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BEFORE THE ARIZONA CORPORATION COMMISSION

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JAMES M. IRVIN
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Commissioner

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

) **DOCKET NO. T-00000A-97-0238**
)
) **MOTION OF AT&T, TCG-PHOENIX,
MCI AND SPRINT TO COMPEL
RESPONSES TO DISCOVERY FROM
U S WEST COMMUNICATIONS, INC.**
)

AT&T Communications of the Mountain States, Inc., TCG-Phoenix, MCI WorldCom, Inc. and Sprint Communications Company, L.P. (collectively, "Joint Intervenors") move to compel U S WEST Communication, Inc.'s ("U S WEST") to respond to discovery, and in support, submit the following:

I. INTRODUCTION

On April 14, 1999, Joint Intervenors served their first set of data requests on U S WEST. On April 22, 1999, U S WEST filed its "Objections" to Joint Intervenors' First Set of Data Requests ("Objections"). U S WEST served its first substantive responses ("Initial Response") on April 26, 1999, followed by three supplemental responses, the first served on May 4, 1999, the second on May 7, 1999 and the third on May 11, 1999. Thus far, U S WEST has provided answers to only 75% of the requests, with no promise as to when substantive responses to the remaining requests will be filed.

Arizona Corporation Commission
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This motion is directed to the matters contained in the Objections and Initial Response. Joint Intervenors would have preferred to file one motion addressing all responses to the April 14, 1999 data requests. Because Joint Intervenors are receiving piecemeal and serial responses and because of the expedited schedule for this docket, Joint Intervenors have no choice but to file a motion to compel now. Further delay will jeopardize Joint Intervenors' ability to meet the Commission's deadline for filing testimony in this matter. Joint Intervenors need the information they have requested to analyze U S WEST's Section 271 application.

Notwithstanding Joint Intervenors efforts to obtain information from U S WEST through meet and confer sessions, U S WEST has: (1) failed to provide answers to a very large percentage of the data requests (notwithstanding a representation that it will respond); (2) provided incomplete or non-responsive answers and stated that it will not provide any additional information or responses; and (3) interposed objections to certain data requests upon which it intends to stand but that are without merit. The Hearing Examiner should overrule the objections and compel U S WEST to respond to these data requests. In addition, Joint Intervenors request that U S WEST be ordered to provide complete responses to the data requests within three business days of the order resolving this motion.¹

¹ AT&T has filed contemporaneously with this motion a separate motion to compel directed to 4 data requests (JI-130 to 133) asking the Hearing Division to compel U S WEST to produce information relating to independent third party studies of its operational support systems ("OSS"). Because these data requests are directed to a distinct category of information implicating a discreet set of legal issues, Joint Intervenors chose to file a separate motion on these requests.

II. ARGUMENT

A. Data Requests – No Responses Provided

In the Objections and Initial Response, U S WEST states (for nearly half of the data requests) that it is compiling information and will provide a response as soon as it is available. However, as of the date of the filing of this motion and notwithstanding three supplemental responses, U S WEST has yet to provide complete responses to 84 out of the 287 data requests. For these 84 data requests (listed on the attached Schedule 1), U S WEST has stated it will provide a response once the information has been compiled. In most of the data requests listed on Schedule 1, U S WEST provides little or no substantive response. In a few instances, U S WEST provides only a partial answer with the representation that it is compiling information and will provide it as soon as it becomes available. Despite its own written and verbal representations to the contrary, U S WEST has not fully responded to the 104 Data Requests identified on the attached Schedule 1. This information must be provided soon if Joint Intervenors are to have any ability to evaluate the information before the date now set for filing testimony. For this reason, Joint Intervenors request that U S WEST be required to file complete responses to these data requests within three business days of the Division's ruling on this motion.

B. Incomplete Responses

U S WEST has not produced complete answers to the following data requests.

Jl-10: This request seeks the production of information and documents relied upon by Robert Harris in the preparation of his testimony as well as documents referenced in the Supplemental Notice filed by U S WEST in this proceeding. In the May 5 meet and

confer session, U S WEST stated it would produce the documents referenced in its Supplemental Notice but has not yet done so. These two documents are as follows:

“Branding and Bundling Telecommunications Services: Telephony, Video and Internet Access” MTA-EMCI Telecommunications Consultants, August 1996

J.D. Power & Associates, Residential Long Distance Report, 1996

U S WEST should be ordered to produce these documents within three business days of the Hearing Division’s ruling on this motion.

Jl-12-13: In these requests, U S WEST is asked whether it provides out-of-region interexchange (12) and intraexchange (13) services and, if so, to identify the states and the nature of the service provided by state. U S WEST identified the pertinent states and services, but did not identify in which states the services were being provided. At the May 5 meet and confer session, U S WEST said it would provide the information if it is not burdensome to do so. U S WEST has not produced this information and has not provided any evidence that the information is unavailable.

Jl-14: For states outside its region, U S WEST is asked to list by state where it is authorized to provide long-distance service to residential customers that have selected U S WEST as their PIC for interLATA services, long-distance residential customers that have selected U S WEST as their PIC for intraLATA interexchange services, long-distance business customers that have selected U S WEST as their PIC for interLATA services, and long-distance business customers that have selected U S WEST as their PIC for intraLATA interexchange services.

U S WEST answers by providing the aggregate number of residential and business customers who have selected U S WEST as their PIC for interLATA services.

U S WEST does not disaggregate these numbers on a per-state basis. At the meet and

confer session, U S WEST stated it would investigate whether it could disaggregate the data on a state by state basis and, if so, produce it. U S WEST has not done so. The information is relevant because U S WEST claims that the public interest would be served by granting it permission to offer interLATA service in Arizona, a state within its region. Examining the services it provides outside its region will permit the Commission to test U S WEST claims. U S WEST has provided no evidence that the information is unavailable and therefore should be required to produce this information.

Jl-21: This request seeks production of attendance lists for board meetings, executive sessions, and executive meetings of U S WEST and U S WEST Communications, Inc. U S WEST produced attendance lists for U S WEST Inc., but not U S WEST Communications, Inc. U S WEST has stated it will produce these documents but it has not yet done so. This information is relevant as it will assist the Commission in determining whether U S WEST has complied with the separation requirements of Section 272 of the Telecommunications Act of 1996 (“Act”) as between itself and its long distance affiliate. U S WEST should be required to produce the documents.

