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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
Chairman
CARL J. KUNASEK
Commissioner
TONY WEST
Commissioner

Arizona Corporation Commission

DOCKETED

MAR 26 1999

DOCKETED BY [Signature]

IN THE MATTER OF U S WEST) Docket No. T-0000B-97-0238
COMMUNICATIONS, INC'S) SPRINT'S
COMPLIANCE WITH §271 OF THE) RESPONSE TO U S
TELECOMMUNICATIONS ACT OF) WEST'S MOTION TO
1996) COMPEL

Sprint Communications Company L.P. (Sprint) hereby responds to "U S WEST's Motion to Compel Responses by Various Intervenors to U S WEST's First Set of Data Requests" ("U S WEST Motion") as follows:

Introduction

In its Motion, U S WEST seeks an order requiring Sprint and other intervenors to further respond to its Data Requests ("DRs"). Before addressing those specific DRs, Sprint believes that this matter should be placed in context. Congress, in the Telecommunications Act of 1996, determined that U S WEST and other Bell Operating Companies should not be authorized to provide interLATA services unless and until they comply with certain conditions intended to ensure that their local exchange markets are fully and irreversibly open to competition.¹ The task of determining whether those conditions are met is given to the Federal Communications Commission, in consultation with the affected state commission and the Department of Justice. Accordingly, the FCC, through its orders in various BOC applications, has established what evidence a BOC must present as a *prima facie* case of compliance with §271.

Of significance to the immediate dispute, the *prima facie* showing required by the FCC must be made regardless of what opposing evidence is presented. In its most recent 271 order, the FCC stated:

¹ Contrary to U S WEST's assertion, Sprint's intervention in this matter is not aimed to "preclude U S WEST from competing with [Sprint] in the long distance market." Sprint is simply interested in ensuring that the Act's conditions are met before U S WEST can provide interLATA long distance services, so that U S WEST does not have unfair competitive advantages by leveraging its local exchange market power.

We stress that, as an initial matter, we base our determination of whether a BOC has satisfied a checklist item on the BOC's evidence supporting its *prima facie* case, and not on the absence of comments opposing the BOC's showing on a particular issue.²

A BOC cannot rely on the absence of opposition by intervenors to prove its case, because that would shift the burden to parties other than the Applicant. Thus, U S WEST is clearly incorrect in suggesting in this case that "everything that U S WEST seeks in its 41 Data Requests goes directly to its affirmative case." (U S WEST Motion, p. 11) U S WEST simply does not need the information it is seeking to present its affirmative case. Furthermore, much of the information sought is neither relevant nor reasonably calculated to lead to discovery of relevant admissible evidence. Rather, as discussed in more detail with respect to the specific DRs, U S WEST appears to be using certain language in FCC 271 orders to justify its attempt to obtain information that can be used either to its competitive or regulatory advantage or to divert attention from deficiencies in its case. On the other hand, U S WEST may not actually desire the information but may be hoping that the intervenors will be forced to withdraw or limit their participation, rather than disclose their highly confidential³ business plans, as happened in Nebraska. U S WEST should not be allowed to achieve either of these unfair and unwarranted results. Its Motion should be denied.

Prior §271 Discovery Rulings in the U S WEST Region

In both Montana and New Mexico, U S WEST attempted to obtain the Intervenor's confidential business plans, information regarding the CLECs' internal systems, processes and practices, and information regarding the CLECs' experiences with other RBOC OSS systems through discovery, arguing it required that information to prove its §271 case. U S WEST's arguments were unsuccessful in both states.⁴

² Application of BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Service in Louisiana, *Memorandum Opinion and Order*, CC Dkt. No. 98-121, (rel. Oct. 13, 1998), ("Louisiana 271") at ¶53.

³ Sprint's protective agreement with U S WEST protects only U S WEST's confidential information. It does not protect Sprint's confidential information. Notwithstanding, Sprint will not produce any information it deems highly confidential, such as its business plans for the local market.

