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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK  
Chairman

JUN 9 4 35 PM '99

JAMES M. IRVIN  
Commissioner

Arizona Corporation Commission

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TONY WEST  
Commissioner

JUN 09 1999

DOCKETED BY NY

DOCKET NO. U-0000-97-238

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

) REPLY MEMORANDUM IN  
) SUPPORT OF THE MOTION OF  
) ACI, ELI, AND NEXTLINK  
) ARIZONA, INC. TO COMPEL  
) RESPONSES TO DISCOVERY  
) FROM U S WEST  
) COMMUNICATIONS, INC.

ACI, ELI and NEXTLINK Arizona, Inc. (collectively "Joint Intervenors") submit this reply in support of their motion to compel U S WEST Communications, Inc. ("U S WEST") to respond to discovery and data requests.

**I. INTRODUCTION**

Since Joint Intervenors filed their Motion to Compel, U S WEST has filed multiple supplemental responses to the 67 data requests Joint Intervenors served upon it. Notwithstanding these additional supplements, there remain several significant deficiencies in U S WEST's responses to certain of the data requests.

U S WEST still has failed and refused to provide critical information regarding the availability of collocation at its central offices in Arizona. In its response to the Motion to Compel, U S WEST directs Joint Intervenors to a public website which

U S WEST claims provides information responsive to certain of the data requests directed to collocation. In reality, it does not. Specifically, as to Data Requests 20 and 31, U S WEST refers the Joint Intervenors to a document on that website titled “Collocation Space Availability Summary” (a copy of which is attached hereto as Exhibit A). As Joint Intervenors will discuss more fully below, however, it is readily apparent that the foregoing summary does not come close to providing a complete response to the information sought in Data Requests 20 and 31.

As to trunking, U S WEST continues to withhold important information regarding spare trunk capacity (Data Request 9), provisioning interval data (Data Request 14) and trunk group data for access tandems [Data Request 3(d)]. U S WEST must provide such information.

As to whether U S WEST will provision network elements (and combinations thereof), U S WEST’s response to Data Requests 29, 36 and 37 is evasive. In its response to the Motion to Compel, U S WEST stands on its answer claiming that it has provided the best answer possible. That clearly is not the case. U S WEST steadfastly has refused to provide a direct answer to these data requests. Its attempt to hide behind what it views as some uncertainty in the law is not a legitimate excuse. U S WEST knows whether it will provision UNEs or combinations thereof and it should be fully able to identify which ones it will provide, if any. If it will not offer UNEs or combinations thereof to new entrants, it should simply say so.

As to local loops, U S WEST stands on its answer to Data Request 40 regarding the methodology for accessing an unbundled loop provisioned from a remote

switch. U S WEST contends its description is adequate. It is not. It is grossly inadequate. U S WEST offers no excuse in its response to the Motion to Compel for such a flimsy answer.

As to number portability, U S WEST has promised it will provide responsive data for the period after January 1999 but, to date, it has not yet done so. Joint Intervenors simply request that U S WEST provide updated and accurate information.

On the subject of cost and price information for physical and virtual collocation and network elements, U S WEST again refers Joint Intervenors to the cost dockets in Arizona for this information. U S WEST does not respond in any way to the proposed compromise that U S WEST identify the list of network elements, the nature and name of the cost study, and if no cost study was prepared, identify the name of the docket to which the network elements relate.

As to blocking, U S WEST is asked to produce blocking information disaggregated to the switch level (Data Requests 4, 7 and 8). In its response, U S WEST stated that it would produce the information in a disaggregated form, but it would not mask CLEC-specific information. Subsequent to that time, Joint Intervenors indicated to U S WEST that they will allow the production of such information on such terms so long as U S WEST specifically agrees to produce the information only to those parties who have executed appropriate confidentiality and protective agreements in this docket. U S WEST also agreed to mark, label and treat such information as privileged and confidential. U S WEST should be ordered not to disclose such information to any

person who is not a signatory to applicable non-disclosure, confidentiality and protective agreements in this case.

U S WEST still refuses to provide a complete response to Data Request 13 concerning the identification of points on U S WEST's network that interconnection has been requested by a CLEC. In its response to the Motion, U S WEST does not address the inadequacy of its response to Data Request 13.

