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BEFORE THE ARIZONA CORPORATION COMMISSION

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2 JAMES M. IRVIN  
Chairman  
3 TONY WEST  
Commissioner  
4 CARL J. KUNASEK  
Commissioner

Arizona Corporation Commission

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6 IN THE MATTER OF U S WEST DOCKET NO. T-00000A-97-0238  
7 COMMUNICATIONS, INC.'S COMPLIANCE  
8 WITH § 271 OF THE  
TELECOMMUNICATIONS ACT OF 1996.

9 SUPPLEMENTAL MEMORANDUM REGARDING THE RELEVANCE OF INDIVIDUAL  
10 DATA REQUESTS

11 DATA REQUESTS 1 & 3-14

12 In Data Requests 1 and 3-14, U S WEST asks the Intervenors  
13 to describe each "complaint, problem, or concern," and to produce  
14 all relevant documents, regarding 12 of the 14 checklist items  
15 identified in § 271(c)(2)(B). According to the FCC, "[t]o make a  
16 prima facie case that it is meeting the requirements of a  
17 particular checklist item under Track A, a BOC must demonstrate  
18 that it is providing access or interconnection pursuant to the  
19 terms of that checklist item." BellSouth Louisiana Order II at  
20 ¶ 54.<sup>1</sup> More specifically, the FCC has stated that a BOC must  
21 establish, inter alia, that "it is currently furnishing, or is  
22 ready to furnish, the checklist item in the quantities that  
23 competitors may reasonably demand and at an acceptable level of

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25 <sup>1</sup> Application of BellSouth Corporation et al. for Provision of In-  
26 Region, InterLATA Services in Louisiana, Memorandum Opinion and Order,  
FCC 98-271 (rel. Oct. 13, 1998).

1 quality." Id. at ¶ 54; Ameritech Michigan Order<sup>2</sup> at ¶ 110  
2 (emphasis added). Thus, the information sought by these requests  
3 is central to one of the factors the FCC states that BOCs must  
4 establish under Section 271 that it provides the checklist items  
5 at an acceptable level of quality.

6 For example, the first Data Request asks for information  
7 regarding complaints about U S WEST's provision of  
8 interconnection. The Act requires U S WEST to provide  
9 interconnection that is at least "equal in quality" to the  
10 interconnection U S WEST provides to itself or others, and it  
11 must do so on terms that are "just, reasonable, and  
12 nondiscriminatory." 47 U.S.C. § 251(c)(2). According to the  
13 FCC, the "equal in quality" standard is measured in terms of  
14 U S WEST's service quality, including the perceptions of the  
15 CLECs' end users. Implementation of Local Competition Provisions  
16 of the Telecommunications Act of 1996, First Report and Order, 11  
17 FCC Rcd 15499, at ¶ 224 (1996). Similarly, if U S WEST provides  
18 interconnection that is less efficient than it provides to  
19 itself, this could, according to the FCC, violate the duty to be  
20 "just" and "reasonable." First Report and Order at ¶ 218.

21 The FCC also states that although "anecdotal evidence may be  
22 indicative of systemic failures," a BOC "may overcome such  
23 evidence by providing, inter alia, objective performance data

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25 <sup>2</sup> Application of Ameritech Michigan Pursuant to Section 271 of the  
26 Communications Act of 1934, as amended, to Provide In-Region,  
InterLATA Services in Michigan, Memorandum Opinion and Order, 12 FCC  
Rcd 20543 (1997).

1 demonstrating that it satisfies the statutory nondiscrimination  
2 requirement. . . . [W]e require that the BOCs establish methods  
3 to respond to problems as they occur and to prevent similar  
4 failures in the future." BellSouth Louisiana II Order at ¶ 57.  
5 Accordingly, any complaints, problems, or concerns about the  
6 service quality of U S WEST's interconnection are relevant to the  
7 determination of whether U S WEST has met this checklist item.

8 Similarly, Data Request 4 seeks information about  
9 complaints, problems, or concerns regarding provisioning  
10 unbundled local loops. In order to satisfy the checklist item  
11 for local loops, the FCC requires the BOC to deliver unbundled  
12 loops in an manner that offers an efficient carrier a meaningful  
13 opportunity to compete. BellSouth Louisiana II Order at ¶ 198.  
14 Obviously any complaints, concerns or problems regarding  
15 U S WEST's provision of local loops could be relevant to this  
16 Commission's analysis of this issue.

17 In sum, Data Requests 1 and 3-14 all relate directly to the  
18 question of the quality and parity of the checklist items  
19 U S WEST is provisioning. Because the information requested is  
20 essential to U S WEST's preparation for the hearing in this  
21 proceeding, the Intervenor should be required to provide the  
22 requested information.

23 Moreover, U S WEST seeks all complaints currently in  
24 Intervenor's possession about each checklist item as well as all  
25 documents that are both negative and positive so that U S WEST  
26 can address all issues relating to each checklist item.

1 Intervenor such as AT&T/TCG assert that it should have the  
2 opportunity to "supplement their responses at any time before the  
3 Commission or the FCC." U S WEST does not object to this to the  
4 extent that Intervenor discover new information not previously  
5 known; however, Intervenor should not be entitled to withhold  
6 information so that U S WEST does not have an opportunity to  
7 combat it, correct it, or show that the assertion is without  
8 merit. This proceeding is not supposed to be about keeping U S  
9 WEST out of the interLATA market; rather it is supposed to be  
10 about determining whether U S WEST satisfies Section 271 of the  
11 Act. Withholding information to ensure that U S WEST remains  
12 unaware of potential issues runs contrary to everything that our  
13 system of justice stands for.

14 Nextlink states that it intends to produce some of the  
15 information requested, but that it "does not intend such response  
16 to be all-inclusive or exhaustive of its complaints regarding U S  
17 WEST." Nextlink must be ordered to disclose all of its  
18 complaints. It cannot disclose some complaints now; reserving  
19 others for later use. Sprint's responses to these Data Requests  
20 are ambiguous. Sprint must be compelled to clarify that it has  
21 disclosed all complaints relating to these checklist items.  
22 AT&T, TCG, Cox, e.spire and TRI refuse to respond at all, and  
23 must be ordered to respond to these data requests.