⁴ *Notice of Commission Action on Discovery Objections*, Montana PSC Docket No. D97.5.87, dated June 26, 1998; *Order Relating to Outstanding Discovery Motions*, New Mexico State Corporation Commission Docket No. 97-106-TC, dated Sept. 21, 1998.

The Montana Commission offered specificity in relevant paragraphs of its discovery order:

Information about CLEC internal systems and practices is not relevant as a comparison as U S WEST contends. CLECs' systems, processes and practices do not have to meet the §271 standards and thus are not acceptable to serve as benchmarks for U S WEST's performance. In addition, other regional Bell Operating Companies OSS systems and CLEC's experiences with them is not applicable at this time because the FCC has not accepted any of them.

Information about CLEC systems is not relevant to the issue whether U S WEST has met the requirements of §271, nor is the information requested likely to lead to the discovery of admissible evidence. U S WEST must demonstrate that the checklist items are available as a practical and legal matter. Binding interconnection contracts support such availability on a legal matter; as a practical matter, U S WEST must show that it is ready to furnish the items in the quantities that competitors may *reasonably demand* and at an acceptable level of quality. U S WEST is not required to actually furnish or show that it can furnish forecasted demands. If it were, CLECs could inflate their forecasted levels and delay U S WEST's entry in the long distance market by doing so.⁵

It is significant that the Montana Commission issued its ruling by a vote of 4-0, including Commissioner Bob Rowe, who is the Chairman of the Communications Committee of the National Association of Regulatory Utility Commissioners (NARUC).

The New Mexico Corporation Commission agreed with the Montana Commission. It issued a nearly identical ruling, which Sprint will not quote extensively here in order to avoid restating what the Montana Commission ordered. However, one particular paragraph from the New Mexico Commission's ruling artfully cuts to the heart of many of the Sprint's arguments regarding the irrelevance of its internal processes, procedures and practices. The Commission stated:

Stated most simply, if a CLEC takes two months or two minutes to internally process an order on its own network is of no relevance to this proceeding. Rather, the legal test for nondiscrimination is whether access to U S WEST's OSS is provided by U S WEST in a nondiscriminatory manner.

The New Mexico Commission also denied U S WEST's requests for much of the same information as U S WEST seeks in the instant proceeding. The Commission

denied information to U S WEST on the CLECs' internal performance standards, on the CLECs' conjecture about the effects of U S WEST's entry into the long distance market, on the CLECs' foreseeable demand estimates in other RBOC regions, and on OSS testing conducted with ILECs other than U S WEST.

In Montana, U S WEST appealed the Commission's discovery rulings only to find its case summarily dismissed by the Montana First Judicial District.⁶

Because U S WEST received unfavorable discovery rulings in Montana and New Mexico, it is forced to rely heavily on the discovery ruling in Nebraska as precedent for its arguments here. U S WEST, denigrates the discovery rulings of the Montana and New Mexico Commissions, pointing out that Nebraska is the only state where a "judge with experience, trained in the law and understanding the importance of discovery evaluate[d] the discovery."⁷ Indeed, Judge Samuel Van Pelt ordered the Intervenors to produce their confidential business plans. He also ordered the Intervenors to answer all U S WEST DRs in stark juxtaposition to the orders of the Montana and New Mexico Commissions. The reason: Judge Van Pelt stated that he was going to permit extremely broad discovery, not because the rules of civil procedure dictated such a ruling, not because all of U S WEST's discovery was calculated to lead to the discovery of admissible evidence, but because Judge Van Pelt admitted on the record that he understand the subject matter of the proceeding very well and preferred to err on the side of permitting broad discovery.⁸

U S WEST would have this Commission believe that the Montana and New Mexico Commissions issued incorrect rulings on the §271 discovery issues before them because they are not judges who understand the importance of discovery. Sprint contends that the Montana and New Mexico Commissioners and their legal staffs are as competent to issue discovery rulings on telecommunications issues as Judge Van Pelt. In fact, because they are familiar with the subject matter of the discovery, they are arguably more competent to issue discovery rulings in §271 cases. Sprint strongly

⁵ Montana PSC *Notice of Commission Action on Discovery Objections*, at p. 2.

