

NEW APPLICATION



0000048265

BEFORE THE ARIZONA CORPORATION COMMISSION

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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.

COMPLAINT

DOCKET NO.

T - 01051 B - 99 - 0476

AT&T Communications of the Mountain States, Inc. ("AT&T") seeks relief regarding the inadequate, inefficient, unreasonable, discriminatory and preferential access services being provided by U S WEST Communications, Inc. ("U S WEST").

U S WEST's failures regarding access services include (1) an unwillingness to provide facilities necessary for access services; (2) an unwillingness to timely provision those facilities it does provide; (3) practices that favor itself, its affiliates and its own customers; and (4) maintaining unreasonable differences as to access services between localities and classes of services when deciding where to provision facilities.

These failures by U S WEST have hindered AT&T's ability to provide consistently high quality interexchange services to Arizona businesses and consumers and, in numerous cases, have made it impossible for AT&T to offer such services at all. Businesses and consumers in Arizona are suffering due to U S WEST's inaction. Moreover, due to its failures, U S WEST is unfairly discriminating against AT&T, and giving itself and its affiliates superior treatment. Such conduct and its results are contrary to the public interest, contrary to prior agreements between the parties, and contrary to Arizona law.

PARTIES

1. AT&T is a telecommunications carrier certified to provide interexchange and local telecommunications services under authority of this Commission. AT&T's address for the U S WEST region is 1875 Lawrence Street, Denver, CO 80202, and AT&T's Arizona address is 2800 North Central Avenue, Suite 828, Phoenix, Arizona 85004.

2. U S WEST is a telecommunications company certified to provide telecommunications services in Arizona, including the access service at issue in this complaint. U S WEST provides basic local exchange service, access lines and usage within local calling areas in Arizona for the transmission of two-way interactive voice and data communications. U S WEST's principal place of business in Arizona is 3033 North 3rd Street, Phoenix, Arizona 85012.

JURISDICTION

3. The Commission has jurisdiction over U S WEST because U S WEST is a public service corporation supervised and regulated by the Commission. A.R.S. § 40-202. The Commission has jurisdiction to entertain and resolve this complaint by virtue of A.R.S. Const. Art. 15 § 4, A.R.S. §§ 40-202, 40-203, 40-246, 40-249, 40-321, 40-322, 40-328, 40-331, 40-334 and 40-361(B). AT&T is filing this complaint, as permitted under A.R.S. §§ 40-246 and 40-249 because U S WEST is not providing adequate, efficient and reasonable access service in Arizona.

FACTUAL ALLEGATIONS

The Nature Of The Access Services At Issue.

4. "Access Service" refers to access to a local exchange network for the purpose of enabling a provider to originate or terminate interexchange telecommunications services. There are two general types of access service: dedicated access service and switched access service. Dedicated access service refers to the use of a direct call path provided by a local exchange carrier ("LEC") – such as U S WEST – linking a long-distance carrier to an end-user for the provisioning of a private line or dedicated telecommunications service. Switched access service refers to the origination and termination of calls that use a local exchange carrier's local switching capabilities. This Complaint addresses both dedicated and switched access services.

5. Switched access includes several access components to enable the origination and termination of switched calls (such as Plain Old Telephone Service) from a long distance carrier through the LEC's network to the customer's phone. The switched access components provided by the LEC include: the loop, the local switch, interoffice facilities and potentially tandem switching if the local switch is not directly connected to the customer's long distance or interexchange carrier. In addition, there are some supporting capabilities that enable the network such as signaling.

6. The "loop" is simply defined as the facility from the customer's premises to the local switch. At the local switch, the loop is connected to a port on the switch. The local switch is responsible for understanding whether a specific number dialed is a local, intraLATA toll or interLATA toll call and determining the appropriate routing.

7. The "interoffice facility" is defined as the facility (or several facilities) that connects the local or tandem switch to the long distance or interexchange carriers' network, or it can be located between multiple offices within the U S WEST network. For an interoffice facility that connects to a long distance or interexchange carrier's network, the point of interconnection is at a Point of Presence ("POP") of the long distance or interexchange carrier's network.

8. Blockage or lack of capacity in interoffice facilities will cause customers to be incapable of originating or terminating calls once a certain volume of calls has been reached, and will not allow communities or businesses to grow.

9. Access service includes, *inter alia*, both DS0 and DS1 service. DS0 service is capable of supporting single voice conversations or 64 kilobits of data per second in various combinations. This service is generally used to establish a dedicated line within a customer's network. DS1 service is capable of supporting up to 24 voice grade conversations simultaneously or 1.544 megabits of data per second in various combinations (*i.e.*, 12 DS0 of voice and 12 DS0 of data). Because of the greater capacity, DS1 services can accommodate higher speed transmissions. Larger volume customers can reduce their expenses by taking advantage of this high capacity technology if they have sufficient volume to support a DS1.

