

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
MTS and WATS Market Structure	)	CC Docket No. 78-72
	)	
Amendment of Part 36 of the	)	
Commission’s Rules and Establishment	)	CC Docket No. 80-286
Of a Joint Board	)	

**ORDER**

**Adopted: October 17, 2001**

**Released: October 18, 2001**

By the Managing Director:

1. In this Order, pursuant to authority delegated to the Managing Director at section 0.231(b) of the Commission’s rules, we make certain technical and non-substantive corrections to the Commission’s Part 36 jurisdictional separations rules to reflect a printing error brought to our attention by US West Communications, Inc. (US West) in a Petition for Technical Corrections.<sup>1</sup> In its Petition, US West notes that the Commission’s July 29, 1989 *Decision and Order* in this docket revised the description of Subcategory 1.1 of Category 1 Exchange Line Cable and Wire Facilities to read as follows:

Subcategory 1.1. – State private lines and state WATS lines. This subcategory shall include all private lines and WATS lines carrying exclusively state traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes ten percent or less of the total traffic on the line.<sup>2</sup>

2. US West notes that, when the revised rule as stated above was published in the Federal Register and adopted into the Code of Federal Regulations, the word “carrying” was misspelled as “carring” and certain text was inadvertently added to the section, so that the rule as published at 47 C.F.R. § 36.154(a) read:

Subcategory 1.1. – State private lines and state WATS lines. This subcategory shall include all private lines and WATS lines carring exclusively state traffic as

<sup>1</sup> 47 C.F.R. § 0.231(b). See *MTS and WATS Market Structure, Amendment of Part 36 of the Commission’s Rules and Establishment of a Joint Board*, Petition of US West Communications, Inc. for Technical Corrections, CC Docket Nos. 78-72 and 80-286 (filed February 16, 2000). US West is now operating as Qwest Communications.

<sup>2</sup> See *MTS and WATS Market Structure, Amendment of Part 36 of the Commission’s Rules and Establishment of a Joint Board*, Decision and Order, CC Docket Nos. 78-72 and 80-286, 4 FCC Rcd. 5660 (1989) (*Decision and Order*).

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well as private lines and WATS lines carrying exclusively interstate traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes ten percent or less of the total traffic on the line.<sup>3</sup>

3. US West asserts that the revision to Subcategory 1.1 adopted by the Commission in 1989 is still frequently cited in state proceedings, and therefore requests that the Commission corrects the language at 47 C.F.R. § 36.154(a). Specifically, US West asks that the Commission correct the language in the Code of Federal Regulations so that it reflects the exact language in the original 1989 *Decision and Order*.

4. Pursuant to the procedure set forth in section 0.231(b) of the Commission's rules, the Commission's Common Carrier Bureau (Bureau) has reviewed the US West petition.<sup>4</sup> As the Commission has not adopted any modification to the rule that originally appeared in the 1989 *Decision and Order*, the Bureau agrees with US West that technical correction of 47 C.F.R. § 36.154(a) is appropriate and has approved this correction. We therefore direct that the current language found in the Code of Federal Regulations at 47 C.F.R. § 36.154(a) be amended to reflect exactly the original language in the 1989 *Decision and Order*. Because the amendment we are making is merely a technical correction that does not alter the substance of the rule, we find, for good cause, that notice and comment under the Administrative Procedure Act is not necessary.<sup>5</sup>

#### ORDERING CLAUSES

5. Accordingly, IT IS ORDERED, pursuant to sections 1-2, 4, 201-205, 215, 218, 220, 229, 254 and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 201-205, 215, 218, 220, 229, 254, and 410, the Administrative Procedure Act, 5 U.S.C. § 533(b)(3)(B), and pursuant to authority delegated to the Managing Director at section 0.231(b) of the Commission's rules, 47 C.F.R. § 0.231(b), that the Petition for Technical Corrections filed by US West, Communications Inc. on February 16, 2000, IS GRANTED.

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<sup>3</sup> 47 C.F.R. § 36.154(a) (emphasis added to highlight misspelled and inadvertently-added language).

<sup>4</sup> 47 C.F.R. § 0.231(b).

<sup>5</sup> See 5 U.S.C. § 533(b)(3)(B).

6. IT IS FURTHER ORDERED that the non-substantive technical correction to the Code of Federal Regulations, specifically at 47 C.F.R. § 36.154(a), as outlined in the Appendix of this Order, IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Andrew S. Fishel  
Managing Director

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**APPENDIX - AMENDED RULES**

Part 36 of Title 47 of the Code of Federal Regulations is Amended to read as follows:

**PART 36 – JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES**

**Subpart B – Telecommunications Property**

1. Section 36.154(a) is amended to read as follows:

(a) \* \* \*

Subcategory 1.1 – State Private Lines and State WATS Lines. This subcategory shall include all private lines and WATS lines carrying exclusively state traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes ten percent or less of the total traffic on the line.

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