

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

In the Matter of	)	
	)	
US WEST Communications, Inc.	)	File No. 4511-EX-PL-94
	)	
Application for Experimental Radio	)	
Station Authorization	)	

**ORDER**

Adopted: July 6, 1995

Released: July 7, 1995

By the Chief, Office of Engineering and Technology:

1. On February 3, 1995, the Chief, Office of Engineering and Technology, acting pursuant to delegated authority,<sup>1</sup> granted an application for an experimental radio station license filed on November 22, 1994 by US WEST Communications, Inc. (US WEST). The experimental license, assigned call sign KE2XEX, authorized US WEST to operate fixed radio stations in three areas, using frequencies in the 2300-2310 MHz and 2390-2400 MHz bands. Under this authorization, US WEST plans to experiment with using wireless local loop technology to provide local telephone service. This experimental license will expire at 3:00 a.m. EST on February 1, 1997.

2. On April 25, 1995, Apple Computer, Inc. (Apple) filed a Petition for Reconsideration of the experimental license. In its petition, Apple stated that the Commission had allocated the 2390-2400 MHz band for use by unlicensed data Personal Communications Services (PCS) devices on February 17, 1995.<sup>2</sup> Apple claimed that the transmitters authorized under the experimental license would cause unacceptable interference to low power Data-PCS devices in the vicinities of the transmitters, because of the high power output of the

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<sup>1</sup> See 47 C.F.R. § 0.241(c).

<sup>2</sup> See First Report and Order and Second Notice of Proposed Rule Making in the Matter of Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, ET Docket 94-32, FCC 95-47, 10 FCC Rcd 4769 at ¶ 16 (1995).

transmitters.<sup>3</sup> Apple requested that we rescind the experimental license.

3. On May 16, 1995, Apple filed an amendment to its petition for reconsideration, attaching thereto a settlement agreement executed by Apple and US WEST. Under the terms of the agreement, US WEST agreed to accept a revised termination date of its experimental license of November 15, 1995; seek no other experimental licenses in the 2390-2400 MHz band; and not oppose Apple's petition. In return, Apple agreed to amend its petition to request that US WEST's experimental license terminate on November 15, 1995, instead of seeking immediate rescission of the license. Apple so amended its petition on May 16, 1995.

4. Based on our review of the application, the petition for reconsideration as amended and the settlement agreement, we find that the approval of the settlement agreement will best serve the public interest.

5. Therefore, IT IS ORDERED that the Petition for Reconsideration filed by Apple on April 25, 1995, as amended, IS GRANTED, that the settlement agreement IS APPROVED, and that experimental license KE2XEX IS AMENDED to expire at 3:00 a.m. EST on November 15, 1995.

6. This action is taken pursuant to Sections 4 (i), 302 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 (i), 302, 303; and pursuant to Sections 0.31 and 0.241 of the Commission's Rules, 47 C.F.R. §§ 0.31, 0.241. For further information contact Sean White, Office of Engineering and Technology, (202) 776-1624.

FEDERAL COMMUNICATIONS COMMISSION



Richard M. Smith  
Chief  
Office of Engineering and Technology

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<sup>3</sup> The experimental license authorized operation at 1023 watts effective radiated power (ERP) in the 2390-2400 MHz band.