



0000008604

ORIGINAL

RECEIVED  
AZ CORP COMMISSION

MAY 24 4 31 PM '99

BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission  
Docket No. **DOCKETED**

MAY 24 1999

DOCKETED BY

**U S WEST'S RESPONSE TO JOINT ATMS'  
MOTION TO COMPEL RESPONSES TO DISCOVERY**

**I. INTRODUCTION**

U S WEST Communications, Inc. ("U S WEST") submits this opposition to the motion to compel of AT&T Communications of the Midwest ("AT&T"), Teleport Communications Group ("TCG"), MCI WorldCom, Inc. ("MCIW"), and Sprint Communications Company ("Sprint") (collectively "ATMS"). ATMS suggest that U S WEST is abusing and needlessly delaying the discovery process. Nothing could be further from the truth. U S WEST has expeditiously responded to over 400 data requests propounded by numerous intervenors in this proceeding, including 280 of ATMS' 287 requests. It has produced over thirty thousand pages of material in only five weeks. To avoid charges of delaying discovery, U S WEST has objected to a small fraction of ATMS' 287 questions, reserving its objections for those questions that simply have no legitimate basis or are extraordinarily burdensome. Indeed, U S WEST has responded to ATMS' requests even though in many instances, ATMS admit that the material they seek is irrelevant.

U S WEST has tried diligently to balance the needs of all intervenors to discovery from U S WEST while avoiding overburdening the Hearing Division with discovery disputes. With

1 respect to ATMS' requests, U S WEST has responded to the vast majority of those requests  
2 without objection. The Hearing Division should reject ATMS' request for additional  
3 information.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 **II. FACTUAL BACKGROUND**

2 ATMS' motion suggests that U S WEST has been less than diligent in responding to  
3 discovery. For example, they claim that U S WEST has failed to respond to a "very large  
4 percentage of the data requests." This suggestion is inaccurate.

5 On April 14, 1999, ATMS jointly submitted 287 separate requests to U S WEST. U S  
6 WEST submitted objections to just 69 of those requests within a week. Despite its objections, U  
7 S WEST responded to all but 24 of the requests to which it objected. As of May 21, 1999, just  
8 five weeks later, U S WEST had responded to all but 7 of these requests. During this same time  
9 frame, U S WEST responded to hundreds of additional data requests from other intervenors.  
10 Thus, ATMS' allegation that U S WEST failed to respond to a "very large percentage" of data  
11 requests is simply false.

12 U S WEST reiterated its commitment to provide full discovery regarding the issues in  
13 this proceeding during its May 5, 1999, meet and confer session with ATMS. There, U S WEST  
14 agreed to supplement its responses to 19 of the data requests at issue.. U S WEST's willingness  
15 to supplement its responses contrasts starkly with AT&T and Sprint, which have refused to  
16 supplement their responses in almost every instance.

17 Despite U S WEST's express commitment to provide additional information, ATMS filed  
18 a Motion to Compel before U S WEST could finish supplementing the requests agreed upon in  
19 the parties' meet and confer session. As of May 21, 1999, just 16 days after the meet and confer  
20 session, U S WEST had supplemented its answers to 17 of the agreed upon 19 questions. One of  
21 the outstanding requests will be supplemented this week. U S WEST will supplement its  
22  
23  
24  
25  
26

1 response to the other request as soon as U S WEST can gather and redact the Arizona-specific  
2 data (see U S WEST's response to JI-239).

3 In stark contrast, on March 2, 1999, U S WEST submitted 41 data requests to each  
4 intervenor. Although U S WEST propounded far fewer data requests than ATMS, AT&T, TCG,  
5 MCI, and Sprint have failed to provide any meaningful responses. Indeed, these parties have yet  
6 to produce a single document responsive to these requests. ATMS has shown no shyness with  
7 respect to their objections. AT&T, for example, objected to all 41 requests. Although AT&T  
8 and U S WEST held a meet and confer session concerning the adequacy of AT&T's responses to  
9 discovery nearly two weeks ago, AT&T has yet to inform U S WEST whether it will provide  
10 supplemental responses regarding the issues discussed during that meeting  
11

12 The following points demonstrate that U S WEST has cooperated in responding to  
13 ATMS' requests in the limited amount of time available to it. :

- 15 • U S WEST responded to 280 of 287 questions.
- 16 • U S WEST objected to less than 10% of the requests.
- 17 • U S WEST has produced 10,131 pages of written material to ATMS including thousands  
18 of pages of internal documents.
- 19 • To date, U S WEST has produced 13,130 pages of written material as well as CD- roms  
20 containing an additional 22,000 pages of material. It has also made 8,000 pages of Long  
21 Distance financial materials available for on site review.
- 22 • U S WEST attached an additional 2,786 pages of exhibits to its prefiled testimony.
- 23 • 10,623 pages of the written responses, attachments, testimony, and exhibits (and many  
24 more thousands of pages on the CD-roms) have addressed OSS topics.