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1 DATA REQUEST 2

2 The second Data Request asks the Intervenor to provide  
3 information about the locations in which the Intervenor seek to  
4 collocate in Arizona within the next 24 months. The Data Request  
5 seeks information relevant to U S WEST's collocation obligations  
6 under checklist item 1.

7 The FCC states that the length of time it takes a BOC to  
8 provide physical or virtual collocation is relevant to  
9 determining whether the BOC has met its collocation obligations,  
10 particularly the obligation to provide physical and virtual  
11 collocation on terms and conditions that are "just, reasonable,  
12 and nondiscriminatory" in accordance with section 251(c)(6).  
13 BellSouth Louisiana II Order at ¶ 62; BellSouth South Carolina  
14 Order<sup>3</sup> at ¶ 202 (applicant failed to show that it could provide  
15 collocation in a timely manner). The BOC must show that there  
16 will not be unreasonable delays in providing collocation space.  
17 Id. at ¶ 202. To make this showing, U S WEST must evaluate  
18 whether the systems it has in place will meet the demands the  
19 CLECs are likely to place on those systems. Moreover, because  
20 the CLECs' collocation demands may themselves affect a BOC's

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23 <sup>3</sup> Application of BellSouth et al. Pursuant to Section 271 of  
24 the Communications Act of 1934, as amended, To Provide In-region  
25 InterLATA Services in South Carolina, Memorandum Opinion and  
26 Order, 13 FCC Rcd 539 (1998).

1 provision of collocation, the information sought is relevant to  
2 the BOC's demonstration of nondiscrimination.

3 Thus, the requested information is necessary and relevant to  
4 U S WEST's showing that it has processes and procedures in place  
5 necessary ensure that collocation arrangements are available on  
6 "just, reasonable, and nondiscriminatory" terms and conditions,  
7 as the FCC has defined this requirement. The Commission should  
8 require the Intervenors to provide the requested information.

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10 **DATA REQUESTS 15 AND 16**

11 Data Request 15 asks the Intervenors to identify all  
12 entities other than U S WEST, including the Intervenors  
13 themselves, from which the Intervenor can obtain for use in  
14 Arizona local loops, network interface devices (NIDs), local  
15 switching, interoffice transmission facilities, vertical  
16 features, directory assistance, and operator services. Data  
17 Request 16 asks for all documents concerning whether the quality  
18 of any local telecommunications service the Intervenor provides  
19 in Arizona is or may be affected by the ability to obtain from  
20 U S WEST any of the elements, items, or services listed in Data  
21 Request 15, and whether the ability to obtain the elements,  
22 items, and services is necessary for the Intervenor to provide  
23 local telecommunications service in Arizona or any of U S WEST's  
24 other 13 states. For several reasons, this information is  
25 relevant to this proceeding.

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1 First, the information is relevant to determining whether  
2 U S WEST satisfies the nondiscrimination standard with respect to  
3 the provision of unbundled network elements. In particular, the  
4 information is relevant to determining whether U S WEST can meet  
5 current and reasonably foreseeable demand for access to network  
6 elements. See BellSouth Louisiana II Order at ¶¶ 54, 166. Of  
7 course, the information relates not only to the total demand for  
8 such facilities, but more specifically to the projected demand  
9 for U S WEST's facilities. For example, if an Intervenor intends  
10 to obtain transport from another carrier or if it intends on  
11 building and utilizing its own facilities, such evidence is  
12 clearly relevant to a showing by U S WEST that its transport  
13 facilities are sufficient to meet reasonably foreseeable demand;  
14 indeed, it demonstrates that the level of demand for that  
15 particular Intervenor will be inconsequential. U S WEST  
16 understands that Cox is currently utilizing dark fiber from the  
17 Salt River Project; this provides just one example of how market  
18 conditions may, at least in part, drive projected demand for each  
19 checklist item.

20 In addition, as discussed in the Supreme Court's recent  
21 decision in AT&T Corp. v. Iowa Utilities Board, 119 S. Ct. 721  
22 (1999), the existence of alternate means of obtaining facilities  
23 also is relevant to determining whether any particular network  
24 element must be unbundled under the "necessary" and "impair"  
25 criteria set forth in the Act. 47 U.S.C. § 251(d)(2). Thus, the  
26 requested information relates not only to the issue of U S WEST's

1 ability to meet reasonably foreseeable demand for UNEs, but also  
2 to the Intervenor's meaningful opportunity to compete in Arizona  
3 in light of those alternatives. That is, the information relates  
4 not just to the demand for U S WEST's facilities, but also to the  
5 question of whether U S WEST's facilities are necessary for the  
6 CLECs to have a meaningful opportunity to compete in Arizona.

7 Finally, Intervenor's have already asserted that the prices  
8 in U S WEST's SGAT upon which it will rely in this 271 proceeding  
9 do not comport with the Act. The only way that this can be true  
10 is if the prices about which they complain concern or relate to  
11 objects deemed to be UNEs under section 251(c)(3) of the Act.  
12 For only these items are subject to the pricing mechanism of  
13 Section 252(d). It is possible if not probable that this matter  
14 will go to hearing before the FCC issues a new Rule 51.319, which  
15 identifies UNEs under the Supreme Court's necessary and impair  
16 standard. As a result, U S WEST also seeks information that it  
17 can include in its case in chief to show why 252(d) prices should  
18 not apply. For these reasons, the requested information is  
19 relevant to this proceeding and should be provided.

20 **DATA REQUEST 17**

21 Data Request 17 asks, for Arizona and the other 13 states in  
22 U S WEST's region, for the Intervenor to describe on a state-  
23 specific basis projected demand over the next 24 months for a  
24 list of 13 elements, items and services, representing all but two  
25 of the Section 271 checklist items.  
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1 As noted earlier, to establish that U S WEST is providing  
2 the elements, items, and services on a nondiscriminatory basis,  
3 U S WEST must establish that "it is currently furnishing, or is  
4 ready to furnish, the checklist item in quantities that  
5 competitors may reasonably demand. . . ." BellSouth Louisiana II  
6 Order at ¶ 54. Moreover, BOCs must demonstrate that their OSS  
7 functions are capable of handling both current demand and  
8 reasonably foreseeable demand. Ameritech Michigan Order at  
9 ¶ 138; BellSouth South Carolina Order at ¶ 97. In order to make  
10 this showing, U S WEST must be able to project the reasonably  
11 foreseeable demand. U S WEST selects a 24-month window because  
12 intervenors should reasonably be able to project their needs for  
13 that period.

