role on a national scale in resolving such issues.

Respectfully submitted,

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December 16, 1993

²¹MFS Petition at 8. If the Commission succumbs to MFS' proposal to proceed with an NOI/en banc hearing rather than moving forward expeditiously with rulemaking, U S WEST believes that the delay in articulating a solution will cause the Commission effectively to relinquish any leadership role it may have had, as other policymakers take the opportunity to leap into the lurch.

ATTACHMENT A

**NTIA Albuquerque Field Hearing
December 16, 1993**

**Presentation by
Thomas A. Garcia
U S WEST Vice President-New Mexico**

OUTLINE

- I. Introduction**
- II. Historical Perspective**
- III. Definition of Universal Service**
- IV. Funding**
- V. New Mexico Telephone Penetration**
- VI. Summary and Conclusion**

**NTIA Albuquerque Field Hearing
December 16, 1993**

**Presentation by
Thomas A. Garcia
U S WEST Vice President-New Mexico**

Introduction

Universal service has been an important guiding concept for U S WEST and its predecessor companies for many years. Two recent developments in our industry have caused universal service to come to the forefront of the public policy agenda.

First, the introduction of competition into the local telecommunications marketplace places at risk many of the mechanisms that we have used over the years to develop and support universal service. This hearing is a concrete example that our nation's telecommunications policy makers have taken seriously our industry's call that measures be taken to assure the preservation of universal service as our telecommunications marketplace undergoes fundamental changes.

Second, the same evolution of telecommunications technology which are driving changes in our marketplace have also caused some parties to suggest that the definition of what constitutes universal service be reexamined. Advanced digital and broadband technologies have made new services available to customers. Before such new services are included in a new universal service mandate, however, public policy makers must allow the competitive marketplace to function, and carefully consider the necessity, cost and funding requirements of any such mandate.

Historical Perspective

This discussion assumes that U S WEST and many other local exchange carriers will soon operate in an environment of multiple providers competing in the same geographical area, and offering consumers and businesses local communications services through a variety of technologies, including cable TV networks, fixed and mobile cellular service, wireless PCS and possibly others. While universal service lacks a precise definition, the concept fostered nearly a century of U.S. telecommunications development. The Communications Act of 1934 established a national commitment "to

make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide and worldwide wire and radio communications service with adequate facilities at reasonable charges." These concepts provided the basis for various rate structures, subsidies and service initiatives over the decades, which U S WEST perceives to have yielded the following results:

- Single-party, voice-grade telephone service with touchtone capability is now or will soon be available to virtually every customer;
- Pricing of business, toll, access and other vertical services has created a support flow to basic residential service;
- The requirement of price-averaging has created a general support flowing from urban to rural customers;
- High-cost LECs are subsidized through various high cost and universal service funds;
- Federal programs such as Lifeline Assistance and Link-up America make discounted basic service available to the poor;
- Every state offers low-income consumers basic service at a reduced price;
- Federal law requires TDD Relay Service providing telecommunications access to deaf and hearing-impaired consumers; access line surcharges typically fund the state cost for this service.
- Access line surcharges have been widely imposed to enable local governments to provide 911 and E911 service.
- Touch tone service is increasingly provided as part of basic service, at no additional charge.

As the result of such policies and practices, basic telephone service is available virtually everywhere in the nation. Nearly 94 percent of all U.S. households now have telephone service, and another 1.7 percent have access to a phone where they can receive calls.

Definition of Universal Service

The level of service U S WEST recommends as a universal service standard in today's market is single party, voice-grade service with touch-tone capability. In locations where this level of service is not currently available, providers should be expected to have in place reasonable plans to achieve this standard.

In many respects, the definition of universal service has evolved over time. Years ago, party line service was considered sufficient to meet the communications needs of the public. Today the market expects single line

service. Similarly, many years ago the provision of a telephone set was considered an essential part of the universal service package. Today, with the evolution of a robust competitive market for customer premise equipment, a mandate for U S WEST to provide a set would be unnecessary, if not silly.

U S WEST believes that public policy makers should proceed slowly and cautiously in changing the definition of what constitutes universal service. First of all, the competitive marketplace must be given a chance to work. We believe that competition, not public policy mandates, is the most efficient way to insure that customers are given the widest array of services they need and want at prices they can afford. Any expansion of the definition of what constitutes universal service must also necessarily consider the cost to society for the ubiquitous provision of an enhanced level of service, and how these costs would be funded. The need for and size of any universal service funding mechanism is determined by the difference between what would be provided by the competitive marketplace, and what public policy makers mandate to be provided.

The entry of local competition places at risk many of the sources of funding for the current levels of universal service. This funding results from widespread rate averaging and the pricing of toll, access and other vertical services significantly above cost. Public policy makers should initially turn their attention to steps that will be necessary to maintain the current levels of universal service as the market changes. In order to do this, incumbent LECs must be given the opportunity to compete, and the new market entrants must begin to pay their fair share of the cost of maintaining universal service.

Another important, and often overlooked, aspect of universal service is the seamless and transparent interconnection of multiple local networks to the customer. Today, a customer is unaware of when or how a call is handed-off between U S WEST and other local exchange or interexchange carriers. This is the result of a very precise set of standards and guidelines developed by the industry. As new competing local networks are introduced, public policy makers must be careful to assure that standards are established and enforced to assure the continued transparency of interconnection. We believe it would be inefficient and practically unworkable for each of the 51 state regulatory jurisdictions to individually develop such standards and guidelines. For this reason, U S WEST recommends that such standards be established at the National level, with appropriate input from the States, for uniform nationwide introduction under local oversight of the State regulatory authorities.