25 The only data requests to which U S WEST has objected are well beyond the scope of  
26 this case and would add either add nothing relevant to this case or, given the extreme burden of  
27 gathering the information, the marginal relevance simply does not justify the effort. U S WEST  
28 will respond to each ATMS' allegation in the order presented in their Motion to Compel.

1 **III. SPECIFIC RESPONSE**

2 *A. No Response*

3 ATMS contend that U S WEST has yet to provide complete responses to 84 out of the  
4 287 data requests listed on Schedule I to its motion to compel. There are actually only 72  
5 requests listed on its Schedule I. Attached to this response as Exhibit 1 is a chart demonstrating  
6 that U S WEST has responded to 68 of these 72 requests and the date on which it served its  
7 response. Of those requests outstanding, U S WEST anticipates responding to three data  
8 requests this week and responding to the final data request next week. Thus, U S WEST has  
9 fully responded to the Schedule I data requests.  
10

11 *B. Incomplete Response*

12 **Jl-10**

13  
14 During the meet and confer session between the parties, ATMS asked U S WEST to  
15 produce the reports referenced at footnotes 5 and 6 of Dr. Harris' Testimony. U S WEST  
16 produced those reports on May 21, 1999. Thus, there is no grounds for ATMS' motion to compel  
17 regarding this data request.

18 **Jl-12-13**

19 ATMS claim that U S WEST did not identify the services U S WEST Long Distance is  
20 providing out-of-region (though they note that U S WEST identified the states in which services  
21 are currently provided and the services which are currently provided). At the May 5 meet and  
22 confer session, U S WEST agreed to provide the information if the effort involved was not  
23 unduly burdensome. On May 21, 1999, U S WEST supplemented its responses and provided  
24 ATMS with a break down of the services that its Section 272 affiliate, U S WEST Long  
25  
26

1 Distance, provides in each state outside of U S WEST's territory. Accordingly, U S WEST has  
2 provided the information ATMS sought consistent with the parties' agreement at the meet and  
3 confer session.

4 **JI-14**

5  
6 ATMS claim that U S WEST did not disaggregate the number of residential and business  
7 customers who have selected U S WEST as their PIC for interLATA services on a per-state  
8 basis. At the May 5 meet and confer session, U S WEST again agreed to provide the information  
9 if the effort involved was not unduly burdensome. On May 21, 1999, U S WEST supplemented  
10 its response and provided ATMS with a breakdown of the number of customers that its Section  
11 272 affiliate, U S WEST Long Distance, has in each state outside of U S WEST's territory.  
12 Accordingly, U S WEST has provided the requested information.

13  
14 **JI-21**

15 ATMS claim that U S WEST did not produce attendance lists for board meetings,  
16 executive sessions, and executive meetings of U S WEST Communications, Inc. At the May 5  
17 meet and confer session, U S WEST agreed to investigate whether such information was  
18 available and to provide a response if it was able to do so. . On May 7, 1999, U S WEST  
19 supplemented its responses and provided attendance lists for U S WEST, Inc. board meetings,  
20 which included references to the executive sessions and executive meetings. Moreover, on May  
21 21, 1999, U S WEST provided a response explaining that no attendance lists exist for USWC,  
22 because U S WEST Communications, Inc.'s ("USWC") Board of Directors acted through  
23 unanimous consents titled "Consent to Action" during the period in question. Accordingly,  
24  
25  
26

1 U S WEST has provided ATMS with their requested information and there is simply no grounds  
2 to compel further responses.

3 **JI-35**

4 In numerous data requests, ATMS requested printed copies of the images (screens) that  
5 employees in our wholesale and retail organizations view while interacting with carriers and  
6 retail customers respectively. In one instance, ATMS requested additional information relating  
7 to the screen shots of the PREMIS screens that would be used by U S WEST's retail  
8 representatives to perform telephone number assignment functions. At the May 5 meet and  
9 confer session, U S WEST agreed to investigate this request further. On May 18, 1999, U S  
10 WEST supplemented its responses, and produced copies of the requested Premis screen shots.

11 **JI-81**

12 ATMS claim that U S WEST did not produce methods and procedures that would instruct  
13 CLECs on how to use the EXACT interface and ASR forms to order UDIT. In the May 5 meet  
14 and confer session, U S WEST agreed to investigate this issue. On May 21, 1999, U S WEST  
15 supplemented its response which informed ATMS that the very material had already been  
16 produced pursuant to different data requests.

17 **JI-165**

18 ATMS claim that U S WEST did not produce methods and procedures that inform a  
19 representative at the interconnect service center how to use the information in the "PROC-  
20 TYPE" column in the LSR list screen. At the May 5 meet and confer session, U S WEST agreed  
21 to investigate this matter to determine if further relevant information were available. On May 21,  
22  
23  
24  
25  
26

1 1999, U S WEST supplemented its responses regarding this issue and produced the requested  
2 information.

