



0000008664

ORIGINAL

# EXCEPTION

RECEIVED  
AZ CORP COMMISSION

JUL 12 4 28 PM '99

BEFORE THE ARIZONA CORPORATION COMMISSION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM MUNDELL  
COMMISSIONER

Arizona Corporation Commission

DOCKETED

DOCUMENT CONTROL

JUL 12 1999

DOCKETED BY 

Docket No. T-00000B-97-0238

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

## U S WEST'S COMMENTS TO THE HEARING DIVISION'S PROPOSED PROCEDURAL ORDER

On July 2, 1999, the Hearing Division issued a Proposed Procedural Order regarding the Operational Support Systems ("OSS") aspects of this docket. Before issuing the proposed order, the Hearing Division requested comments regarding the other, non-OSS aspects of this Section 271 case as well. A Section 271 case has several aspects. Section 271 requires U S WEST to establish that it satisfies (a) Track A, (b) the 14-point checklist, (c) Section 272 separate subsidiary concerns, and (d) a public interest inquiry. OSS is only one aspect of Checklist Item No. 2. Thus, the current schedule only addresses a portion of one piece of Section 271 and leaves all other aspects in limbo. U S WEST requests that the Commission issue a bifurcated procedural schedule which allows for a prompt hearing and decision on all aspects other than OSS and provides a separate hearing and schedule for OSS. This will allow the Commission to consider all aspects of this docket in as expeditious a manner as possible.

1 **I. INTRODUCTION**

2 U S WEST supports the Hearing Division's Proposed Order insofar as it relates to OSS.  
3 The Order requires the staff to conduct three OSS workshops within the next 90 days and to issue  
4 an OSS Report by October 15, 1999. U S WEST does not take issue with any of these OSS  
5 aspects of the proposed order.  
6

7 The Hearing Division, however, then adds the following paragraph:

8 IT IS FURTHER ORDERED that within thirty days of the date of this Decision,  
9 the Hearing Division shall issue a Procedural Order re-scheduling the hearing on  
10 U S WEST's § 271 application.

11 Proposed Order at p. 5. U S WEST takes exception to this paragraph. U S WEST respectfully  
12 urges the Commission to issue a schedule for this docket that will allow all non-OSS aspects of  
13 the docket to be tried in early October. Specifically, U S WEST asks the Commission to add the  
14 following language to the Proposed Order in lieu of the above mentioned paragraph:

15 IT IS FURTHER ORDERED that the Hearing Division will maintain the  
16 following schedule for Track A, Section 272, public interest and all non-OSS  
17 aspects of the competitive checklist:

- 18 1. Intervenors shall file their direct testimony on August 16, 1999;
- 19 2. U S WEST shall be entitled to conduct discovery on all non-OSS  
20 aspects of the docket effective immediately;
- 21 3. U S WEST shall file its rebuttal testimony on September 16, 1999;
- 22 4. A Pre-hearing conference shall occur on September 28, 1999;
- 23 5. Hearing shall begin on October 5, 1999; and
- 24 6. The Commission shall issue its decision addressing these aspects  
25 of the docket on or before December 10, 1999.  
26

1 **II. DISCUSSION**

2 Proceeding with a bifurcated approach and dispensing with the non-OSS aspects of the  
3 case is a practical approach that makes sense for all parties. Section 271 is the provision of the  
4 Act that, more than any other, will bring Arizona consumers the benefits Congress promised  
5 when it passed the Act in 1996. True competition in the telecommunications industry is only a  
6 theoretical concept until BOCs like U S WEST are able to offer interLATA services. Thus,  
7 U S WEST encourages the Commission to take any and all steps that will accelerate completion  
8 of this docket. A bifurcated schedule will promote this goal.

10 Although U S WEST expects the intervenors to object to a bifurcated approach, the  
11 intervenors themselves functionally admit that they are prepared to proceed with the non-OSS  
12 aspects of the case. All of the intervenors admit that they will be prepared to identify those  
13 checklist items with which they take issue within 30 days – in other words by mid-August. *Cox*  
14 *Proposed Comments* at 5 (“Cox would be willing to identify those checklist items on which it  
15 will not take a position in this docket within 30 days from a request to do so); *ELI Proposed*  
16 *Comments* at 4 (“ELI believes that it will be in a position to file a preliminary statement  
17 indicating its position on various checklist items with 30 days.”); *AT&T/TCG’s Proposed*  
18 *Comments* at 17-18 (could provide position on checklist items within 30 days of when U S  
19 WEST has responded to discovery); *Nextlink’s Proposed Comments* at 7 (same as AT&T);  
20 *MCI’s Proposed Comments* at 32 (same as AT&T); *ACI Proposed Comments* at 2 (same as  
21 MCI); *Sprint Proposed Comments* at 1 (same as AT&T and MCI); *e.sprire’s Proposed*  
22 *Comments* at 1 (same as AT&T and MCI). U S WEST simply asks that this identification come  
23 in the form of testimony. Similarly, Commission Staff informed the Hearing Division that it was  
24  
25  
26

1 prepared to proceed with the non-OSS aspects of the case on the original schedule which would  
2 have required them to file testimony on June 25, over two weeks ago. *June 4, 1999 Hearing*  
3 *Transcript* at 16.

