

COVER SHEET



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ARIZONA CORPORATION COMMISS
DOCKET CONTROL CENTER

CASE/COMPANY NAME:

DOCKET NO. T-00000B-97-0238

In the Matter of U S WEST Communications, Inc.

Compliance with § 271 of the Telecommunications

Act of 1996

D/B/A or RESPONDENT:

AT&T Communications

Arizona Corporation Commission

DOCKETED

FEB 26 1999

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

DOCKETED BY [Signature]

01 UTILITIES - NEW APPLICATIONS

- NEW CC&N
RATES
INTERIM RATES
CANCELLATION OF CC&N
DELETION OF CC&N (TERRITORY)
EXTENSION OF CC&N (TERRITORY)
TARIFF - NEW (NEXT OPEN MEETING)
REQUEST FOR ARBITRATION
FULLY OR PARTIALLY ARBITRATED
INTERCONNECTION AGREEMENT
VOLUNTARY INTERCONNECTION
AGREEMENT (Telecom. Act)
MAIN EXTENSION
CONTRACT/AGREEMENTS
COMPLAINT (Formal)
RULE VARIANCE/WAIVER REQUEST
SITING COMMITTEE CASE
SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252)
SALE OF ASSETS & TRANSFER OF OWNERSHIP
SALE OF ASSETS & CANCELLATION OF CC&N
FUEL ADJUSTER/PGA
MERGER
FINANCING
MISCELLANEOUS
Specify

02 UTILITIES - REVISIONS/AMENDMENTS TO PENDING OR APPROVED MATTERS

- APPLICATION
COMPANY
DOCKET NO.
TARIFF
PROMOTIONAL
DECISION NO.
DOCKET NO.
COMPLIANCE
DECISION NO.
DOCKET NO.

X SECURITIES or MISCELLANEOUS FILINGS

- 04 AFFIDAVIT
12 EXCEPTIONS
18 REQUEST FOR INTERVENTION
48 REQUEST FOR HEARING
24 OPPOSITION
50 COMPLIANCE ITEM FOR APPROVAL X
32 TESTIMONY
47 COMMENTS
29 STIPULATION
38 NOTICE OF INTENT
43 PETITION
46 NOTICE OF LIMITED APPEARANCE
OTHER
39 Specify Reply in Support of Motion to Reject U S WEST's Notice of Intent

February 26, 1999
Date

Joan S. Burke
Print Name of Applicant/Company/Contact person/Respondent/Atty.
602-640-9356
Phone

PLEASE SEE NOTICE ON REVERSE SIDE



1 testimony that may become outdated. Nothing could be further from the truth. In fact, the  
2 Motion was filed to require U S WEST to follow the procedural rules already established by  
3 the Commission in this proceeding.

4 The Notice of Intent filed by U S WEST plainly does not comply with the existing  
5 procedural orders. The filing provides no information supporting U S WEST's claim that it  
6 complies with Section 271 of the Act and the FCC's implementing orders. The Commission  
7 procedural orders require U S WEST to file "the full and complete application which U S  
8 WEST intends to file with the FCC" at least 90 days prior to making its FCC filing. *See In*  
9 *the Matter of U S WEST's Compliance with Section 271 of the Telecommunications Act of*  
10 *1996*, Docket No. U-97-238, Procedural Order (docketed May 27, 1997) at p. 3 (the "May  
11 27, 1997 Order"); *see In the Matter of U S WEST's Compliance with Section 271 of the*  
12 *Telecommunications Act of 1996*, Docket No. U-97-238, Procedural Order (docketed June  
13 16, 1998) (the "June 16, 1998 Order") at p. 2. U S WEST's Notice of Intent to File should  
14 be therefore rejected by the Commission, with instructions that U S WEST comply with the  
15 Commission's own requirement that U S WEST file a full and complete application for the  
16 Commission to review.

## 17 II. ARGUMENT

### 18 A. The Commission's Procedural Orders

19 In an odd twist, U S WEST suggests that the Joint Movants are at fault because they  
20 "do not propose an alternative schedule; they just take unfounded pot shots at US WEST's  
21 proposed schedule." This misses the point. The Commission has already assumed a  
22 leadership role with respect to procedure and scheduling and has issued two carefully crafted  
23 orders addressing these issues. The Joint Movants are not proposing an alternative schedule.  
24 The schedule has been ordered by the Commission. The Joint Movants simply ask that the  
25 Commission require U S WEST to follow the procedural orders that are already in place.

