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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

96-159

In the Matter of)
)
Application of U S WEST Communications, Inc.)
for Waiver of LATA Area Boundaries To Provide)
Two-Way, Non-Optional Extended Area Service)
Between Its Albany Exchange and the Scio)
Exchange in Portland, Oregon)

Received

NOV 0 6 1996

Common Carrier Bureau
Network Service Division
Office of the Chief

PETITION

U S WEST Communications, Inc. ("USWC") hereby files this Petition for a limited waiver of the local area and transport area ("LATA") boundaries solely for purposes of providing two-way, non-optional Extended Area Service ("EAS") between certain exchanges in Oregon.

I. SUMMARY

The Oregon Public Utility Commission has ordered USWC and Scio Mutual Telephone Association (or "Scio") to provide two-way, non-optional EAS across a LATA boundary: between USWC's Albany exchange in the Eugene LATA and the Scio exchange in the Portland LATA in Oregon ("Scio exchange"). The Albany exchange and the Scio exchange are approximately twelve miles apart.

Section 271(b)(1) of the Telecommunications Act of 1996¹ prohibits USWC from providing in-region interLATA services² in Oregon, with certain exceptions,³ until the Federal Communications Commission ("Commission") approves an application authorizing USWC to provide such services.⁴ However, until USWC receives authorization, the Commission also possesses authority under Section 3(a)(43) of the Act to grant a limited waiver of the LATA boundary which will permit USWC to comply with the Order issued by the Oregon Public Utility Commission. USWC's Petition is based upon that authority.

II. MODIFICATION OF FINAL JUDGMENT

On August 24, 1982, the United States District Court for the District of Columbia ("Court") entered the Modification of Final Judgment (the "Decree").⁵ The Decree required AT&T Corp. ("AT&T") to divest its ownership of the Bell Operating Companies ("BOC"). The parties submitted a Plan of Reorganization which was

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, 86 § 271(b)(1) (or "Act").

² Section 3(a)(42) of the Act defines "InterLATA Service" as "telecommunications between a point located in a local access and transport area and a point located outside such area." Id. at 59 § 3(a)(42).

³ Section 271(b)(3) of the Act permits USWC to provide certain incidental interLATA services originating in any state after the date of enactment of the Act. Id. at 86 § 271(b)(3).

⁴ Id. at 89 § 271(d)(3).

⁵ United States v. Western Electric Co., 552 F. Supp. 131 (D.D.C.), aff'd sub nom. 460 U.S. 1001 (1983).

approved by the Court ("POR Order").⁶ The plan divided all of the BOCs' territory in the United States into geographically-based exchange areas called LATAs. Section II(B)(1) of the Decree prohibited the BOCs from providing interexchange telecommunications services, which were defined as telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas or a point outside an exchange area.

However, pursuant to Section VII and VIII(C) of the Decree and in accordance with procedures established by the Court, the Court granted waivers of some of the Decree restrictions. The Court granted limited waivers to permit the BOCs to comply with state commission orders which required the BOCs to provide two-way, non-optional EAS between some exchanges in adjacent LATAs.

The Telecommunications Act of 1996 became law on February 8, 1996. Section 601(a)(1) of the Act terminated any further application of the Decree on a prospective basis from and after February 8, 1996.⁷ This terminated the Court's authority to grant any additional waivers to the BOCs for interLATA EAS ordered by state commissions.

III. LATA BOUNDARIES UNDER THE ACT

⁶ United States v. Western Electric Co., 569 F. Supp. 990 (D.D.C. 1983).

⁷ Act, 110 Stat. at 143 § 601(a)(1).

Section 3(a)(43)(B) of the Act defines a LATA as a "contiguous geographic area established or modified by a Bell operating company after such date of enactment [of the Telecommunications Act of 1996] and approved by the Commission."⁸ USWC requests the Commission, pursuant to the Commission's authority under Section 3(a)(43), to grant a limited waiver of the LATA boundary solely for purposes of allowing USWC to comply with the Order of the Oregon Public Utility Commission to provide EAS between USWC's Albany exchange and the Scio exchange.

IV. EAS BETWEEN USWC'S ALBANY EXCHANGE AND THE SCIO EXCHANGE

USWC requests approval by the Commission to provide two-way, non-optional EAS between USWC's Albany exchange and the Scio exchange in Portland, Oregon. The proposal to provide EAS between these exchanges was initiated upon the petition of subscribers of Scio. The total number of access lines in the Scio exchange is approximately 1,600.