14 In addition, the requested information must be provided on a  
15 region-wide basis. U S WEST plans for its requirements on a  
16 region-wide basis, and the FCC has made clear that where planning  
17 is done on a region-wide basis, region-wide information may be  
18 required. See BellSouth Louisiana II Order at ¶ 56 (region-wide  
19 information is relevant so long as the ILEC provides access  
20 through a region-wide process). Accordingly, the intervenors  
21 must provide the requested information because they control  
22 exclusively reliable evidence of their projected demand in the  
23 reasonably foreseeable future.

24 **DATA REQUESTS 18-20**

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1 Data Request 18 asks whether the Intervenor have a real-  
2 time operations support system for ordering products and services  
3 and, if so, the products or services that the system supports,  
4 the date the system was deployed, and the protocols used for the  
5 system (or systems). The Request also asks the Intervenor to  
6 produce relevant documents.

7 Data Request 19 asks about the mechanisms to support the  
8 negotiation and ordering process for local customers if a real-  
9 time operational support system is not in use. It asks for a  
10 description of the functionality provided by such mechanisms and  
11 for documents that describe the mechanisms and their  
12 functionality.

13 Data Request 20 asks about the development, implementation,  
14 and testing guidelines used by the Intervenor for the  
15 development of OSS software, and about the documents that would  
16 reflect those guidelines.

17 The FCC has suggested that BOCs such as U S WEST must  
18 provide real-time access to OSSs in order to ensure that they  
19 comply with the nondiscrimination standard. See Ameritech  
20 Michigan Order at ¶¶ 135, 180. U S WEST anticipates that the  
21 Intervenor will allege that U S WEST's OSSs are inadequate. In  
22 particular, the Intervenor have claimed in other 271 proceedings  
23 that U S WEST's EDI interface is not sufficient, despite the fact  
24 that not one of the Intervenor has built to its side of the EDI  
25 interface. The intervenor have claimed that, since no CLECs are

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1 using the EDI interface, the EDI interface cannot be considered  
2 sufficient to meet the standards of 271.

3 In other 271 proceedings, the Intervenors have claimed that  
4 they have not built to U S WEST's EDI interface because of  
5 alleged inadequacies of the interface. U S WEST, on the other  
6 hand, contends that each CLEC has chosen not to build its side of  
7 the interface for one of three reasons: (1) the CLEC has no real  
8 intention to provide the amount of service in U S WEST's  
9 territory sufficient to justify the significant investment  
10 necessary to build such an interface; (2) the CLEC has for  
11 business reasons chosen not to invest the significant sums  
12 necessary to build such an interface; or (3) the CLEC does not  
13 have internal OSS adequate to support such an interface.

14 Why each intervenor has chosen not to build to U S WEST's  
15 EDI interface will be a central question in this case, and the  
16 information necessary to answer that question is solely in the  
17 possession of the Intervenors. U S WEST is entitled to discover  
18 the information necessary to answer that question, and Requests  
19 18 and 19 are intended to discover whether the Intervenors have  
20 internal OSSs that could support an EDI interface. That  
21 information is clearly relevant and necessary for this 271  
22 proceeding.

23 Data Request 20 bears on the question of the standards for  
24 the timely development of OSSs. Intervenors have in other  
25 proceedings asserted that U S WEST's OSSs are deficient because,  
26 they assert, U S WEST's interfaces do not meet all applicable

1 standards, and that U S WEST has not adequately tested its OSSs.  
2 U S WEST is entitled to discover to what standards the  
3 Intervenors have developed their OSSs, so that it can determine  
4 what standards are relevant in this proceeding. The level and  
5 amount of testing that Intervenors have used to develop their  
6 OSSs will serve as a good benchmark for how much testing is  
7 necessary for U S WEST's OSSs.

8 All of the information requested is relevant because it goes  
9 to the question whether the Intervenors themselves, by their own  
10 standards, will be able to provide the OSSs necessary to connect  
11 to U S WEST's interface. If the Intervenors are years away from  
12 development of the necessary systems, U S WEST cannot be faulted  
13 for the failure of CLECs to enter the Arizona market. Instead,  
14 the CLECs' failure to develop their own OSSs (as well as their  
15 side of the interface) would be the principal cause of any delay.  
16 In addition, to the extent that the CLECs' OSS development  
17 guidelines conflict with industry protocols, such information is  
18 relevant to the CLECs' claims regarding U S WEST's alleged  
19 failure to comply with national standards.

20 ACI, AT&T, TCG, GST, Nextlink, Cox, e.spire and MCI have  
21 refused to respond at all to these Data Requests, and they must  
22 be ordered to submit complete responses. Sprint has refused to  
23 answer Data Request 18 and 19, and has filed only an incomplete  
24 response to Data Request 20. Sprint must be ordered to submit  
25 complete responses to all of these Data Requests.

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1 **DATA REQUEST 21**

2 Data Request 21 asks whether the Intervenors maintain data  
3 relating to errors in local service requests for Arizona and the  
4 other 13 states in U S WEST's region and, if so, the nature of  
5 information maintained. It also asks for all documents relating  
6 to occurrences of errors in local service requests ("LSRs") or  
7 orders submitted by the Intervenors to U S WEST.

8 The information sought is relevant to the question of how  
9 much responsibility U S WEST bears for any delays in the ordering  
10 process. To the extent that delays may be caused by the  
11 Intervenors' errors in their LSRs, those delays are simply not  
12 attributable to U S WEST's OSSs. As the FCC has stated, "We do  
13 not hold a BOC accountable for flow-through problems that are  
14 attributable to competing carriers' errors." BellSouth Louisiana  
15 II Order at ¶ 111. Accordingly, the error rates of the competing  
16 carriers are relevant to this proceeding. Indeed, the FCC  
17 requires BOCs to provide "persuasive evidence" to support any  
18 claims regarding the errors of competing carriers. Id.

19 The Intervenors in 271 proceedings have blamed the BOCs for  
20 any failures or errors of LSRs. U S WEST is entitled to know  
21 what the Intervenors' internal documents show regarding the rate  
22 that their representatives cause errors on LSRs. The information  
23 sought is relevant to that analysis. Hence, the Commission  
24 should require the Intervenors to provide the requested  
25 information.