Jl- 35: In this data request, Joint Intervenors seek computer screen images or “shots” from several OSS computer interfaces used to request a new telephone number. U S WEST has produced certain screen shots but did not produce shots of any of the PREMIS screens that its retail representatives would actually see and use to perform telephone number assignment functions. The PREMIS screens that the retail representatives view are necessary to determine if U S WEST is allowing competitive local exchange carriers (“CLECs”) to perform telephone number assignment functions in the same time and manner as U S WEST retail representatives. At the May 5 meet and

confer session, U S WEST said it would investigate this request further but has not provided any supplemental information nor has it produced the requested screen shots. U S WEST has not interposed an objection to this data request. U S WEST should be ordered to produce the requested computer screen images from PREMIS.

Jl-81: This request seeks a description of the process by which a CLEC can use U S WEST's Interconnect Media Access ("IMA") or Electronic Data Interface ("EDI") OSS or any other method to order unbundled dedicated interoffice transport ("UDIT"). U S WEST admits that UDIT cannot be ordered through IMA or EDI but can be ordered instead through EXACT. However, U S WEST does not provide any copies of the methods, procedures, training manuals materials, instructions, job aides or any other requested material that would instruct CLECs on how to use the EXACT interface and ASR forms to order UDIT. In the May 5 meet and confer session, U S WEST stated it would produce these documents but has not yet done so. U S WEST has not interposed an objection to this data request. It should be ordered to produce the requested documents.

Jl-165: This request asks U S WEST to describe the "PROC TYPE" column in the LSR list screen as shown on Exhibit DWB-03 of the affidavit of U S WEST witness Mr. Buhler and to provide supporting documentation for methods and procedures on how to use this information. U S WEST has failed to produce any of the requested methods and procedures or other information that informs a representative at the interconnect service center how to use the information in the "PROC-TYPE" column in the LSR list screen. In the May 5 meet and confer session, U S WEST stated it would produce these documents to the extent they exist, but it has not yet done so. U S WEST has not

interposed an objection to this data request. It should be ordered to produce the requested documents.

JI-144, 192, 193, 194, 217, 219, 221 and 223: In these data requests, Joint Intervenors request the following:

The identity of employees with responsibility for developing, implementing and testing the IMA, EDI and electronic bonding trouble administration interfaces (144).

For the “service performance indicator” identified in U S WEST’s Arizona SGAT and for any other indicators U S WEST intends to employ for CLECs, an organizational chart including the names of individuals responsible for collecting and reporting the performance data (192) and the individuals, departments or entities responsible for preparing the “comparative statistical” analysis (193).

An organizational chart for the departments or entities that collect and report U S WEST’s internal performance and service monitoring data, including names, titles and a description of their respective functions (194).

The identity and description of the organization or departments responsible for the operation and maintenance of interoffice transport facilities between U S WEST’s switches (217), between the network interface device and U S WEST’s main distribution frame (219) and the identify and description of organizations or departments responsible for the operation and maintenance of interconnection facilities between neighboring incumbent local exchange carrier switches and U S WEST switches (221).

The identity and description of the organization and departments responsible for the operation and maintenance of access facilities that an interexchange carrier (“IXC”) would obtain from U S WEST, including production of an organizational chart. (223).

U S WEST states that it has or will only provide an organizational chart containing the titles of the employees in the appropriate department but it does not identify the names of the employees. Joint Intervenors may need to depose U S WEST employees with direct experience in development, implementation and operational activities. Accordingly, subject to the protective order, U S WEST should be compelled to disclose the identity of the individuals requested.

JI-215: This request asks U S WEST to describe all self-executing remedies to which it has agreed or has been ordered to provide in the context of carrier-to-carrier performance

standards. U S WEST objects to the production of information outside the state of Arizona and states that it has not agreed to self-executing remedies in Arizona. There is no lawful basis for U S WEST to refuse to provide information within its region but outside Arizona regarding self-executing remedies. This data request goes to the heart of the FCC's public interest inquiry under Section 271. The FCC has stated:

Evidence that a BOC has agreed to performance monitoring (including performance standards and reporting requirements) in its interconnection agreements with new entrants would be probative evidence that a BOC will continue to cooperate with new entrants, . . . We would be particularly interested in whether such performance monitoring includes appropriate, self-executing enforcement mechanisms that are sufficient to ensure compliance with established performance standards. (emphasis added).

Application of BellSouth Corporation Pursuant to § 271 of the Communications Act of 1934, as amended, to Provide In-Region, Inter-LATA Services in Louisiana, FCC Docket No. 98-271, Memorandum Op. and Order (released 10/13/98) at ¶¶ 362-263 ("*BellSouth Louisiana II Order*").

The FCC has also asked that "state commissions develop, and submit to the Commission, a record concerning the state of local competition as part of its consultation." See

Application of Ameritech Michigan Pursuant to § 271 of the Communications Act of 1934, as amended, to Provide In-Region, Inter-LATA Services in Michigan, FCC

Docket No. 97-137, Memorandum Op. and Order (released 8/19/97) at ¶ 34 ("*Ameritech Michigan Order*"). The FCC has never limited its public interest inquiry to a

determination of whether granting a BOC entry into a particular in-region, interLATA market is consistent with just the public interest in that state. Again, such a distinction is completely arbitrary, especially with regard to performance standards and self-executing remedies pertaining to OSS.

JI-232, 233, 236, 264, 265, 266: In these data requests, Joint Intervenors request the following:

The quantity and percentages of CLEC electronic Local Service Requests (LSRs) that have been rejected by IMA or EDI for the years 1996 through 1998 (232).

The underlying data used to arrive at the percentages produced in response to 232 (233).

For CLEC orders/LSRs that U S WEST rejects, the average time it takes after the submission of an order/LSR via the IMA or EDI interface until a rejection notice is sent to the CLEC (236).

The average time it took U S WEST to respond to a collocation request in Arizona (264), to complete a collocation request in Arizona (265), and the percentage of collocation due dates that were missed in Arizona (266).

