



ORIGINAL



0000008698

Andrew Isar, Director - Industry Relations

Telecommunications Resellers Association  
4312 92nd Ave., N.W.  
Gig Harbor, WA 98335

TEL: 253-265-8910  
FAX: 253-265-3912  
E-mail: aisar@harbor-group.com

1999 SEP -3 P 4: 31

Via Overnight Mail  
2 September 1999

Arizona Corporation Commission  
DOCKETED

AZ CORP COMMISSION  
DOCUMENT CONTROL

Jack Rose  
Executive Secretary  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007-2996

SEP 03 1999

DOCKETED BY [Signature]

RE: US West Communications, Inc.'s Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. U-0000-97-238, T00000A-97-0238

Dear Mr. Rose:

The Telecommunications Resellers Association ("TRA")<sup>1</sup>, on behalf of its members, and pursuant to the Arizona Corporation Commission's August 27, 1999 *Procedural Order* in the above referenced matter, responds to Chief Hearing Officer Rudibaugh's questions regarding the proposed bifurcation of the Commission's §271 investigation.<sup>2</sup>

TRA is not opposed to a bifurcated investigation into Operations Support System (OSS) issues and non-OSS issues in the instant proceeding. TRA recognizes the benefits of a focused analysis of OSS and non-OSS issues through a bifurcated process. TRA stresses, however, that non-OSS issues and OSS issues ultimately remain inextricably bound for the purposes of determining US West's full compliance with §271 of the Telecommunications Act of 1996. For example, the Federal Communications Commission has ruled that non-discriminatory OSS access is a determining factor as to whether regional Bell operating companies (RBOCs) meet the Act's specific "competitive checklist" requirements for unbundled network elements and resale:

In the *Local Competition First Report and Order*, the Commission concluded that the provision of access to OSS functions falls squarely within an incumbent LEC's duty under section 251(c)(3) to provide unbundled network elements under terms and conditions that are nondiscriminatory and just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable.<sup>3</sup> In addition, the Commission determined that "operations support systems and the information they contain fall squarely within the definition of 'network element' and must be unbundled upon request under section 251(c)(3).<sup>4</sup> Thus, *an examination of a BOC's OSS performance is necessary to evaluate compliance with section 271(c)(2)(B)(ii) and (xiv).*"<sup>5</sup>

<sup>1</sup> A national industry association, TRA represents nearly 800 entities engaged in, or providing products and services in support of, the provision of telecommunications services, primarily on a resold basis. TRA was created, and carries a continuing mandate, to foster and promote telecommunications resale, to support the telecommunications resale industry, and to protect and further the interests of entities engaged in the resale of telecommunications services. TRA is the largest association of competitive carriers in the United States, numbering among its members not only the large majority of providers of domestic interexchange and international services, but the majority of competitive local exchange carriers.

<sup>2</sup> TRA submitted a Position Statement in this proceeding on August 20, 1999, pursuant to prior Commission order.

<sup>3</sup> Citing to *Local Competition First Report and Order*, 11 FCC Rcd at 15660-61, 15763; *Local Competition Second Reconsideration Order*, 11 FCC Rcd at 19742.

<sup>4</sup> Citing to *Local Competition First Report and Order*, 11 FCC Rcd at 15763. The Eighth Circuit affirmed the Commission's determination that operations support systems are a network element that must be provided pursuant to section 251(c)(3) of the Act. *Iowa Utils. Bd.*, 120 F.3d at 808-09.

<sup>5</sup> In the *Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, *Memorandum Opinion And Order*, adopted: October 13, 1998, released: October 13, 1998 [footnotes omitted, emphasis supplied]

Mr. Jack Rose  
September 2, 1999

Page 2

The Commission must hold US West to a standard of compliance as to the whole of its application. In the event the Commission's investigation is bifurcated, it must still ensure that its evaluation of US West's application remains comprehensive and considers the direct relationship between OSS and compliance with the "competitive checklist" overall.