26 These orders were crafted by representatives from the Commission's Legal and  
Utilities divisions. These Commission employees met collectively with interested parties  
and U S WEST to discuss what a procedural order for a Section 271 proceeding should

1 contain. On May 8, 1997 a memorandum was circulated by the Commission which  
2 contained the substance of the May 27, 1997 procedural order. (Attachment A) Various  
3 parties submitted written comments on this memorandum in advance of the May 27, 1997  
4 open meeting where the procedural order was approved.

5 Pursuant to the May 27, 1997 Order, U S WEST filed information and testimony on  
6 April 13, 1998, asserting that it had complied with five specific checklist items. In the April  
7 13 filing, U S WEST expressly stated that it was complying with the May 27, 1997 Order.  
8 Chief Hearing Officer Jerry Rudibaugh then issued the June 16, 1998, Order governing the  
9 procedures to be used for discovery. This June 16, 1998 Order was requested by the  
10 interested parties and, once again, U S WEST offered input on what the procedural order  
11 should contain.

12 Joint movants believe that the Commission's procedural orders present a well-  
13 balanced approach to the process of reviewing an application from U S WEST under Section  
14 271. By requiring U S WEST to file a complete application in the first instance, the  
15 Commission allows itself and all other parties sufficient time to analyze the extent of U S  
16 WEST's compliance. In contrast, the hurried procedure U S WEST has proposed will  
17 prevent the Commission from performing any studied analysis of U S WEST's claims.

18 **B. FCC Rules**

19 U S WEST argues that the Joint Movants rely on the FCC Rules in arguing that U S  
20 WEST's proposed procedural schedule should be rejected. This is incorrect. Instead, the  
21 Joint Motion is based on the Commission's own procedural orders. As the May 27, 1997  
22 Order indicates, the Commission did review the Act and the FCC Rules in preparing the  
23 order. The Commission staff concluded that "the best way to prepare for U S West's  
24 application is to create a public record designed to analyze U S West's compliance with the  
25 provisions of section 271." Moreover, the Commission decided that in order to develop the  
26 factual record, U S WEST would be required to "file all information responsive to  
attachments A and B of this order no later than 90 days before its FCC filing." Attachments  
A and B contain specific questions regarding U S WEST's compliance with the 14-point  
competitive checklist. U S WEST's February 8, 1999 Notice of Intent is not in compliance

1 with the Commission procedural order because it fails to provide supporting information  
2 and does not address the questions contained in Attachments A and B.

3 **C. Discovery**

4 The Joint Movants entirely agree with U S WEST that in this proceeding the  
5 “Commission is attempting to develop a complete and current factual record for the FCC’s  
6 review.” This cannot be accomplished if U S WEST refuses to file with this Commission  
7 information it intends to rely on at the FCC. The information must be filed with sufficient  
8 time for interested parties to take discovery and offer comments to the Commission as it  
9 evaluates U S WEST’s application. The timeline suggested in U S WEST’s procedural  
order does not allow sufficient time for discovery and comment.

10 U S WEST argues that if it were required to file its complete application now, that  
11 filing will be frozen and outdated within a few months. The procedural orders mandate no  
12 such result. If important new factual developments emerge, U S WEST may bring that  
13 information to the attention of the Commission and the Commission may decide if it is  
14 appropriate for consideration during the proceeding. This does not mean that U S WEST  
15 can comply with Section 271 by filing an application promising that it will correct aspects of  
16 its performance not yet in compliance. *See Application of BellSouth Corp. Pursuant to*  
17 *Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, Inter-*  
18 *LATA Services in South Carolina. CC Docket No. 97-208, Memorandum Opinion and*  
19 *Order (released December 24, 1997) at ¶ 37-38. The application U S WEST files with this*  
20 *Commission, like the application it intends to file with the FCC, must show on its face that*  
21 *U S WEST is already in full compliance with Section 271.*

22 **III. CONCLUSION**

23 The undersigned parties respectfully ask that the Commission enforce the procedural  
24 orders already in place in this docket and reject the “Notice of Intent to File” submitted by  
25 U S WEST on February 8, 1999. That filing could not have triggered the 90-day review  
26 period provided for in the May 27, 1997 Order because it was not U S WEST’s “complete

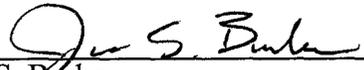
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application” and did not contain any supporting evidence of compliance with the 14-point competitive checklist contained in 47 U.S.C. § 271(c)(2)(B).