The Oregon Public Utility Commission has determined that a community of interest exists between these exchanges and that the proposed EAS route is necessary to meet the critical needs of the customers of Scio.⁹

⁸ Id., 110 Stat at. 59 § 3(a)(43)(B).

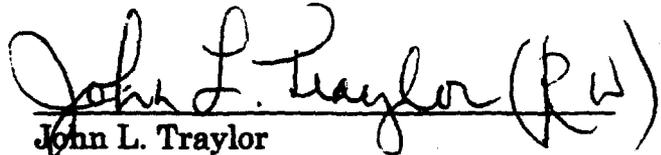
⁹ Order, No. 96-139, In the Matter of the Petition for Extended Area Service by the Scio Telephone Exchange, Docket UM 751 (Jun. 6, 1996). A copy of the Order is attached as Exhibit A.

Wherefore, USWC requests that the Commission approve the Petition and grant a waiver of the affected LATA boundaries solely for purposes of permitting USWC to comply with the Order of the Oregon Public Utility Commission to provide two-way, non-optional EAS between USWC's Albany exchange and the Scio exchange served by Scio Mutual Telephone Association.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:



John L. Traylor
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2798

Its Attorney

Of Counsel,
Dan L. Poole

November 4, 1996

EXHIBIT A

COPY

ORDER NO. **96-139**
ENTERED **JUN 06 1996**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 751**

*Rec'd
6/11/96*

In the Matter of the Petition for)
Extended Area Service by the SCIO) **ORDER**
TELEPHONE EXCHANGE.)

SUMMARY

In this order, the Commission adopts the finding that a community of interest exists between the Scio and Albany telephone exchanges, and further finds that the interLATA EAS route is necessary to meet the critical needs of customers in the Scio exchange. These findings convince the Commission that U S WEST Communications, Inc., (U S WEST) should pursue a waiver of the LATA restriction to allow the interexchange route. Uncertainty exists, however, as to how the Federal Communications Commission (FCC) will process such waiver requests in light of the recently enacted Federal Telecommunications Act of 1996. Accordingly, the Commission reopens docket UM 189(1) for further input from the parties on this issue.

BACKGROUND

The Petition

On March 22, 1995, the Scio Mutual Telephone Association (Scio or petitioners) petitioned the Commission for extended area service (EAS) across the LATA boundary to the Albany telephone exchange.¹ At the time of the filing, the Commission's EAS policy did not express specific guidelines relating to the provision of EAS between LATAs. Consequently, the Commission held Scio's petition in abeyance while it initiated a separate investigation in docket UM 189(1) to examine issues surrounding interLATA EAS.

¹ LATA is an acronym that stands for Local Access and Transport Area. The term refers to long distance calling regions created pursuant to the divestiture of the Bell system. The Scio exchange is located in the Portland LATA and the Albany exchange is located in the Eugene LATA.

Commission Policy

As a result of the UM 189(1) investigation, the Commission adopted new standards and procedures for interLATA EAS petitions in Order No. 95-1168. In that order, the Commission recognized that requests for interLATA EAS pose different problems than intraLATA requests. First, the Commission noted that the interLATA toll market is much more competitive than the intraLATA toll market, and that new interLATA EAS routes will eliminate a toll service provided by numerous, unregulated carriers. Second, the Commission added that U S WEST and GTE are generally prohibited from carrying telephone calls across LATA boundaries and that, under policies in effect at that time, new interLATA EAS routes required approval from Judge Harold Greene, a federal judge who presided over the AT&T divestiture litigation.

Because of these unique characteristics, the Commission adopted a two-part procedure for processing interLATA EAS petitions. As with other EAS requests, the Commission first determines whether a community of interest exists between the exchanges to warrant the elimination of toll calling. To determine a community of interest, the Commission uses three objective criteria that rely on readily available geographic and telephone usage information. These criteria require that: (1) the petitioning exchange and target exchange(s) have contiguous exchange boundaries; (2) an average of four toll calls per access line per month be placed between the contiguous exchanges; and (3) more than 50 percent of customers in the petitioning exchange make at least two toll calls per month to the target exchange(s). See Orders No. 89-815 and 92-1136.

In addition to meeting those criteria, petitioners seeking interLATA EAS must also demonstrate that the proposed interLATA route is necessary to meet the critical needs of the customers because there is no adequate intraLATA alternative. The Commission adopted this additional requirement in part to reflect the competitive nature of the interLATA toll market and to help preserve competitive markets whenever possible. In evaluating the critical needs of customers, the Commission considers the customers' access to emergency, dental, medical, professional, business, educational and governmental services.