In each of these data requests (except 233), U S WEST states that any information sought for the period prior to July 1998 is not readily available and would require a special project to produce. However, U S WEST does not contend that the data is not available nor does U S WEST contend that the data is voluminous. In an informal follow-up discussion after the May 5 meet and confer session, U S WEST stated that compiling the raw data necessary to respond to these data requests would require pulling information from different systems and data compilation. Moreover, U S WEST argues that the probative value of older information is marginal and hence does not outweigh the burden of producing the evidence. U S WEST's argument does not excuse the duty to produce highly probative information. The information sought in this group of data requests pertains directly to whether U S WEST has met the requirements of Section 271 of the Act. Both U S WEST's handling of CLEC LSRs and CLEC requests for collocation pertain directly to one or more of the 14-point checklist items. Moreover, U S WEST's historical performance over time is particularly relevant. For example, Joint Intervenors are entitled to demonstrate by way of comparison that over time U S WEST's

performance has in fact not improved. This is particularly true in the case of collocation where evidence may demonstrate that U S WEST has not timely fulfilled CLEC requests for collocation. In such circumstances, older data is especially relevant.

JI-234: In JI-234, U S WEST is asked whether it codes, or otherwise notes for its records, whether CLEC LSR/order rejections are caused by an act of U S WEST or an act of the CLEC. U S WEST answers this question at least in part, but does not produce any of the records sought in connection with the request on the grounds that to do so would violate its nondisclosure agreements with the respective CLECs. U S WEST can easily produce the information without disclosing the name of the particular CLEC. In the May 5 meet and confer session, U S WEST stated it was willing to produce the records without identifying CLECs. However, U S WEST has not yet done so. U S WEST did not object to this data request. It should be ordered to provide the requested documents.

C. Non-Responsive Answers

U S WEST has provided non-responsive answers to the following data requests:

JI-31: This request asks U S WEST to describe the OSS used by U S WEST Long Distance. U S WEST states that U S WEST long distance will access U S WEST's OSS under the same terms and conditions "as any other carrier." This answer is evasive and non-responsive. U S WEST does not identify the "other" carrier referenced in the response, nor does it describe the operational support system U S WEST Long Distance will use.

It is imperative that Joint Intervenors know whether the OSS made available and used by U S WEST long distance will violate the non-discrimination safeguards of

Section 272 of the Act. Initially, U S WEST objected to this data request on grounds that this Commission is not charged with the obligation to assess U S WEST's compliance with Section 272. At the May 5 meet and confer session, U S WEST withdrew this objection for all data requests for which it was interposed. It further stated that for this data request it would provide a clarifying supplemental response. However, it has not yet done so. It should be ordered to produce the requested information.

JI-148: Here, U S WEST is asked whether it agrees with the FCC's conclusion that any determinations regarding OSS made by state commissions in the U S WEST region may be relevant to the FCC's inquiry in a U S WEST Section 271 proceeding. U S WEST provides a lengthy but otherwise vague response. In the final analysis, U S WEST simply does not respond to the question. Instead, U S WEST states that it disagrees that FCC has stated a conclusion. This statement ignores the clear FCC record. At the May 5 meet and confer session, U S WEST stated it would stand on its response. U S WEST should be compelled to answer what is a simple yes/no question.

JI-205: U S WEST is asked to provide the identity of any affiliate or subsidiary that has requested interconnection, unbundled network elements, collocation or retail services for resale. U S WEST is further asked to identify the date of the request and the terms and conditions of any performance monitoring. U S WEST answers by acknowledging that the only affiliate with which has interconnected or collocated with it is U S WEST Wireless LLC. However, in response to the request for the date the affiliate sought interconnection or collocation, U S WEST states that the request is not applicable. Moreover, U S WEST states that describing performance monitoring for such interconnection or collocation is also not applicable. In responding to the other portions

of the data request, U S WEST refers to answers provided in response to data requests 12 and 16 propounded by NEXTLINK, ELI and ACI. However, even in those responses, U S WEST does not identify the date of a request for interconnection or collocation nor does it describe any performance monitoring with U S WEST Wireless LLC.

At the May 5 meet and confer session, U S WEST said it would follow-up regarding performance monitoring but stood on its “objection” pertaining to the date of requests. U S WEST interposed no objection to this data request. For purposes of demonstrating compliance with Section 271, U S WEST must show that it is providing non-discriminatory access to interconnection and collocation. The extent to which the timing of provisioning for affiliates differs from that provided to Joint Intervenors, such provisioning may be discriminatory. Thus, the date of a request for interconnection or collocation from an affiliate is indeed probative.

JI-210, 285: In JI-285, U S WEST is asked to identify the point at which a difference in CLEC and U S WEST’s data achieves “operational significance for each measure proposed by U S WEST in Exhibit B of its Arizona SGAT.” U S WEST is asked to answer this question based upon use of the term “operational significance” by Mr. Williams in his affidavit.

In response to JI-285, U S WEST directs Joint Intervenors to its response to JI-210. But, in the answer to that data request U S WEST does not indicate a level for the measures proposed in Exhibit B for the SGAT at which a difference in CLEC and U S WEST data achieves operational significance. Instead, U S WEST states (in response to data request JI-210) that the more reasonable approach is to address operational significance on a case-by-case basis when observed differences are

statistically significant or when the parties disagree as to whether the differences are operationally significant.

This combined response simply begs the question. U S WEST does not identify the point, for measures proposed in the SGAT, at which a difference in CLEC and U S WEST data achieves operational significance. For this reason, the response to data request JI-210 is equally non-responsive. U S WEST states that it has not predefined for each performance indicator the precise difference that would represent a perceptible effect on end-user customers or CLEC operations. At the May 5 meet and confer session, U S WEST stated it would stand on its response for both of these data requests.

However, U S WEST interposed no objection to J1-210 or JI-285. U S WEST should be ordered to answer these requests.

JI-237: Here, U S WEST is asked to provide the average time it takes after submission of an order until a rejection notice is received by U S WEST customer service for its own retail orders that have errors or are rejected. U S WEST states that, unlike CLEC representatives, U S WEST retail customer service does not receive rejection notices so the average time does not exist. This response is intentionally evasive. U S WEST presumes without any basis that the term “rejection notice” as used in the data request mean the same thing as a rejection notice a CLEC receives from U S WEST. That is not the purpose of the question nor was it framed in that manner. The purpose was to determine the average time that elapses after submission of an order, until U S WEST customer service receives some kind of notice that the order has in fact been rejected, regardless of the manner or method of rejection (paper, computerized or otherwise). The data request did not limit the scope of the term rejection notice.