The undersigned has been authorized by all parties listed below to sign on their behalf the Reply in Support of Motion By Joint Movants to Reject U S WEST’s Notice of Intent.

DATED this 26th day of February, 1999.

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1 ONE COPY of the foregoing  
2 hand-delivered on February 26, 1999, to:

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**OPEN MEETING ITEM  
MEMORANDUM**

RECEIVED  
AZ CORP COMMISSION

MAY 9 10 22 AM '97

TO: THE COMMISSION

FROM: Utilities Division

DATE: May 8, 1997

DOCUMENT CONTROL

RE: REQUIREMENTS OF SECTION 271 OF THE TELECOMMUNICATIONS ACT OF 1996 (DOCKET NO. U-0000-97-238)

The Federal Telecommunications Act of 1996 added Section 271 to the Communications Act of 1934. The purpose of Section 271 is to specify the conditions that must be met in order for the Federal Communications Commission (FCC) to allow a Bell Operating Company (BOC), such as U S WEST, to provide in-region interLATA services. The conditions described in Section 271 are intended to determine the extent to which local phone service is open to competition. The rationale being that it would be anti-competitive to allow a BOC to enter the competitive interLATA market while it still maintains an effective monopoly over local service

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

Once the FCC receives a BOC's application for authority to provide in-region interLATA services, it has only 90 days to issue a written determination approving or denying that application. The FCC has indicated that once public notice is made of a BOC's application, the relevant state commission will have only (approximately) 20 days to file any written consultations with the FCC.

Staff believes that, given the short time horizon once the application is filed, it is necessary to begin preparing for U S WEST's application under Section 271 now. Staff believes that the best way to prepare for U S WEST's application is to create a public record designed to analyze U S WEST's compliance with the provisions of Section 271.

All interested parties are encouraged to submit their position, and the information that supports their position, to the ACC. Staff has determined the information which it feels will be necessary to evaluate whether U S WEST meets the requirements of Section 271 (Attachments A and B). Interested parties should use this information as a guide for their submissions.

Attachments A and B to this memorandum identify the information that Staff believes to be necessary for evaluating compliance with Section 271. Attachment A identifies information

**THE COMMISSION**

**May 8, 1997**

**Page 2**

that describes the general market conditions, the extent of existing competition, and the potential for its development. Staff believes this information will be useful in evaluating conflicting arguments concerning implementation of the competitive checklist, and in evaluating whether approval of an application would be in the public interest. Attachment B identifies information that is specific to the FCC's fourteen-point checklist.

In order to expedite the review of this information, Staff recommends that U S WEST file information related to a given checklist item as soon as it believes that it has satisfied the requirements of the item in Arizona. Interested parties may then respond. Interested parties are not limited to responding to U S WEST. At any time, parties may file information related to specific checklist items or general market conditions.

Staff recommends the following time line.

1. Within 21 days of this order parties should file a notice of interest in this docket. Parties that have already filed interventions or similar pleading will be considered to have satisfied this requirement.
2. When U S WEST believes that it has satisfied a particular competitive checklist item, it should file with the ACC. Five business days prior to the filing U S WEST should serve a notice of intent to file with each of the interested parties.
3. U S WEST should file the information following established ACC procedures. It should serve the filing on all parties who have filed a notice of interest. If U S WEST (or any other party) believes that the necessary information is confidential, it will complete the necessary protective arrangements prior to filing the information.
4. Interested parties will have 14 business days to file replies or comments related to U S WEST's filings. Again, these filings should follow established ACC procedures and should be served on U S WEST and all other interested parties.
5. All parties may file information related to general telecommunications market conditions in Arizona at any time in this docket. However, U S WEST is encouraged to provide such information no later than 45 days before its FCC filing.

**THE COMMISSION**

**May 8, 1997**

**Page 3**

Finally, U S WEST is encouraged to consult with Staff on matters related to content, timing, and protection of any information they intend to file in this docket prior to any filings.



**Carl W. Dabelstein**

**Director**

**Utilities Division**

**CWD:MR:hh\DRS**

**ORIGINATOR: Matt Rowell**

**ATTACHMENT A**

**INDICATORS OF GENERAL TELECOMMUNICATIONS MARKET CONDITIONS  
IN ARIZONA**

- 1) Status of State Commission proceedings to implement the local competition provisions of the 1996 Act.
- 2) Identity of the entities that have been certified by the state to provide:
  - a) facilities based local exchange service,
  - b) resold local exchange service,
  - c) exchange access service.
- 3) Whether the entities in 2 are providing business exchange service, residential exchange service, business exchange access service, or residential exchange access service (identifying special or switched access). If the competitor is not providing any of these services does it plan to? If so, whom?
- 4) The identity of the entities that have requested
  - a) interconnection from U S WEST
  - b) unbundled elements from U S WEST
  - d) the ability to resell U S WEST's services.

