

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC UTILITIES COMMISSION

In the Matter of US West Com-) Application No. C-1830
munications, Inc., filing its no-)
tice of intention to file Section)
271(c) application with the FCC) Ruling on Motions
and request for Commission to)
verify US West compliance with)
Section 271(c).) Entered: December 28, 1998

BY THE HEARING OFFICER:

This order disposes of three motions that have been filed in Application No. C-1830 since the November hearing on the application. At the hearing, staff economist Buster Griffing questioned US West witness Michael Williams about some of the statistical assumptions in his testimony. Mr. Griffing indicated that he would have liked to have seen US West's list of standard deviations so that staff could conduct its own statistical analysis of certain US West data.

All interested parties to the proceeding were afforded an opportunity to file post hearing briefs on December 7, 1998. Along with its brief and proposed findings of fact, US West filed a "Notice of Filing" which included a list of standard deviations, as well as various other updates in information. AT&T, MCI, and Sprint (intervenors) also filed briefs and a Joint Proposed Finding of Facts.

On December 17, 1998, intervenors filed a "Motion to Strike US West's December 7 Filing." US West also filed a motion on December 17 asking that the Commission "Strike All References to Irrelevant Rulings From Other States" that were included in intervenor's December 7 filing. On December 21, US West filed a "Motion to File Additional New Information" which, in essence, provided updates to some of the data in its "Notice of Filing."

O P I N I O N A N D F I N D I N G S

Mr. Griffing's request was narrowly targeted to obtain the list of standard deviations for the data actually presented at the hearing. The purpose for requesting this information was to enable staff to test the significance of US West's data. While US West's "Notice of Filing" did include this list of standard deviations, it also included updates to other information and the standard deviations of the updated information. Intervenors have not had an opportunity to review or question

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any of this new information on the record. Therefore, intervenor's December 17 "Motion to Strike US West's December 7 Filing" should be granted to the extent that all information in the US West "Notice of Filing" should be stricken except the list of standard deviations and "Z" scores for data actually presented at the November hearing on this application. US West's December 21 "Motion to File Additional New Information" also provided updates in information that are not responsive to Mr. Griffing's request. Therefore, that motion should be denied.

At the November hearing, intervenors attempted to introduce orders from other state commissions on questions at issue in this application. At that time, the Commission ruled that these orders were inadmissible. In their briefs and proposed findings of fact, intervenors make reference to orders from other state commissions that should be stricken. Therefore, US West's December 17 "Motion to Strike All References to Irrelevant Rulings From Other States" should be granted to the extent that the following testimony, colloquy, and portions of briefs and proposed findings should be stricken from the record:

- ▶ AT&T Post Hearing Brief at 3, 7-8 nn.10-13, 12 n.32;
- ▶ MCI Post Hearing Brief at 5, n.9; and
- ▶ Joint Proposed Findings of Fact at 24 nn.119, 120.


O R D E R

IT IS THEREFORE ORDERED BY THE HEARING OFFICER that the December 17, 1998 "Motion by AT&T, MCI and Sprint to Strike US West's December 7 Filing" is hereby granted to the extent described above.

IT IS FURTHER ORDERED that US West's December 21, 1998 "Motion to File Additional New Information" is hereby denied.

IT IS FINALLY ORDERED that US West's December 17, 1998 "Motion to Strike References to Irrelevant Rulings From Other States" is hereby granted to the extent described above.

MADE AND ENTERED in Lincoln, Nebraska, this 28th day of December, 1998.


 Commissioner Frank Landis
 Hearing Officer