Ironically, U S WEST does not contend that its customer service representative does not learn in some manner and in some time frame that an order has been rejected. The point of the data request is simply that if such notification is made, Joint Intervenors need to know how much time elapses before the notice is conveyed to retail service after submission of an order. U S WEST posed no objection to this data request and has argued that it will stand on its response. U S WEST should be ordered to provide the requested information.

JI-260: This data request asks whether it is it technically feasible for call center call management systems to prioritize call response times based upon the trunk group of the incoming calls. U S WEST responds that it has separate queues for directory assistance and operator service based on the identify of the owner of the trunk group, but does not state whether it was technically feasible to have separate queues.

The answer is non-responsive because U S WEST was asked about the technical feasibility of prioritizing call response times based upon the trunk group of the incoming call. At the May 5 meet and confer session, U S WEST argued that the phrase “technically capable” (the phrase used in its response) was the same as “technically feasible” and said it would stand on its response. This is incorrect. The phrase “technically feasible” is a term of art used extensively in FCC rules regarding U S WEST’s obligations to CLECs. “Technically capable” is a term coined by U S WEST to avoid responding directly to the question. U S WEST interposed no objection to this data request. U S WEST should be ordered to provide the request information.

JI-262: U S WEST is asked to state on a monthly basis for the years 1997 through 1999 its internal measures and results for the retail analog of the maintenance and repair provisions of unbundled loops, switching, dedicated interoffice transport, common interoffice transport, signaling and the network interface device. U S WEST argues that this request seeks measurements for retail analogs that do not exist. This objection is frivolous. The FCC has already concluded that OSS functions associated with repair and maintenance for both resale and unbundled network elements all have retail analogs. *Ameritech Michigan Order*, ¶140. Accordingly, U S WEST should be required to report its maintenance and repair retail analogs for the listed unbundled network elements. At the May 5 meet and confer session, U S WEST refused to provide a further response to this request. It should be ordered to do so.

JI-281: U S WEST is asked whether it accepts the following proposition set forth in an FCC rule: The quality standard for providing unbundled network elements to CLECs is the quality of an unbundled network element as well as the access to such unbundled network element that the incumbent LEC provides to a requesting telecommunications carrier that is at least equal in quality to that which the incumbent LEC provides to itself. U S WEST does not state whether it accepts or rejects the foregoing proposition. Instead it recites a full section from 47 C.F.R. Section 51.312(b) and cites from certain sections of the FCC's opinion in the *Bell South Louisiana II Order*. However, apart from those citations, it does not respond in a meaningful way to the question posed. At the May 5 meet and confer session, U S WEST stated it would stand on its response. U S WEST interposed no objection this data. U S WEST should be ordered to answer this question.

Jl-284: U S WEST is asked to identify individually the miscellaneous CLEC data provisioning process errors mentioned in the Williams affidavit at page 40, lines 4 and 5 and to produce documents U S WEST provides to CLECs to instruct them in how to avoid the individual miscellaneous provisioning errors. Again, U S WEST does not provide any information responsive to this data request other than to state that CLECs were provided training on how to properly submit local service requests through its web site. This response does not respond to the request regarding data provisioning process errors as referenced in the Williams affidavit. At the May 5 meet and confer session, U S WEST stated it would try to clarify its answer and then contact Joint Intervenors but it has not yet done so. U S WEST interposed no objection to this data request.

U S WEST should be ordered to provide the requested information.

D. U S WEST Specific Objections

In the following data requests, U S WEST has objected and provided no responsive information. Except as otherwise noted below, at the May 5 meet and confer session U S WEST stated it would stand on its objection without providing a further response.

Jl-6(a): U S WEST is asked to identify the amount of time required by its retail operations to change a customer from one long-distance carrier to another. U S WEST objects on relevancy grounds. The request is clearly relevant. The extent to which U S WEST treats carriers differently, regardless of the nature of the service or facility provided, is significant. It bears directly on whether U S WEST discriminates in its retail operations in favor of other carriers or its affiliates.

JI-6(b) and (c): U S WEST is asked to identify the amount of time required in its retail operations to change the phone number on a loop and suspend service and then reinstate service on the line when one operation is done immediately after the other.

U S WEST objects that this request is vague and ambiguous and states that telephone numbers are not changed for loops but instead changed for customers. U S WEST further contends that it is not clear whether Joint Intervenors seek information about the length of time it takes U S WEST retail operations to change a customer's telephone number or the length of time it takes U S WEST to port a customer to a CLEC through number portability. Finally, according to U S WEST, the question does not identify the service at issue and the phrase "when one operation is done immediately after the other" is indecipherable.

None of U S WEST's objections have merit. The questions are straightforward and to the point: How long does it take U S WEST to change a phone number for a loop and how much time elapses after service is suspended on a line before service is reinstated. U S WEST's contention that telephone numbers are not changed on a loop is just an attempt to avoid answering the question. A telephone number necessarily relates directly to a particular loop. Likewise, there is no ambiguity in the second part of the request. The term "service" obviously it relates back to the lead into to the question, i.e., retail operations. Accordingly, U S WEST should be required to answer the requests.

JI-7: U S WEST is asked to produce documents that have been produced by U S WEST in the following dockets: *MCI v. U S WEST*, Washington Utilities and Transportation Commission, Dckt. UT-97-1063 and *MCI v. U S WEST*, Minnesota Public Utilities Commission of Minnesota, Dckt. P-421/C97-1348. U S WEST objects to the production

of these documents on relevancy grounds. U S WEST contends that information on the status of its interconnection efforts in other states is not relevant to the current investigation.

The information requested in this data request relates specifically to the use of certain demand and forecast information provided by MCIWorldCom to U S WEST. At issue in these proceedings, among other things, is whether U S WEST used the demand and forecast information in the engineering and design of its network to prevent the blocking of calls. In addition, the information sought may demonstrate whether U S WEST has a region wide policy concerning the use of such demand and forecasting data. Finally, the information sought may demonstrate how U S WEST addresses blocking of its own circuits on a region wide basis. At the May 5 meet and confer session, counsel for MCIWorldCom asked, as a compromise, that the information be produced for an “in camera” review so that this Commission may determine whether the information has region wide implications. U S WEST refused, asserting that it would stand by its objection and not provide the requested information, even “in camera.”