If a petition satisfies those two tests, the Commission will then issue an order directing U S WEST or GTE to pursue a waiver from Judge Greene. To support the request, the order will contain information explaining the Commission's policy regarding its measured EAS option and an assessment of the impact the new interLATA EAS route will have on competition.

Federal Legislation

Shortly after the Commission adopted the new interLATA EAS procedures in Order No. 95-1168, the United States Congress passed the Telecommunications Act of 1996. The Act, signed into law on February 8, 1996, supersedes the obligations and restrictions brought about by the AT&T divestiture. 47 USC Sec. 601(a)(1), (e).

ORDER NO. **96-13**

Consequently, the interLATA EAS waiver procedures before Judge Greene, as described in Order No. 95-1168, no longer exist.

The Act does not expressly provide any procedures for the waiver of that restriction to allow interLATA EAS. *See* 47 USC Sec. 271(a). The Act does allow Bell operating companies to seek FCC approval to modify LATA boundaries. *See* 47 USC Sec. 15.3(r)(43). It is unclear, however, whether the FCC will allow a limited waiver of the new interLATA restriction for EAS purposes without actually changing the LATA boundary.

Due to this federal legislation, the Commission is unsure as to if and how the FCC will process a LATA waiver request for EAS. Rather than further delay these proceedings, however, the Commission will proceed with its community of interest and critical needs determinations. To address the procedural uncertainties, the Commission also reopens UM 189(1) for further investigation. The parties to that proceeding are invited to submit comments, within three weeks from the date this order is issued, on the following topics:

1. Under the Telecommunications Act of 1996, do U S WEST and GTE need FCC approval to provide interLATA EAS services?
2. Assuming U S WEST and GTE must obtain some form of FCC approval, are there FCC procedures currently in place that would allow the processing of a request for such approval?
3. If such FCC procedures exist, what are they?
4. If no such FCC procedures currently exist, may they exist in the near future?
5. Assuming such FCC procedures do not currently exist, what would be the consequence of the Commission directing U S WEST immediately to seek any FCC approval necessary for providing services on the Scio-Albany route proposed in UM 751?

Parties may submit reply comments within one week after the opening comments are served.

Based on the record in this matter, the Commission makes the following:

FINDINGS OF FACT

The Scio and Albany telephone exchanges lie in the northwest corner of Linn County. Scio, the petitioning exchange, consists of approximately 1,500 customers and is located in the Portland LATA. It currently has EAS to the Lyons and Stayton telephone exchanges and is scheduled to receive EAS to the Salem exchange in October 1996. The target exchange, Albany, consists of slightly more than 25,000 access lines and lies in the Eugene LATA. It is served by U S WEST.

Professional and Business Services

The Scio exchange is a rural logging and agricultural area served by the Scio Mutual Telephone Association. The exchange area lies south of the lower reaches of the Santiam River and includes one incorporated city, Scio, population 650.

Scio is a small town that cannot support the commercial and professional services required to meet the basic needs of area residents. Currently, Scio has a bank, two small grocery stores, a hardware store, and a tavern. The area also lacks employment opportunities. Aside from independent farming and logging activities, jobs are limited to the Scio High School, Best Heating and Cooling, Powell Scales, and Mid-Willamette Precut.

Due to the lack of local services and employment opportunities, Scio exchange residents depend heavily on neighboring communities to meet their basic needs. The city of Stayton, located about eight miles north of Scio and within the Portland LATA, is the closest town that offers some commercial, professional and retail services, as well as employment opportunities. Stayton offers several grocery stores, video rental shops, a sporting goods store, a variety of fast food restaurants, and other retail shops. The city also offers some bookkeeping, banking, legal, and other professional services. With a population of just 5,500, however, Stayton is also a relatively small city with limited offerings for area residents.

As a result, most Scio residents rely on larger surrounding communities. Within the Portland LATA, Scio residents can obtain essential goods and services in Salem. Salem is a large metropolitan area that offers a wide variety of professional, commercial and retail services. Given its size, it also offers numerous employment activities. Many Scio exchange residents, however, do not consider Salem to be part of their extended community. Salem lies almost 30 miles from Scio and is not directly accessible by road. Scio residents must either drive northeast through Stayton before heading west on U.S. Route 22, or head due west to Jefferson before turning north on Interstate Route 5. Salem also lies in a different county than Scio.