## **II. ARGUMENT**

### **A. Collocation.**

In its response to the Motion to Compel, U S WEST contends that the information posted on its public website and, specifically the document titled "Collocation Space Availability Summary," provides information responsive to Data Request 20. This is clearly not the case. In the attached summary, U S WEST states that it identifies the "U S WEST owned central offices where a Co-Provider has requested collocation space. However, in these particular offices usable space was filled to capacity for the type of collocation services requested." It is uncertain from the foregoing quote (or any other information in the attached summary) whether the listed central offices for the State of Arizona are the only U S WEST end offices in Arizona that are not able to accommodate requests for physical collocation. Data Request 20 also asks U S WEST to list the amount of space, in square feet, being used for collocation and that could be used in the future for collocation. The attached summary does not provide any such information.

In Data Request 20, Joint Intervenors also ask U S WEST that to the extent a U S WEST central office is unable to accommodate a request for physical collocation whether the central office accommodates virtual or cageless collocation. Again, while the attached summary indicates that cageless and virtual collocation is available for the listed central offices, it is unclear from this document whether the listed offices constitute the universe of offices in Arizona for which physical collocation is not available, but that virtual and cageless collocation is available.

In its response to the Motion to Compel, U S WEST argues that in posting the information set forth in the attached summary it has complied with the FCC's Collocation Order and that it is not required to provide any further information on the subject. U S WEST's persistent confusion or obstinance on this point is inexplicable. The obligation to comply with the Arizona Rules of Civil Procedure pertaining to discovery in this proceeding are not preempted or trumped by the Collocation Order. The Collocation Order does not define, limit or otherwise define the scope of U S WEST's discovery compliance obligations in these proceedings. U S WEST's duty to comply with discovery in these proceedings is governed by the Arizona Rules of Civil Procedure. The Joint Intervenors are entitled to the information sought in Data Request 20 and U S WEST has not offered a single legitimate substantive basis for refusing to provide a complete answer.

U S WEST also contends that because only 40 of its offices in Arizona have collocators that it would be a "waste of U S WEST's time and resources to investigate space availability on the overwhelming majority (110) of central offices that

have no collocators.” This argument is specious. Whether U S WEST is able to provide collocation in an Arizona central office does not depend upon whether any CLEC has or has not collocated in that office. As U S WEST acknowledges, Joint Intervenors are entitled to know which U S WEST offices are able and are not able to accommodate requests for physical collocation. Joint Intervenors are entitled to know whether such central offices are incapable of accommodating physical, cageless and/or virtual collocation irrespective of the fact that certain central offices do not have collocators. Such information is the crux of the Collocation Order and, moreover, is information critical to evaluating U S WEST’s compliance with § 271 of the Telecommunications Act of 1996. Accordingly, U S WEST should be compelled to provide a complete answer to Data Request 20.

As to Data Request 31 (state the percentage of U S WEST central offices in Arizona and region-wide that have space available to accommodate DS0 and DS1 spot frame or ICDF), U S WEST responds that it has “established the requisite internet site which provides AEN the type of information they need.” The attached summary, however, does not provide any information whatsoever regarding the space available to accommodate a DS0 or DS1 spot frame or ICDF.

As to Data Request 34, U S WEST stands on its answer in refusing to identify spare COSMIC frame/MDF capacity on grounds that it exceeds the scope of its reporting obligation under the Collocation Order and that it otherwise has no obligation to devote resources to surveying frame capacity in floor space in its Arizona central offices. Again, these arguments are without merit. The Collocation Order does not

define the scope of U S WEST's obligation regarding discovery in these proceedings. The Arizona Rules of Civil Procedure do. Moreover, the fact that U S WEST has to undertake to perform work to provide information responsive to the data requests is not a legitimate excuse for refusing to provide the information. U S WEST should be ordered to provide complete responses to Data Requests 31 and 34.

**B. Trunking.**

U S WEST refuses to supplement its response to Data Request 9. In that request, Joint Intervenors ask U S WEST to identify spare tandem switch capacity for CLEC interconnection trunks at each tandem switch and each end-office's spare switch capacity for CLEC interconnection trunks. U S WEST also rejected joint intervenor's proposal that U S WEST at least provide spare capacity for all trunks regardless of type. In its June 3, 1999 Supplemental Response, U S WEST states that it does not have information specifically showing spare tandem switch capacity for CLEC interconnection trunks at each tandem because it does not allocate nor reserve available switch capacity for interconnection trunks. This response just begs the question concerning the proposed compromise. U S WEST should, at least, provide spare capacity for all trunks regardless of type. It does not contend in any supplemental response or in the response to the Motion to Compel that it cannot provide this information. U S WEST should be ordered to do so.