3 **Jl-144, 192, 193, 194, 217, 219, 221, 223**

4 ATMS do not dispute that U S WEST has provided them with the information that they  
5 seek in a general form. In each of these questions, ATMS seeks organizational charts of the  
6 groups within U S WEST responsible for OSS development, collection and reporting of  
7 performance data and the like. U S WEST provided this information. U S WEST refused,  
8 however, to turn over the names of the employees who hold each of the positions within these  
9 organizations.  
10

11 ATMS complain that the organizational charts produced by U S WEST in response to  
12 this request only contain job titles. The identity of the employees in the respective organizations,  
13 however, is neither relevant nor calculated to lead to the discovery of admissible evidence. The  
14 only purported basis for this information is that ATMS “may need to depose U S WEST  
15 employees with direct experience” in these positions. Employee identities are personal and  
16 confidential. ATMS do not need to know the identify of the employees in the respective  
17 organizations in order to determine which employees to depose. Based upon the information  
18 U S WEST has already provided, if ATMS demonstrate a need to depose a U S WEST  
19 employee with experience at a particular position, then at that time U S WEST would be willing  
20 to identify the name of the employee that holds the position so that ATMS can issue the proper  
21 deposition notices. Providing the names of entire groups of employee will not provide any  
22 particular insight into which employees hold relevant information and, in U S WEST’s view,  
23  
24  
25  
26

1 constitutes harassment. U S WEST should not be compelled to disclose the identity of the  
2 individuals requested.

3 **JI-215**

4           ATMS complain that U S WEST's response to this request is limited to Arizona. They  
5 recognize that U S WEST has fully responded to this request with respect to Arizona, but  
6 contend that the Commission ought to order U S WEST to respond to this request with  
7 information for the other 13 states in U S WEST's region because this data request "goes to the  
8 heart of the FCC's public interest inquiry under Section 271" and because "(t)he FCC has also  
9 asked that 'state commissions develop and submit to the Commission, a record concerning the  
10 state of local competition as part of its consultation.'" The FCC statements upon which ATMS  
11 rely actually support U S WEST's position and, interestingly, contradict the position of several  
12 intervenors, including Sprint, ELI, and ACI, who responded to U S WEST's data requests by  
13 contending that 14 state information of any type is irrelevant.

14           The Commission is charged with considering the public interest as it pertains to Arizona  
15 consumers and developing a record concerning the state of local competition in Arizona. To that  
16 end, the ACC must determine whether it would be in the public interest in Arizona for U S  
17 WEST to enter the interLATA market. In a recent letter, Chairman Kennard reinforced the view  
18 that the 271 process is a state specific analysis. *See Attachment 2*. The Commission is not  
19 charged with developing a record concerning the state of local competition in Washington,  
20 Nebraska, or any state other than Arizona.

21           Though U S WEST disputes the issue, ATMS apparently believes that there is a  
22 relationship between the existence of self-enforcing mechanisms in Arizona and the status of  
23

1 competition in Arizona. Regardless of this disagreement, what is indisputable is that the status of  
2 U S WEST's self-executing efforts in other states is not relevant to the current investigation.  
3 Fourteen state region-wide information may be relevant for systems with a region-wide  
4 application, such as OSS, but, it is not relevant for activities with a state specific application,  
5 such as whether U S WEST has agreed to self-executing mechanisms.  
6

7 The FCC's Section 271 Orders support this conclusion, and provide that region-wide  
8 information is relevant only where a region-wide solution, such as a region-wide OSS interface,  
9 is at issue:

10 In situations where BellSouth provides access to a particular checklist item through a  
11 region-wide process, such as its OSS, we will consider both region-wide and state  
12 specific evidence in our evaluation of that checklist item.

13 BellSouth Louisiana II Order, ¶ 56. Where a BOC does not provide a checklist item on a region-  
14 wide basis (e.g. self-executing performance measures), state specific information offers the basis  
15 for determining whether a BOC satisfies a checklist item. Region-wide information is simply not  
16 relevant for determining whether a BOC satisfies a checklist item with state specific application.

17 ATMS has not explained how the existence of self-executing performance measures in  
18 other states would have any bearing on the public interest in Arizona. Without some nexus, the  
19 material is simply not relevant nor reasonably calculated to lead to the discovery of admissible  
20 evidence. Accordingly, the Hearing Division should deny this request..  
21

22 **JI-232, JI-233, 236, 264, 265, 266**

23 In Questions JI-232, JI-233, 236, 264, 265, and 266, ATMS request that U S WEST  
24 produce results across a period of years (typically 1996, 1997, and 1998 or 1997, 1998, and  
25  
26

1 1999). U S WEST's responses to each of these requests indicated that data prior to July 1998 is  
2 not readily available and would require a special study to produce.