⁶ *Order on Motion to Dismiss*, Montana First Judicial District Court, Lewis and Clark County, Cause No. BDV 99-12.

⁷ *U S WEST Motion to Compel* at p. 7.

⁸ *Discover Ruling of Judge Van Pelt*, Nebraska PSC Docket No. C-1830.

urges this Commission to consider not only the rules of civil procedure, which are not in dispute, but to apply those rules to the specific telecommunications issues before it.

Responses with Regard to Specific DRs

DRs 1 & 3 – 14. Sprint has responded appropriately to U S WEST's DRs 1 & 3–14 by stating valid objections and providing sufficient answers, notwithstanding its objections.

DRs 1 & 3–14 ask Sprint to describe each “complaint, problem, or concern,” and to produce all relevant documents, regarding 12 of the 14 checklist items identified in §271(c)(2)(B). In its motion to compel, U S WEST states: “Sprint’s responses to these Data Requests are ambiguous. Sprint must be compelled to clarify that it has disclosed all complaints relating to these checklist items.” U S WEST’s attorney Mr. Steese explained, during a Sprint/U S WEST issue resolution conference on March 19, 1999, that U S WEST also seeks information and documentation of Sprint’s concerns and that U S WEST desires a more specific response from Sprint regarding DRs 1 & 3 – 14.

Sprint’s response is unambiguous. Sprint stated it objects to DRs 1 & 3-14 on the grounds that they are overly broad and burdensome, and on the grounds that the DRs seek highly sensitive trade secrets and confidential materials that were prepared in formulating business plans. These are valid objections.

U S WEST’s DRs 1 & 3-14 are overbroad because they not only ask for formal complaints such as the Sprint collocation complaint against U S WEST in this state, but for information and documentation of Sprint’s “concerns.” By requesting that Sprint provide information and documentation of Sprint’s concerns, U S WEST is in effect, filing a motion to compel Sprint to divulge its *worries* about potential future problems that Sprint may experience when it attempts to enter the local market in U S WEST territory. Further, U S WEST is demanding all documents related to such guesswork.

Sprint has no objection to producing information about its actual complaints regarding interconnection with U S WEST. In fact, Sprint has provided U S WEST with information relating to all complaints that are presently known and in its response to DR 41, Sprint has identified a number of fact-based concerns it has addressed in previous §271 proceedings. Assuming Sprint had information or documents relating to positive experiences with U S WEST, it would produce those also.

However, U S WEST's DRs ask for information far beyond that which is reasonable. U S WEST's DRs require that Sprint engage in speculation and enter the world of "what ifs". Given the breadth of the U S WEST DRs Sprint could be compelled to produce information and documentation of every instance in which a Sprint employee, from management to technical worker, expresses a concern, rational or not, about any §271 issue. For example, if a Sprint technician says or even thinks, "what if U S WEST's OSS malfunctions?" Sprint could arguably be required to uncover this "concern" and inform U S WEST that Sprint had an irrational thought only remotely related to U S WEST's §271 Application because this concern might lead to the discovery of admissible evidence. The rules of civil procedure never do not permit fishing expeditions, which is precisely what U S WEST has in mind.

Sprint has admitted in its response that it is not yet in business in U S WEST territory and that it has little factual information about potential problems it may experience upon attempting to enter the local market in U S WEST territory. Nevertheless, in the spirit of cooperation, Sprint has provided its known complaints and considered concerns. Sprint's response is complete and its objections are valid. Therefore, Sprint respectfully requests that this Commission deny U S WEST's motion to compel further responses to DRs 1 & 3 – 14.

DR 2. U S WEST's DR 2 asks Sprint to provide information about the locations in which Sprint seeks to collocate in Arizona within the next 24 months. Sprint has adequately answered this U S WEST DR. Sprint filed and served supplemental discovery responses on March 22, 1999 which contain a complete response to U S WEST's DR 2. Sprint answered that it has provided U S WEST with its most recent complete list of central offices where Sprint is seeking collocation in Arizona. The actual documentation is already in U S WEST's possession, and has been since December of 1998 as stated more fully in Sprint's supplemental response to U S WEST's first set of discovery requests.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DR 2, in the event U S WEST continues to pursue this request.