JI-28-29: U S WEST is asked to list those activities between itself and U S WEST Long Distance that U S WEST believes qualifies under Section 272(g)(3) as exempt from the nondiscrimination requirements of Section 272. U S WEST objected on relevancy grounds and on grounds that state commissions are not charged with the responsibility to assess its compliance with Section 272 of the Act. At the May 5 meet and confer session, U S WEST withdrew its objection and stated it would evaluate a further response to these data requests. To date, U S WEST has not provided a supplemental response to these data requests.

Jl-39-40: U S WEST is asked to produce copies of documents that U S WEST provides to customer service representatives on the procedures used for requesting and reserving new telephone numbers for POTS customers (Jl-39) and vanity telephone numbers.

Also, U S WEST is asked whether such requests are made via IMA, EDI, or manually.

Joint Intervenors requested all documents regarding the subject matter of Jl-40.

U S WEST interposed a general relevancy objection to both data requests claiming that the way in which its retail organization interacts with POTS customers and is not germane to this case.

This objection is without merit. The FCC has concluded that access to OSS functions must be offered such that competing carriers are able to perform OSS functions in substantially the same time and manner as the BOC. *Application of BellSouth Corporation Pursuant to § 271 of the Communications Act of 1934, as amended, to Provide In-Region, Inter-LATA Services in South Carolina*, FCC Docket No. 97-208, Memorandum Op. and Order (released 12/24/97) at ¶98. Obviously, requesting and reserving telephone numbers is a pre-order OSS function. The material requested will provide the necessary information to permit a meaningful comparison of the manner that a CLEC requests and reserves phone numbers and the manner in which U S WEST's retail representatives perform the same function for their customers. Moreover, Joint Intervenors also believe that CLECs are disadvantaged in that they must wait until U S WEST provides a firm order confirmation ("FOC") before guaranteeing to a customer that the number he or she has reserved has been assigned. Joint Intervenors are entitled to know what U S WEST representatives inform their customers during the initial customer contact with respect to the confidence the customer can have in the reserved

telephone number (*i.e.* You are guaranteed that the requested telephone number will be yours. You need to wait for a call back from us before you can rely on the requested telephone number. While it is not a guarantee, its is highly likely that the requested telephone number will be yours.)

Contrary to U S WEST's assertions, the manner in which its retail representatives request and reserve telephone numbers, and what those retail representatives tell their customers about the telephone numbers, are germane to this investigation into whether U S WEST is providing OSS access to CLECs that permit the CLECs to request and reserve telephone numbers in the same time and manner as U S WEST provides itself.

JI-239-240: On a monthly basis for the years 1996 through 1999, U S WEST is asked to provide average installation intervals (JI-239) and mean time to repair out-of-service conditions (JI-240) for special access trunks provided to IXC's in Arizona. Again, U S WEST objects on relevancy grounds but with no explanation for the basis of the objection.

The objection is without merit. U S WEST is required to provide resold services to CLECs at a level of quality that is at least equal in quality to that provided by the incumbent LEC to itself or to any subsidiary or any other party to which the carrier directly provides the service such as an end-user. U S WEST provides DS0, DS1, and DS3 access services to IXC's but also provides the same services for resale to CLECs. It is relevant to know how U S WEST treats its largest customers (IXC's) in comparison to how it treats CLECs for the provisioning of identical facilities.

JI-247, 248, 249: On a monthly basis for the years 1997 to 1999, for installation interval results where results were excluded, U S WEST is asked to provide the total number of

orders, the number of orders excluded from the results, and the total number of orders that were included in the results (JI-247). On a monthly basis for the years 1997 to 1999, U S WEST is asked to provide the average installation results for excluded orders.

U S WEST asserts that it does not measure or report the information requested and to do so would require a special study (JI-247 and JI-248). In JI-249, U S WEST is asked to provide the number of orders for digital and analog loops received and provisioned to CLECs in Arizona and region-wide and the average installation intervals for such loops.

At the meet and confer session, Joint Intervenors explained the basis for these three requests. They are interrelated. The U S WEST measures for installation intervals and installation commitments met exclude orders for customer requested due dates, no facilities available and customer caused misses. JI-247 and JI-248 attempt to determine how many orders were excluded and what the performance was for those excluded orders. JI-249 requests the total number of orders for unbundled loops. If Joint Intervenors know the total number of orders for unbundled loops and the total number of orders for which U S WEST reports installation data (data with the specific categories excluded in Exhibit MGW-2 of the Williams affidavit) they can then subtract the MGW-2 number of orders from the total number of orders in question 249 to derive the number of loop orders that U S WEST excluded from the results. As a compromise position, Joint Intervenors have proposed that U S WEST provide the information sought in JI-249 and from that information Joint Intervenors may be in a position to derive, at least in part, answers to JI-247 and JI-248.

In response, U S WEST stated it may provide the data sought for Arizona but would not do so on a region-wide basis. For reasons already stated, the region-wide data

is relevant. U S WEST has not yet provided a supplemental response as to the Arizona specific data sought in JI-249.

JI-250: For the period January 1, 1997 to the present, U S WEST is asked to produce documents regarding U S WEST's bill timeliness, quality and accuracy for Arizona and its region. Again, U S WEST objects on relevancy grounds because it contends its activities outside the State of Arizona are not relevant. This objection is without merit.

The objection that U S WEST's activities outside the State of Arizona are not relevant is patently frivolous. The Federal Communications Commission has already concluded that information from other states within a Bell Operating Company's ("BOC") region is relevant to its review of a Section 271 application. *Ameritech Michigan Order*, ¶ 156. Moreover, when faced with an identical objection, two other state commissions in Section 271 proceedings initiated by U S WEST have reached an identical conclusion. *See, In Re: U S WEST Communications, Inc.*, Dckt. D97.5.87, Public Service Commission of Montana, Notice of Commission Action, May 8, 1999, *In Re: U S WEST Communications, Inc.*, Dckt. 97-106-TC, New Mexico State Corporation Commission, Order on AT&T's motion to Compel Responses to Discovery by U S WEST, July 23, 1998 (Both orders are attached as Exhibit A).

At the May 5 meet and confer session, U S WEST stated it would provide a response as to its activities within Arizona but it has not yet done so. U S WEST should be ordered to produce all information requested in this data request.

JI-196, 197, 198: U S WEST is asked to describe the term "standard installation interval" (JI-196) and whether that term excludes "no facilities available" and "no dispatch" responses when compiling "standard installation interval" responses (JI-197).

