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BEFORE THE ARIZONA CORPORATION COMMISSION  
Arizona Corporation Commission

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CARL J. KUNASEK  
Chairman  
JAMES M. IRVIN  
Commissioner  
WILLIAM MUNDELL  
Commissioner

IN THE MATTER OF THE APPLICATION OF U S WEST COMMUNICATIONS, INC., A COLORADO CORPORATION, FOR A HEARING TO DETERMINE THE EARNINGS OF THE COMPANY, THE FAIR VALUE OF THE COMPANY FOR RATEMAKING PURPOSES, TO FIX A JUST AND REASONABLE RATE OF RETURN THEREON AND TO APPROVE RATE SCHEDULES DESIGNED TO DEVELOP SUCH RETURN.

DOCKET NO. T-01051B-99-0105

U S WEST COMMUNICATIONS INC.'S RESPONSE TO MOTION TO SEVER, OR IN THE ALTERNATIVE, TO BIFURCATE HEARINGS

U S WEST Communications, Inc. ("U S WEST") opposes the motion of MCIWorldcom, Inc., AT&T Communications of the Mountain States, Inc., and Sprint Communications Company L.P. (collectively "CLECs") to sever from this proceeding U S WEST's request for deregulation of data services and the creation of competitive zones. The Arizona Corporation Commission ("Commission") should deny the CLECs' motion for three reasons:

- First, the Commission has already determined U S WEST's rate case filing to be in compliance with Commission rules. Thus, the CLEC's Motion is really a thinly disguised attempt to file an untimely motion to dismiss.
- Second, the Commission's competitive telecommunications services rules are permissive and do not prohibit U S WEST's requests for deregulation of data services or for the creation of competitive zones. Indeed, the request to have data services declared deregulated is specifically authorized by state statute. A.R.S. §40-281(e).
- Finally, bifurcation of U S WEST's requests for deregulation of data services and competitive zones cannot

1 be accomplished in the manner the CLECs propose because  
2 the determinations to deregulate data services and/or  
3 create competitive zones must be made either before or at  
4 the same time as the determination of U S WEST's revenue  
5 requirement and rate design.

6 In its rate case application filed on January 8, 1999,  
7 U S WEST requested among other things that the Commission declare  
8 that all data services be deregulated and create competitive  
9 zones in which U S WEST will have greater freedom to compete.  
10 U S WEST simultaneously submitted detailed schedules, testimony  
11 and other exhibits in support of its application. The direct  
12 testimony of Karen A. Stewart and David Teitzel, dated January 8,  
13 1999, provided a detailed analysis of the basis for deregulating  
14 U S WEST's data services and the existing competitive  
15 marketplace. Both Stewart and Teitzel describe the types of  
16 services at issue, the general economic conditions that exist  
17 which make the market competitive, the availability of  
18 alternative services through other providers, and other  
19 indicators of competition.

20 Pursuant to A.A.C. R14-2-103(B)(11), the Commission had  
21 thirty (30) days to review U S WEST's rate case filing and  
22 determine its sufficiency before accepting the matter. In this  
23 case, the Commission issued its determination of sufficiency on  
24 February 26, 1999. (Letter of Sheryl L. Hubbard to Timothy Berg  
25 dated February 26, 1999.) The CLECs clearly had notice of  
26 U S WEST's requests for deregulation of data services and the  
creation of competitive zones. Thus, had they wished to  
challenge any portion of U S WEST's rate case filing for

1 sufficiency under those rules, they could have done so at the  
2 time they intervened. They chose not to challenge U S WEST's  
3 rate case filing and should not be heard to do so now. Their  
4 motion is untimely by any reasonable standard and should be  
5 denied for that reason alone.

6 Furthermore, A.A.C. R14-2-1108 does not provide the  
7 exclusive method for obtaining pricing flexibility. The rule is  
8 permissive and establishes a process if a carrier wishes to  
9 obtain the pricing flexibility for *one individual service*. Here,  
10 U S WEST proposes that it be granted pricing flexibility with  
11 respect to *multiple services in specific zones*. On its face,  
12 neither A.A.C. R14-2-1108 nor any other Commission rule prohibits  
13 U S WEST's proposal.

14 Moreover, A.R.S. § 40-281(e) specifically authorizes U S WEST  
15 to request the deregulation of data services. Section 40-281(e)  
16 requires the Commission to declare that a product or service is  
17 not subject to regulation by the Commission if that product or  
18 service is "neither essential nor integral to the public service."  
19 Thus, because deregulation of data services will impact revenue  
20 requirement and rate design, it is entirely appropriate for U S  
21 WEST to request deregulation of data services in its rate  
22 application.

23 Finally, the CLECs' motion to severe should be denied  
24 because determinations to deregulate data services and create  
25 competitive zones must be made before, or concurrently with,  
26

1 determinations as to U S WEST's revenue requirement and rate  
2 design. For example, if all data services are deregulated, the  
3 Commission would have to ignore revenues from those services in  
4 determining U S WEST's revenue requirement. However, if data  
5 services are not declared deregulated, the Commission would have  
6 to include revenue from data services in revenue requirement.  
7 Thus, the CLECs' request to sever the deregulation and  
8 competitive zone proposals and to have them heard after the  
9 determination of revenue requirement makes no sense whatsoever.  
10 The CLECs have put the cart before the horse.

11 Based on the foregoing, U S WEST requests that the  
12 Commission deny the CLECs' motion to sever or bifurcate this  
13 docket.

14 DATED this 16<sup>th</sup> day of February, 2000.

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27 ORIGINAL of the foregoing hand-delivered  
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29 February, 2000, to:

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