U S WEST's supplemental response to Data Request 14 is still nonresponsive. In that request, U S WEST is asked to provide CLEC provisioning interval data for interconnection trunking orders for the years 1996 through 1998. In its

June 3 supplement, U S WEST directs Joint Intervenors to raw data produced in response to Data Request 269 propounded by AT&T and other intervening parties. Joint Intervenors do not have this data nor has U S WEST produced it to them. But Joint Intervenors have been advised by experts for other intervening parties that the raw data provided in response to Data Request 269 cannot be read or understood in its present form. Moreover, the provisioning intervals actually provided are only for the period July 1998 through January 1999. U S WEST contends that it does not have data available for the period prior to July 1998. Joint Intervenors' experts advise that U S WEST can use its "EXACT" system to, in fact, extract provisioning interval data for the period prior to July 1998 without imposing any undue burden upon U S WEST. It should be ordered to provide a complete answer to Data Request 14.

In a supplement to Data Request 3(d), U S WEST interposes an objection for the first time to a request for the number of CLEC trunk groups that connect to each U S WEST access tandem. U S WEST claims the request does not seek relevant information as this docket pertains to local exchange markets and does not involve access service. This objection comes too late. Moreover, it is without merit. To the extent CLECs have interconnected (or requested interconnection) at a U S WEST access tandem for the purpose of providing local service, the request is, indeed, relevant.

**C. Unbundled Network Elements.**

In Data Request 29, U S WEST is asked how it intends to provision the combination of unbundled elements in light of the *Iowa Utilities Board* Supreme Court decision; in Data Request No. 36, U S WEST is asked to identify each network element

presently offered by U S WEST in Arizona; and, in Data Request No. 37, U S WEST must state whether there are any unbundled network element combinations that it will provide on an unseparated basis and to identify each such combination. In its response to the Motion to Compel, U S WEST contends that it has responded to these Data Requests in the most forthright manner currently possible. That is simply not true.

On these issues, Joint Intervenors ask direct, straightforward questions. But U S WEST has not provided a direct answer to any of these data requests. Instead, U S WEST begs off on the ostensible basis that there is uncertainty in the law since *Iowa Utilities Board* and that it will honor existing interconnection agreements with respect to the availability and pricing of unbundled network elements and/or comply with its SGAT for Arizona. This is a dodge. It does not address the question of the new entrant who does not yet have an interconnection agreement with U S WEST in the state. If U S WEST intends to provision combinations of unbundled network elements in light of the Supreme Court's decision, it should simply say so. If it does not intend to provision combinations of unbundled network elements in light of the Supreme Court's decision, again, it should simply say so.

Likewise, if a new provider enters the Arizona market and seeks to obtain network elements from U S WEST, U S WEST should certainly be in a position to state which of those network elements it will offer to that carrier. That is the gist of Data Request 36 and its follow-up questions. The same holds true for Data Request 37. If U S WEST intends to provide unbundled network element combinations on an

unseparated basis, they should simply say so. If it does not, it can also simply state it will not.

U S WEST should be ordered to provide direct and complete responses to the three foregoing data requests as well as responses to the follow-up questions contained in each of them.

**D. Local Loops.**

U S WEST refuses to provide a response to Data Request 40. In this request, U S WEST is asked to describe the method by which a CLEC can gain access to an unbundled loop provisioned from a remote switch without being collocated at the remote switch. In its response to the Motion to Compel, U S WEST states, without argument, that the formal response given to Data Request 40 explains the options available to CLECs that desire to access an unbundled loop provision from a remote switch without being collocated at the remote switch. This one sentence retort does not address the deficiency in the answer. U S WEST's response is inadequate.

The very complex technical process by which a CLEC would access an unbundled loop provisioned from a remote switch cannot be explained away in three sentences. U S WEST should provide a complete and detailed answer to this request, provide a complete description of the methodology and produce any and all documents regarding the process.

**E. Number Portability.**

U S WEST has promised that it will provide information regarding orders for interim local number portability for the period after January of 1999 as soon as it

becomes available but no sooner than the date it files its rebuttal testimony. All such promises notwithstanding, U S WEST has failed to provide such information for the period after January of 1999. U S WEST should be ordered to provide data responsive to these requests from the period January 1999 through today. For obvious reasons, waiting until U S WEST's files its rebuttal testimony is just too late for the data to be of any use to Joint Intervenors in the preparation of their direct testimony.