The date the requests were made and the extent to which U S WEST and the requesting entity have entered into binding agreements, as well as copies of any such agreements.

- 5)
  - a) The number of access lines in the state that are served by U S WEST's competitors.
  - b) The number and location of U S WEST's switches that are connected to loops served by competitors.
  - c) The scope of the geographic areas for which the competitors services are available.
  - d) The number and types of customers for which the competitors services are available.
  - e) The extent to which each competitor is using its own facilities to provide service or is using unbundled or resold services obtained from U S WEST.
  - f) A description of the competitors facilities in operation in U S WEST's service area.
  - g) Whether the competitor is currently expanding its facilities and when the expansion is expected to be completed.

- h) The average provisioning intervals and maintenance times for services U S WEST provides to competitors compared to those it provides to itself.
- 6)
    - a) The number of access lines U S WEST serves in the state.
    - b) The number, type, and location of U S WEST's switches in the state.
    - c) The number and types of customers, for which U S WEST's services are available.
    - d) The amount of revenues that U S WEST derived from the state in the most recent year broken down by basic residential service, basic business service, intraLATA toll, access charges, and other services.
- 7) Any reports, studies, or analyses available, and created within the past year, that contain data on market shares of U S WEST and local telephone service competitors, or compare volumes of traffic, revenues, or facilities of the BOC and local competitors. Also, any evaluation of the likely entry, success or rate of growth of competitors or potential competitors.
- 8) A description of all complaints made to U S WEST, to State Commissions, to the FCC, or other governmental authorities by other entities that have requested interconnection.

**ATTACHMENT B**

**INFORMATION DIRECTLY RELEVANT TO THE COMPETITIVE CHECKLIST**

- 1) Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).
  - a) What points are available for interconnection with U S WEST?
  - b) Do these points include physical collocation, virtual collocation or an other form of collocation?
  - c) What is the pricing methodology used for interconnection?
  - d) What competitors have interconnected with U S WEST?
  - e) At what U S WEST switching equipment (central office, end office, tandem, etc.) have competitors interconnected and by what means for each office?
  
- 2) Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).
  - a) What network elements are offered by U S WEST?
  - b) What is the pricing methodology used for the elements?
  - c) What elements have been requested by entities seeking interconnection and access?
  - d) What is the record concerning U S WEST's responsiveness to such requests?
  - e) What elements have actually been sold to entities seeking interconnection and access?
  - f) What entities have requested elements?
  - g) What entities have actually purchased the elements?
  - h) What entities are actually providing service utilizing in part elements purchased from U S WEST?
  
- 3) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell Operating Company, U S WEST, at just and reasonable rates in accordance with the requirements of Section 224.

**Attachment B**  
**Page 2**

- a) Do U S WEST and other providers have the same access to poles, ducts, and rights-of-way?
  - b) What price does U S WEST charge and what is the pricing methodology for access to poles, ducts, and rights-of-way?
  - c) Concerning operation in Arizona, does U S WEST believe that they have a different legal status concerning access to rights of way than a competitive provider? If so, what is the justification for any such difference?
- 4) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.
- a) What network elements are offered by U S WEST?
  - b) What is the pricing methodology used for the elements?
  - c) What elements have been requested by entities seeking interconnection and access?
  - d) What is the record concerning U S WEST's responsiveness to such requests?
  - e) What elements have actually been sold to entities seeking interconnection and access?
  - f) What entities have requested elements?
  - g) What entities have actually purchased the elements?
  - h) What entities are actually providing service utilizing in part elements purchased from U S WEST?
- 5) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.
- a) What network elements are offered by U S WEST?
  - b) What is the pricing methodology used for the elements?
  - c) What elements have been requested by entities seeking interconnection and access?
  - d) What is the record concerning U S WEST's responsiveness to such requests?

