

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
U S WEST Communications Inc.)
)
Petition for Waiver of Section)
Part 69.4(b) of the Commission's Rules)

MEMORANDUM OPINION AND ORDER

Adopted: October 28, 1997;

Released: October 28, 1997

By the Chief, Competitive Pricing Division, Common Carrier Bureau:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we grant a request by U S West Communications Inc. (U S West) for waiver of Part 69.4(b) of the Commission's rules¹ to permit the establishment of rate elements for new operator assistance services.

II. U S WEST'S PETITION

2. On October 11, 1996, U S West filed a petition seeking a waiver to establish new rate elements to recover the costs associated with operator assistance services that it plans to offer interexchange carriers (IXCs).² U S West proposes to offer IXCs operator assistance services that will allow completion of interLATA collect, calling card, and billed-to-third-number calls, all of which require either live attendant or automated operator assistance.³ U S West asserts that grant of its petition will serve the public interest by expanding competitive options available to IXCs currently engaged in the provision of operator services or those which are contemplating the initiation of such services.⁴ Moreover, U S West states that the Commission should grant a waiver because it would allow them to recover the costs

¹ 47 C.F.R. § 69.4(b).

² The Common Carrier Bureau released a Public Notice in this proceeding on October 30, 1996. See U S West Petitions Commission for Waiver of Part 69.4(b), Public Notice CCB/CPD 96-27 (October 30, 1996).

³ U S WEST Petition at 1.

⁴ *Id.* at 1.

associated with their operator assistance services from the cost causer.⁵

III. DISCUSSION

3. The Commission's rules may be waived for good cause shown.⁶ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁷ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁸ Waiver is thus appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than strict adherence to the general rule.⁹

4. The Common Carrier Bureau (Bureau) has previously granted requests for waiver of Section 69.4(b) to enable carriers to establish new rate elements for proposed operator assistance services. These rate elements permit carriers to tailor their tariff offerings to the specific service at issue rather than attempting to use existing rate elements designed for other services.¹⁰ In granting those requests, the Bureau found that the local exchange carriers (LECs) that proposed those offerings would bring IXCs and their customers a greater choice of interstate operator services and that such choices would foster competition.¹¹ In addition, the Bureau found that the creation of new rate elements would advance the Commission's access charge regime by enabling carriers to better match relevant costs and rate elements, thereby allowing the LECs to recover the costs of their services from those customers who use them.¹² Finally, the Bureau concluded that it was premature to address cost issues in the waiver requests because none of the LECs had filed tariff transmittals to implement their proposed rate elements.¹³

⁵ *Id.* at 4.

⁶ 47 C.F.R. § 1.3.

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990) (*Northeast Cellular*).

⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (*WAIT Radio*).

⁹ See *Bell Atlantic Telephone Companies*, 9 FCC Rcd. 7868, 7870 (1994) (*Call Completion Services Order*); See also *Northeast Cellular*, 897 F.2d at 1166.

¹⁰ See *Call Completion Services Order*, 9 FCC Rcd 7868 (1994); See also *NYNEX Telephone Companies Petition for Waiver of Section 69.4(b) of the Commission's Rules*, 10 FCC Rcd. 4593, 4594 (1995); *BellSouth Telecommunications, Inc. Petition for Waiver of Section 69.4(b) of the Commission's Rules*, 10 FCC Rcd 3312 (1995) (quoting from the *Call Completion Services Order*).

¹¹ *Id.*

¹² *Id.*

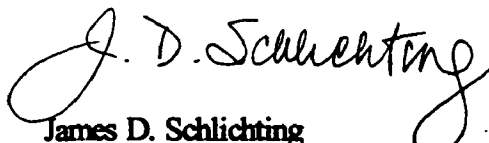
¹³ *Id.*

5. Consistent with the Bureau's previous determinations, we find that U S West has demonstrated the special circumstances necessary to justify the requested waiver. Thus, we find that good cause exists to grant U S West's waiver petition to establish new rate elements for its operator assistance services.

IV. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) and Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, the Petition for Waiver of Section 69.4(b) of the Commission's rules filed by U S West IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION



James D. Schlichting
Chief, Competitive Pricing Division
Common Carrier Bureau