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1 MCI, TCG, Cox, e.spire and AT&T have refused to respond to  
2 this Data Request and must be ordered to do so.

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4 **DATA REQUEST 22**

5 Data Request 22 asks each Intervenor to identify each  
6 electronic interface it requires to provide local service in  
7 Arizona and the 13 other states in U S WEST's region for the  
8 purpose of obtaining access to U S WEST's pre-ordering, ordering,  
9 provisioning, billing, and maintenance and repair systems.

10 In numerous regulatory proceedings in the last several  
11 years, including other 271 proceedings, the Intervenorers have  
12 raised various and sundry criticisms of U S WEST's OSS, and each  
13 time those criticisms were new and different. U S WEST has  
14 expended tens of millions of dollars to remedy each alleged  
15 criticism, but when those criticisms were remedied, the  
16 Intervenorers invented new criticisms. For example, Intervenorers  
17 (particularly AT&T and MCI) clamored for an EDI interface, and  
18 claimed that the lack of such an interface was the reason they  
19 were not serving residential customers in U S WEST's region. U S  
20 WEST spent tens of millions of dollars building an EDI interface,  
21 and those Intervenorers have refused to invest in U S WEST's region  
22 and build to the EDI interface.

23 At some point, this practice has to stop. There must be  
24 some interface that would satisfy the needs of the Intervenorers,  
25 and U S WEST is entitled to know what that interface is. U S  
26 WEST is entitled to discover all functionalities that the

1 Intervenor need to compete, so that a comprehensive set of  
2 alleged deficiencies can be assessed in this proceeding. The  
3 Intervenor cannot be allowed to continue to invent new alleged  
4 deficiencies each time U S WEST satisfies the criticisms  
5 previously raised.

6 Additionally, as noted above, the relevance of obtaining  
7 this information on a region-wide basis derives from the fact  
8 that U S WEST has developed its OSS interfaces and enhanced its  
9 systems on a region-wide basis. See BellSouth Louisiana II Order  
10 at ¶ 56. Accordingly, the requested information should be  
11 provided.

12 In response to this Data Request, MCI refers to testimony  
13 that it has filed in other proceedings. However, MCI has not  
14 indicated whether this testimony contains the entirety of MCI's  
15 contentions regarding U S WEST's OSSs. MCI should be compelled  
16 to indicate whether its response is complete.

17 AT&T, TCG, Cox, e.spire and GST have refused to respond to  
18 this Data Request, and must be compelled to do so. Nextlink and  
19 ACI have indicated that they will provide some information, but  
20 must be ordered to clarify that they are providing all  
21 information responsive to this Data Request.

22 **DATA REQUEST 23**

23 Data Request 23 asks the Intervenor to provide information  
24 about ILECs that they contend satisfy any of their electronic  
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1 interface needs relating to local exchange service, unbundled  
2 network elements, and any other aspect of local service.

3 For the same reasons identified in connection with Data  
4 Request 22, the information sought in this data request is  
5 relevant to U S WEST's demonstration that the interfaces US WEST  
6 employs in fact permit competing carriers to access U S WEST's  
7 OSS functions, as the FCC requires. BellSouth South Carolina  
8 Order at ¶¶ 158-161.

9 As addressed in connection with Data Request 22, the  
10 Intervenors have been inventing new criticisms of U S WEST's OSS  
11 each time U S WEST satisfies the criticisms already raised.  
12 There must be some OSS that satisfies the Intervenors' needs; U S  
13 WEST cannot be held to a theoretical standard of perfection that  
14 no ILEC in the world has been able to meet. U S WEST is entitled  
15 to discover what ILEC's OSS does meet Intervenors' requirements.

16 If U S WEST can show that its interfaces meet the same  
17 functional requirements as the interfaces of those carriers that  
18 satisfy the Intervenors' requirements, this information is  
19 relevant to showing that U S WEST's interfaces meet the  
20 Intervenors' needs. If, on the other hand, the Intervenors  
21 cannot identify any ILECs' OSSs that meet their needs, such  
22 information is relevant to show that the Intervenors are simply  
23 raising a smoke screen for competitive reasons. In either case,  
24 the Commission should compel the production of the requested  
25 data.

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1 AT&T, TCG, ACI, Cox, e.spire and MCI refuse to respond at  
2 all to this Data Request, and must be ordered to do so. Nextlink  
3 answers this Data Request for only "the territory where U S WEST  
4 is the ILEC." Such a response is inadequate and makes no sense.  
5 Nextlink must be ordered to fully respond to this Data Request.

6 **DATA REQUEST 24**

7 Data Request 24 asks how many electronic interface orders  
8 for some form of local exchange service the Intervenors have  
9 placed with ILECs per day during the past year, and it asks for a  
10 breakdown by state, ILEC, and order type.

11 The FCC has stated that U S WEST's OSSs must be capable of  
12 handling the CLECs' current demand as well as reasonably  
13 foreseeable demand. Ameritech Michigan Order at ¶ 110, 138;  
14 BellSouth South Carolina Order at ¶ 97. To the extent that all  
15 of the Intervenors' combined maximum orders are less than the  
16 number of orders U S WEST can currently process, such information  
17 would be highly relevant to evaluating U S WEST's ability to meet  
18 current and projected demand. In addition, the information may  
19 show that the Intervenors' systems are not, in fact, designed to  
20 submit orders. Such information is relevant to the question of  
21 whether their customers would be harmed if manual processes were  
22 used.

23 AT&T, TCI, GST, Cox, e.spire and MCI refuse to respond to  
24 this request and must be ordered to do so. Sprint, ACI and  
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1 Nextlink submit responses for only U S WEST's region, and must be  
2 ordered to fully respond to this Data Request.

3 **DATA REQUEST 25**

4 Data Request 25 seeks information about whether the  
5 Intervenor's have used any graphical user interface or human-to-  
6 computer interface that supports local exchange service in any  
7 local telecommunications market within the past 24 months and, if  
8 so, the identity of the carrier and the market in which the  
9 interface was used.