Due to those reasons, Scio exchange residents more heavily rely on Albany, located approximately 12 miles from Scio. Like Salem, Albany is also a relatively large

ORDER NO. **96-13**

city that offers a wide variety of services and employment opportunities. However, it also serves as the county seat for Linn County. Therefore, many Scio residents prefer to use Albany not only for its proximity, but also because of the essential governmental services offered in the city.

Albany also offers some goods and services not available in Salem. As a rural farming and logging community, Scio depends heavily on a variety of agriculturally related businesses. Two major farm implement dealers are based in Albany, and do not have offices in Salem. Similarly, farm extension agents for the Scio area are located only in Albany.

Scio residents also rely on the Albany area for employment. A majority of local working residents commute to that town to work at county government offices, the Albany Hospital, the Target Distribution Center, the Willamette Industries plant, or other industrial and commercial businesses.

Educational Services

The Scio School District 95-C is served by the Linn County Educational Service District (ESD) in Albany. The ESD provides support for educational, technical, and business services. Seventy percent of the Scio School District's phone calls are placed to Albany.

Many Scio exchange residents attend classes at the Linn-Benton Community College in Albany. Young children in Scio attend the Scio Preschool Co-op, which is a program sponsored by the Linn-Benton Community College.

Governmental Services

As stated above, the Scio exchange lies in Linn County and is served by county government offices in Albany. These include the County Sheriff's office, District and Circuit Court offices, District Attorney's office, Planning and Building Departments, County Tax Department, County Clerk's office, and the Public Health Department, including the Women, Infant and Children (WIC) program.

Scio exchange residents also rely on state government offices in Albany. These include the Children Services Division, Department of Motor Vehicles, and the State Police.

Emergency Services

Scio exchange residents are served by the Scio Rural Fire Protection District. The District is comprised of three stations, one of which is located within the Albany exchange. The District's dispatch center is also located in Albany, and most medical emergencies are

transported to the Albany Hospital. The District is also a participating member of the Linn County Fire Defense Board and the Linn County Fire Defense System.

The city of Scio has contracted with the Linn County Sheriff's office to provide local police service. As a result, 911 dispatches and other calls for police service are dispatched to Albany.

Medical and Dental Services

The Scio calling area offers no medical and dental providers. Some exchange residents seek primary medical and dental care in Stayton, where a handful of providers practice. Most residents, however, seek primary, as well as specialized care in either Salem or Albany, where a greater number of physicians and dentists practice. Both cities also offer a hospital; however, most residents obtain emergency medical care in Albany due to its much closer proximity.

Calling Pattern Data

On February 14, 1996, Michael Grant, an Administrative Law Judge (ALJ) for the Commission, issued a ruling that a community of interest exists between the Scio and Albany telephone exchanges. Based on Staff's testimony, the ALJ found that: (1) the exchanges are contiguous, in that they share a common boundary; (2) an average of 9.70 toll calls per line per month were placed between the exchanges; and (3) 65 percent of the customers in the Scio exchange made at least two toll calls per month to the Albany exchange. A copy of Staff's testimony is attached as Appendix A and incorporated by reference.

OPINION

Community of Interest

The Commission adopts the conclusions of the ALJ that a community of interest exists between the Scio and Albany telephone exchanges. The calling pattern data and geographic information submitted in this docket satisfy the Commission's objective criteria for a community of interest.

Critical Needs

The Commission concludes that the interLATA route is necessary to meet the critical needs of the Scio exchange customers. Because of geographic proximity and direct road access, the Scio area has become heavily dependent on the city of Albany for essential goods and services. Albany, located just 12 miles from the city of Scio, is a relatively large urban center that offers Scio exchange residents reasonable access to a variety of professional and business services, as well as retail and other commercial

activities. It also offers some goods and services not available in other neighboring communities, such as the major farm implement dealers.

In addition, Albany is the county seat of Linn County and, as such, provides essential governmental services to Scio exchange residents. These services include aspects of all levels of education, from pre-school to college, social and welfare programs, building permits, county inspectors, court offices, property tax, and county health. Albany also provides emergency and medical services to Scio. The Sheriff's Department in Albany provides local police service for the city of Scio under contract. The Scio Rural Fire Protection District has a station located within the Albany exchange and works cooperatively with other fire protection districts in Linn County. Medical emergencies are routinely dispatched to the county hospital in Albany, and a large percentage of Scio exchange residents seek medical and dental services from the numerous providers that practice in Albany.