- e) What elements have actually been sold to entities seeking interconnection and access?
  - f) What entities have requested elements?
  - g) What entities have actually purchased the elements?
  - h) What entities are actually providing service utilizing in part elements purchased from U S WEST?
- 6) Local switching unbundled from transport, local loop transmission, or other services.
- a) What network elements are offered by U S WEST?
  - b) What is the pricing methodology used for the elements?
  - c) What elements have been requested by entities seeking interconnection and access?
  - d) What is the record concerning U S WEST's responsiveness to such requests?
  - e) What elements have actually been sold to entities seeking interconnection and access?
  - f) What entities have requested elements?
  - g) What entities have actually purchased the elements?
  - h) What entities are actually providing service utilizing in part elements purchased from U S WEST?
- 7) Nondiscriminatory access to, 911 and E911 services, directory assistance services to allow the other carrier's customers to obtain telephone numbers, and operator call completion services.
- (I) 911 and E911 services.
    - a) Does U S WEST offer 911 or E911 services to new customers/providers?
    - b) What entities have requested to purchase 911 and/or E911 services from U S WEST?
    - c) What entities have purchased 911 and/or E911 services from U S WEST?
    - d) What are the prices and pricing methodology for 911 and E911 services?

(II) Directory assistance services.

- a) What entities have requested to purchase directory assistance services from U S WEST?
- b) What entities have purchased directory assistance services from U S WEST?
- c) What are the prices and pricing methodology for directory assistance services?

(III) Operator Services

- a) What entities have requested to purchase operator call completion services from U S WEST?
- b) What entities have purchased operator call completion services from U S WEST?
- c) What are the prices and pricing methodology for operator call completion services?

- 8) White pages directory listings for customers of the other carrier's telephone exchange service.
  - a) What entities have requested to include their customers in the listings of U S WEST.
  - b) What entities have their customers included in the listings of U S WEST.
  - c) What entities have chosen not to utilize inclusion of their customers in U S WEST's white pages listings
- 9) Until the date by which telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.
  - a) Who is the number administrator for Arizona?
  - b) If U S WEST is the number administrator for Arizona, is there a date certain by which it will no longer perform that function?
- 10) Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

- a) What entities have requested to purchase such database and signaling services from U S WEST?
  - b) What entities have purchased such database and signaling services from U S WEST?
  - c) What are the prices and pricing methodology for such database and signaling services?
- 11) Until the date by which the Commission issues regulations pursuant to Section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.
- a) Is number portability being provided on an interim or full basis?
  - b) If it is on an interim basis, what are the characteristics of the interim system and when will full number portability be implemented?
  - c) Is U S WEST providing carrier, geographic, or service number portability or any combination of the three?
  - d) What is the pricing methodology used to determine charges for number portability?
- 12) Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of Section 251(b)(3).
- a) Is U S WEST providing dialing parity for both local and intraLATA toll service?
  - b) If not, is U S WEST capable of providing such parity and will it provide it prior to the time when it offers interLATA service or at the time that it offers interLATA service?
  - c) Does U S WEST have any ACC, state court, federal court, FCC, or legislative action pending related to the provision of intraLATA and local dialing parity?
  - d) To what percentage of its customers will U S West provide intraLATA dialing parity to prior to being released from its in region interLATA restrictions?
- 13) Reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2).

- a) What reciprocal compensation arrangements does U S WEST have in Arizona with competing carriers?
- b) What reciprocal compensation arrangements does U S WEST have in Arizona with other incumbent carriers?
- c) Where interconnection is in place, how does traffic terminated on other networks (competitors and other incumbents) compare with traffic terminated on U S WEST's network? This can be expressed as percentages, number of specific calls, minutes of use, or other measure.

14) Telecommunications services are available for resale in accordance with the requirements of Sections 251(c)(4) and 252(d)(3).

- a) Have all of the services offered by U S West been made available for resale on the same terms previously offered?
- b) If not, which services have been withdrawn or changed in terms with respect to resale?
- c) What are the percentage discounts offered for resold services?
  - i) The specific tariffed resale rates.
  - ii) Negotiated rates by specific contract.
- d) What, if any, limitations does U S WEST impose on the resale of its services?
- e) Are there currently any formal disputes related to the pricing of services for resale?
- f) Are there currently any formal disputes related to the services or the definition of services for resale?
- g) Have any entities requested to purchase services from U S WEST at specific tariffed rates (not including negotiated agreements)?
- h) Are any entities currently purchasing services from U S WEST at specific tariffed rates (not including negotiated agreements)?
  - i) Are any negotiations pending for the purchase of services for resale?
  - j) Are any entities currently purchasing services from U S WEST pursuant to a negotiated agreement?
- k) How much revenue does the resale of services generate for U S WEST?