10 The FCC requires U S WEST to demonstrate that it has  
11 developed electronic and manual interfaces that allow competing  
12 carriers to access the requisite OSS functions. Ameritech  
13 Michigan Order at ¶¶ 137-38; BellSouth South Carolina Order at  
14 ¶ 96. U S WEST has developed several interfaces to meet this  
15 requirement including a graphical user interface (IMA) and  
16 computer-to-computer interfaces (EDI and EB-TA). The Intervenor's  
17 have generally argued that because most CLECs in its region use  
18 the graphical user interface (IMA), U S WEST's interfaces are  
19 inadequate to satisfy U S WEST's OSS obligations. U S WEST  
20 disagrees with this claim. To the extent the Intervenor's have  
21 successfully utilized human-to-computer interfaces, whether  
22 U S WEST's or any other ILEC's, that use is relevant to a showing  
23 that U S WEST can meet its OSS obligations with a human-to-  
24 computer interface. The Commission should require Intervenor's to  
25 produce the requested information.  
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1 AT&T, TCG, Cox, e.spire and Sprint refuse to respond at all  
2 to this Data Request and must be ordered to submit a complete  
3 response. MCI responds as to only U S WEST's interfaces, but  
4 does not submit any relevant documents, other than pointing to  
5 its unsupported advocacy in other proceedings. MCI must be  
6 ordered to submit a complete response. Nextlink, ACI and GST  
7 will respond as to only U S WEST's interfaces, and must be  
8 ordered to submit a complete response, including relevant  
9 documents.

10 **DATA REQUEST 26**

11 Data Request 26 asks the Intervenors to provide information  
12 regarding provisioning commitments made to customers, including  
13 the average, anticipated time interval for installing facilities-  
14 based local telecommunications service and the average,  
15 anticipated amount of time the customer will be out of service to  
16 allow for a change of carriers through a loop cut-over. Data  
17 Request 26 also asks whether the commitments made vary depending  
18 upon whether the Intervenor uses facilities provided by U S WEST  
19 or by some other source.

20 The information sought is relevant because it relates to the  
21 potential competitive effect on the customer of U S WEST's  
22 provisioning intervals. For example, if the Intervenors'  
23 representations to their customers regarding provisioning  
24 commitments are greater than what U S WEST currently provides,  
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1 U S WEST's provisioning intervals cannot affect the customer's  
2 view of the service received.

3 The FCC's BellSouth Louisiana II Order at ¶¶ 105, 127,  
4 states that the customer's perspective is a relevant  
5 consideration for issues such as how long it takes for a new  
6 service to be installed. Information regarding the  
7 representations made by the CLECs to their customers is directly  
8 relevant to that perspective since it may show that the  
9 Intervenor's cannot possibly be disadvantaged by U S WEST's  
10 provisioning intervals. Accordingly, the Intervenor's should  
11 provide the requested information.

12 AT&T, TCG, ACI, GST, Nextlink and MCI refuse to respond to  
13 this data request and must be ordered to submit complete  
14 responses.

15 **DATA REQUEST 27**

16 Data Request 27 seeks information regarding presentations  
17 and marketing efforts used by the Intervenor's sales  
18 representatives in discussions with local exchange customers or  
19 in mass marketing within U S WEST's region.

20 As with Data Request 26, the relevance of the information  
21 sought is linked to the perspective of the Intervenor's end user  
22 customers. Unless the Intervenor's representatives make  
23 representations (e.g., regarding provisioning intervals) to their  
24 customers that U S WEST's systems cannot meet, there is no basis  
25 for concern regarding any effect those systems might have on the  
26

1 Intervenor's ability to compete. Thus, the information sought is  
2 directly relevant to the question whether U S WEST's OSSs  
3 adversely affect the Intervenor's competitive position. See  
4 BellSouth Louisiana II Order at ¶¶ 87, 105. For this reason, the  
5 Intervenor should produce the requested data.

6 AT&T, TCG, ACI, GST, Nextlink, Cox, e.spire and MCI refuse  
7 to respond to this Data Request and must be ordered to submit  
8 complete responses.

9 **DATA REQUEST 28**

10 Data Request 28 asks whether the Intervenor track the time  
11 per call that their local service representatives spend on the  
12 telephone with customers to promote local telecommunications  
13 services and arrange for the provisioning of services. This  
14 information is relevant because it relates to the potential  
15 competitive effect of U S WEST's ordering processes, and thus  
16 relates to the question of U S WEST's provision of  
17 nondiscriminatory access to its OSSs.

18 In the provision of OSSs, the FCC holds that "[f]or the OSS  
19 functions that have no retail analogue (such as ordering and  
20 provisioning of unbundled network elements), a BOC must offer  
21 access sufficient to allow an efficient competitor a meaningful  
22 opportunity to compete." BellSouth Louisiana II Order at ¶ 87.  
23 The FCC recognizes that the competitive impact of U S WEST's  
24 processes may depend upon the CLEC's processes. Thus, the FCC  
25 speaks of how the ordering process appears to the customer: "To  
26

1 the customer, the new entrant may appear to be a less efficient  
2 and responsive service provider than its competitor." BellSouth  
3 Louisiana II Order at ¶ 105 (emphasis added). Conversely, where  
4 U S WEST's processes cannot, because of the nature of the CLECs'  
5 processes, affect the customer's perception of his or her  
6 service, those processes cannot place the CLEC at a competitive  
7 disadvantage.

8 For these reasons, the Commission should require the  
9 Intervenors to provide information regarding service  
10 representatives' time per call. Such information may help show  
11 that U S WEST satisfies its nondiscrimination requirements.

12 **DATA REQUEST 29**

13 As with Data Request 28, Request 29 seeks information that  
14 is relevant to whether U S WEST provides nondiscriminatory access  
15 to its OSSs in a manner that gives Intervenors a meaningful  
16 opportunity to compete. In particular, Data Request 29 seeks  
17 information about the hours of operation of the Intervenors'  
18 local exchange units within U S WEST's territory.

19 The information is relevant to the kind of comparative  
20 analysis the FCC seeks, BellSouth Louisiana II Order at ¶¶ 105,  
21 127-28, because it is relevant to the determination of the  
22 competing carriers' and their customers' expectations. If the  
23 CLECs' hours are equal to or shorter than U S WEST's, the length  
24 of U S WEST's hours cannot affect either the CLEC customer or the  
25 competitive advantage of the CLECs. Thus, the information is  
26

1 relevant to determining whether there is any "disparity" between  
2 U S WEST's provision of service to itself and its provision of  
3 service to competing carriers. BellSouth Louisiana II Order at  
4 ¶ 128 (addressing possible disparities in performance measures);  
5 see also Ameritech Michigan Order at ¶¶ 204-213.