The Commission further concludes that the critical needs of Scio exchange residents are not reasonably met by the two intraLATA alternatives, the Stayton and Salem telephone exchanges. The Stayton exchange is much smaller than Albany and has limited dental, medical, professional, business, and retail services. The Salem exchange is larger, but is located some 30 miles from Scio and is not directly accessible to area residents. Moreover, these two exchanges lie in another county and, as a result, cannot provide many of the essential services required by Scio exchange residents. Under the circumstances, the Commission finds that neither exchange can readily satisfy the critical needs of Scio exchange customers.

CONCLUSIONS

The Commission concludes that a community of interest exists between the Scio and Albany telephone exchanges. The Commission further concludes that the proposed interLATA route is required to meet the critical needs of the Scio exchange customers due to the lack of an intraLATA alternative.

Supporting Information

As noted above, the Commission concluded in Order No. 95-1168 that any order directing U S WEST to seek a waiver should also contain additional information to support the request. While the interLATA EAS waiver procedures before Judge Greene no longer exist, and it is unclear as to what standards of procedures the FCC may adopt for handling such requests, the Commission nonetheless provides the following information in the event that the FCC adopts similar standards for review.

Measured EAS Service:

In its generic investigation into the provision of EAS in Oregon, the Commission concluded that EAS must be mandatory, two-way service with a seven-digit dialing

pattern, to be offered as part of local service. The Commission also concluded that EAS rate tariffs must conform with certain rate design criteria, including the availability of a measured EAS rate for all routes. See Order No. 89-815. When investigating the provision of EAS across LATA boundaries, Staff noted that the Commission's measured rate option requirement may create a potential problem, as the United States District Court may consider it to be the equivalent to the prohibited "optional EAS." Judge Greene described "optional EAS" as follows:

These arrangements give customers the option of paying an additional flat fee to obtain an extended local calling area, thus enabling those who opt for this service to make what otherwise would be toll calls without incurring an additional charge. Unlike non-optional EAS, optional EAS is provided primarily over toll switching routes instead of direct end office trunks. Thus, because these services are provided though the use of essentially interexchange facilities, interexchange carriers are in as good a position efficiently to carry these calls as are Operating Companies. *United States v. Western Elec. Co. Inc.*, 569 F Supp 990, 1002 (D.D.C. 1983)

The Commission does not believe that its measured-service policy is the equivalent of "optional EAS," as Judge Greene has defined that phrase. First, Oregon EAS is mandatory local service, and a customer cannot opt out of EAS service and use interexchange carriers. While EAS in Oregon often involves the use of indirect tandem switched circuits rather than direct end office trunks, it is not provided over toll switching routes. Because no interexchange carrier is used, EAS in Oregon is not a toll service.

Second, the measured service option was not designed to allow price shopping between local flat rate service and interexchange carriers. Rather, it was designed to avoid the potential inequity created by flat rate EAS whereby low-volume users support the high volume EAS users. Accordingly, the measured EAS option was created to address the inequity of flat rate EAS.

Impact on Competition:

In reviewing a waiver request, the United States District Court considered, among other things, whether the proposed route would have an adverse impact on interexchange competition. The Commission acknowledges that all EAS conversion reduces interexchange toll calling and, at least, theoretically impacts interexchange competition. Given the small size of the Scio exchange, however, the Commission concludes that a new EAS route realistically would have little adverse impact on interexchange competition between the Portland and Eugene LATAs.

ORDER

IT IS ORDERED that:

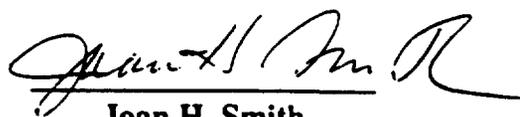
1. A community of interest exists between the Scio and Albany telephone exchange sufficient to warrant the elimination of toll calling.
2. The proposed interLATA route is necessary to meet the critical needs of the Scio exchange customers due to the lack of an intraLATA alternative.
3. The Commission reopens UM 189(1) for the limited purpose of addressing LATA waiver procedures for interLATA EAS under the Telecommunications Act of 1996. The parties are directed to submit comments in accordance to the terms of this order.

Made, entered, and effective JUN 06 1996


 Roger Hamilton
 Chairman


 Ron Eachus
 Commissioner




 Joan H. Smith
 Commissioner

A party may request reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of this order. The request must comply with the requirements of OAR 860-14-095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-13-070(2). A party may appeal this order to a court pursuant to ORS 756.580.

UTILITY DIGEST UPDATE SHEET

(I:\digest\update.sht)

Case Name (full and/or alias)
SCIO EAS

Docket No. UM 751

Parenthetical Description (optional)

Order No. _____ (support unit)

Please circle all appropriate headings and subheadings below.

