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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
COMMISSIONER - CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

Arizona Corporation Commission

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DOCKETED BY [Signature]

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH § 271 OF THE TELECOMMUNICATIONS
ACT OF 1996.

DOCKET NO. T-00000B-97-0238

PROCEDURAL ORDER

BY THE COMMISSION:

On May 27, 1997, the Arizona Corporation Commission ("Commission") issued Decision No. 60218 in the above-captioned matter. On May 1, 1998, AT&T Communications of the Mountain States, Inc. ("AT&T"), Electric Lightwave, Inc., Brooks Fiber Communications of Tucson, Inc., WorldCom, Inc., Sprint Communications Company, L.P., Teleport Communications Group, Inc., Cox Communications, Inc., American Communications Services, Inc., MCImetro Access Transmission Services, Inc., and McLeod USA (the "CLECs") filed a request for a Supplemental Procedural Schedule ("Motion") in this case.

On May 5, 1998, the Residential Utility Consumer Office ("RUCO") filed a Response in Support of the Motion.

On May 8, 1998, U S West Communications, Inc. ("U S West") filed a Motion for Protective Order regarding AT&T's First Set of Data Requests ("Protective Order"). On May 18, 1998, U S West filed its Response to the CLECs' Motion.

On May 19, 1998, the Utilities Division Staff ("Staff") of the Commission filed its Response to the Motion.

On May 29, 1998, the CLECs filed their Reply to the Responses of U S West and Staff.

The CLECs filed their Motion because Decision No. 60218 only provided for written comments by interested parties and reply comments by U S West following submission of evidence indicating compliance with any of the 14 checklist items. As a result, the CLECs requested the Commission adopt the following supplemental procedures:

- 1 1. As set forth in Docket No. T-00000B-97-0238, Decision No. 60218 issued on May 27,
2 1997, all interested parties who have intervened or who wish to intervene in this docket
3 after particular checklist items have been filed, will file comments within 30 business
4 days of U S West's filing.
- 5 2. As also previously set forth in Decision No. 60218, U S West will reply to the
6 intervenors' comments within 15 business days.
- 7 3. Discovery will be allowed between and among all parties, including all intervenors and
8 U S West, beginning with U S West's filing as made on April 13, 1998 and continuing
9 until U S West's application on all checklist items, as described in (4), has been finally
10 approved or rejected by the Commission. Discovery will be answered by the party upon
11 which it is served within seven days of receipt of the discovery.
- 12 4. As provided in Decision No. 60218, U S West will file with the Commission at least 90
13 days prior to making its FCC filing, the full and complete application which U S West
14 intends to file at the FCC, including all information responsive to Attachments A and B
15 to Decision No. 60218.
- 16 5. Once U S West has completed all of its filings described in (4) with respect to all 47
17 U.S.C. § 271 and 272 checklist items, including the public interest requirement in section
18 271(d)(3)(C) and the information responsive to Attachments A and B to Decision No.
19 60218, a hearing will be held to determine whether U S West has fully complied with all
20 of the above requirements such that interLATA relief should be allowed.
- 21 6. Following the hearing discussed in (5) above, and any post-hearing briefing which the
22 Hearing Division deems appropriate, the Hearing Division will make a recommended
23 decision to the Commission regarding whether U S West has satisfied each and every one
24 of the requirements in sections 271 and 272 as necessary for interLATA relief.
- 25 7. Although as provided in Decision No. 60218, the Commission and its staff may
26 investigate U S West's compliance with each checklist item as it is filed and commented
27 on, and any interested party may file information with the Commission at any time
28 regarding checklist items and telecommunications market conditions in Arizona, a final
determination regarding U S West's compliance with any section 271 or 272 requirement
will not be made until U S West has completed its filings with respect to the requirements
in their totality as described in (4). This process will insure that the recommendation
which the Commission makes to the FCC regarding U S West's interLATA relief is
current and based on the latest and best information available to it. To facilitate this goal,
U S West will be required, at the time it makes its filing discussed in (4) above, to update
its filing with respect to each checklist item if circumstances affecting compliance with
that item have changed or been modified since U S West's initial compliance filing.
Interested parties will be allowed to respond to the 90 day filing discussed in (4) above
and any updates to previous filings, within 30 days.

On May 1, 1998, AT&T filed data requests to U S West regarding the above-captioned matter.
As a result, on May 8, 1998, U S West filed its request for a Protective Order.

