

Section 1.429(d) of the Commission's Rules³ and Section 405(a) of the Communications Act⁴ require that petitions for reconsideration be filed within 30 days from the date of public notice of the order. The Video Dialtone Order on Reconsideration, which is the subject of Joint Petitioners' petition, was released on November 7, 1994, and published in the Federal Register on December 12, 1994 (i.e., date of Public Notice).⁵ Thirty days from the date of public notice, as defined in Section 1.4(b) of the Commission's Rules,⁶ ended on January 11, 1995. Joint Petitioners did not file their petition until January 12, 1995. Both the Commission's Rules and the Communications Act require that Joint Petitioners' petition be dismissed as untimely.

If for some unforeseen reason, the Commission declines to grant this Motion to Dismiss and permits Joint Petitioners to go forward with their petition,

Reconsideration"), appeals pending sub nom. NCTA v. FCC, Nos. 94-1750, et al., (D.C. Cir. pet. for rev. filed Dec. 15, 1994).

³47 CFR § 1.429(d).

⁴47 USC § 405(a).

⁵59 Fed. Reg. 63909 (Dec. 12, 1994).

⁶47 CFR § 1.4(b).

U S WEST reserves the right to comment on the substantive provisions of the petition at that time.

Respectfully submitted,

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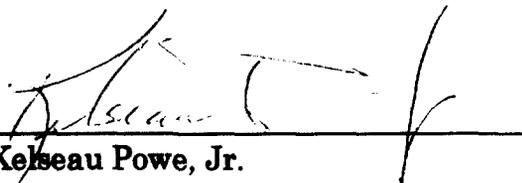
Its Attorney

Of Counsel,
Laurie J. Bennett

February 9, 1995

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 9th day of February, 1995, I have caused a copy of the foregoing **MOTION TO DISMISS** to be served via first-class U.S. Mail, postage-prepaid, upon the persons listed on the attached service list.


Kelseau Powe, Jr.

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