



0000048238

Arizona Corporation Commission

DOCKETED

MAR 16 2000

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED
h

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

IN THE MATTER OF THE COMPLAINT
OF AT&T COMMUNICATIONS OF THE
MOUNTAIN STATES, INC. AGAINST
U S WEST COMMUNICATIONS, INC.
REGARDING ACCESS SERVICE

DOCKET NO. ~~T-02428A-99-0476~~
T-01051B-99-0476

RESPONSE TO AT&T'S SECOND
MOTION TO COMPEL

U S WEST Communications, Inc. ("U S WEST") hereby files its response to the second motion to compel discovery requests filed by AT&T Communications of the Mountain States, Inc. ("AT&T") on March 2, 2000.

A. Legal Objections

U S WEST will not reiterate herein its legal objections to the discovery requests to which AT&T now seeks to compel responses. U S WEST's objections to AT&T's discovery requests generally were detailed in its response to AT&T's first motion to compel currently under consideration by the Hearing Division and are hereby incorporated by reference.

B. Interrogatories

1. I-010

I-010 requests that U S WEST describe "Enterprise Networking Services' funding decisions process for product lines." The request is similar to A-001 currently under consideration by the Hearing Division relative to AT&T's first motion to compel.

1 U S WEST has objected to this request because it is irrelevant
2 and not reasonably calculated to lead to the discovery of
3 admissible evidence.

4 The role of Enterprise, if any, in U S WEST's provisioning
5 of special access circuits has no bearing on whether or not
6 U S WEST is in compliance with applicable laws and tariffs on
7 file with the FCC and/or the Commission. The issue raised by
8 AT&T's complaint is whether or not U S WEST has complied with
9 applicable FCC and/or state tariffs in providing special access
10 services to AT&T.

11 U S WEST is obligated to provide service to AT&T in
12 accordance with the applicable tariff. To the extent that AT&T's
13 discovery requests, such as this one, go beyond the issue of
14 compliance with the tariff, they are not appropriate. Unless
15 AT&T can demonstrate that U S WEST is not meeting its tariffs and
16 is doing so in a way that disparately disadvantages AT&T, AT&T
17 can make no discrimination claim. How U S WEST makes funding
18 decisions and what funds it allocates to what facility is
19 irrelevant absent allegations and proof of tariff violations.

20 Notwithstanding these objections, U S WEST will supplement
21 its response to I-010 before the hearing on March 22, 2000.

22 2. I-015

23 I-015 requests that U S WEST provide its definition of a
24 "held order" and additional information relative to circumstances
25 under which U S WEST designates an order as "held" and how an
26 order is not designated "held" when U S WEST cannot commit to a

1 due date. U S WEST objected to this request because it is vague
2 and ambiguous such that U S WEST cannot determine precisely what
3 has been requested. Further the request is not reasonably
4 calculated to lead to admissible evidence.

5 Notwithstanding these objections, U S WEST will supplement
6 its response to I-015 before the hearing on March 22, 2000.

7 3. I-019

8 I-019 asks U S WEST to define and describe its
9 methodology for rating end offices, wire centers or switches as
10 "platinum," "gold," "silver," "bronze" or any other method of
11 prioritizing such wire centers. U S WEST has objected to this
12 request as not reasonably calculated to lead to admissible
13 evidence. Moreover, the requests is overly broad, unduly
14 burdensome, vague and ambiguous. Finally, the request seeks
15 highly confidential, proprietary and competitively sensitive
16 information.

17 The only proper ground for AT&T's complaint is whether U S
18 WEST is complying with FCC and/or Arizona Corporation Commission
19 tariffs and applicable laws, and if U S WEST is somehow not
20 complying, is such non-compliance done in a discriminatory manner
21 against AT&T. Any former internal designations by U S WEST for
22 its wire centers are not relevant to whether or not U S WEST has
23 met FCC and/or state tariffs in providing access services to
24 AT&T.

25 Moreover, the Colorado complaint referenced by AT&T in its
26 motion to compel does not address whether or not U S WEST is in

1 compliance with applicable laws and tariffs on file with the FCC
2 and/or the Arizona Corporation Commission, the only proper
3 subjects of AT&T's complaint here. In addition, the Colorado
4 litigation concerns the provision of *retail* services in Colorado,
5 not wholesale services in Arizona. Furthermore, U S WEST has
6 filed a motion to dismiss the complaint that is pending in
7 Colorado.

8 Notwithstanding these objections, on January 27, 2000, U S
9 WEST provided a confidential attachment describing the standards
10 used by US WEST in designation of wire centers as gold, silver,
11 and bronze. U S WEST has adequately responded to AT&T's request.

12 4. I-020

13 I-020 requests that U S WEST provide a list of all U S WEST
14 switches, end offices or wire centers with current and past U S
15 WEST ratings as identified in response to I-019, for each end
16 office or wire center. U S WEST reiterates and incorporates
17 herein its objections noted to I-019. The information AT&T seeks
18 is not relevant to the complaint now pending.