In its May 18, 1998 Response, U S West opposed any proposal to have an evidentiary hearing
every time U S West submits a partial filing pursuant to Decision No. 60218. According to U S West,
multiple hearings would result in an unnecessary duplication of efforts. U S West opined that AT&T had

1 previously argued that compliance with Section 271 should be determined based on a comprehensive
2 evaluation of the entire checklist. U S West did acknowledge that other states were conducting hearings.

3 Staff indicated in its Response that it did not believe any further procedural schedule is necessary.
4 According to Staff, Decision No. 60218 was intended to provide the ability to evaluate U S West's
5 compliance on an ongoing basis. Further, because of the various time constraints, Staff was of the
6 opinion that the process would be best served through the use of formal workshops rather than
7 evidentiary hearings. Staff contemplated that the formal workshops would focus on "specific issues and
8 checklist items and that all parties would have a full and fair opportunity to present their positions on
9 each of the Section 271 requirements. Staff also contemplates that the workshops would be transcribed
10 and that all parties would have an opportunity to provide the Commission with additional written
11 comments at the conclusion of the workshops based upon the record produce." Lastly, Staff supported
12 the opportunity for full and complete discovery. In fact, Staff indicated it intended for discovery to
13 commence at the time Decision No. 60218 was issued.

14 In reply, the CLECs concurred that it would not be appropriate for hearings to be held as each
15 checklist item is filed. The CLECs also did not object to having formal workshops if they are conducted
16 as represented by Staff and there would be an opportunity for additional written comments and/or
17 briefing following the workshops. The CLECs reiterated their request for an explicit procedural order
18 regarding discovery since U S West has refused to answer discovery.

19 It is clear that the parties must be entitled to discovery in order to properly analyze issues. It is
20 not clear that the parties were able to utilize discovery prior to filing replies within 30 business days as
21 required in Decision No. 60218. As a result, we will provide parties an opportunity to file supplemental
22 replies or comments related to U S West filings. We do not find it necessary to set any evidentiary
23 hearings at this time.

24 Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the
25 procedures for discovery.

26 IT IS THEREFORE ORDERED that U S West shall have three business days from the date of
27 this Procedural Order to respond to any replies or comments filed by other parties.

28 IT IS FURTHER ORDERED that other parties shall file any supplemental replies or comments

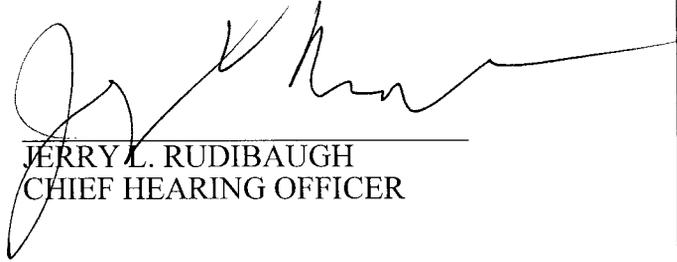
1 within twenty business days¹ from receipt of the U S West response.

2 IT IS FURTHER ORDERED that U S West shall file any supplemental response within twenty
3 business days² of receipt of the supplemental replies or comments.

4 IT IS FURTHER ORDERED that discovery shall be permitted by law and the rules and
5 regulations of the Commission, except that: any objection to discovery requests shall be made within
6 seven days³ of receipt; responses to discovery requests shall be made within ten days of receipt; and the
7 response time may be extended by mutual agreement of the parties involved if the request requires an
8 extensive compilation effort.

9 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
10 discovery, any party seeking discovery may telephonically contact the Commission's Hearing Division
11 to request a date for a procedural hearing to resolve the discovery dispute; that upon such a request, a
12 procedural hearing will be convened as soon as practicable; and that the party making such a request shall
13 forthwith contact all other parties to advise them of the hearing date and shall at the hearing provide a
14 statement confirming that the other parties were contacted.⁴

15 DATED this 16th day of June, 1998.

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22 JERRY L. RUDIBAUGH
23 CHIEF HEARING OFFICER

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25 ¹ These days may be extended due to discovery disputes.

26 ² These days may be extended due to discovery disputes.

27 ³ "Days", in reference to discovery, refers to calendar days.

28 ⁴ The parties are encouraged to attempt to settle discovery disputes through informal, good
faith negotiations before seeking Commission resolution of the controversy.

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2 this 16th day of June , 1998 to:

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