U S WEST is then asked whether it employs the term standard installation interval for its own internal performance measures (JI-198).

U S WEST contends that the term standard installation interval is vague, ambiguous and over broad and therefore objects to all three of these data requests. But, in its own Arizona SGAT, U S WEST states that “CLEC orders involving requests for due dates beyond the **“standard interval”** are excluded from the CP-1 installation commitments met performance results. Moreover, U S WEST has previously claimed that CLECs should quote the “standard installation interval” when providing due dates to its customers. How U S WEST uses the term “standard installation interval” is relevant, given the importance the U S WEST places on standard installation intervals both in excluding data that is “beyond the standard interval” and instructing CLECs to provide its customers with due dates of the standard installation interval. U S WEST is hardly in a position to contend that such term is vague or ambiguous. Joint Intervenors may require that U S WEST define terms that it uses in its own SGAT and elsewhere. U S WEST also contends that the definition depends upon the measure in question. To the extent that is true, knowing how U S WEST defines the term becomes all the more imperative. Moreover, U S WEST contends that its due date process is ostensibly nondiscriminatory. If that is true, it is critically important to know if U S WEST uses and defines the term standard installation interval for CLECs as it does for its own internal purposes.

III. CONCLUSION

For the foregoing reasons, the Commission should overrule U S WEST's objections and order U S WEST to provide complete and fully responsive answers to the specific data requests identified in this motion and the attached Schedule 1 within three business days of the order resolving this motion..

Respectfully submitted this 17th day of May 1999.

**AT&T COMMUNICATIONS OF THE
MOUNTAIN STATES, INC. AND TCG
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hand-delivered on May 17, 1999, to:

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COPY of the foregoing mailed on May 17, 1999, to:

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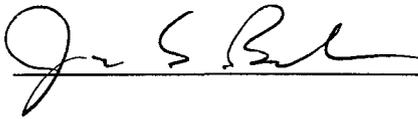
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1

SCHEDULE 1

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EXHIBIT A

Service Date: May 8, 1998

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Investigation)	UTILITY DIVISION
into U S WEST Communications, Inc.'s)	DOCKET NO. D97.5.87
Compliance with Section 271(c) of the)	
Telecommunications Act of 1996.)	

NOTICE OF COMMISSION ACTION

PLEASE TAKE NOTICE that in work sessions held on May 6 and May 7, 1998, the Montana Public Service Commission (Commission) considered U S WEST Communications Inc.'s (U S WEST) objections to joint intervenors data requests numbered JI-001 through JI-135. Also on May 8, 1998, the Commission addressed the Motion for Leave to File Prehearing Brief filed on May 6, 1998 by AT&T Communications of the Mountain States, Inc. As explained below, the Commission took the following action:

1) On May 7, the Commission denied the objections to all data requests which are based on the arguments contained in General Objections No. 1 and No. 3, and deferred ruling on General Objection No. 2;

2) On May 8, the Commission denied the objections to all data requests which are based on the arguments contained in General Objection No. 2; and

3) On May 8, the Commission granted AT&T's motion to file a prehearing brief. Such briefs must be filed no later than June 19, 1998. Any party may file a prehearing brief by that date summarizing its case. The brief may identify the issues, set forth the party's position on the identified issues, identify relevant law and provide brief summaries of the party's witnesses, including witness names, exhibit references, and issues addressed by the testimony.

DISCUSSION

AT&T; TouchAmerica, Inc.; MCI Telecommunications Corp.; Sprint Communications Company L.P.; The Northwest Payphone Association; and Montana Wireless, Inc.—as joint

intervenors—propounded their first set of data requests to U S WEST. The joint intervenors included 135 data requests. U S WEST filed objections to these data requests and the Commission ruled on the objections as set forth above.

The objections relate to nearly all of the data requests, either explicitly or indirectly. Many of the requests not specifically objected to build on answers to the objectionable data requests. The foundation for the objections is included in three general objections, which assert:

1. To the degree that the interrogatories request information relating to U S WEST's activities outside the State of Montana, it objects to the interrogatories as irrelevant in that they are not reasonably calculated to lead to discovery of evidence relevant to, or admissible in, this proceeding. Further, such discovery is unduly burdensome and expensive in light of the issues in this matter, which relates only to this Commission's recommendation pertaining to U S WEST's proposed filing with the Federal Communications Commission under 47 U.S.C. §272 (sic). By its terms, the Procedural Order No. 5982 in this case relates only to this FCC filing and only to the Montana Commission's recommendation related thereto, thus vitiating the propriety of this type of request.

2. To the degree that the interrogatories request information regarding 47 U.S.C. § 272, it objects to the interrogatories as irrelevant in that they are not reasonably calculated to lead to discovery of evidence relevant to, or admissible in, this proceeding. Further, such discovery is unduly burdensome and expensive in light of the issues in this matter, which relates only to this Commission's recommendation pertaining to U S WEST's proposed filing with the Federal Communications Commission under 47 U.S.C. §272 (sic). By its terms, the Procedural Order No. 5982 in this case relates only to this FCC filing and only to the Montana Commission's recommendation related thereto, thus vitiating the propriety of this type of request.

3. To the degree that any interrogatory requests third party proprietary information or information privileged under attorney-client privilege or as attorney-work product or both, U S WEST objects to such interrogatories on the grounds that M.R.C.P. 26(a) does not allow for discovery of privileged information. Since discovery of privileged information is not provided for in the Montana Rules of Civil Procedure, it is irrelevant to these

DOCKET NO. D97.5.87

3

proceedings as well as burdensome and overbroad to the extent that it seeks information not discoverable. Finally, a request for information not discoverable cannot be reasonably calculated to lead to the discovery of admissible evidence.

As to No. 1, the Commission believes that information relating to U S WEST's activities outside the State of Montana is relevant. U S WEST's § 271 filing focuses on the distinctions which it believes militate that the Commission recommend in-region interLATA entry. Specifically, it argues that Montana has unique demographics and market conditions which support such entry. U S WEST has invited a comparison of data from other states and the joint intervenors are entitled to discovery on this issue. Moreover, the Federal Communications Commission (FCC) has stated that information from other states within a BOC's region is relevant to its review of a § 271 application. Ameritech-Michigan Order, FCC97-298, at ¶ 156, CC Docket No. 97-137 (Aug. 19, 1997). It has also stated that evidence of a BOC's past and present behavior is "highly relevant" in making a predictive judgment about the future behavior of a § 271 applicant under § 271(d)(3)(B). Id. at ¶ 366. The past and present behavior of a BOC is not limited to the state in which the § 271 application is filed. *See also* the FCC's discussion of the public interest requirement at ¶¶ 381-402 of the Ameritech-Michigan Order. The FCC encourages states to submit to it as much information as possible, even if it is not germane to the competitive checklist, which is the only subject on which the FCC is required to consult with states. *See, e.g., Id.* at ¶ 34. Montana law favors liberal prehearing discovery so that all relevant facts are made available to parties in advance of the hearing.