3 ATMS claim that U S WEST should be ordered to respond to these requests, because the  
4 information is probative and because U S WEST's historical performance over time is relevant.  
5 ATMS request for this information shows a fundamental misunderstanding of how performance  
6 indicators are prepared. Since 1997, U S WEST has been working with a number of industry  
7 participants to identify those performance measures that it should track to help establish  
8 nondiscriminatory access to interconnection, unbundled network elements and/or resale. Once U  
9 S WEST agrees to provide a new measure, it must retrieve, refine, sort, organize, and summarize  
10 the data before it can calculate the performance data. ATMS seek performance data for time  
11 frames before certain performance indicators even existed. Accordingly, for some performance  
12 indicators, there is no data generated. In an informal follow-up discussion after the May 5 meet  
13 and confer session, U S WEST explained to ATMS that compiling the data would require U S  
14 WEST to undertake a significant effort to extract data from different systems and perform data  
15 compilations to compile historical data that U S WEST has never gathered before.

16  
17  
18 According to U S WEST's performance measure experts, information prior to July, 1998  
19 neither exists in the form presented in U S WEST's filing, nor is stored it for downloading and  
20 production. To produce the information requested by ATMS, U S WEST would have to produce  
21 these results from scratch by retrieving the raw data from archives, refining and sorting the raw  
22 data to remove obvious errors; organizing and summarizing the data by State, CLEC and  
23 product; and, finally, calculating the performance measures. Just as important, the historical data  
24 for the performance measures, as they now exist, is, at best, only marginally valid. The issue in  
25  
26

1 this case is whether U S WEST's current processes and procedures allow an efficient competitor  
2 a meaningful opportunity to compete. Historical data simply does not go to this point. The FCC  
3 has not required years of performance to establish checklist satisfaction. A few months of data  
4 have always been adequate. BellSouth Louisiana II Order ¶ 126 (Bell South its application on  
5 July 9, 1999 and filed performance data for the months of March, April, and May 1998). Finally,  
6 not only would this effort require a significant expenditure of time, money, and manpower, it  
7 would also occur at the expense of U S WEST's efforts to track its present performance and meet  
8 existing reporting requirements.  
9

10 For all of these reasons, and because U S WEST has produced performance data that  
11 respond to these requests since July of 1998 and has agreed to supplement with new data as it is  
12 generated, the Commission should not order U S WEST to provide information prior to July  
13 1998.  
14

15 **JI-234**

16 ATMS claim that U S WEST failed to produce its records for CLEC LSR/order  
17 rejections. At the May 5 meet and confer session, U S WEST agreed to provide the information  
18 if the effort involved was not unduly burdensome. U S WEST learned that specific CLEC  
19 LSR/order rejection information is maintained on a database and commingled with information  
20 from across U S WEST's region. In order to produce the information requested by ATMS, U S  
21 WEST must download the data, remove information for states other than Arizona, and redact  
22 customer and CLEC proprietary information.  
23

24 According to U S WEST's performance measure experts, this effort would require a  
25 significant expenditure of time, money, and manpower.  
26

1 U S WEST answered this data request on April 26, 1999. U S WEST is preparing the  
2 Arizona-specific and will produce it as soon as it is available. The Commission should not  
3 compel U S WEST to produce region-wide information because of the significant amount of  
4 time, money, and manpower that would be required in order to produce such voluminous  
5 information.  
6

7  
8 C. *Non-responsive response*

9 **JI-31**

10 ATMS claim that U S WEST's response to JI-31 was ambiguous, because it did not  
11 identify the "other carrier" referenced in its response. At the May 5 meet and confer session, U S  
12 WEST agreed to clarify its response to this question., and on May 21, 1999, U S WEST  
13 supplemented its response.  
14

15 **JI-148**

16 ATMS claim that U S WEST's response to JI-148 was non-responsive. At the May 5  
17 meet and confer session, U S WEST stated it would stand on its response. U S WEST's response  
18 answers ATMS' question, and U S WEST takes issue with the ATMS' suggestion that the FCC's  
19 discussion on this matter rises to the level of a "conclusion."  
20

21 **JI-205**

22 ATMS claim that U S WEST's response to JI-148 was non-responsive, because it refused  
23 to identify the date of a request for interconnection or collation by U S WEST Wireless LLC  
24 ("Wireless") and because U S WEST's answer in regards to whether it conducts performance  
25  
26

1 monitoring upon Wireless is not clear. On May 21, 1999, U S WEST supplemented its response  
2 to clarify its position regarding performance monitoring for Wireless.