DIGEST TOPICS

PROCEDURE & PRACTICE

- Attorney Fees
- Appeal
- Burden of Proof
- Declaratory Orders
- Discovery
 - Failure to Respond
- Document Filing
 - Filed when received
- Dormancy
- Evidence
- Emergency Proceedings
- Estoppel/Collateral/Res Judicata
- Ex Parte Communications
- Hearing and Rehearing
 - Location
 - Reconsideration allowed after appeal filed
- Interrogatories
 - Not bound by answers
- Investigations
- Jurisdiction
 - Abandoning Service
 - Adequacy of Service
 - Allocation of Territory
 - Appeal to Circuit Court
 - Competitive Services
 - Entities Subject to Regulation
 - Exemptions
 - Mootness
 - Public Utilities
 - PUD's/Cooperatives/Municipals
 - Specific Services
 - Subject Matter
 - Telecommunications Defined
 - Telecommunications Service
 - Transfers/Mergers/Consolidation
- Notice and Appearance
- Parties
 - Defendant Defined
 - Intervention
 - Party and Standing
- Penalties
- Protective Orders
- Scheduling
- Scope of Proceeding
- Settlements/Stipulations/Mediations
- Rulemaking
- Waiver

CONSUMER COMPLAINTS

- Billing Disputes
 - Billing Date
 - Divorced Spouses

- Estoppel
- Mileage Charges
- Overbilling
- Retroactive Rate Adjustment
- Radio Common Carriers
- Underbilling
- Collection
 - Conversion from One Account to Another
 - Partial Payment
 - Proof of Payment
 - Time Payment Agreement
- Discrimination
 - Generally
 - Radio vs. Cellular
- Disconnection
 - Medical Certificates
 - Procedures
- Gas Line Extension
- Jurisdiction
 - Content of Telephone Directory
 - Contractual Disputes
 - Debt Collection Practices
 - Discrimination
 - Easement Disputes
 - Pay Phone Revenue Information
 - Peoples Utility District
 - Pole Attachment
 - Service Disputes
 - Usury Laws
- Meter Error
- Pay Phones
 - Fraudulently Placed Calls
 - Revenue Information
 - Right to Serve Location
- Rates
 - Deposit
 - Flat vs. Measured
- Service
 - Applicant vs. Customer Status
 - Cash Payment Stations
 - Call Blocking
 - Commercial and Political Accounts
 - Data Transmission
 - Discontinuation
 - Impact from Unregulated Operations
 - Inside Wire Repair
 - Nonessential Services/RCC
 - Notice of New Rates
 - Propane Subsidy
 - Providing Unauthorized Service
- Public Access Lines
- Receipt of Unrequested Service
- Refusal to Provide to Unauthorized Reseller
- Resale of Centrex-type
- Telephone Directories
 - Community Services listing
 - Inclusion of Prices
 - Provision of Foreign Directories
 - Unlisted Numbers
 - Yellow Pages
- Utility Duties and Functions
 - Investigate Billing Problems
 - Pole Attachment/Use by 3rd party
 - Power Purchase from QF
 - Provide information on service options
 - Refusal to Open Account in Individual's Name
- ENERGY
- Automatic Adjustment Clauses
 - Energy Cost Clauses
 - Gas Costs Adjustment Clauses
- Cogeneration
 - Avoided costs in QF contracts
 - Recovery of Power Purchase
 - PURPA Rescissions
 - Rates
 - Required Purchases from QF
 - Separate Customer Class
- Competitive Bidding
- Conservation
 - Accounting for conservation programs
 - Cost-Effective conservation
 - Cost-Effectiveness levels for conservation
 - Decoupling
 - Demand-Side Management
 - Fuel Switching
 - Least Cost Planning
 - Performance-based Incentives
 - Program Expenses
 - Weatherization Programs
- Deferred Accounting
 - Property Taxes
- Definitions
 - Conservation
 - Decoupling
 - Decommissioning
 - Fuel Switching
 - Least Cost Planning

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF TESTIMONY

OF

CELESTE G. HARI

UM 751

**Extended Area Service
Phase I**

Community of Interest Evaluation

**IN THE MATTER OF:
Petition for Extended
Area Service by the
SCIO Exchange.**

JULY 14, 1995

Case: UM 751
Witness: Celeste G. Hari

**PUBLIC UTILITY COMMISSION
OF OREGON**

STAFF EXHIBIT 1

**Extended Area Service
Phase I
Community of Interest Evaluation**

**DIRECT TESTIMONY
Regarding Community of Interest
for the SCIO Exchange**

1 Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS
2 ADDRESS.