As to the arguments made that discovery about activities outside Montana is unduly burdensome and expensive in light of the issues in this matter, which U S WEST states is related only to this Commission's recommendation under § 271, the Commission believes that its recommendation relates to issues of no little significance. Not only does the Commission make a recommendation, it also will develop a full and complete record to assist the FCC's more extensive review. This is a major issue deserving of a heightened burden in gathering and producing relevant information for use by adverse parties, this Commission, the U.S. Department of Justice, and the FCC. It also merits the additional expense incurred to provide the informa-

DOCKET NO. D97.5.87

tion. No one, including U S WEST is well-served by an ultimate FCC denial of its interLATA entry based on an incomplete record.

The Procedural Order sets forth a process for conducting this investigation and does not serve to limit discovery except as regards the time limits and, therefore, does not support the objections made in General Objections 1 and 2.

In the Notice of Commission Action on comments filed on or about April 20, 1998 in this proceeding, served on April 8, 1998, the Commission concluded that it will not require U S WEST to file additional materials relating to § 272 (concerning a separate long distance affiliate) at this time. However, the Commission did not limit discovery on § 272 issues in that Notice. The FCC desires a full and complete record, including information that will assist in its decisions relating to § 272. The Commission will permit discovery on such and, therefore, denies the objections referencing General Objection 2.

As to General Objection No. 3, the argument included therein and throughout the specific objections does not support any of the objections and they are denied. The Commission will not sustain objections which do not identify specific information that may be privileged under the attorney-client privilege or as attorney work product and which are not supported with relevant legal argument. The objections are so general that they do not for the most part even identify which one of the three privileges is being relied on. The law pertaining to attorney-client privilege and attorney work product is extensive and further effort must be made to support sustaining any such objections. As to third-party proprietary information, the protective order issued in this docket is sufficient to protect such information. More persuasive argument would have to be made in order to sustain such objections. The previous discussion relating to the burdensome nature of discovery applies equally to this objection.

In summary, all objections raised by U S WEST have been denied.

BY THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman
NANCY MCCAFFREE, Vice Chair
BOB ANDERSON, Commissioner
DANNY OBERG, Commissioner
BOB ROWE, Commissioner

MONTANA PUBLIC SERVICE COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a copy of a NOTICE OF COMMISSION ACTION, in DOCKET NO. D97.5.87, in the matter of PSC INVESTIGATION INTO USWC'S COMPLIANCE WITH SECTION 271 (c) OF THE TELECOMMUNICATION ACT OF 1996, dated May 8, 1998, has today been served on all parties listed on the Commission's most recent service list, updated 5/7/98, by mailing a copy thereof to each party by first class mail, postage prepaid.

Date: May 8, 1998



For The Commission

Intervenors

Montana Consumer Counsel
 Montana Department of Administration, Information Services Bureau
 Eclipse Communications Corp.
 AT&T Communications of the Mountain States, Inc.
 ICG Telecom Group, Inc.
 MCI Telecommunications Corporation
 McLeod, USA, Inc.
 Montana Independent Telecommunications Systems
 Montana TEL-NET
 Montana Wireless, Inc.
 Northwest Payphone Association
 Skyland Technologies, Inc.
 Sprint Communications Company L.P.
 Telecommunications Resellers Association
 Touch America
 Ronan Telephone Company
 Hot Springs Telephone Company
 Montana Telephone Association (withdrew)

11. *[Handwritten]*
RECEIVED

BEFORE THE NEW MEXICO STATE CORPORATION COMMISSION AT&T Corp. Legal - Denver

IN THE MATTER OF THE
INVESTIGATION CONCERNING
U S WEST COMMUNICATIONS,
INC.'S COMPLIANCE WITH
SECTION 271(c) OF THE
TELECOMMUNICATIONS ACT OF 1996

DF 7/24
JUL 23 1998

OV-NIT _____
MESS _____
INTER-OF _____
CITE _____
PRO SER _____
REG MAIL _____
FAX _____
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DOCKET NO. 97-106-TC

**ORDER ON AT&T'S MOTION TO
COMPEL RESPONSES TO DISCOVERY BY U S WEST**

THIS MATTER came before the New Mexico State Corporation Commission ("Commission") on AT&T's Motion to Compel Responses to Discovery by U S WEST ("Motion") filed by AT&T Communications of the Mountain States, Inc. ("AT&T") on July 16, 1998, and U S WEST's Response to AT&T's Motion to Compel ("Response") filed by U S WEST Communications, Inc. ("U S WEST") on July 22, 1998. The Commission, having considered the Motion and Response, and otherwise being fully advised in the premises, **FINDS, CONCLUDES, AND ORDERS:**

1. On July 6, 1998, AT&T served its first set of data requests on U S WEST.
2. On July 10, 1998, U S WEST filed its objections to AT&T's data requests.
3. On July 13, 1998, U S WEST filed its written responses to AT&T's data requests along with four boxes of documents.
4. Contained in the aforementioned four boxes of documents were Montana Interrogatory and Responses, Docket No; D97.5.87, Intervenor: 1st Set of Data Requests from the PSC Dated: 4/29/98.
5. In its review of the documents produced by U S WEST, the Commission could find no questions, index or directory of any kind which could be used to determine which data requests U S WEST was responding to.

6. In its Motion, AT&T asks this Commission to summarily overrule all of U S WEST's general objections and order U S WEST to provide full and complete responses to all of U S WEST's data requests.

7. In the alternative, AT&T asks in its Motion that this Commission either extend the testimony due date to seven (7) days after complete production of the discovery responses by U S WEST, or that AT&T be granted leave to file additional testimony in the August 31, 1998 rebuttal testimony based on the discovery produced by U S WEST.

