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JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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Arizona Corporation Commission
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JUL 2 1999

DATE: July 2, 1999
DOCKET NO.: T-00000A-97-0238

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Hearing Officer Jerry L. Rudibaugh. The recommendation has been filed in the form of an Order on:

U S WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH § 271 FILING
(SECTION 271 COMPLIANCE)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JULY 12, 1999

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JULY 13, 1999, AND JULY 14, 1999

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

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
DECISION NO. _____

ORDER

BY THE COMMISSION:

On May 27, 1997, the Arizona Corporation Commission ("Commission") issued Decision No. 60218 in the above-captioned matter. Decision No. 60218 described the process by which U S WEST Communications, Inc. ("US WEST") would submit information for the Commission to review and recommend to the Federal Communications Commission ("FCC") whether US WEST meets the requirements of § 271 of the Telecommunications Act of 1996. Our June 16, 1998 Procedural Order authorized additional discovery and responses to replies and comments.

On February 8, 1999, US WEST filed a Notice of Intent to File with FCC and Application for Verification of § 271(c) Compliance ("Application"), and a Motion for Immediate Implementation of Procedural Order ("Motion"). US WEST stated its intent to file an application with the FCC to obtain approval to provide interLATA service, no sooner than ninety days from the date of the filing. US WEST did not include any pre-filed testimony, and proposed simultaneous discovery by interested parties and US WEST.

Our March 2, 1999 Procedural Order found the US WEST Application to be insufficient and not in compliance with Decision No. 60218. The Application was held in abeyance pending supplementation with US WEST's case-in-chief, including direct testimony. On March 25, 1999, US WEST filed its supplementation. Our April 7, 1999, Procedural Order set the matter for hearing commencing on August 11, 1999.

After a review of the record, including discovery requests served upon the parties and the status of the law, there were concerns regarding the procedure established to prepare for consultation

1 with the FCC regarding an anticipated § 271 application by US WEST. It was determined that
2 standards for Operational Support Systems (“OSS”) must be clarified before proceeding to a hearing
3 to determine whether US WEST has met these standards. Further, it was determined that a
4 collaborative process to assist US WEST in complying with the standards would result in more
5 expeditious satisfaction of § 271 requirements.

6 Our June 8, 1999, Procedural Order was issued to the parties and asked parties to file
7 comments regarding the best procedure to achieve an efficient and thorough review of OSS issues.

8 On June 18, 1999, the Commission’s Utilities Division (“Staff”) filed its Answer to the
9 questions. On June 22, 1999, the Residential Utility Consumer Office (“RUCO”), MCI WorldCom
10 (“MCI”), the Telecommunications Reseller Association (“TRA”), e-spire Communications, Inc. (“e-
11 spire”), Cox Arizona Telcom, Inc. (“Cox”), Electric Lightwave, Inc. (“ELI”), ACI Corp. (“ACI”),
12 NEXTLINK Arizona, Inc. (“NEXTLINK”) Sprint Communications Company L.P. (“Sprint”), AT&T
13 Communications, Inc. (“AT&T”), TCG Phoenix (“TCG”) and US WEST filed their Answers to the
14 questions.

15 Staff recommends that the Commission consider the results of its own proceedings on service
16 performance measurement standards and OSS.

17 Staff also recommends that any collaborative process should include written Statements of
18 Position by the parties on the pertinent issues, as well as group discussions on how best to facilitate
19 US WEST’s compliance with this element of the competitive checklist. Staff and its Consultant
20 would be willing to facilitate these workshops. Staff proposes that any workshops of this nature be
21 transcribed. Written positions on pertinent issues should be submitted two weeks prior to the first
22 workshop.

23 Staff further recommends that any information which would show whether the Competitive
24 Local Exchange Carriers’ (“CLECs”) access to US WEST’s OSS system is on par with US WEST’s
25 access would be important. A means of making this determination would be through third-party
26 testing of US WEST’s OSS to determine whether it complies with the standard set out in the 1996
27 Act. Staff and its Consultant are in the process of conducting an evaluation of US WEST’s OSS
28 through test and analysis of measurements of service performance provided by the OSS. The results

1 of the proposed workshops, in combination with Staff's independent evaluation, should be used to
 2 determine the extent to which US WEST is compliant, and what changes, if any, are necessary to
 3 achieve compliance. Staff and its Consultant also intend to provide recommendations for necessary
 4 enhancements to US WEST's OSS to make it § 271 compliant.