DRs 15 & 16. DR 15 asks about alternatives to U S WEST for network elements and services, and requests all documents relating to Sprint's ability to obtain such elements and services from alternative sources. DR 16 asks whether the ability to obtain the elements and services from U S WEST has or will have an effect on the quality of Sprint's provision of service and whether that ability is necessary for Sprint's provision of service.

As U S WEST concedes in its "Supplemental Memorandum Regarding the Relevance of Individual Data Requests" ("U S WEST Memorandum"), at p. 7, these requests are related to the recent Supreme Court decision requiring the FCC to more carefully consider its list of required unbundled network elements under the "necessary" and "impair" language in the Act regarding §251 ILEC obligations. That decision, however, is irrelevant to this §271 proceeding. In this proceeding, U S WEST must show that it is providing access to network elements pursuant to interconnection agreements, as required by §271(c)(2)(A), and in accordance with the competitive checklist, §271(c)(2)(B), which sets forth specific network elements.⁹ Those requirements are separate and apart from the §251(c) obligations on all ILECs that were the subject of the Supreme Court decision. Thus, the "necessary" and "impair" information that U S WEST seeks in these requests is irrelevant to this case. That information is only useful to U S WEST in preparation for FCC proceedings necessitated by the Supreme Court decision. U S WEST is attempting to use discovery in this proceeding to obtain information for a docket at the FCC unrelated to this §271 proceeding.

U S WEST attempts to bootleg the "necessary" and "impair" issue into relevance in this case with several arguments. First, it asserts that the information is relevant to the question of whether U S WEST can meet "reasonably foreseeable demand," as required by FCC 271 orders. Even if, *arguendo*, U S WEST is entitled to some information from intervenors concerning foreseeable demand, these data requests are objectionable on the grounds that they are duplicative of other U S WEST DRs such as DR 17 where U S WEST has directly asked for demand forecasts. U S WEST's attempt

to obtain evidence related to the FCC's proceedings necessitated by the Supreme Court ruling on UNEs is transparent despite U S WEST's attempt to cloak its DRs under the guise of the reasonably foreseeable demand issue.

U S WEST also argues that these "necessary" and "impair" questions relate to the issue of whether items in U S WEST's SGAT filing are network elements required to be provided and priced in accordance with 251(c)(3) standards. Sprint believes that this is a non-issue since §271 clearly contemplates that the elements required to be provided under §271 must comply with the pricing standards of §251(c)(3), regardless of their status as unbundled network elements. In any event, even if there were some question about §251(c) network element obligations under §271, the Arizona Commission cannot resolve that issue. The Act, at §251(d)(2) clearly gives the FCC the responsibility to make the determination of which network elements are to be provided. State commissions cannot make that determination.

DR 17. U S WEST's DR 17 requests Sprint information on projected demand for unbundled network elements, items and services identified in §271. Sprint has stated in its answer to this DR that *Sprint's* projected demand for the elements, items, and services in question are not relevant to the showing required under §271. Sprint stands by that objection.

The relevant information is the aggregate projected demand for U S WEST's services. This is information that U S WEST can obtain through methods that do not require Sprint to divulge its confidential business plans.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DR 17.

DRs 18-20. These requests ask for information about the CLEC's operational support system (OSS), mechanisms being used lieu of a real-time OSS, and OSS development and testing standards. These questions are irrelevant and cannot lead to discovery of relevant information since the only real issue is whether U S WEST is providing OSS access pursuant to the FCC's §271 requirements. The FCC has summarized this requirement in the Louisiana 271 order:

⁹ Although the §271 checklist does not include the network interface device (NID) and Operational Support System (OSS) as separate elements, as did the FCC's requirements under §251(c)(3), Sprint believes that they are

85. In previous orders, the Commission has addressed the legal standard by which it will evaluate whether a BOC's deployment of OSS is sufficient to satisfy this checklist item.[fn omitted]. The Ameritech Michigan Order provides that the Commission first is to determine 'whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them.' [fn omitted]. The Commission next determines 'whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter.' [fn omitted]. Under the second part of the inquiry, the Commission examines performance measurements and other evidence of commercial readiness. [fn omitted].