19 AT&T must prove that U S WEST is not meeting applicable
20 tariffs or laws and that it is doing so in a manner
21 discriminatory against AT&T. The location of U S WEST's current
22 and past wire centers does not relate to whether AT&T is getting
23 the access it requests on a reasonable, non-discriminatory basis.
24 This request, coupled with I-019, seeks discovery on global
25 allocations of resources, U S WEST's business decisions as to
26 what areas require additional investment and those that do not,

1 and similar issues. This proceeding is not a generic service
2 review for all of U S WEST's customers. It is a complaint raised
3 by AT&T that it is not receiving the service to which it believes
4 it is entitled. If AT&T proves its case, it is irrelevant where
5 U S WEST is or was spending its limited resources, U S WEST can
6 be ordered to remedy the service issues with respect to AT&T
7 without this Commission or AT&T ever having to review the wire
8 service center information or internal service area designations.
9 AT&T's discovery requests should not be allowed to delve into
10 matters not relevant to this action and no further response to I-
11 020 should be required.

12 5. I-023

13 I-023 requests that U S WEST provide specific On Time
14 Performance ("OTP") measures for DS0 and DS1 orders from its
15 retail customers, retail customers of U S WEST affiliates,
16 wholesale customers other than AT&T, for Arizona and U S WEST's
17 "region as a whole."

18 On February 11, 2000 U S WEST supplemented its response to
19 this request and provided AT&T with information for 1999 ytd 4/30
20 and 10/19 showing provisioning for DS0 and DS1 for U S WEST's
21 retail customers, for U S WEST's wholesale customers including
22 AT&T, for AT&T separately, and for wholesale customers not
23 including AT&T. U S WEST also informed AT&T that it was
24 gathering additional information which would be provided when
25 complete. U S WEST will further supplement its response to this
26 data request prior to the hearing on March 22, 2000.

1 6. I-035

2 In I-035, AT&T requests that U S WEST "produce all documents
3 related to or reflecting installation intervals for trunks,
4 interoffice facilities and access lines for wholesale customers
5 of U S WEST in Arizona."

6 U S WEST provided that information on February 11, 2000. In
7 its motion, AT&T now states that it needs information designated
8 by wire centers. I-035 did not originally request that the
9 information be designated in any specific manner. AT&T's is, in
10 effect, issuing a new data request, and its motion to compel is
11 premature and inappropriate. U S WEST is in the processing of
12 determining whether such information even exists by wire center
13 and will supplement its response to the request accordingly.

14 7. I-056, 060 and 062

15 I-056 requests weekly call blocking data on final trunk
16 groups (in the busy hour) in Arizona. I-060 seeks all documents
17 related to call blocking in Arizona not otherwise provided in
18 response to other data requests. I-062 also seeks all documents
19 relating to trunking network performance in Arizona from 1996 to
20 date. U S WEST objected to these requests as not reasonably
21 calculated to lead to admissible evidence, i.e., whether or not
22 U S WEST has met FCC and/or state tariffs in providing access
23 services to AT&T. Moreover, the requests are overly broad,
24 unduly burdensome, vague and ambiguous. Finally, the requests
25 seek confidential or proprietary information relating to either
26 U S WEST, its customers or third parties.

1 Notwithstanding these objections, U S WEST has already
2 provided certain information and data responsive to these
3 requests. U S WEST responded to several data requests, including
4 requests I-057 and I-059, by providing call blocking data to
5 AT&T. Moreover, at the Hearing on March 8, 2000, U S WEST agreed
6 to provide additional information about call blocking to AT&T in
7 the form of analyses, if any exist, of the call blocking data
8 previously provided. See Hearing Transcript, March 8, 2000 at
9 128. To the extent that request I-060 seeks yet more information
10 about call blocking, AT&T has already received the information
11 needed to analyze call blocking issues. Requiring U S WEST to
12 provide additional material on call blocking is unduly burdensome
13 and not calculated to lead to the discovery of admissible
14 evidence.

15 I-056 and I-062 seek information concerning call blocking
16 similar to that already provided. U S WEST will supplement its
17 responses to those requests consistent with the Hearing Officer's
18 ruling during the Hearing on March 8th.

19 8. I-005, 006,¹ 050, 072 and 081

20 On January 27, 2000, U S WEST produced information
21 responsive to I-005 and I-006 for years 1998 and 1999. U S WEST
22 did not direct AT&T to go to Colorado to review documents.

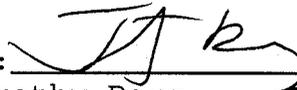
23 _____
24 ¹ AT&T previously moved to compel on I-006. U S WEST incorporates
25 its prior response as if fully set forth herein. In any case,
26 the hearing officer ruled that in response to I-006, U S WEST
need only supplement its response by supplying summaries, if any
existed, of the data already produced.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

RESPECTFULLY SUBMITTED this 16th day of March, 2000.

U S WEST COMMUNICATIONS, INC.
Thomas M. Dethlefs
Senior Attorney
1801 California St., Suite 5100
Denver, Colorado 80202
(303) 672-2948

and
FENNEMORE CRAIG

By: 
Timothy Berg
Theresa Dwyer
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913
(602) 916-5000

ORIGINAL AND TEN COPIES of the foregoing
filed this 16th day of March, 2000, with Docket
Control, Arizona Corporation Commission.

COPY of the foregoing hand delivered
this 16th day of March, 2000, to:
Jerry Rudibaugh, Chief Hearing Officer
Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

COPY of the foregoing mailed this 16th
day of March, 2000, to:
Andrew D. Hurwitz
Joan S. Burke
OSBORN MALEDON, P.A.
2929 N. Central Avenue, Suite 2100
Phoenix, Arizona 85012-2794
Attorneys for AT&T Communications of
The Mountain States, Inc.

Richard S. Wolters
AT&T Law Department
1875 Lawrence Street # 1575
Denver, CO 80202