5 Staff believes it is important that formal discovery remain in place during the workshop phase
 6 of OSS. Commission Staff has no suggestions for modifications to the discovery process at this time.
 7 If formal discovery remains in place during the workshop phase of OSS, it should be structured so as
 8 not to interfere or conflict with the workshop process.

9 Staff recommended the workshops be conducted so that all parties have a full opportunity to
 10 participate and give their positions on US WEST's OSS. All parties to this docket should be allowed
 11 to participate, as well as any other interested parties. Staff recommends that a specific number of
 12 workshops be scheduled and that the parties be directed to file their positions within the time
 13 prescribed so that parties do not abuse the process simply to engender delay.

14 Staff recommended a series of three one-day workshops focused on OSS specifically, starting
 15 in mid-August and spaced at two week intervals. Workshop No. 1 would consist of participants
 16 explaining previously submitted positions on major issues and responding to questions concerning
 17 them. Workshop No. 2 would provide an opportunity for participants to respond to positions covered
 18 in Workshop No. 1. Workshop No. 3 would continue the discussions in an effort to resolve conflicts
 19 and/or differences in definitions and other matters relative to pertinent OSS issues. Staff also
 20 recommends that early on in this process, a separate workshop be scheduled to reach agreement or
 21 consensus on other checklist items, to the extent possible.

22 * * * * *

23 Having considered the entire record herein and being fully advised in the premises, the
 24 Commission finds, concludes, and orders that:

25 **FINDINGS OF FACT**

26 1. The Federal Telecommunications Act of 1996 added § 271 to the Communications
 27 Act of 1934. The purpose of § 271 is to specify the conditions that must be met in order for the FCC
 28 to allow a Bell operating company ("BOC"), such as US WEST to provide in-region interLATA

1 services. The conditions described in § 271 are intended to determine the extent to which local phone
2 service is open to competition.

3 2. Section 271(c)(2)(B) sets forth a fourteen point competitive checklist which specifies
4 the access and interconnection a BOC must provide to other telecommunications carriers in order to
5 satisfy the requirements of § 271. Section 271(d)(2)(B) requires the FCC to consult with state
6 commissions with respect to the BOC's compliance with the competitive checklist. Also, subsection
7 (d)(2)(A) requires the FCC to consult with the United States Department of Justice.

8 3. On May 27, 1997, the Commission issued Decision No. 60218 and described the
9 process by which US WEST would submit information for the Commission to review and
10 recommend to the FCC whether US WEST meets the requirements of § 271 of the
11 Telecommunications Act of 1996.

12 4. On February 8, 1999, US WEST filed a Notice of Intent to File with FCC and
13 Application for Verification of § 271(c) Compliance ("Application"), and a Motion for Immediate
14 Implementation of Procedural Order ("Motion").

15 5. Our March 2, 1999, Procedural Order found the US WEST Application to be
16 insufficient and not in compliance with Decision No. 60218.

17 6. On March 5, 1999, US WEST filed its supplementation.

18 7. Our March 25, 1999, Procedural Order set the matter for hearing on August 11, 1999.

19 8. Our June 8, 1999, Procedural Order found that a collaborative process was needed to
20 assist US WEST in determining the OSS standards that need to be set to comply with the § 271
21 requirements.

22 9. A series of workshops conducted by Staff are necessary to facilitate the collaborative
23 process.

24 CONCLUSIONS OF LAW

25 1. US WEST is an Arizona public service corporation within the meaning of Article XV,
26 § 2, of the Arizona Constitution.

27 2. The Commission has jurisdiction over US WEST and over the subject matter of the
28 application.