86. The most probative evidence that OSS functions are operationally ready is actual commercial usage. [fn omitted]. As in the BellSouth South Carolina Order and First BellSouth Louisiana Order, we review the commercial usage of BellSouth's OSS in other states because BellSouth's OSS are essentially the same throughout its region. [fn omitted]. The Ameritech Michigan Order also provides that the Commission will consider carrier-to-carrier testing, independent third-party testing, and internal testing, in the absence of commercial usage, to demonstrate commercial readiness. [fn omitted].

87. The Ameritech Michigan Order specifies that a BOC must offer access to competing carriers that is equivalent to the access the BOC provides itself in the case of OSS functions that are analogous to OSS functions that a BOC provides to itself. [fn omitted]. Access to OSS functions must be offered such that competing carriers are able to perform OSS functions in 'substantially the same time and manner as the BOC. [fn omitted].

For those OSS functions that have no retail analogue (such as ordering and provisioning of unbundled network elements), a BOC must offer access sufficient to allow an efficient competitor a meaningful opportunity to compete. [fn omitted].¹⁰

It is thus evident that the information sought by U S WEST here concerning the existence and development of CLEC OSS is not relevant to the showing required under §271. Although commercial usage by a CLEC is relevant to the question of operational readiness, U S WEST cannot excuse deficiencies in its OSS access due to the absence

required to be provided by U S WEST pursuant to its interconnection agreements with CLECs.
¹⁰ BellSouth Louisiana Order, CC Dkt. No. 98-121 at paragraphs 85-87.

of CLEC development of OSS. But, as suggested in U S WEST's Memorandum, that is precisely the purpose of its requests here.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DRs 18-20.

DR 21. During the March 19, 1999 telephone conference between Sprint and U S WEST, U S WEST's attorney represented that he is satisfied with Sprint's response to DR 21.

DR 22. This DR asks for information concerning Sprint's OSS interface requirements. Sprint believes it fully responded to this DR.

During the March 19, 1999 telephone conference between Sprint and U S WEST, U S WEST's attorney represented that he would reassess whether Sprint's response to DR 22 is sufficient. U S WEST did not provide Sprint with the results of its reassessment by the time this pleading was filed and served. Sprint stands by its position that its response satisfies U S WEST's DR and requests that this Commission deny U S WEST's motion to compel a further response.

DR 23. DR 23 begins with the statement, "[I]f Sprint contends that other ILECs are meeting any of Sprint's electronic interface needs relating to local exchange service, unbundled network elements, or any other aspect of local service...." Sprint must provide U S WEST with a list of information about the system, etc. Sprint has provided a complete response to DR 23.

Sprint has answered that it does not contend that any other ILECs are meeting Sprint's electronic interface needs. Sprint's answer could not be more plain or complete. U S WEST's continued pursuit of a further answer through a discovery motion is unreasonable.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DR 23.

DR 24. Sprint believes it has adequately answered this DR. U S WEST asks for a litany of information regarding electronic interface orders Sprint has placed in the last year. Sprint has stated that it has placed no orders for local service in the U S WEST region.

U S WEST demands that Sprint provide information for non-U S WEST regions. Sprint stands by its relevance objection and refers this Commission to the Montana and New Mexico Commissions' rulings on this matter discussed *supra*. Sprint's submission of electronic interface orders to other ILECs has no bearing on whether U S WEST is meeting the requirements of §271, nor is such discovery likely to lead to the discovery of admissible evidence.

DR 25. U S WEST asks whether Sprint has used any graphical user interface (GUI) or human-to-computer interface that supports local exchange service in any local telecommunications market within the last 24 months, and if so, where. Sprint stands by its relevancy objection regarding this DR.

The FCC has found no GUI system adequate in any prior 271 proceeding. Thus, Sprint contends that evidence of its use of other ILEC's GUIs is stripped of probative value in the present case. Sprint requests that this Commission deny U S WEST's motion to compel further responses to DR 24 on the above basis.