6 Accordingly, the Intervenors should provide the information  
7 requested.

8 **DATA REQUEST 30**

9 Data Request 30 asks for certain information regarding  
10 telecommunications services provided by the Intervenors using  
11 their own facilities and using facilities provided by U S WEST.  
12 Specifically, the Data Request seeks the comparative percentages  
13 of customer commitments met for provisioning and repairs, the  
14 percentages of held orders, the percentages of network blocking  
15 experienced by the Intervenors, and the average repair intervals  
16 experienced.

17 As discussed above, comparative performance data of this  
18 kind is relevant in several ways. First, the very existence of  
19 the information sought bears on the question of the importance of  
20 the performance measure. To the extent that the Intervenors do  
21 not track a particular performance measure, their failure to do  
22 so is relevant to the utility of that particular performance  
23 measure toward the CLEC's customer experience. If a CLEC does  
24 not find the information sufficiently important to track it for  
25 its own facilities, it would be hard-pressed to argue that the  
26

1 information is required for it to have a reasonable opportunity  
2 to compete.

3       Just as important, to the extent that the Intervenor track  
4 the requested data, the information again has a direct bearing on  
5 the issue of nondiscrimination. Specifically, if U S WEST's  
6 performance with respect to these measures is superior to that of  
7 the Intervenor, then under no circumstances could U S WEST's  
8 performance place the Intervenor at a competitive disadvantage.  
9 Any such competitive disadvantage would be purely of the CLEC's  
10 own making and, by its own terms, U S WEST's performance is  
11 sufficient to allow an efficient carrier a meaningful opportunity  
12 to compete. In addition, the comparison between U S WEST's data  
13 and that of the Intervenor is relevant to providing the  
14 comparative data about performance measures that the FCC seeks.  
15 For example, with respect to trunk blockage statistics, the FCC  
16 asks the BOCs to perform complex statistical analyses that might  
17 explain any disparities in trunk blockage:

18       In order to demonstrate that it is providing  
19 interconnection that is equal in quality, BellSouth  
20 could . . . perform statistical analyses of its trunk  
21 blockage data to show whether the disparity in trunk  
22 blockage is a result of random variations as opposed to  
23 other underlying differences.

24 BellSouth Louisiana II Order at ¶ 77. The information sought  
25 here is relevant to such statistical analyses - the performance  
26 data of the trunk blockage of the CLEC's facilities may  
demonstrate that a statistical disparity results from the CLEC's  
design and forecast of traffic rather than as a result of any

1 action by U S WEST. Accordingly, the Commission should require  
2 the Intervenors to provide the requested information.

3  
4 **DATA REQUEST 31**

5 Data Request 31 asks the Intervenors whether they measure  
6 the frequency with which their representatives contact local  
7 exchange customers to notify them about order rejection notices,  
8 firm order confirmation notices, completion notices, and jeopardy  
9 notices.

10 The FCC asserts that the "timely" receipt of such notices  
11 may affect the ability of the new entrant to compete effectively.  
12 BellSouth Louisiana II Order at ¶ 117. The FCC also has stated  
13 when analyzing the 271 applications of other BOCs that such data  
14 would be helpful in demonstrating that the BOC's performance in  
15 this regard meets the Act's nondiscrimination standard. Id. at  
16 ¶ 119.

17 The information sought in this Data Request is relevant to  
18 the question whether, to the CLEC's customer, the CLEC might  
19 under the circumstances "appear to be a less responsive service  
20 provider than its competitor." BellSouth Louisiana II Order at  
21 ¶ 105. The FCC specifically notes as relevant the issue of a  
22 potential "disparity" between the BOC's performance and the  
23 expectations of the competing carrier and its customers. Id. at  
24 ¶ 128. In this context, the intervals at which the CLEC provides  
25 notices to its end user customer are relevant to the potential  
26 competitive impact of U S WEST's notice intervals. If, for

1 example, the CLEC's procedures in contacting local exchange  
2 customers about order rejection, firm order confirmation,  
3 completion and jeopardy of services are not affected by the  
4 intervals provided by U S WEST for each notification, than U S  
5 WEST may demonstrate that its processes and procedures meet the  
6 Act's nondiscrimination standard.

7 An Intervenor's use of "completion notifications" is  
8 illustrative. U S WEST informs CLECs of order completions every  
9 business day via an overnight batch process. This is exactly the  
10 same overnight batch process that is used to notify U S WEST's  
11 systems of order completions. The FCC has required BellSouth to  
12 demonstrate in its next Section 271 filing through performance  
13 measurements that "it provides competing carriers with order  
14 completion notices in a timely and accurate manner." BellSouth  
15 Louisiana II Order at ¶ 130 Information that an Intervenor's  
16 business processes would not utilize a completion notification  
17 until the next day would be relevant and admissible evidence that  
18 U S WEST has provided the Intervenor such notification in a  
19 timely and accurate manner.

20 Because the FCC regards such questions as relevant to its  
21 inquiries about performance measures, this Commission should  
22 require Intervenor's to provide the information sought.

23 **DATA REQUESTS 32, 33, AND 36**

24 Data Request 32 asks for the "absolute number" of local  
25 service requests ("LSRs") and orders each Intervenor is capable  
26

1 of issuing each business day. Data Request 33 asks for the  
2 projected number of LSRs and orders per business day the  
3 Intervenor expects to place with U S WEST, by interface type,  
4 over the next 24 months, and the total projected demand from each  
5 Intervenor for all pre-order transactions, by type, over the next  
6 24 months. Data Request 36 asks the Intervenors to project the  
7 maximum number of transactions U S WEST will be required to  
8 process on average, per day, for pre-ordering, ordering, billing,  
9 and maintenance and repair over the next 24 months.

10 As noted above, the FCC states that U S WEST's OSSs must be  
11 capable of satisfying both current and reasonably foreseeable  
12 demand. Ameritech Michigan Order at ¶¶ 110, 138; BellSouth South  
13 Carolina Order at ¶ 97. Indeed, in general, the BOCs must show  
14 that they can meet current and reasonably projected demand  
15 regarding unbundled network elements. See BellSouth Louisiana II  
16 Order at ¶¶ 54, 166. All of the requested information is  
17 directly relevant to U S WEST's ability to show that its OSSs are  
18 capable of meeting the current and reasonably foreseeable demand  
19 that will be placed upon them. Accordingly, the requested data  
20 should be provided.