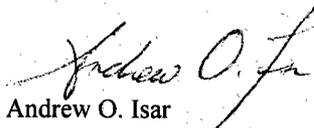
With regard to the issues to be evaluated in the non-OSS portion of this proceeding, TRA concurs with the Commission's reliance on prior FCC rulings<sup>6</sup> that indicate the consideration of resale of Contract Service Arrangements (CSA) as part of the Commission's investigation of US West's compliance with the resale obligations in checklist item xiv. TRA further urges the Commission to evaluate the availability for resale of advanced services such as Digital Subscriber Line (xDSL) and voicemail services within its investigation US West's compliance with the Act's resale obligations. Currently, US West imposes unreasonable, discriminatory, and unjustified restrictions on key resale services, and flatly refuses to resell either xDSL or voicemail services. The ready availability of these services to smaller resellers, such as many TRA members, will be crucial to their ability to enter into an compete in a competitive marketplace. Both xDSL and voicemail services should be considered an integral part of US West's resale obligation under §251(c)(3) of the Act.

Further, TRA urges the Commission to evaluate the availability to resellers of unbundled network elements (UNEs) and the UNE Platform as part of the Commission's investigation into US West's compliance with checklist item 2. Currently, US WEST imposes unlawful limitations and restrictions on the unbundled network elements ("UNE"), in violation of the FCC's UNE rules, expressly reinstated by the United States Supreme Court in *AT&T Corp. v. Iowa Utilities Board*.<sup>7</sup> US WEST refuses to provide CLECs with Extended Expanded Loops (EEL), and has not demonstrated that its UNE pricing is cost-based. CLEC access to UNEs and EEL without restriction or limitation will be a key factor in enhancing the scope of CLEC participation in the Arizona competitive marketplace.

TRA takes no position on the schedule proposed by US West, as long as the procedural schedule does not preclude a thorough evaluation of US West's application, nor any party's ability to actively participate in this proceeding. TRA looks forward to its continued participation in of the Commission's investigation into US West's compliance with Section 271 of the Telecommunications Act for in-region interLATA entry. Questions may be directed to the undersigned at 253.851.6700.

Sincerely,

TELECOMMUNICATIONS RESELLERS ASSOCIATION

  
Andrew O. Isar

<sup>6</sup> See Attachment I to the Commission's August 27, 1999 *Procedural Order*, at "Checklist Item 14: resale."

<sup>7</sup> *AT&T Corp. v. Iowa Board*, 119 S.Ct. 721.

BEFORE THE  
ARIZONA CORPORATION COMMISSION

IN RE: US WEST COMMUNICATIONS ) Docket No: U-0000-97-238  
INC'S COMPLIANCE WITH SECTION ) T00000A-97-0238  
271 OF THE TELECOMMUNICATION ACT )  
OF 1996 )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the attached Comments of the Telecommunications Resellers Association on all parties of record in this proceeding, via United States Mail, as noted on the following service list.

Dated this 2<sup>nd</sup> Day of September, 1999 at Gig Harbor, Washington

  
\_\_\_\_\_  
Dena Alo-Colbeck

Charles W. Steese  
US West Communications, Inc.  
1801 California Street, Suite 1500  
Denver, CO 80202

Douglas G. Bonner, Esq.  
Alexandre B. Bouton  
Swidler, Berlin  
3000 K Street NW, Suite 300  
Washington DC 20007

Joan S. Burke, Esq.  
Osborn & Maledon  
2929 North Central Ave., Ste. 2100  
P.O. Box 36379  
Phoenix, AZ 85067-6379

Karen L. Clauson  
Thomas F. Dixon  
MCI Telecommunications Corp.  
707 17<sup>th</sup> Street, Suite 3900  
Denver, CO 80202

Jeffrey W. Crockett  
Thomas L. Mumaw, Esq.  
Snell & Wilmer, L.L.P.  
One Arizona Center  
Phoenix, AZ 85004-0001

Thomas H. Campbell, Esq.  
Lewis & Roca LLP  
40 North Central Avenue  
Phoenix, AZ 85004

Susan McAdams  
Penny Bewick  
Electric Lightwave, Inc.  
8100 NE Parkway Dr., Suite 200  
P.O. Box 4959  
Vancouver, WA 98662

Scott Wakefield, Esq.  
Residential Utility Consumer Office  
2828 North Central Avenue  
Phoenix, AZ 85004

Don Low, Esq.  
Sprint Communications Co., LP  
8140 Ward Parkway, 5-E  
Kansas City, MO 64114