DRs 26-32. These DRs request two types of information. First, they request information relating to various CLEC business practices. Second, as to Sprint, these DRs seek information regarding Sprint's ILEC business practices. Sprint answered all of the above DRs by stating that it is not providing service as a CLEC at this time and therefore is not able to provide the requested information.

According to verbal representations made by U S WEST attorney Chuck Steese during the March 19, 1999 issue resolution meeting, Sprint adequately addressed the CLEC issues raised by DRs 26-29 in its initial response to U S WEST's First Set of Data Requests, by averring that it had not commenced the provision of local service and therefore could not provide the information requested. However, Mr. Steese contended that Sprint had failed to sufficiently address its ILEC's business practices with respect to DRs 26-29. Upon review, DRs 30-32 fit into the same category as DRs 26-29, both with respect to their CLEC and ILEC components. Sprint has filed relevance objections to all DRs from 26 to 32 and stands by those objections.

During the March 19, 1999 issue resolution meeting, Mr. Steese stated that information related to Sprint's ILEC operations is relevant and U S WEST should be permitted to argue that it is providing CLECs OSS parity in comparison to the OSS

system Sprint's ILEC utilizes. Using U S WEST's reasoning, CLECs competing with U S WEST in Phoenix, Arizona, a region with over 2 million residents would be at parity with U S WEST if they were required to use a manual OSS designed for a town of several hundred residents, so long as U S WEST proves that the Sprint ILEC utilizes such a system somewhere in the United States. U S WEST argues that Sprint CLEC customers would be treated the same in Phoenix as in the Sprint ILEC region and that that amounts to parity.

As the New Mexico Commission explained in its discovery order discussed earlier, U S WEST misses the point. The quote by the New Mexico Commission is worth repeating:

Stated most simply, if a CLEC takes two months or two minutes to internally process an order on its own network is of no relevance to this proceeding. Rather, the legal test for nondiscrimination is whether access to U S WEST's OSS is provided by U S WEST in a nondiscriminatory manner.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DRs 26-32.

DRs 33 & 36. Both of these DRs ask for Sprint projections related to OSS usage. Notwithstanding Sprint's confidentiality objection, Sprint has answered that it has made no projections, thereby completely satisfying the request. It is unclear why U S WEST makes the statement that Sprint has submitted an incomplete response to DR 33 and has not responded at all to DR 36. Both answers are substantively the same. Sprint cannot provide information that it does not have, nor can it produce documents evidencing such non-existent information.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DRs 33 and 36.

DR 34. This DR asks whether Sprint intends to commit to the development of an OSS EDI in association with U S WEST. Sprint provided a complete response to this DR.

During the March 19, 1999 telephone conference between Sprint and U S WEST, U S WEST's attorney represented that he would reassess whether Sprint's response to DR 34 is sufficient. U S WEST did not provide Sprint with the results of its

reassessment by the time this pleading was filed and served. Sprint stands by its position that its response satisfies U S WEST's DR and requests that this Commission deny U S WEST's motion to compel a further response.

DR 35. U S WEST asks Sprint to identify the number of orders for facilities based service that Sprint has submitted to any ILEC in the U S WEST region. Sprint objected on relevance and confidentiality grounds, but answered the DR notwithstanding its objection, stating it has placed no orders in the U S WEST region. U S WEST contends it is entitled to information regarding orders Sprint has placed with any ILECs in U S WEST's region. This is another U S WEST attempt to obtain information relevant only to the upcoming FCC proceeding to determine what UNEs meet the "necessary" and "impair" standard. It bears no relevance to the §271 proceeding before this Commission.

This DR is also the same sort of DR rejected by the New Mexico and Montana Commissions. Sprint has cited to both of those orders previously regarding this exact issue.

For the foregoing reasons, Sprint requests this Commission deny U S WEST's motion to compel additional responses to DR 35.