3 The date of the request by Wireless for interconnection is irrelevant to this case. ATMS claims  
4 that this information is relevant because it pertains to the timing of provisioning for affiliates.  
5 However, ATMS have not asked U S WEST to produce information concerning the timing of  
6 interconnection provisioning to affiliates (i.e. date of request and date provisioning was  
7 completed). They have merely asked U S WEST to identify the date Wireless requested  
8 interconnection. Standing alone, this date is neither relevant nor likely to lead to the discovery of  
9 any type of evidence that would be admissible in a 271 proceeding.  
10

11 **Jl-210, 285**

12 ATMS claim that U S WEST's responses to Jl-210 and 285 are non-responsive because  
13 U S WEST does not identify "the point at which a difference in CLEC and U S WEST's data  
14 achieves operational significance for each measure proposed by U S WEST in Exhibit B of its  
15 Arizona SGAT." However, as ATMS' Motion recognizes, U S WEST responded to both  
16 requests. ATMS' motion is premised upon their position that U S WEST should identify a bright  
17 line standard for operational significance. U S WEST --and common sense -- dictate otherwise  
18 As U S WEST's response to Jl-210 indicated, the magnitude of service performance difference  
19 that will have "a perceptible effect on end-user customers or CLEC operations" is relative and  
20 depends upon variables specific to the performance indicator at issue. This is a complete  
21 response. The only way to determine whether an operationally significant impact has occurred is  
22 to evaluate the specific facts. Accordingly, U S WEST has responded to this data request.  
23  
24  
25  
26

1 ATMS' disagreement with U S WEST's position does not render U S WEST's response  
2 unresponsive.

3 **JI-237**

4 ATMS objects to U S WEST's response to JI-237 because U S WEST interprets the term  
5 "rejection notice" to have identical meanings for CLEC and U S WEST retail representatives.  
6 Words generally have fixed meanings. U S WEST responded to this request by using the  
7 definition of "rejection notice" that has uniformly been used by parties to 271 proceedings and  
8 by telecommunications industry practice. U S WEST has fully answered the request. No  
9 average time for receipt of rejection notices exists because U S WEST retail customer service  
10 representatives, unlike CLEC representatives, do not receive rejection notices. U S WEST has  
11 responded to the question asked. Again, ATMS' disagreement with U S WEST's interpretation  
12 of the term "rejection notice" does not render U S WEST's answer non-responsive.  
13  
14

15 **JI-260**

16 ATMS' claim that U S WEST failed to respond to JI-260 is simply wrong. JI-260 asks:.

17 **Question:**

18 Is it technically feasible for call center call management systems and processes to  
19 prioritize call response times based upon the trunk group of the incoming calls?

20 **Answer:**

21 U S WEST does not have separate queues for directory assistance or operator services  
22 based on the identity of the owner of trunks that deliver calls to the directory assistance or  
operator services switches. Access to the queues is on a first come, first served basis.  
Once in the queue, there is no technical capability to prioritize one call over another.

23 **JI-262**

24 This request asks U S WEST to identify the retail analogue for maintenance and repair of  
25 certain unbundled network elements. U S WEST has objected to this data request based on the  
26

1 fact that there is no retail analogue for the provisioning of unbundled network elements. In its  
2 opinions on the applications of other BOCs, using the old Rule 319, the FCC has specifically  
3 recognized that the ordering and provisioning of unbundled network elements does not have a  
4 retail analogue. BellSouth Louisiana II Order ¶ 87; Ameritech Michigan Order ¶ 141. For  
5 example, the FCC has stated: "the provisioning of local loops has no retail analogue." BellSouth  
6 Louisiana II Order ¶ 198. For this reason, U S WEST has objected to this question, and its  
7 objection can also be considered its response.

9 **JI-281**

10 ATMS claim that U S WEST's response to JI-284 is non-responsive." This is simply not  
11 true.

12 **Question:**

13 Does U S WEST accept that the quality standard for providing unbundled network  
14 elements to CLECs is that "the quality of an unbundled network element, as well as the  
15 quality of the access to such unbundled network element, that an incumbent LEC  
16 provides to a requesting telecommunications carrier shall be at least equal in quality to  
17 that which the incumbent LEC provides to itself"? If not, please explain the legal basis  
18 for U S WEST's opposition to the unbundled network element quality and access  
19 standard.

17 **Answer:**

18 The language cited in this data request is an incomplete cite of the first sentence of 47  
19 C.F.R. Section 51.312(b). The full sentence reads: "Except as provided in paragraph (c)  
20 of this section, to the extent technically feasible, the quality of an unbundled network  
21 element, as well as the quality of the access to such unbundled network element, that an  
22 incumbent LEC provides to a requesting carrier shall be at least equal in quality to that  
23 which the incumbent LEC provides to itself." This rule applies to the quality of the  
24 network element and the quality of the access to the network element. This rule does not  
25 apply to the ordering of unbundled network elements, which the FCC has recognized  
26 have no retail analogue:

"For those OSS functions that have no retail analogue (such as ordering and  
provisioning of unbundled network elements). . ." BellSouth Louisiana II Order,  
¶87;

"Because the provisioning of unbundled local loops has no retail analogue. . ." BellSouth Louisiana II Order, ¶198.

1 Thus, ATMS seeks to take a particular FCC quote out of context. U S WEST's response  
2 articulates when the particular applies, and when it does not. Therefore, U S WEST has fully  
3 responded to this question.