3 A. My name is Celeste Hari. I am employed by the Public Utility
4 Commission of Oregon (PUC) as an Economist in the Utility Program.
5 My business address is 550 Capitol St. NE, Salem, OR 97310.

6 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND
7 EXPERIENCE.

8 A. See Exhibit Staff/2, Hari/3.

9 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10 A. This testimony presents staff's Phase I findings for the Extended Area
11 Service (EAS) request submitted by the Scio Mutual Telephone
12 Association for EAS in the Scio exchange. The petition was filed on
13 March 24, 1995 and requests EAS for the interexchange/interLATA
14 route between Scio and Albany.

15 Q. WHAT IS PHASE I?

16 A. In Phase I of an EAS investigation, the PUC evaluates whether a
17 community of interest exists between the petitioning exchange and the
18 other exchanges listed on an EAS petition. In Order No. 89-815, the
19 PUC established three objective community of interest criteria. One of
20 the criteria was subsequently revised in Order No. 92-1136.

21 The objective criteria make use of readily available geographic
22 and telephone usage information. The necessary geographic
23 information is available on the telephone exchange maps which local
24 telephone companies routinely file with the PUC. Staff sends data
25 requests to the serving local telephone companies to obtain information
26 about telephone usage.

1 Q. PLEASE DESCRIBE THE THREE OBJECTIVE COMMUNITY OF
2 INTEREST CRITERIA.

3 A. The criteria are:

4 (1) Geographic Proximity. The petitioning exchange must be
5 contiguous with other exchanges listed in the petition.
6 Exchanges are contiguous if they share a common boundary, or
7 if they are connected indirectly via one or more intervening
8 exchanges. In the latter instance, the exchanges must be
9 connected by an unbroken sequence of exchange boundaries,
10 and there must be a community of interest between each
11 intervening pair of exchanges. See Order No. 90-1556.

12 (2) Calling Volume. There must be a minimum of four toll calls per
13 access line per month in either direction between the petitioning
14 exchange and the other exchanges listed in the petition. See
15 Order No. 89-815.

16 (3) Customer Distribution. More than fifty percent of customers in
17 the petitioning exchange must make at least two toll calls per
18 month to other exchanges listed in the petition. See Order No.
19 92-1136.

20 Q. HOW MANY OF THE OBJECTIVE CRITERIA MUST BE MET IN
21 ORDER TO ESTABLISH THAT THERE IS A COMMUNITY OF
22 INTEREST BETWEEN EXCHANGES?

23 A. All three objective criteria must be met.

24 Q. IF THE PETITIONING EXCHANGE DOES NOT MEET ALL THREE
25 OBJECTIVE CRITERIA, COULD THE EXCHANGE STILL QUALIFY
26 FOR EAS?

- 1 A. Yes. If one or more of the three objective criteria are not met for a
2 particular interexchange route, the PUC will issue a proposed order
3 which dismisses that portion of the EAS petition. However, Order No.
4 89-815 states, "Petitioners will be given an opportunity to establish
5 through demographic, economic, financial, or other evidence that a
6 community of interest exists." See Order No. 89-815, p. 39.
- 7 Q. IF IT IS ESTABLISHED THAT THERE IS A COMMUNITY OF
8 INTEREST FOR A PARTICULAR INTEREXCHANGE ROUTE, WHAT
9 IS THE NEXT STEP?
- 10 A. If it is established that there is a community of interest, the investigation
11 enters Phase II, the tariff analysis phase. In Phase II, the PUC
12 considers whether to adopt rate proposals submitted by the serving local
13 telephone companies. In addition, the PUC determines "whether the
14 proposed EAS service is in the public interest". See Order No. 89-815,
15 p. 40.
- 16 Q. WHAT LOCAL TELEPHONE COMPANY OR COMPANIES SERVE
17 THESE EXCHANGES?
- 18 A. The Scio exchange is served by Scio Mutual Telephone Association.
19 The Albany exchange is served by U S WEST, Inc.
- 20 Q. WAS A STAFF REQUEST SENT TO SCIO MUTUAL TELEPHONE
21 ASSOCIATION REQUESTING CALLING DATA?
- 22 A. Yes. In response to the staff request, Scio Mutual Telephone
23 Association provided monthly telephone usage data based on an
24 average of 1507 customers and 1623 lines for the following period:
25 October 1994 - March 1995.
- 26 Q. DID U S WEST RECEIVE A SIMILAR STAFF REQUEST?