DRs 37-39. In these requests, U S WEST seeks comprehensive information about the highly confidential business plans of its competitors. U S WEST is attempting to repeat here the unfortunate results of the Nebraska 271 case. As reflected in the order attached to U S WEST's Motion, CLEC intervenors in the case were forced to withdraw testimony when faced with the requirement of revealing similar highly confidential business plans. U S WEST benefits from limiting the participation of intervenors in its 271 cases and here asserts spurious justifications for its DRs to achieve that result.

First, U S WEST notes that the FCC desires state commissions to provide information on the status of competition and that claims of confidentiality can be overcome through protective orders. This, however, does not suggest that U S WEST is entitled to the confidential business plans of its competitors. The FCC desires that information from state commissions, which can aggregate the information to protect the confidentiality of the individual CLECs. Indeed, Sprint understands that this

Commission's staff is presently engaged in gathering such information. Most importantly, the FCC is interested in the current status of competition. It did not ask for states to provide the future business plans of the CLECs, as U S WEST is asking for here. Finally, Sprint does not believe that any protective order or agreement would provide sufficient protection to Sprint's highly confidential business plans.

U S WEST also attempts to use the "foreseeable demand" justification here. Sprint has already addressed this issue in conjunction with other requests and would here only emphasize that other DRs directly ask for demand forecasts. What little probative value the information requested in these DRs brings to the issue is outweighed by the need to protect the highly confidential nature of the information.

U S WEST finally anticipates one its public interest arguments in suggesting that if "many of the Intervenor do not plan to enter the local exchange market in portions of Arizona in the foreseeable future, U S WEST's entry into the interLATA market is likely to create additional incentives for facilities-based competition." Memorandum, p. 31-2. Whatever the merits of the argument, (and Sprint certainly does not agree with it); it is no justification for the DRs in question.

DR 40. U S WEST asks Sprint to produce any documents concerning how competition will change if U S WEST is authorized to compete in the interLATA market in Arizona. Sprint responded that it does not have an analysis specific to Arizona. However, Sprint refers U S WEST to testimony Sprint has presented in other §271 cases in other states. That testimony is in the public record and equally accessible to U S WEST.

U S WEST does not explain why this answer is insufficient. In fact, in its motion, U S WEST offers no reason whatsoever for continuing to demand further responses from Sprint on this issue. Based on U S WEST's Supplemental Memorandum at p. 35 Sprint can not determine whether further responses are even demanded of it because U S WEST fails to mention any Intervenor by name.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DR 40.

DR 41. U S WEST asks for documentation in support of Sprint's contention that U S WEST is impeding Sprint's entry into the local exchange market in Arizona. Sprint

has supplied U S WEST with a complete response to that DR. Sprint has carefully detailed the most pressing, fact-based concerns it can identify. In addition, in response to DR 40, Sprint has referred U S WEST to Sprint's testimony filings in §271 cases in other states.

For the foregoing reasons, Sprint requests that this Commission deny U S WEST's motion to compel additional responses to DR 41.

Conclusion

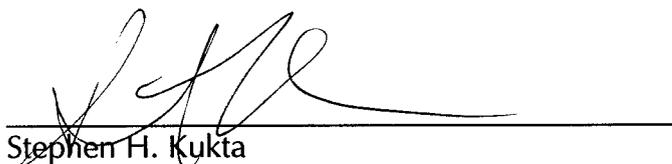
Sprint's responses to U S WEST's 41 DRs state sustainable objections and/or complete responses. Sprint has acted in good faith during its participation in this discovery process, a task which is made difficult knowing that a primary purpose of U S WEST's discovery is to either obtain Sprint's confidential business plans for the U S WEST region or to drive Sprint from this proceeding as it did in Nebraska.

Nevertheless, Sprint believes it has provided evidence in its responses that adds to the body of knowledge necessary for the Commission to decide this proceeding, and hopes it will be able to continue to participate in this proceeding to its culmination.

Based on the evidence presented herein, Sprint respectfully requests that this Commission deny U S WEST's motion to compel further DR responses for each of the DRs addressed herein.

Respectfully submitted,

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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing was served by sending a copy thereof to the persons on the service list on this 25th day of March 1999.