21 AT&T, TCG, ACI, GST, Cox, e.spire and Nextlink do not  
22 respond at all to these Data Requests, and must be ordered to  
23 submit complete responses, including all relevant documents. MCI  
24 submits incomplete responses to Data Requests 33 and 36 and does  
25 not respond to Data Request 32. Sprint submits incomplete  
26 responses to Data Requests 32 and 33 and does not respond at all

1 to Data Request 36. MCI and Sprint must be ordered to submit  
2 complete responses, including all relevant documents.

3  
4 **DATA REQUEST 34**

5 Data Request 34 asks whether the Intervenor intends to  
6 commit, in association with U S WEST, to the development or  
7 availability of a production-ready OSS EDI for pre-ordering,  
8 ordering, and maintenance and repair for residential POTS and  
9 small business.

10 This information is directly relevant to this proceeding.  
11 The Intervenor insist that U S WEST's EDI interface be fully  
12 operational and exhaustively tested prior to Section 271  
13 approval. However, many of these Intervenor have abandoned  
14 efforts to work with U S WEST on the development of an EDI  
15 interface. If the Intervenor fail to develop their side of the  
16 EDI interface or otherwise assist in testing the EDI interface  
17 and making it operational, that fact is highly relevant to any  
18 determination about whether U S WEST has met the standards of  
19 Section 271.

20 U S WEST must establish that it has deployed necessary  
21 systems to provide access to OSS functions, and it must show that  
22 the OSS functions and interfaces are operationally ready.  
23 Ameritech Michigan Order at ¶ 136; BellSouth South Carolina Order  
24 at ¶ 96. For OSS functions without a retail analog, U S WEST  
25 must show that it has given CLECs a "meaningful opportunity to  
26 compete." Ameritech Michigan Order at ¶ 139; BellSouth South

1 Carolina Order at ¶ 98. The information sought here is relevant  
2 because it relates to the question whether the Intervenor are  
3 responsible for any delays in EDI implementation and to their  
4 claims that U S WEST's EDI interface must be fully operational  
5 before U S WEST receives Section 271 approval.

6 AT&T, TCI, Nextlink, GST, Cox, e.spire and ACI refuse to  
7 respond to this Data Request, and must be ordered to submit  
8 complete responses. Sprint submits an incomplete response to  
9 this Data Request and must be ordered to submit a full response,  
10 including all relevant documents.

11 In response to Data Request 34, MCI states that it will  
12 provide "some of the information requested in correspondence  
13 already provided sent [sic] to U S WEST." This response is  
14 completely inadequate. U S WEST is entitled to probe the  
15 veracity and completeness of the statements made by MCI regarding  
16 its decision not to develop an EDI interface. MCI cannot be  
17 allowed to pick and choose among documents and produce only those  
18 documents that support its case.

19 **DATA REQUEST 35**

20 Data Request 35 asks for the number of orders for  
21 facilities-based services that the Intervenor has submitted to  
22 any incumbent LEC by any means (whether manual or not) over the  
23 past year, as compared with the number of orders placed using an  
24 electronic interface over the past year.

25  
26

1 As discussed above, this information is relevant to this  
2 proceeding because U S WEST must demonstrate that it is capable  
3 of meeting both current and reasonably foreseeable demand for its  
4 OSSs. E.g., Ameritech Michigan Order at ¶ 138. Accordingly, the  
5 requested information should be provided.

6 AT&T, TCI, MCI, Nextlink, Cox, e.spire and GST have refused  
7 to respond to this Data Request, and must be ordered to submit  
8 complete responses. Sprint submits a response to this Data  
9 Request limited to U S WEST's region. Sprint must be ordered to  
10 submit a complete response.

11 **DATA REQUEST 37**

12 Data Request 37 asks for all documents relating to how,  
13 where, and when the Intervenor plans to become a local exchange  
14 provider within Arizona. If the Intervenor anticipates becoming  
15 a facilities-based provider using unbundled network elements, the  
16 Data Request seeks information regarding the elements and  
17 projected quantities needed within the next 24 months. Every  
18 intervenor objects to this request claiming it is irrelevant and  
19 seeks confidential information.

20 Both of these objections are without merit as the FCC itself  
21 has already recognized. The FCC has already advised the Michigan  
22 Commission it must gather the very information Intervenor now  
23 seek to withhold:

24 We note, however, that the Michigan Commission's  
25 consultation did not include an analysis of the state of  
26 local competition in Michigan. . . . [T]his information

1 will be valuable to our assessment of the public  
2 interest, and it is information which the state  
3 commissions are well-situated to gather and evaluate.  
4 Accordingly, in future applications, we suggest that the  
5 relevant state commission develop, and submit to the  
6 Commission, a record concerning the state of local  
7 competition as part of its consultation. In particular,  
8 state commissions should, if possible, submit information  
9 concerning the identity and number of competing providers  
10 of local exchange service, as well as the number, type,  
11 and geographic location of customers served by such  
12 competing providers. We recognize that carriers may view  
13 much of this information as proprietary and that  
14 different states have different procedures for obtaining  
15 and handling such information. Nevertheless, we  
16 encourage states to develop and submit to the Commission  
17 as much information as possible, consistent with state  
18 procedural requirements.

19 FCC's Michigan Ameritech Order, at ¶ 34 (emphasis supplied).  
20 Thus, the FCC recognized that claims of confidentiality can be  
21 and should be overcome with a standard Protective Order such as  
22 already exists in this docket.

23 The information is also relevant for purposes of determining  
24 whether U S WEST can handle the reasonably foreseeable demand for  
25 interconnection, unbundled network elements, resale, etc. See  
26 BellSouth Louisiana II Order at ¶¶ 54, 166. Second, the  
information is relevant to the question of the extent of  
facilities-based competition in Arizona, as required by Track A  
of Section 271. Finally, the information bears on the question  
of whether U S WEST's entry into the interLATA long distance  
market is in the "public interest" under 47 U.S.C. § 271(d). For  
example, if many of the Intervenors do not plan to enter the  
local exchange market in portions of Arizona in the foreseeable

1 future, U S WEST's entry into the interLATA market is likely to  
2 create additional incentives for facilities-based competition.  
3 This competition, in turn, will benefit all residential consumers  
4 in Arizona.