**F. Cost Data.**

In Data Requests 21 and 26, U S WEST is asked to provide cost and price information with respect to virtual and physical collocation and network elements (through use of an ICDF in Arizona). In its response to the Motion to Compel, U S WEST merely parrots its objection that to provide the information would be unreasonably cumulative and duplicative as U S WEST has already provided the information in a prior cost docket. This contention does not excuse U S WEST's obligation to provide such information in this § 271 proceeding. Moreover, U S WEST has not responded to the offer of compromise Joint Intervenors propose with respect to these data requests. Joint intervenors proposed that U S WEST identify the nature and name of the cost study and if there was no cost study pertaining to network elements or collocation that U S WEST simply identify the name of the cost docket.

It is by no means certain that whatever information is contained in these other cost dockets would in fact be responsive to the data requests. In Data Request 21, U S WEST is asked specifically to produce all documents reviewed or relied upon by U S WEST in determining its nonrecurring and recurring charges for each physical and

virtual collocation cost element in Arizona. In Data Request 26, U S WEST is asked to identify rate elements that U S WEST proposes to charge to CLECs to gain access to network elements and to combine unbundled network elements through the use of an ICDF in Arizona. Moreover, U S WEST is asked to state the price it intends to charge for such rate element and produce all cost studies, cost study documentation and other documents. There is no representation by U S WEST that the information it has purportedly produced in other commission cost dockets is in fact responsive to these two data requests. The production of documents in another proceeding does not discharge U S WEST of its obligations under this Commission's procedural order and the Arizona Rules of Civil Procedure concerning discovery. U S WEST should be ordered to produce full and complete answers to Data Requests 21 and 26.

**G. Anti-Trust Documents.**

In response to Data Request 56, U S WEST objects on grounds of undue burdens and relevance. Again, however, U S WEST's objections are not well-taken for several reasons.

First, the anti-trust proceeding bears materially on U S WEST's interconnection policies, and, therefore, bears on U S WEST's § 271 compliance. At a minimum, U S WEST should produce policy information governing U S WEST's interconnection practices. Second, part of the anti-trust case will involve Arizona--specifically, the next phase of the anti-trust will focus on Arizona.

Finally, the anti-trust documents and information should be reviewed and considered by Hearing Division and the Commission in addressing U S WEST's § 271

compliance. At a minimum, U S WEST should produce general policy information (and documents) and Arizona-specific information (including any documents existing in that case now and in the future).

**H. Other Data Requests.**

U S WEST's response to Data Request 13 remains incomplete. In that request, U S WEST is asked to identify points on its network that interconnection has been requested by a CLEC and to indicate whether the request was granted or declined. If declined, U S WEST is asked to state the reason for declining the request. In its response to the Motion to Compel, U S WEST does not provide any argument in support of its lack of response to Data Request 13. It states only that it has responded to or provided a supplemental clarification to Data Request 13. U S WEST has not provided any supplemental clarification to Data Request 13. Its initial response is not complete. U S WEST is undoubtedly able to identify the points on its network that interconnection has been requested. U S WEST's contention that the FCC has established only a minimum of six required points of interconnection misses the point of the request. The request does not ask whether a CLEC has requested interconnection at these six required points of interconnection, but rather to identify all points that interconnection has been requested and whether such request has been granted or declined. Accordingly, U S WEST should be required to provide a full and complete answer to Data Request 13.

Finally, in the Motion to Compel, Joint Intervenors identified several data requests that U S WEST had not yet provided any substantive answer but to which U S WEST stated it would provide a response as soon as possible. In Data Request 38,

Joint Intervenors asked U S WEST whether it had ever refused a request by CLEC to provide any unbundled network element or combination of network elements. If so, state the date of the request, the identity of the CLEC, the identity of the network element or combination and U S WEST's reason for not providing the unbundled element for combination. U S WEST is also asked to produce all documents that relate to the request and any decision to refuse the request.

In its May 13, 1999 Supplemental Response to this data request, U S WEST provides an answer which is strikingly similar to its now well worn response to Data Requests 29, 36 and 37, *i.e.*, that it will continue to honor existing interconnection agreements with respect to the availability and pricing of unbundled network and elements until the FCC adopts new rules regarding unbundled network element definitions and U S WEST's unbundling obligation.

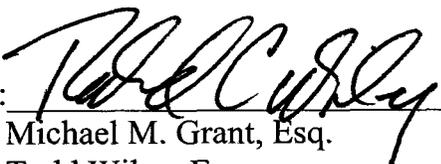
This response, as with the others, simply avoids the question. Joint intervenors are entitled to know, as a matter of fact, and regardless of U S WEST's view of the law, whether it has refused a request by a CLEC to provide any unbundled network elements or combinations. This is a straightforward question that requires a yes or no response followed with explanation. U S WEST's view of the law has no impact upon nor can it impair or interfere with U S WEST's ability to answer what is essentially a factual question. U S WEST should be ordered to provide a full and complete answer to Data Request 38.