4 **JI-284**

5  
6 ATMS claim that U S WEST did not answer the first sentence of this data request. At the  
7 May 5 meet and confer session, U S WEST agreed to provide the missing information if the  
8 effort involved was not burdensome. On May 21, 1999, U S WEST supplemented its responses  
9 to questions JI-284 to provide the additional information requested by ATMS. Accordingly, there  
10 are no grounds for ATMS to move to compel further responses to this data request.

11 *D. Specific Objections*

12 **JI-6(a)**

13  
14 JI-6(a) requests that U S WEST identify the amount of time that it takes U S WEST to  
15 change long distance providers. This information has absolutely no bearing on this section 271  
16 proceeding. The questions involved in this case concern whether or not U S WEST provides  
17 nondiscriminatory access to interconnection, UNEs or resale. The amount of time it takes U S  
18 WEST to change interLATA carriers has no analog on the retail side and does not concern the  
19 provision of local service – the essence of this section 271 proceeding. Thus, this request seeks  
20 information that is neither relevant nor reasonably calculated to leads to the discovery of  
21 admissible evidence.  
22

23 **JI-6(b), 6(c)**

24 These data requests are simply vague and ambiguous. They seek information about the  
25 length of time it takes to change a “phone number on a loop” and to “suspend service and then  
26

1 reinstate service on a line, when one operation is done immediately after the other.” As U S  
2 WEST noted in its objection, the questions are actually subject to multiple interpretations. The  
3 Commission should not order U S WEST to supplement this response, because this request is not  
4 written with the clarity necessary for U S WEST to understand ATMS’ request. ATMS’ Motion  
5 suggests that it seeks the length of time it takes U S WEST to change a customer’s telephone  
6 number. Again, this information is simply irrelevant. U S WEST must provide for number  
7 portability, which it does. Number portability is governed by set protocol; the FCC does not  
8 compare the length of time it takes to port a number with the length of time it takes an ILEC to  
9 electronically change a number for its customers. ATMS has not articulated any justifiable basis  
10 for this information. The information sought is simply not relevant or reasonably calculated to  
11 lead to the discovery of admissible evidence.  
12

13 **Jl-7**

14  
15 ATMS seeks all of the information exchanged in a wholly separate docket, initiated in  
16 1997, in a wholly different state – Washington –that has absolutely no connection to Arizona.  
17 The case in Washington concerns interconnection, not OSS or any system with region wide  
18 application. U S WEST has provided intervenors with thousands of pages of material on  
19 interconnection in Arizona. How U S WEST is performing in the provision of interconnection in  
20 Washington simply has no connection to this case.  
21

22 ATMS claim that the information may demonstrate something that is at issue in this  
23 proceeding. They have provided no legitimate purported connection or nexus, however, to  
24 Arizona, nor can they. Moreover, the FCC has stated that only systems with region wide  
25 application – OSS – are relevant beyond their respective states:  
26

1 In situations where BellSouth provides access to a particular checklist item through a  
2 region-wide process, such as its OSS, we will consider both region-wide and state  
3 specific evidence in our evaluation of that checklist item.

4 BellSouth Louisiana II Order, ¶ 56. As previously discussed, “(t)he FCC has asked that ‘state  
5 commissions develop and submit to the Commission, a record concerning the state of local  
6 competition as part of its consultation.’” The information sought in JI-7 simply does not meet  
7 this standard.

8 The Commission should neither require U S WEST to provide information about U S  
9 WEST’s interconnection activities outside of the state of Arizona in response to this question,  
10 nor should the Commission require U S WEST to produce the information for an “in camera”  
11 review. ATMS and other intervenors have asked numerous questions seeking information about  
12 U S WEST’s interconnection activities in Arizona. This information is relevant and has been  
13 provided. The information sought here, however, is simply not relevant nor reasonably  
14 calculated to lead to the discovery of admissible evidence.

15  
16 **JI-28, 29**

17 In these data requests, ATMS seeks information about U S WEST Long Distances joint  
18 marketing efforts.<sup>1</sup> Section 271(g) provides guidelines for how U S WEST Communications and  
19 its Section 272 affiliate, U S WEST Long Distance, joint market once U S WEST receives  
20 section 271 authority.

21  
22  
23 

---

<sup>1</sup> At the May 5 meet and confer session, U S WEST indicated that it was withdrawing its objection as to the state  
24 commission’s responsibility to assess a RBOC’s compliance with Section 272. After due reflection, U S WEST  
25 recognizes that state commissions do have authority to issue a recommendation concerning a RBOC’s compliance  
26 with Section 272. U S WEST did not waive its relevancy objection. U S WEST did not waive its objection to this  
request on the grounds that it called for speculation and asks for a legal conclusion. Nor did U S WEST agree to  
respond to this request.