Funding

Competition, not universal service, should become the primary operating concept assuring delivery of the telecommunications services consumers want. Only in those situations where competition fails to meet the public interest should regulators mandate service deployment. Regulators should develop competitively neutral processes, including the explicit identification of subsidies needed, to address needs not served by the competitive marketplace. If subsidies are required, they should be explicitly and openly identified and should be generated through public taxation. If this revenue source is not politically feasible, necessary subsidies should be generated from all industry participants in a way which is efficient, fair and sensitive to changing market conditions.

New Mexico Telephone Penetration

The most current analysis shows New Mexico's telephone penetration at 88.8 percent. Although it has significantly increased since 1983, it is still lower than the national average of 93.8 percent.

In New Mexico, U S WEST offers low income families various options that provide lower cost alternatives for basic telephone service. Measured service is available to anyone in the state and offers a monthly rate of \$5.78 per month plus usage. The Low Income Telephone Assistance Plan (LITAP) provides telephone service for \$.30 per month plus usage. The New Mexico State Corporation Commission, several years ago, expanded the eligibility and strengthened the existing LITAP program by requiring U S WEST to implement a program that automatically gives discounts to those who have already qualified for another state assistance program called Low Income Home Energy Assistance Plan (LIHEAP). This automatic conversion program, a joint effort with the State Human Services Department, was one of the first of its kind in the nation.

U S WEST also contributes up to \$5,000 per customer towards construction charges for installation of telephone service. In most cases, rural customers have been the recipients of this credit. Since 1987, approximately \$12 million has been spent to provide telephone service to nearly 6,000 customers.

With excellent programs such as those I've mentioned above, why is the New Mexico telephone penetration still among the lowest in the country?

Although U S WEST and the State Corporation Commission have taken some positive and effective steps, the situation still needs to be addressed. New Mexico has close to the lowest per capita income in the country and past studies have shown that there is a direct correlation between per capita income and telephone penetration. Although the low telephone penetration level can be explained, in large part, by the low per capita income, it also points out that there may be some problems with current funding mechanisms, and problems in targeting the appropriate people with assistance.

One reason for this is that the current federal Universal Service Fund (USF) process averages the cost of all U S WEST exchanges across the entire state in order to determine U S WEST'S qualification for USF assistance. New Mexico is a state of extremes -- extremes in income distribution, extremes in population density, extremes in geography and extremes in the cost of providing telephone service. Under the current USF approach, a low density high cost area of New Mexico populated largely by low income residents and served by U S WEST would receive no support from the USF, even though this is the very type of area which would seem to need it the most. As local competition develops in Albuquerque, and U S WEST is forced to reduce its rates there to remain competitive, residents in low density high cost areas of U S WEST will be harmed even further as the support provided by residents of urban portions of New Mexico declines.

The situation in New Mexico demonstrates that what is needed is a universal service funding mechanism that targets support more efficiently to the truly low density high cost rural areas where the residents have the highest need for support.

Summary and Conclusion

This discussion can best be summarized by listing what U S WEST believes to be eleven key principles of universal service:

- 1) The universal service strategy put in place by regulators and the old Bell monopoly has been, overall, enormously successful.
- 2) Accelerating developments in the telecommunications industry driven by technology, competition and the availability of choices, creates a need for us to reexamine today's Universal Service mechanisms.

- 3) Universal service is a social concept which is defined as affordable and ubiquitous access to the network and its capabilities. For today's customers, this access is defined as one-party, voice-grade service with touch-tone.
- 4) Public Policy action to expand or modify the definition of Universal Service in response to changing markets and technology, must consider customer demand for services, the cost to society for expansion of the definition and the manner in which such expansion would be funded.
- 5) Presently, universal service is funded through three sources:
 - Explicit state and federal support mechanisms (USF, LINKUP and Lifeline, discounted local service, E911)
 - Implicit support through averaged LEC rate structures and revenue flows from business toll and access services.
 - Government mandated accounting structures (Separations process, capital recovery, accounting mechanisms).
- 6) Current support mechanisms assume a monopoly provider. This assumption is no longer sustainable in the rapidly evolving competitive environment.
- 7) As local competition evolves, LECs must be allowed the freedom to respond which requires:
 - Removal of implicit support mechanisms from rate structure design (price deaveraging, capital recovery reform, etc.)
 - Moving prices more in line with costs, and eliminating subsidies to customers who can afford to pay more for their service.
- 8) The need for and size of a universal service fund is determined by the difference between government mandates for universal service and what would be provided by a competitive marketplace. Support could be of two forms: to low income individuals who cannot afford service and high cost areas where the infrastructure investment would not be economically viable.
- 9) Necessary support mechanisms should be explicitly identified, specifically targeted, and funded in a competitively neutral manner. All telecommunications providers should participate fairly in the funding mechanism.

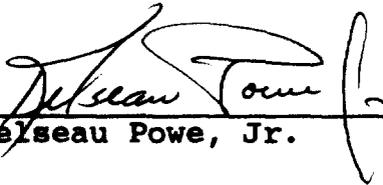
10) An appropriate balance should exist between support that flows to end users, and support that flows to companies to meet the collective needs of customer groups.

11) Universal service also implies the seamless transparent interconnection of the multiple local networks. National guidelines for local network entry and interconnection must be developed to insure continuation of this goal.

These principles embody all the aspects of universal service that must be addressed. An integrated approach must be utilized in order to achieve an effective transition to a competitive environment.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 16th day of December, 1993, I have caused a copy of the foregoing **COMMENTS OF U S WEST COMMUNICATIONS, INC.** be served via first-class United States Mail, postage prepaid, upon the person listed on the attached service list.


Kelseau Powe, Jr.

***Via Hand-Delivery**

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