III. CONCLUSION

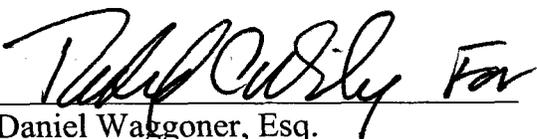
For the foregoing reasons and those reasons stated in the Motion to Compel, U S WEST should be compelled to provide complete answers to the data requests identified in this reply and the original motion within three business days from the date of the order disposing of the Motion to Compel.

DATED this 9 day of June, 1999.

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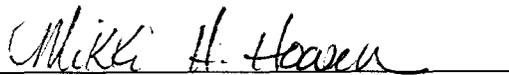
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# Collocation

*Bulletin* Collocation Space Availability Summary

## Collocation Space Availability Summary

Last Updated June 1999

The following summary is a list of U S WEST owned central offices where a Co-Provider has requested collocation space. However, in these particular offices usable space was filled to capacity for the type of collocation services requested. Alternative Collocation options and services are offered to the Co-Provider based on the available usable space in the specified Central Office of interest. If U S WEST is experiencing conditions where complete out of space circumstances apply, it is so noted.

The information in this summary is accurate only at the time it was issued. U S WEST will update this document as other Central Offices are reviewed and out of space conditions are identified. Please refer back to this site to check for new summaries and updated information.

### U S West Collocation Space Availability

State	Central Office	CLII code	Collocation Products currently at Capacity	Alternative Collocation Options Available
Arizona	Chandler West	CHNDZWE	Caged Physical	Cageless, Virtual
	Deer Valley	DRVYAZNO	Caged Physical	Cageless, Virtual
	McClintock	TEMPAZMC	Caged Physical	Cageless, Virtual
	Mesa Gilbert	MESAAZGI	Caged Physical	Cageless, Virtual

Colorado	Highlands Ranch	LTTNCOHLD	Caged Physical	Cageless, Virtual
	Parker	PRKRCOMAR	Caged Physical	Cageless, Virtual
	Smokey Hill	DNVRCOSH	Caged Physical	Cageless, Virtual
Idaho	Meridian	MRDNIDMA	Caged Physical	Cageless, Virtual
Minnesota	24th Ave	MPLSMNTF	Caged Physical	Cageless, Virtual
	Blaine	BLANMNBL	Caged Physical	Cageless, Virtual
	Bryant	MPLSMNBB	Caged Physical	Cageless, Virtual
	Cedar	BLTNMNCE	Caged Physical	Cageless, Virtual
	Central	MPLSMNGE	Caged Physical	Cageless, Virtual
	Coon Rapids	CNPRMNND	Caged Physical	Cageless, Virtual
	Eden praire	EDPRMNEP	Caged Physical	Cageless, Virtual
	Fergus Falls	FRFLMNFB	Caged Physical	Cageless, Virtual
	Fernbrook	PLMOMNFE	Caged Physical	Cageless, Virtual
	Lexington	EAGNMNLB	Caged Physical	Cageless, Virtual
	Normandale	BLTNMNNO	Caged Physical	Cageless, Virtual
	Pillsbury	MPLSMNPI	Caged Physical	Cageless, Virtual
Oregon	Lake Oswego	LKOSOR62	Caged Physical	Cageless, Virtual
	Oregon City	ORCYOR18	Caged Physical Cageless Physical Virtual	No Space Available
	Portland Cherry	PTLDOR17	Caged Physical Cageless Physical Virtual	No Space Available

	Springfield	SPFDOR01	Caged Physical	Cageless, Virtual
South Dakota	Spear Fish	SPRFSDRS1	Caged Physical	Cageless, Virtual
Washington	Bellevue Glencourt	BLLVWAGL	Caged Physical Cageless Physical	No Space Available
	Issaquah	ISQHWAEX	Caged Physical	Cageless, Virtual
	Maple Valley	MPVYWAMV	Caged Physical	Cageless, Virtual
	Orchard	ORCHWA01	Caged Physical	Cageless, Virtual
	Puyallup	PYLPWA01	Caged Physical	Cageless, Virtual
	Silverdale	SLDLWASI	Caged Physical Cageless Physical	Limited Virtual
	Waverly	TACMWAWA	Caged Physical	Cageless, Virtual

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