5 Accordingly, information about the Intervenors' plans  
6 regarding local exchange service in Arizona is relevant to this  
7 proceeding.

8 **DATA REQUEST 38**

9 Data Request 38 asks the Intervenors to identify the towns,  
10 cities, and states in U S WEST's local region in which the  
11 Intervenor anticipates initiating local service within 90 days,  
12 180 days, one year, two years, and five years.

13 As noted above, in its Section 271 analysis the FCC focuses  
14 on U S WEST's ability to meet foreseeable demand upon its network  
15 and particularly its OSSs. E.g., BellSouth Louisiana Order II  
16 ¶ 192. U S WEST must also demonstrate that it can meet  
17 reasonably foreseeable demands regarding the checklist items,  
18 including the provision of unbundled network elements. Id. at  
19 ¶¶ 54, 166. The information requested is relevant to this  
20 proceeding because it is needed for U S WEST to establish its  
21 readiness for future demands.

22 U S WEST also suspects that this evidence will establish  
23 that U S WEST's territory generally is not the focus of the  
24 larger CLECs, such as AT&T and MCI. In fact, U S WEST strongly  
25 suspects that it may be years before intervenors enter numerous  
26

1 locales within its region. This will directly affect the  
2 projected demand for each checklist item and the demands that  
3 will be placed on U S WEST's OSSs for the foreseeable future.

4 Finally, to the extent that Intervenors plans to enter other  
5 towns, cities and states before Arizona, this will directly  
6 affect their ability to emphasize expansion/entry plans in  
7 Arizona. All of this makes Intervenors entry plans throughout  
8 the region important and relevant to this proceeding.

9  
**DATA REQUEST 39**

10 Data Request 39 asks for all documents created from January  
11 1, 1994, to the present that identify or discuss the states and  
12 cities in which the Intervenors intend to serve as a local  
13 telecommunications provider, whether by resale or otherwise,  
14 including any priority ranking of these local markets.

15 For the same reasons identified in connection with Data  
16 Requests 37 and 38, the requested information is relevant to this  
17 proceeding. For example, in order to establish that U S WEST's  
18 OSSs are capable of handling the demand for future resale  
19 provisioning, the amount of anticipated resale must be  
20 quantified. The requested information will enable U S WEST to  
21 quantify this information and should be produced. In addition,  
22 the information is relevant to the "public interest" inquiry  
23 under § 271(d).

24 As Special Master Judge Samuel Van Pelt stated in his  
25 Nebraska order overruling the intervenors' objections to  
26

1 U S WEST's discovery requests regarding the intervenors' market  
2 plans,

3 U S WEST cannot prove Section 271(c) compliance in the  
4 state of Nebraska unless it has information from the  
5 intervenors respecting OSS system needs or potential  
6 status of competition. Although U S WEST has a primary  
7 obligation to open its markets and put systems in place  
8 that will allow competition if it wishes to enter the  
9 long-distance market, what intervenors AT&T, TCG,  
10 Sprint and McLeod plan to do is relevant. That is  
11 particularly true if these intervenors have no interest  
12 in entering the Nebraska market any time soon.

13 In the Matter of U S WEST Communications, Inc.'s Filing of its  
14 Notice of Intention to File Section 271(c) Application with the  
15 FCC and Request for Commission to Verify U S WEST Compliance with  
16 Section 271(c), Application No. C-1830, Progression Order No. 9,  
17 at 4.

18 Finally, the ultimate objective of the Telecommunications  
19 Act of 1996 is complete competition in every market; this  
20 includes BOCs in the interLATA market. Additional competition is  
21 almost by definition in the public interest. The information  
22 sought will show how, if at all, Intervenors' plans for entering  
23 the local exchange market have changed as a result of LECs  
24 ability to compete in the interLATA market. For example, AT&T's  
25 first foray into the local market was in the State of  
26 Connecticut, not New York or California. Why? The LEC there,  
SNET, received interLATA authority before the Act passed. To the  
extent that AT&T (or others) modified and continue to modify  
their local entry strategy in order to combat the LECs ability to  
compete in the interLATA market, this clearly will have a direct

1 impact on whether U S WEST's entry is in the public interest. In  
2 other words, U S WEST believes the Commission would find it  
3 highly relevant that its entry into the interLATA market in  
4 Arizona might actually stimulate additional local competition as  
5 well.

6 Thus, for the reasons stated above and in Judge Van Pelt's  
7 Order, the requested information should be provided.

8

**DATA REQUEST 40**

9

10 Data Request 40 asks the Intervenors to produce documents  
11 relating to any analysis by them of how competition will change  
12 in Arizona's local and long distance markets if U S WEST is  
13 authorized to compete in the interLATA market in Arizona. U S  
14 WEST suspects that one reason by the inter-exchange carriers are  
15 fighting section 271 applications throughout the country with  
16 such ferocity is because they know that prices and their market  
17 share will both drop substantially once BOCs enter this market.  
18 Thus, this information is relevant not only to the question of  
19 the foreseeable demand for U S WEST's facilities in Arizona, but  
20 also to the question about whether U S WEST's entry into the  
21 interLATA market in Arizona would be in the public interest,  
22 which is relevant to the inquiry under subsection 271(d).  
23 Accordingly, the data should be produced.

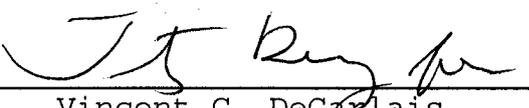
24 **DATA REQUEST 41**

25 Data Request 41 asks whether, if the Intervenor contends  
26 that U S WEST is impeding in any way its entry into the local

1 exchange market in Arizona or the other 13 states of U S WEST's  
2 region, to provide all documents relating to that contention. The  
3 requested information is directly relevant to the fundamental  
4 issues raised by this proceeding, particularly U S WEST's ability  
5 to show that it meets the 14 checklist items. Several of the  
6 intervenors have agreed to provide this information.  
7 Accordingly, there is no basis for withholding the requested  
8 data.

9 SUBMITTED this 16<sup>th</sup> day of March, 1999.

10 U S WEST COMMUNICATIONS, INC.

11  
12 By 

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