



BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION

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Docket No. U-0000-97-238

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Arizona Corporation Commission

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

**COMMENTS OF AT&T REGARDING
STAFF'S PROPOSED ISSUES AND PROCEDURE**

On May 8, 1997, Utilities Division Staff issued a proposed order to the Commission (the "Proposed Order") setting forth procedures for evaluating compliance with requirements of Section 271 of the Telecommunications Act of 1996 ("the Act"). AT&T of the Mountain States, Inc. ("AT&T") agrees with Staff that, given the limited time the Federal Communications Commission ("FCC") has to consult with the Commission regarding compliance by U S West Communications, Inc. ("U S WEST") with Section 271, it is necessary for the Commission to begin analysis of relevant issues as soon as possible. AT&T requests, however, that the following changes be made to the Proposed Order to bring it into compliance with the Act and ensure full and fair participation by all interested parties.

I. Comprehensive Checklist Evaluation

Paragraph 6 of the Proposed Order provides that, once U S WEST believes it has satisfied a particular competitive checklist item, U S WEST should file evidence supporting its position with the Commission. Interested parties are then given fourteen business days to

1 file replies or comments regarding the U S WEST filing. Such an item-by-item review of
2 U S WEST's checklist compliance places a considerable burden on staff and interested
3 parties. This seriatim review could be drawn out for months, or even years, as U S WEST
4 evaluates whether it has satisfied each individual checklist item. At a time when all parties
5 and this Commission are consumed with interconnection negotiations, arbitrations, and
6 substantial regulatory and industry changes, such a drawn-out process would pose an
7 overwhelming burden on any party wishing to file a reply and on the Commission as it
8 reviews U S WEST's assertion of compliance with individual checklist items. Moreover, it
9 is impossible to anticipate when U S WEST might request review of a particular checklist
10 item. Yet, under Staff's proposed schedule, parties would be forced to respond within
11 fourteen business days. Even with the Staff's proposed five-day filing notice, it would be
12 extremely difficult to compile a comprehensive response in such a short time period,
13 particularly given the almost certain need for discovery.

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16 Finally, even if the Commission were to conclude, at any point in this process, that
17 U S WEST satisfied a particular checklist item, the Commission would still have to revisit
18 U S WEST's compliance when U S WEST actually files its Section 271 application with the
19 FCC. The Act requires the Commission to verify that U S WEST "is providing access and
20 interconnection" which satisfies the competitive checklist at the time the application is filed.
21 47 U.S.C. §§271(c)(1)(A), 271(c)(2)(B). The Commission would have to reconfirm that
22 U S WEST had remained in compliance with all previously verified checklist items.
23 Piecemeal verification, on an item-by-item basis, will not fulfill the Commission's Section
24 271 responsibilities. For these reasons, AT&T requests that the Commission revise
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1 paragraph 6 of the Proposed Order (and related sub-parts) to require U S WEST to file for
2 verification of compliance with Section 271 only after it believes it has satisfied all of the
3 fourteen-point checklist requirements.

II. Ninety-Day Notice of FCC Filing

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7 AT&T also agrees with Staff that U S WEST should file evidence of compliance
8 with Section 271 in advance of its filing with the FCC. However, the Proposed Order
9 simply encourages U S WEST to file information related to "general telecommunications
10 market conditions in Arizona" no later than forty-five days before its FCC filing. Proposed
11 Order, ¶ 5. The Proposed Order should require that U S WEST file information evidencing
12 compliance with the Section 271 fourteen-point checklist. Also, the notice filing should
13 occur ninety days prior to U S WEST's FCC filing. The National Association of Regulatory
14 Utilities Commissions ("NARUC") has asked U S WEST to provide notice of its intent to
15 file a Section 271 application at least ninety days in advance of its intended FCC filing.¹
16
17 Moreover, at the recent Regional Oversight Committee meeting, U S WEST agreed to
18 comply with this ninety-day advance notice recommendation. Therefore, the Commission
19 should require U S WEST to provide notification of its intent to file at least ninety days prior
20 to its Section 271 application.

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22 In addition, to enable the Commission to conduct a comprehensive evaluation of
23 U S WEST's application, the Commission should require U S WEST to provide all of the
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26 ¹ Public Notice, "Procedures for BOC Applications Under New Section 271 of the
Communications Act," FCC 96-469 (issued Dec. 6, 1996) at 2.

1 information, data and argument upon which it intends to rely with the required notice filing.
2 This ninety-day notice period will ensure sufficient time for written discovery, responsive
3 comments from interested parties, and hearings if necessary. To the extent the Commission
4 seeks information from U S WEST prior to this ninety-day filing, the Proposed Order could
5 also be revised to require periodic status reports from U S WEST detailing progress on the
6 fourteen-point checklist.
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8 9 **III. Public Interest / Section 272 Compliance**

10 AT&T supports Staff's suggestions regarding the issues the Commission should
11 consider in evaluating U S WEST's Section 271 application. In addition to those issues,
12 however, the Commission must also consider whether U S WEST's provision of interLATA
13 service will be in the public interest and carried out in accordance with Section 272. See 47
14 U.S.C. §§271(d)(3)(B). The FCC is looking to the state for this input.² Consequently, the
15 Commission should add these important issues to its inquiry. The Commission may also
16 wish to consider adding all issues contained in the Department of Justice's comprehensive
17 Section 271 issues lists. (See Issues and Information to Consider in Evaluating BOC
18 Section 271 Application for In-region InterLATA Entry; Further Issues and Information to
19 Consider in Evaluating BOC Section 271 Application for In-region InterLATA Entry.)
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24 ² See Statement of Reed Hundt, Chairman, FCC, Subcommittee on Commerce,
25 Telecommunications and Finance, U.S. House of Representatives, July 18, 1996 ("[W]e are
26 looking for the states to give us a full understanding of what's happening in the relevant
markets in each state [and . . .] a record from the states on all entry-related issues.").

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IV. Conclusion

AT&T supports Staff's proposed procedure but submits that a comprehensive evaluation of U S WEST's compliance with the entire checklist, rather than an item-by-item review of asserted compliance, is necessary for full compliance with the Act. Furthermore, the Commission should replace the nonbinding forty-five-day notice period preceding U S WEST's application to the FCC, with a mandatory ninety-day advance notice filing. In such a filing, U S WEST should set forth its intent to file a Section 271 application and all evidence supporting and relied upon in that filing. Finally, in addition to the issues posed by Staff, AT&T recommends that the Commission solicit and evaluate information regarding whether U S WEST's requested authorization is in the public interest and whether it will be carried out in accordance with the requirements of Section 272.

RESPECTFULLY SUBMITTED this 12th day of May, 1997.

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