4 The Hearing Division has stated that it will issue a schedule for the remainder of the  
5 docket within 30 days of this Order. This 30 day continuance, however, will result in more than  
6 30 days of delay. As the Commission knows, a rate case is set for hearing before the same  
7 Hearing Officers on November 4, 1999. A 30 day delay would place the projected Section 271  
8 hearing at the same time. Thus, such a delay would mean that the earliest possible hearing would  
9 be in December 1999.

10 Thus, while U S WEST supports much of the Hearing Division's Proposed Order, it  
11 respectfully requests that the Commission adopt a bifurcated approach to facilitate the prompt  
12 hearing and disposition of the non-OSS aspects of the docket.

13 Respectfully submitted,

14 By:   
15 Andrew D. Crain  
16 Charles W. Steese  
17 Thomas M. Dethlefs  
18 U S WEST Law Department  
19 1801 California Street  
20 Suite 5100  
21 Denver, CO 80202  
(303) 672-2995

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

Attorneys for U S WEST Communications, Inc.

1 **ORIGINAL and 10 copies of the foregoing filed**  
2 **this 12<sup>th</sup> day of July, 1999, with:**

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 12<sup>th</sup> day of July, 1999, to:**

9 Commissioner Carl J. Kunasek  
10 ARIZONA CORPORATION COMMISSION  
11 1200 W. Washington St.  
12 Phoenix, AZ 85007

13 Commissioner Jim Irvin  
14 ARIZONA CORPORATION COMMISSION  
15 1200 W. Washington St.  
16 Phoenix, AZ 85007

17 Commissioner William Mundell  
18 ARIZONA CORPORATION COMMISSION  
19 1200 W. Washington St.  
20 Phoenix, AZ 85007

21 Maureen A. Scott, Legal Division  
22 ARIZONA CORPORATION COMMISSION  
23 1200 W. Washington St.  
24 Phoenix, AZ 85007

25 Ray Williamson, Acting Director  
26 Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington St.  
Phoenix, AZ 85007

Jerry Rudibaugh, Chief Hearing Officer  
Hearing Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington  
Phoenix, AZ 85007

**COPY of the foregoing faxed/mailed**  
**this 12<sup>th</sup> day of July, 1999, to:**

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

26

- 1 Thomas Campbell  
Lewis & Roca
- 2 40 N. Central Ave.  
Phoenix, AZ 85004
- 3
- 4 Joan S. Burke  
Osborn Maledon, P.A.  
2929 N. Central Ave., 21<sup>st</sup> Floor
- 5 PO Box 36379  
Phoenix, AZ 85067-6379
- 6
- 7 Thomas F. Dixon  
Karen L. Clausen  
MCI Telecommunications Corp.
- 8 707 17<sup>th</sup> Street # 3900  
Denver, CO 80202
- 9
- 10 Stephen Gibelli  
Residential Utility Consumer Office  
2828 North Central Ave., Suite 1200
- 11 Phoenix, AZ 85004
- 12 Michael M. Grant  
Gallagher & Kennedy
- 13 2600 N. Central Ave.  
Phoenix, AZ 85004-3020
- 14
- 15 Michael Patten  
Lex J. Smith  
Brown & Bain
- 16 2901 N. Central Ave.  
Phoenix, AZ 85012
- 17
- 18 Daniel Waggoner  
Davis, Wright & Tremaine  
2600 Century Square
- 19 1501 Fourth Avenue  
Seattle, WA 98101-1688
- 20
- 21 Richard S. Wolters  
Maria Arias-Chapleau  
AT&T Law Department
- 22 1875 Lawrence Street # 1575  
Denver, CO 80202
- 23
- 24 David Kaufman  
e.spire Communications, Inc.  
466 W. San Francisco Street
- 25 Santa Fe, NM 87501
- 26

- 1 Frank Paganelli  
Colin Alberts
- 2 Blumenfeld & Cohen  
1615 M Street, Suite 700  
3 Washington, D.C. 20036
- 4 Alaine Miller  
NEXTLINK Communications, Inc.  
5 500 108<sup>th</sup> Ave. NE, Suite 2200  
Bellevue, WA 98004
- 6 Carrington Phillip  
7 Cox Communications, Inc.  
1400 Lake Hearn Dr., N.E.  
8 Atlanta, GA 30319
- 9 Diane Bacon, Legislative Director  
Communications Workers of America  
10 5818 N. 7<sup>th</sup> St., Suite 206  
Phoenix, Arizona 85014-5811
- 11 Penny Bewick  
12 Electric Lightwave, Inc.  
4400 NE 77<sup>th</sup> Ave.  
13 Vancouver, WA 98662
- 14 Philip A. Doherty  
545 South Prospect Street, Suite 22  
15 Burlington, VT 05401
- 16 W. Hagood Bellinger  
5312 Trowbridge Drive  
17 Dunwoody, GA 30338
- 18 Joyce Hundley  
U.S. Dept. of Justice  
19 Antitrust Division  
1401 H Street, NW, # 8000  
20 Washington, DC 20530
- 21 Andrew O. Isar  
Telecommunications Resellers Association  
22 4312 92nd Ave., NW  
Gig Harbor, WA 98335
- 23 Raymond S. Heyman  
24 Randall H. Warner  
Two Arizona Center  
25 400 North 5<sup>th</sup> Street, Suite 1000  
Phoenix, AZ 85004-3906
- 26

1 Deborah R. Scott  
Citizens Utilities Company  
2 2901 North Central Avenue, Suite 1660  
Phoenix, Arizona 85012  
3

4   
5

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