1 A. Yes. However, U S WEST, Inc. did not formally respond to the Staff
2 request for information.

3 Q. WHAT WAS U S WEST'S INFORMAL RESPONSE TO THE STAFF
4 REQUEST?

5 A. Through telephone conversations with the company and from a
6 response to a Staff request in another interLATA EAS docket, U S
7 WEST has indicated that the company does not have the data available
8 to respond. Since the EAS request is crossing LATA boundaries, U S
9 WEST does not carry the calls, but rather passes them off to an
10 interexchange carrier and does not track those calls.

11 Q. WHY IS STAFF SUBMITTING TESTIMONY WITHOUT THE DATA
12 FROM U S WEST?

13 A. At a prehearing conference held June 28, 1995, Scio Mutual Telephone
14 Association asserted that the data supplied by the company was
15 sufficient enough to complete a community of interest study. Staff
16 considered the assertion and determined that it was appropriate to
17 submit Staff testimony based on the data supplied by Scio Mutual. The
18 data from Scio Mutual appeared to meet the community of interest
19 criteria on its own. Consequently, any data supplied by U S WEST
20 would not have changed the community of interest determination.

21 Q. DOES THE SCIO EXCHANGE CURRENTLY HAVE EAS TO ANY
22 OTHER EXCHANGE?

23 A. Yes. The Scio exchange currently has EAS with the Lyons and Stayton
24 exchanges.

25 Q. DOES THE ALBANY EXCHANGE CURRENTLY HAVE EAS TO ANY
26 OTHER EXCHANGE?

1 A. Yes. The Albany exchange currently has EAS with the Corvallis,
2 Jefferson, Lebanon, and Shedd exchanges.

3 Q. HAVE YOU FOUND A COMMUNITY OF INTEREST BETWEEN THE
4 SCIO EXCHANGE AND THE ALBANY EXCHANGE?

5 A. Yes. I recommend that the Commission find a community of interest
6 between the Scio exchange and the Albany exchange based on the
7 data supplied by Scio Mutual Telephone Association.

8 Q. WHAT ARE YOUR FINDINGS REGARDING THE FIRST COMMUNITY
9 OF INTEREST CRITERION?

10 A. According to exchange maps on file with the PUC, the Scio exchange
11 has a common boundary with the Albany exchange. Therefore, the
12 petition meets the geographic proximity criterion. Exchange boundaries
13 are shown in Exhibit Staff/2, Hari/2.

14 Q. WHAT ARE YOUR FINDINGS REGARDING THE SECOND
15 COMMUNITY OF INTEREST CRITERION?

16 A. According to the second criterion, there must be at least four toll calls
17 per access line per month from Scio to Albany or from Albany to Scio.

18 The average number of toll calls per line per month from Scio to
19 Albany over the six month period was 9.7. The average calls per line
20 per month from Albany to Scio was not provided by U S WEST. See
21 Exhibit Staff/2, Hari/1. Since an average of 9.7 calls per line per month
22 from Scio to Albany exceeds the PUC's minimum standard of 4 toll calls
23 per line per month, the Scio petition meets the calling volume criterion.

24 Q. WHAT ABOUT THE THIRD COMMUNITY OF INTEREST
25 CRITERION?

- 1 A. According to the third criterion, more than 50% of customers in Scio
- 2 must make at least two toll calls per month to Albany. Over the six
- 3 month period, the average percentage of customer accounts that made
- 4 at least two toll calls to Albany per month was 65%. See Exhibit Staff/2,
- 5 Hari/1. Since an average of 65% exceeds the PUC's minimum
- 6 standard of 50%, the Scio petition meets the customer distribution
- 7 criterion.
- 8 Q. PLEASE SUMMARIZE YOUR FINDINGS.
- 9 A. The interexchange route between the Scio and Albany exchanges
- 10 meets the community of interest criteria set forth in Order No. 89-815
- 11 and Order No. 92-1136.
- 12 Q. DOES THIS CONCLUDE YOUR TESTIMONY?
- 13 A. Yes.
- 14 \
- 15 \
- 16 \
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- 20 \

Case: UM 751
Witness: Celeste G. Hari

**PUBLIC UTILITY COMMISSION
OF OREGON**

STAFF EXHIBIT 2

**Extended Area Service
Phase I
Community of Interest Evaluation**

**EXHIBITS
Supporting
Direct Testimony**