1 The FCC specifically stated that BOCs need not provide their joint marketing plans to  
2 establish projected compliance with Section 272(g):

3 1. We take this opportunity to address the issue of whether BellSouth's proposed  
4 inbound telemarketing script is consistent with the requirements of the statute. We do not  
5 require applicants to submit proposed marketing scripts as a precondition for section 271  
6 approval, nor do we expect to review revised marketing scripts on an ongoing basis once  
7 section 271 authorization is granted. Applicants are free to tell us how they intend to  
8 joint market, although we do not require them to do so. Our intention in addressing this  
9 issue here is to establish a safe harbor, so that the BOCs will have some guidance on what  
10 we view as consistent with sections 251(g) and 272. We emphasize that we are not  
11 concluding here that any other scripts are *per se* lawful or unlawful. We conclude that  
12 BellSouth's script is acceptable, and, under the analysis set forth below, we would also  
13 find that the script filed by Ameritech in its section 271 application for Michigan would  
14 be acceptable, should it file a new application.

15 Bell South Carolina ¶ 236 (emphasis added). Instead, the FCC has accepted mere promises that  
16 BOCs such as U S WEST will comply with this provision when it becomes effective – once U S  
17 WEST receives section 271 authority. See Second Bell South Louisiana at ¶¶ 358-360

18 Thus, there is simply no basis for requiring U S WEST to produce this information. The  
19 FCC has already stated that it need not consider it to approve the application; U S WEST and U  
20 S WEST Long Distance are in the infant stages of developing such joint marketing plans;  
21 therefore, the limited responsive information would be of marginal relevance; and it appears that  
22 the only effect of disclosure would be to provide intervenors with a competitive advantage.

23 **JI-39, 40**

24 These data requests seek information about how U S WEST interacts with its retail  
25 customers when reserving a new telephone number or vanity telephone number. Telephone  
26 reservation is a preorder function; therefore, U S WEST must make OSSs available such that  
CLECs can reserve telephone numbers in “substantially the same” amount of time as U S WEST  
does for itself. Nonetheless, how U S WEST’s representatives go about asking customers

1 whether they wish to reserve a number is simply irrelevant to whether a CLEC can perform the  
2 information from U S WEST's systems in a comparable period of time. The information sought  
3 is simply not relevant. Moreover, U S WEST has already provided intervenors with information  
4 about the length of time it takes to obtain a telephone number to reserve for a customer.

5 **JI-239, 240**

6  
7 These data requests seek the average provisioning interval and average repair interval of  
8 "special access trunks provided to IXCs" in Arizona. Section 251(c)(2)(D) of the Act requires  
9 nondiscriminatory conditions for interconnection. Here CLECs want to compare what they are  
10 receiving with that which U S WEST provides to IXCs. U S WEST is already providing a  
11 comparison of the interconnection it provides to CLECs with that which it provides to itself and  
12 to other CLECs. There is simply no basis to compare what IXCs receive to that which CLECs  
13 receive. The industry recognizes differences between trunks that carry toll calls and trunks that  
14 carry local calls. This is simply not a valid comparison. As U S WEST stated in its objections to  
15 these questions:  
16

17 The information sought is neither relevant nor reasonably calculated to lead to the  
18 discovery of admissible evidence. The manner in which U S WEST's retail organization  
19 interacts with POTS customers and the specific questions it asks and discusses with  
20 customers during the exchange are not germane to this case and therefore not reasonably  
21 calculated to lead to the discovery of admissible evidence.

22 **JI-247, 248, 249**

23 Data requests 247 and 248 seek a compilation of the data that was excluded from certain  
24 performance results. U S WEST answered that it did not measure or report the information  
25 requested and to recreate it now, many months and years after the fact would constitute a huge  
26 undertaking. Performance monitoring is performed according to set protocol as described before.

1 The type of data that is excluded is contained within the definition of the performance indicator.  
2 Forcing U S WEST to recreate the information excluded would constitute a tremendous burden  
3 on U S WEST with only limited benefit at hearing.

4 Data request 249 seeks detailed information about each of the unbundled loops that U S  
5 WEST has provisioned throughout its region. U S WEST provided information about its  
6 unbundled loops in Arizona, but objected to gathering region wide information. This response  
7 highlights why the Commission must consider the subject-matter of the information before  
8 ordering its production on a region-wide basis. As previously discussed, region-wide  
9 information may be relevant for systems with a region-wide application, such as OSS; however,  
10 it is not relevant for activities with a state specific application, such as the number of orders for  
11 unbundled loops that U S WEST has received from CLECs. This information is simply not  
12 reasonably related to this case.

13  
14  
15 **JI-250**

16 Similarly, here ATMS seeks information about “bill timeliness, quality and accuracy”  
17 throughout U S WEST’s region. Again, U S WEST has agreed to provide Arizona specific  
18 information, but objects to producing region-wide materials.

