



Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

JUN 06 2000

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CARL J. KUNASEK  
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Commissioner

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ARIZONA CORP COMMISSION  
DOCUMENT CONTROL

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 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-10151B-99-0105

**MOTION TO COMPEL U S WEST COMMUNICATIONS, INC. TO  
RESPOND TO COMMISSION STAFF DATA REQUESTS**

Staff of the Arizona Corporation Commission ("Commission" or "ACC") hereby moves to compel U S WEST Communications, Inc. ("U S WEST" or "Company") to respond to the discovery request identified herein, which in Staff's opinion is necessary to meet the sufficiency requirement contained in the Commission's rules. Because of the importance of the information being requested to Staff's evaluation of the Company's updated Application, the Staff requests an expedited hearing on its Motion.

**I. BACKGROUND**

While this Motion to Compel addresses only one of U S WEST's outstanding responses to Staff's data requests, the information requested is critical to an evaluation of U S WEST's Application based upon its updated test year. Without this information, a question arises whether the Company's updated filing is sufficient under the Commission's rules. On May 5, 2000, the

1 Staff's Consultants, Utilitech, submitted UTI43-20 (Exhibit A) to U S WEST which requested the  
2 following information:

3 In his initial direct testimony dated January 8, 1999, Mr. Redding calculated and sponsored  
4 a series of adjustments that would be appropriate in case his end of period adjustment was  
5 contested. However, at page 8 of his Supplemental Testimony he states, "Time constraints  
6 precluded me from making these adjustments." Now that the Company's filing has been  
7 submitted, please provide the "Adjustments Not Made" in the form submitted with the  
8 Company's initial filing in January 1999 for the updated test period, along with supporting  
9 workpapers for each such adjustment.

10 The response to UTI 43-20 was due on May 15, 2000, and to the best of Staff's information  
11 and knowledge, Staff and/or its Consultants have not received any objection by U S WEST to the  
12 information requested. U S WEST has also not responded to the data request. Staff contacted U S  
13 WEST attorney Tom Dethlefs about the request on May 31, 2000. On June 2, 2000, Staff and U S  
14 WEST had a telephonic meet and confer session at which time Mr. Dethlefs indicated that U S  
15 WEST would provide those adjustments identified by Staff, in the order of priority established by  
16 Staff. For the reasons discussed below, Staff finds this offer on Mr. Dethlefs' part to be virtually  
17 meaningless. U S WEST's proposal would essentially require Staff's experts to spend considerable  
18 time doing work which the Company is required to do under the Commission's rules and could delay  
19 processing of the Company's Application by several months.

## 20 **II. ARGUMENT**

21 Arizona R.Civ.Pro. Rule 26(b)(1) provides that any party may obtain discovery "regarding  
22 any matter, not privileged, which is relevant to the subject matter involved." Evidence is relevant  
23 if it has "any tendency to make the existence of any fact that is of consequence to the determination  
24 of the action more probable or less probable than it would be without the evidence." Ariz. R. Evid.  
25 401.

26 There is no question in this case that the information requested by Staff is relevant and  
27 furthermore that the Company is required to provide this information as part of its filing under the  
28 Commission's rules. UTI 43-20 requests the Company to essentially identify and quantify all

1 required pro forma and normalization adjustments, as it did in its initial filing in January, 1999, and  
2 as it is required to do under the Commission's rules, R14-2-103(B). Pro forma adjustments are  
3 defined under R-14-2-103(A)(i) as "[a]djustments to actual test year results and balances to obtain  
4 a normal or more realistic relationship between revenues, expenses and rate base."

5 U S WEST has proposed comprehensive adjustments to annualize the test period income  
6 statement based upon a single-month of the test period, December 1999, multiplied by 12. U S  
7 WEST did not view it important to analyze and adjust the other 11 months of the test period.  
8 However, Staff may dispute the reasonableness of the Company's single-month test year proposal  
9 and should not be disadvantaged by the Company's failure to properly adjust the balance of the year.

10 As already indicated, the Company had made these adjustments in its initial filing in  
11 January, 1999. However, when the Company updated its test year, the Company did not include all  
12 pro forma or normalization adjustments as required, because in U S WEST Witness Redding's words  
13 "[t]ime constraints precluded me from making these adjustments". Supplemental Testimony at p.  
14 8. U S WEST clearly does not dispute its responsibility to identify and make all of the various  
15 normalization adjustments throughout the entire test period in its initial filing, even though the  
16 adjustments were ultimately "not made" by U S WEST in its updated filing in its single-month times  
17 12 test year proposal. Even U S WEST appears to acknowledge that its responsibility in this regard  
18 has not diminished due to the update to a calendar 1999 test year.

19 The Company's proposed solution which would require Staff to instead identify the  
20 adjustments is simply unacceptable. U S WEST is obviously much more familiar with its own  
21 books and records and has a much better idea of any adjustments that need to be made in this case.  
22 U S WEST is essentially attempting to shift its responsibility under the Commission's rules to  
23 present a full and complete case which is representative of a realistic relationship between revenues,  
24 expense levels and rate base to the Staff. This is an unreasonable burden to place upon the Staff  
25 and would result in a lot of additional work for the Staff's experts and potentially result in several  
26 months additional delay. Most of the work is in identifying the pro forma adjustments which need  
27 to be made. In fact, once the adjustment is found, it is oftentimes only a modest undertaking to  
28 quantify it, which is what U S WEST has volunteered to do.

