

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>NEIL AND VERONICA KEASLING, KIM AND BECKY HUGHES, FREDA DURBIN, GEORGE AND LAURA MCGARGILL, GEORGE AND CHERYL MEYER, AND ROGER AND BERNICE MEYER,</p> <p style="text-align:center">Petitioners,</p> <p style="text-align:center">v.</p> <p>U S WEST COMMUNICATIONS, INC.</p> <p style="text-align:center">Respondent.</p>	<p style="text-align:center">DOCKET NO. C-99-95</p>
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**ORDER REQUIRING SERVICE PLAN AND PROVIDING NOTICE
OF VIOLATION OF BOARD RULES**

(Issued September 22, 1999)

On April 16, 1999, the Utilities Board (Board) received a written complaint from six customers of U S WEST Communications, Inc. (U S West), relating to the quality of service they are receiving. The customers are located near Imogene, Iowa. The customers complained that for at least the last three years, every time a measurable amount of rain falls in their area, they can hear their neighbors' telephone conversations as if they were all served on "one big party line." They stated that every time they reported the problem to U S West they were told it was

due to moisture in the transformer and a repair was promised, but the problem would be repeated with the next rain.

The Board identified the complaint as C-99-95 and forwarded it on April 20, 1999, to U S West for a response on or before May 10, 1999.

On May 10, 1999, U S West responded with a brief letter. The U S West representative apologized for the customers' service problems and stated the matter had been referred to the area foreman to determine what the problem is and what is needed to correct it. The U S West representative promised to advise the Board and the customer of the resolution once it is determined.

On May 25, 1999, one of the customers contacted Board staff by electronic mail to inquire about the progress on their complaint. The customer also informed the Board of a recently-developed medical situation that left the customer in a wheelchair, making telephone service much more important to the customer. The customer's message was forwarded to U S West with a request for a progress report. U S West never responded.

On June 21, 1999, the Board received another letter from one of the complainants, advising that the service problems continued in May and June, including at least one service outage lasting approximately four days. Board staff forwarded the letter to U S West on June 29, 1999, and requested a follow-up letter within the next two weeks, outlining U S West's plans for resolving the Imogene service issues. Again, U S West failed to respond in any manner.

Finally, on September 7, 1999, the Board received a letter from one of the complainants stating that their telephone service was out from August 26 to September 1, 1999; that one of their neighbors was out of service for an undefined period the week before, and that the problems with outages, line noise, and cross-talk were getting worse.

It appears from the foregoing that U S West has violated a number of Board rules by its actions (or inaction) in this matter. For example, IOWA ADMIN. CODE 199-22.6(3)"a"(3) requires that 100 percent of all out-of-service trouble reports must be cleared within 72 hours. The customers report at least two, and perhaps three, outages that exceeded 72 hours. IOWA ADMIN. CODE 199-22.6(3)"f" requires that if a customer makes repeat trouble reports in a 30-day period, the matter must be referred to an identifiable individual who will be responsible for seeing that a permanent correction is implemented. These customers appear to have made numerous trouble reports within a number of different 30-day periods without any sign that the matter has been referred for permanent correction.

IOWA ADMIN. CODE 199-22.6(3)"g" requires that customer service that is out of order must be restored as promptly as possible. Rule 22.6(3)"a" requires each telephone utility to make all reasonable efforts to prevent interruptions of service; to reestablish interrupted service with the shortest possible delay; and to give priority to restoring service to residential customers who state that telephone service is essential due to an existing medical emergency of the customer, a member of the

customer's family, or a permanent resident of the premises where service is rendered. Rule 22.5(4) requires that all telecommunications circuits must be "properly constructed and maintained to ensure trouble-free service." Based upon the record in this matter, it appears U S West's service to these customers has been in violation of all of these requirements. The customers' complaints establish numerous problems with U S West's service and U S West has done nothing to explain, deny, or rebut the complaints.

Finally, it is abundantly clear that U S West is in violation of IOWA ADMIN. CODE 199-6.3(3). This rule requires utilities to respond to customer complaints within 20 days of the date on which they are mailed to the utility by the Board. The response must specifically address each allegation made by the complainant and recite any supporting facts, statutes, rules, or tariff provisions supporting the response. The utility must enclose copies of all related letters, records, or other documents not supplied by the complainant and all records concerning the complainant that are not confidential or privileged. U S West has failed to provide a meaningful response to any of the three Board staff communications in this docket; the one response U S West provided (on May 10, 1999) did not address any of the allegations made by the complainants and did not provide any records associated with the complaint.

Due to U S West's failure to respond to the complaint, it is not clear what remedies are necessary to correct the service problems of the six Imogene

customers. Accordingly, the Board will direct U S West to file a plan with the Board, within ten days of the date of this order, detailing the steps U S West will take to permanently resolve the Imogene service problems in an expeditious manner.

With this order, the Board is providing notice to U S West, for purposes of civil penalties pursuant to IOWA CODE § 476.51 (1999), that it has violated IOWA ADMIN. CODE 199-22.5(4), 22.6(3)"a", 22.6(3)"a"(3), 22.6(3)"f", and 22.6(3)"g" through its failure to provide telecommunications service in a manner complying with Board rules. The Board bases this conclusion on the allegations of the complaint, combined with the total lack of any meaningful response from U S West. As stated above, the Board is directing U S West to file a plan, within ten days, to bring itself into compliance with all of these standards. Another violation of any of these rules, including but not limited to a failure to timely file a plan, may be subject to a civil penalty, levied by the Board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

The Board is also providing notice to U S West, for purposes of civil penalties pursuant to IOWA CODE § 476.51, that it has violated IOWA ADMIN. CODE 199-6.3(3) through its failure to respond to the complaint in a timely manner. Another violation of this same rule may be subject to a civil penalty, levied by the Board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

The Board notes that on August 27, 1999, the Board issued an order in Galaxy Lynx v. U S WEST Communications, Inc., Docket No. C-99-137, in which the Board also considered a U S West violation of rule 6.3(3). In that order, the Board notified U S West of its violation and stated that another violation of the same rule could result in civil penalties. Clearly, this docket could have given rise to a notice of civil penalties for each day of U S West's continuing violation that followed the notice in Docket No. C-99-137. However, the genesis of U S West's failure to respond in this docket significantly pre-dates the Board's notice in Docket No. C-99-137. Under these particular circumstances, the Board will not commence a civil penalty proceeding for a second violation that started long before the delivery of the Board's written notice, even when it is a continuing violation. The Board may consider this violation, however, in determining the appropriate amount of civil penalties, if it should be necessary to conduct a civil penalty proceeding for some other U S West violation of rule 6.3(3).

IT IS THEREFORE ORDERED:

1. U S West Communications, Inc., shall file, within ten days of the date of this order, a plan detailing the steps U S West will take to permanently resolve the service problems identified by the complainants in this docket. The plan shall include a schedule for resolving the problems in the most expeditious manner feasible.
2. U S West is hereby notified, for purposes of IOWA CODE § 476.51, that it has violated IOWA ADMIN. CODE 199-22.5(4), 22.6(3)"a", 22.6(3)"a"(3),

22.6(3)"f", and 22.6(3)"g". Another violation of any of these rules may be subject to a civil penalty, levied by the Board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

3. U S West is hereby notified, for purposes of IOWA CODE § 476.51, that it has violated IOWA ADMIN. CODE 199-6.3(3). Another violation of this same rule may be subject to a civil penalty, levied by the Board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr. /s/ Diane Munns
Executive Secretary

Dated at Des Moines, Iowa, this 22nd day of September, 1999.