19 **JI-196, 197, 198**

20 These data requests ask U S WEST to define “standard installation interval” in various  
21 contexts. U S WEST objects and responds that the standard installation interval varies  
22 depending on what is being measured. For example, the standard installation interval for POTs  
23 service differs from the standard installation interval for LIS trunks and the standard installation  
24 interval for individual UNEs. Thus, these questions are so imprecise that they are impossible to  
25  
26

1 answer. U S WEST has provided the only answer it can: that it depends upon the particular  
2 UNE or service in question. The Commission should not order U S WEST to supplement this  
3 response.

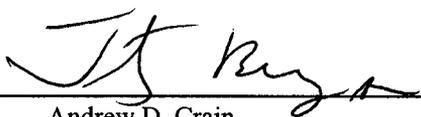
4 **IV. CONCLUSION**

5 U S WEST has gone to great lengths to respond to the data requests asked by ATMS and  
6 the other Intervenors. U S WEST has responded to large numbers of data requests and produced  
7 great quantities of information. U S WEST has refused to produce information in a few  
8 instances where the requested information is not relevant or where the effort to produce such  
9 information would be unduly burdensome. For all of the reasons articulated above, the Hearing  
10 Officers ought to deny ATMS' motion to compel.  
11

12 DATED this 24<sup>th</sup> day of May, 1999.

13 Respectfully submitted,

14 U S WEST COMMUNICATIONS, INC.

15  
16  
17 By 

18 Andrew D. Crain  
19 Charles W. Steese  
20 Thomas M. Dethlefs  
21 1801 California Street, Suite 5100  
22 Denver, CO 80202  
23 (303) 672-2948

24 FENNEMORE CRAIG, P.C.  
25 Timothy Berg  
26 3003 North Central Ave., Suite 2600  
Phoenix, AZ 85012  
(602) 916-5421

Attorneys for U S WEST  
Communications, Inc.

1 **ORIGINAL and 10 copies of the foregoing hand-delivered**  
2 **for filing this 24<sup>th</sup> day of May, 1999, to:**

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
5 1200 W. Washington St.  
6 Phoenix, AZ 85007

7 **COPY of the foregoing hand**  
8 **delivered this 24<sup>th</sup> day of May, 1999, to:**

9 Maureen A. Scott, Legal Division  
10 ARIZONA CORPORATION COMMISSION  
11 1200 W. Washington St.  
12 Phoenix, AZ 85007

13 Ray Williamson, Acting Director  
14 Utilities Division  
15 ARIZONA CORPORATION COMMISSION  
16 1200 W. Washington St.  
17 Phoenix, AZ 85007

18 Jerry Rudibaugh, Chief Hearing Officer  
19 Hearing Division  
20 ARIZONA CORPORATION COMMISSION  
21 1200 W. Washington  
22 Phoenix, AZ 85007

23 Steven Duffy  
24 Ridge & Isaacson  
25 3101 North Central Avenue, Suite 1090  
26 Phoenix, Arizona 85012

18 **COPY of the foregoing faxed and mailed**  
19 **this 24<sup>th</sup> day of May, 1999, to:**

20 Donald A. Low  
21 Sprint Communications Company, LP  
22 8140 Ward Parkway 5E  
23 Kansas City, MO 64114

24 Thomas Campbell  
25 Lewis & Roca  
26 40 N. Central Ave.  
Phoenix, AZ 85004

Joan S. Burke  
Osborn Maledon, P.A.  
2929 N. Central Ave., 21<sup>st</sup> Floor  
PO Box 36379

- 1 Phoenix, AZ 85067-6379
- 2 Thomas F. Dixon  
Karen L. Clausen
- 3 MCI Telecommunications Corp.  
707 17<sup>th</sup> Street # 3900
- 4 Denver, CO 80202
- 5 Stephen Gibelli  
Residential Utility Consumer Office
- 6 2828 North Central Ave., Suite 1200  
Phoenix, AZ 85004
- 7
- 8 Michael M. Grant  
Gallagher & Kennedy  
2600 N. Central Ave.
- 9 Phoenix, AZ 85004-3020
- 10 Andrew O. Isar  
Telecommunications Resellers Association
- 11 4312 92nd Ave., NW  
Gig Harbor, WA 98335
- 12
- 13 Raymond S. Heyman  
Randall H. Warner  
Two Arizona Center
- 14 400 North 5<sup>th</sup> Street, Suite 1000  
Phoenix, AZ 85004-3906
- 15
- 16 Joyce Hundley  
U.S. Dept. of Justice  
Antitrust Division
- 17 1401 H Street, NW, # 8000  
Washington, DC 20530
- 18
- 19 Michael Patten  
Lex J. Smith  
Brown & Bain
- 20 2901 N. Central Ave.  
Phoenix, AZ 85012
- 21
- 22 Daniel Waggoner  
Davis, Wright & Tremaine  
2600 Century Square
- 23 1501 Fourth Avenue  
Seattle, WA 98101-1688
- 24
- 25 Richard S. Wolters  
Maria Arias-Chapleau  
AT&T Law Department
- 26 1875 Lawrence Street # 1575