8. In its Response, U S WEST asks the Commission to deny AT&T's motion to compel.

9. In its objections to AT&T's data requests, U S WEST gives three general categories in which it objects to nearly all data requests propounded by AT&T. These categories include:

1. Responses which relate to activities outside the State of New Mexico: U S WEST objects as to relevancy in that the requests are not reasonably calculated to lead to discovery of evidence relevant to, or admissible in, this proceeding and further, the discovery is unduly burdensome and expensive in light of the issues in this matter which relate only to the Commission's recommendation pertaining to U S WEST's proposed filing with the Federal Communications Commission under 47 U.S.C. §271.

2. Responses regarding third party proprietary information or information privileged under attorney-client privilege or as attorney-work product or both.

3. Responses which relate to information regarding 47 U.S.C. §272: U S WEST objects as to relevancy in that the responses are not reasonably calculated to lead to discovery of evidence relevant to, or admissible in, this proceeding and further, the discovery is

unduly burdensome and expensive in light of the issues in this matter which relate only to the Commission's recommendation pertaining to U S WEST's proposed filing with the Federal Communications Commission under 47 U.S.C. §271.

10. The Commission believes that the Federal Communications Commission ("FCC") has established that information regarding U S WEST from other states within U S WEST's region is relevant to its review of the §271 filing of U S WEST. The information need not be admissible at hearing if the information sought appears to be reasonably calculated to lead to the discovery of admissible evidence. See Rule 1-026B NMRA 1998.

11. The Commission has not limited discovery in this action and therefore believes that inquiries regarding 47 U.S.C. §272 are relevant and may lead to admissible evidence in this action. The Commission does not believe that "this case relates only to this FCC filing and only to the Montana Commission's recommendation" as stated in U S WEST's General Objection No. 3.

12. U S WEST's blanket objection contained in its "General Objections, No. 2" referring to "third party proprietary information or information privileged under attorney-client privilege or as attorney-work product or both" is without merit. It is a well established point of law that discovery is not permitted as to privileged matters. However, it is also well established both in federal and state law, that a "party seeking to assert the attorney-client privilege or the work product doctrine as a bar to discovery has the burden of establishing that either or both is applicable." *Barclaysamerican Corp. v. Kane*, 746 F.2d 653, 656 (10th Cir. 1984), citing *In re Grand Jury Proceedings (Dorokee Co.)*, 697 F2d 277, 279 (10th Cir. 1983).

13. Rule 26(b)(5) of the Federal Rules of Civil Procedure states that when a party withholds information otherwise discoverable by claiming that is privileged, the party must

"make the claim expressly," and must "describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection." Where a privilege is asserted and then challenged, the burden rests upon the party so claiming to establish that the material is, in fact, not discoverable. *In re Perrier Bottled Water Litigation*, 138 F.R.D. 348, 351 (D.Conn 1991).

14. With the exception of the performance study of U S WEST's OSS System, U S WEST has made no attempt to describe or identify the information it claims is privileged.

15. The Commission has further determined that U S WEST has not provided individual responses to the data requests propounded by AT&T. None of the documents provided are labeled to correspond with any requests by AT&T.

16. The Commission is unable to understand the reference made by U S WEST in the first sentence of it's "General Objections" i.e., M.R.C.P., 26(b): it can only assume that U S WEST is referring to the Montana Rules of Civil Procedure, which do not apply to this proceeding.

IT IS THEREFORE ORDERED THAT:

1. AT&T's Motion is DENIED in part and GRANTED in part.
2. U S WEST's objections to AT&T Request Nos. 1, 3, 6, 7, 12, 16, 21, 24, 25, 26, 28, 29, 35, 37, 38, 39, 40, 41, 42, 47, 65, 71, 72, 73, 79, 80, 81, 84, 85, 86, 87, 90, 92, 103, 104, 105, 114, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 133, 134, 135, 136, 138, 139, 140, 144, 151, 152 are overruled and U S WEST must respond to these requests specifically and individually.

3. For each document, multiple documents or communications which U S WEST claims is privileged in its objections to AT&T Request Nos. 15, 18, 27, 30, 31, 33, 34, 37, 38, 39, 40, 41, 42, 43, 56, 58, 71, 72, 73, 74, 79, 89, 91, 106, 111, 136, 137, and 140, U S WEST must provide a privilege log stating:

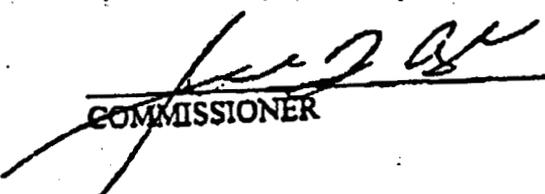
- A brief description or summary of the content of the document or communication,
- The date the document was prepared,
- The name(s) of the person(s) who prepared the document,
- The person to whom the document was directed, or for whom it was prepared,
- The purpose for preparing the document or communication,
- The privilege or privileges asserted for the document or communication, and
- How the document or communication satisfies the asserted privilege or privileges.

4. U S WEST is hereby ordered to respond specifically and individually to all other requests made by AT&T not addressed hereinabove.

5. U S WEST shall file and serve, by over night mail, its responses to the parties no later than July 30, 1998.

6. Intervenor are hereby given leave to file additional testimony in the August 31, 1998 rebuttal testimony based on the discovery produced by U S WEST and any other relevant matters.

DONE this 21st day of July, 1998.



COMMISSIONER

ATTEST:



Orlando Romero, Chief Clerk

Fax

RECEIVED
AT&T Corp. Legal - Denver

JUL 23 1998

Pages: 10, including this cover sheet.

Date: July 23, 1998

OV-NIT	_____	PRO SER	_____
MESS	_____	REG MAIL	_____
INTER-OF	_____	FAX	_____
Other	_____	Initials	<u>PG</u>

To: Peggy Graham

Fax: (303) 298-6301

Message: NM SCC Orders re
Discovery + ATT Motion to Quash

NOTICE: THIS FAX TRANSMISSION IS INTENDED FOR THE PERSON OR ORGANIZATION NAMED ABOVE. IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE NOTIFY THE SENDER AT ONCE. THE CONFIDENTIALITY OF ANY INFORMATION CONTAINED IN THIS FAX IS NOT WAIVED BY THE INADVERTENT DISCLOSURE OF SUCH INFORMATION TO PERSONS OR ORGANIZATIONS NOT LISTED ABOVE.

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