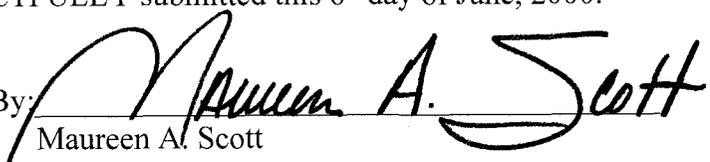
1           At least a month has elapsed since U S WEST filed its updated test year. The Company  
2 should have anticipated that a request in the nature of UTI 43-20 was inevitable and thus should have  
3 used the last month to identify all required pro forma or normalization adjustments, that "time  
4 constraints" precluded Mr. Redding from making in his May 2, 2000 filing. If the Staff has to do  
5 this work for the Company at this time, it will be a laborious, cumbersome and very time-consuming  
6 task which could extend the time for processing this case by several months. In short, the Company  
7 is in a much better position to identify and quantify any pro forma adjustments, and that is why the  
8 Commission's rules are designed to place this burden upon the Applicant. Under the Commission's  
9 rules, it is the Company's responsibility, not the Staff's, to identify and make the necessary pro  
10 forma adjustments. Without identification and quantification of all required pro forma and  
11 normalization adjustments, it is questionable whether the Company's updated filing can even be  
12 deemed sufficient.

13           Because these pro forma adjustments are critical to Staff's evaluation of the Company's  
14 Application and Staff's recommendations in this case, Staff respectfully requests expedited oral  
15 argument on its Motion.

16  
17 **III. CONCLUSION**

18           For the reasons set forth herein, the Staff respectfully requests that U S WEST be compelled  
19 to respond to UTI-43-20 and also requests expedited oral argument on its Motion .

20                               RESPECTFULLY submitted this 6<sup>th</sup> day of June, 2000.

21  
22 By: 

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1 ORIGINAL and FIFTEEN COPIES  
2 filed this 6<sup>th</sup> day of June, 2000  
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6 Phoenix, Arizona 85007

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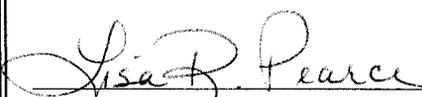
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EXHIBIT A

# UTILITECH, INC.

*Regulatory and Management Consultants*

749 North Blue Parkway, Suite 204 • Lee's Summit, MO 64086 • 816/525-5211 • Fax: 816/525-5258

- UTI 43-13 Were any Qwest/US West, Inc. merger transaction or implementation costs (investment advisor, consultant, legal, filing fees, accounting fees, regulatory processing costs, etc.) incurred in the test period, either directly by USWC or by any affiliate? Please provide the amounts incurred by entity and by account in the test period, indicating amounts charged or allocated to USWC.
- UTI 43-14 Please provide a complete copy of detailed lead lag study workpapers relied upon in the Company's update filing.
- UTI 43-15 Please provide the most detailed available long run forecast of each type of reciprocal compensation amounts expected to be realized by USWC in Arizona in the future, explaining the assumptions and calculations employed in creating such forecast.
- UTI 43-16 Please provide complete copies of regulatory orders, contracts and other documents supportive of the amounts of reciprocal compensation currently payable by USWC in Arizona.
- UTI 43-17 Please provide the monthly amounts of Local Number Portability revenues that have been recorded by USWC in Arizona since the inception of such charges (include all available months of 2000), by FCC Sub-account, and provide the underlying volumes associated with such charges in each month.
- UTI 43-18 Does Mr. Redding intend to sponsor his initial January 8, 1999 testimony as part of the Company's evidence in this Docket? If affirmative, please provide updates to the Financial Performance information at pages 2 through 5 and the Productivity information at pages 35 through 37 (and GAR-12).
- UTI 43-19 According to Mr. Alcott's testimony dated January 8, 1999 at page 16, "The initial rates contained in U S WEST's rate design proposal capture only \$70.9 million of the total \$225.9 million dollar revenue requirement being requested in this case." Please update this statement, as required, with a complete statement of any changes being proposed in the \$70.9 million amount or the underlying proposed rate design and provide complete copies of all information supportive of each change.
- UTI 43-20 In his initial direct testimony dated January 8, 1999, Mr. Redding calculated and sponsored a series of adjustments that would be appropriate in case his end of period adjustment was contested. However, at page 8 of his Supplemental Testimony he states, "Time constraints precluded me from making these adjustments." Now that the Company's filing has been submitted, please provide the "Adjustments Not Made" in the form submitted with the Company's

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# UTILITECH, INC.

*Regulatory and Management Consultants*

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initial filing in January 1999 for the updated test period, along with supporting workpapers for each such adjustment.

UTI 43-21 In Supplemental Exhibit GAR-S1, a column appears for "Fair Value" with no entries. Please explain whether or not the Company intends to assert that the line 4 "required operating income" for the "Fair Value" column will be higher than 154,430. If the amount is expected to be higher, please provide complete and detailed calculations and explanation for the "required rate of return" that USWC believes is applicable to its fair value rate base.

UTI 43-22 Is Mr. Redding aware of any regulatory jurisdiction that has authorized an automatic rate adjustment process to a telephone company for costs such as reciprocal compensation, as proposed at page 15 of his Supplemental Testimony? If affirmative, please provide complete copies of all orders and other documentation associated with such authorization.

UTI 43-23 At page 6 of his Supplemental Testimony, Mr. Redding states, "Following the precedent of Docket No. E-1051-93-183, I annualized...by multiplying the last month of the test year by twelve." Please identify each element (line item component) of Mr. Redding's proposed end of period adjustment that is, in fact, consistent with the "last month times 12" precedent established in the prior rate case, as well as each element of the proposed adjustment that is not.

UTI 43-24 Is Mr. Redding aware of any regulatory jurisdiction that has authorized the annualization of all non-wage expenses for a telephone company based upon the last month of the test period, times 12, as proposed at pages 6 through 8 of his Supplemental Testimony? If affirmative, please provide complete copies of all orders and other documentation associated with such authorization.