1	SERVICE LIST FOR:	U S WEST COMMUNICATIONS, INC.'S
2		COMPLIANCE WITH § 271 FILING
3	DOCKET NO.	T-00000A-97-0238
4	Thomas M. Dethlefs	Carrington Phillips
5	U S WEST Communications, Inc.	COX COMMUNICATIONS
6	1801 California Street, #5100	1400 Lake Hearn Drive, N.E.
	Denver, Colorado 80202	Atlanta, Georgia 30319
7	Maureen Arnold	Thomas H. Campbell
8	U S WEST Communications, Inc.	LEWIS & ROCA
9	3033 N. Third Street, Room 1010	40 N. Central Avenue
	Phoenix, Arizona 85012	Phoenix, Arizona 85007
10	Michael M. Grant	Andrew O. Isar
11	GALLAGHER AND KENNEDY	TRI
12	2600 N. Central Avenue	4312 92 nd Avenue, N.W.
	Phoenix, Arizona 85004-3020	Gig Harbor, Washington 98335
13	Timothy Berg	Richard Smith
14	FENNEMORE CRAIG	COX CALIFORNIA TELECOM, INC.
15	3003 N. Central Ave., Suite 2600	Two Jack London Square
	Phoenix, Arizona 85016	Oakland, California 94697
16	Mark Dioguardi	Richard M. Rindler
17	TIFFANY AND BOSCO PA	Morton J. Posner
18	500 Dial Tower	SWIDER & BERLIN
	1850 N. Central Avenue	3000 K Street, N.W. Suite 300
	Phoenix, Arizona 85004	Washington, DC 20007
19	Penny Bewick	Lex J. Smith
20	ELECTRIC LIGHTWAVE, INC.	Michael W. Patten
21	4400 NE 77 th Avenue	BROWN & BAIN
	Vancouver, Washington 98662	2901 N. Central Avenue
		P.O. Box 400
		Phoenix, Arizona 85001-0400
22	Thomas L. Mumaw	Charles Kallenbach
23	SNELL & WILMER	AMERICAN COMMUNICATIONS
24	One Arizona Center	SERVICES INC
	Phoenix, Arizona 85004-0001	131 National Business Parkway
25	Donald A. Low	Annapolis Junction, Maryland 20701
26	SPRINT COMMUNICATIONS CO L.P.	
27	8140 Ward Parkway SE	...
	Kansas City, Missouri 64114	...
28

1 Karen L. Clauson
2 Thomas F. Dixon
3 MCI TELECOMMUNICATIONS CORP
4 707 17th Street, #3900
5 Denver, Colorado 80202

Frank Paganelli
Colin Alberts
Blumenfeld & Cohen
1615 M. Street, Suite 700
Washington, DC 20036

6 Richard S. Wolters
7 AT&T & TCG
8 1875 Lawrence Street, Room 1575
9 Denver, Colorado 80202

Raymond S. Heyman
Randall H. Warner
ROSHKA HEYMAN & DeWULF
Two Arizona Center
400 N. Fifth Street, Suite 1000
Phoenix, Arizona 85004

10 Joyce Hundley
11 UNITED STATES DEPARTMENT OF
12 JUSTICE
13 Antitrust Division
14 1401 H Street NW, Suite 8000
15 Washington, DC 20530

Diane Bacon, Legislative Director
COMMUNICATIONS WORKERS OF
AMERICA
5818 North 7th Street, Suite 206
Phoenix, Arizona 85014-5811

16 Joan Burke
17 OSBORN MALEDON
18 2929 N. Central Avenue, 21st Floor
19 P.O. Box 36379
20 Phoenix, Arizona 85067-6379

Paul Bullis, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

21 Stephen Gibelli
22 Scott S. Wakefield, Chief Counsel
23 RUCO
24 2828 N. Central Avenue, Suite 1200
25 Phoenix, Arizona 85004

Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

26 Patricia L. vanMidde
27 AT&T
28 2800 N. Central Avenue, Suite 828
Phoenix, Arizona 85004

Daniel Waggoner
DAVIS WRIGHT TREMAINE
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

Alaine Miller
NEXTLINK Communications, Inc.
500 108th Avenue NE, Suite 2200
Bellevue, WA 98004

...