10. Although this Complaint addresses only DS0 and DS1 service, the problems and concerns that are discussed herein also apply when customers order higher bandwidth service from AT&T.

11. AT&T is U S WEST's single largest access service customer. For example, in Arizona, alone, AT&T purchased over \$157 million of access services from U S WEST during 1997 and over \$129 million during 1998.

12. Access services provided by U S WEST are regulated, non-competitive monopoly services. They are not available to AT&T in Arizona from any other sources on the broad basis supplied by U S WEST.

13. Access services are essential for AT&T to provide competitive and high-quality interexchange services to Arizona businesses and consumers. Without high-quality access service, AT&T is unable to provide the type of quality telecommunications services that its end-users demand and require. In cases where U S WEST simply refuses to provision access facilities, AT&T is unable to offer interexchange services to requesting customers at all.

14. AT&T's customers are harmed by U S WEST's failure with respect to access services. AT&T's customers depend on voice and data telecommunications to conduct their daily business communications.

15. A business that cannot get timely provisioning of new access lines is often prevented from expanding its services, or in the case of a new business, from beginning at all. For example, without adequate telecommunications, the airline industry would be unable to schedule reservations and flights, which would quickly grind air travel to a halt. A similar fate would befall the banking industry, which would be unable to process money transfers, including routine withdrawals by average citizens. Similarly, residential customers are barred from conducting even routine communications when AT&T cannot obtain access facilities.

The Use of Direct Measures of Quality ("DMOQs") Determines The Quality Of Access Provided By U S WEST

16. Following divestiture, AT&T developed certain measurements of quality to determine when it was receiving acceptable access services from the Regional Bell Operating Companies ("RBOCs"). These measurements are commonly referred to as Direct Measures of Quality ("DMOQs"). The DMOQs for access service were developed, and have been periodically updated, based on the needs and demands expressed by customers and on advancements in technology.

17. U S WEST's performance quality in meeting the established DMOQs is measured through data reported by U S WEST. U S WEST and AT&T agreed and verified a process by which both companies could use a common set of data to discuss current performance and the issue of sufficiency.

18. AT&T uses the same DMOQs for all of the RBOCs, which permits AT&T to compare and rank U S WEST's quality of access service vis-à-vis the other comparable large monopoly providers. In this manner, AT&T is able to determine whether fluctuations in performance reflect industry-wide problems, changing circumstances within the telecommunications industry, or company-specific problems.

19. To maintain AT&T's traditional high-quality standards, and to satisfy customer quality expectations, it is imperative that the access service provided by U S WEST regularly meet these quality standards.

20. For years, U S WEST has repeatedly stated that (1) it understands that it is required to be 100% in compliance with the DMOQs, and (2) it is committed to meeting AT&T's measures of quality. U S WEST has also promised to take all necessary steps to

upgrade technical resources and personnel so as to be able to consistently meet the DMOQs.

21. In 1996, U S WEST represented to AT&T that U S WEST had the “process capacity” to meet the current DMOQs for access services within “99%” accuracy.

U S WEST Continually Fails To Meet Its Obligations For Providing Access Services.

22. U S WEST’s self-reported DMOQ data demonstrates that the quality of access service provided by U S WEST has been consistently far below the established and agreed upon DMOQs. The data further shows that U S WEST has been unable to maintain any degree of steady improvement, that its performance generally has decreased, and that its quality fluctuates often enough to suggest that its performance is “out of control.”

23. The RBOC to RBOC comparisons also show that U S WEST is last or second to last among all RBOCs for each of the DMOQs regarding access service quality. In contrast, prior to 1993, U S WEST often performed at or near the top in some DMOQs compared to the other RBOCs.

24. This drop from best-in-class to worst-in-class strongly suggests that U S WEST’s deteriorating access quality is not the result of industry problems or changed circumstances in the telecommunications industry, but rather, is the result of problems that are specific to U S WEST and arise out of its specific internal practices and procedures.

25. The DMOQs for access services address, *inter alia*, the time it takes an access supplier to provision new access service. The current DMOQs for access service for the categories addressed in this Complaint are as follows:

- (a) Provisioning of new DS1 services: Customer Desired Due Date (“CDDD”)
- (b) Provisioning of new DS0 services (Digital/VG): CDDD.

26. The following figures are U S WEST’s average levels of compliance with its self-reported DMOQs, across U S WEST’s 14 state region, for 1995-1999:

	1995	1996	1997	1998	1999 Year- To-Date
(a) Percentage of U S WEST Timely Provisioning DS1 services:	75.14%	82.17%	80.84%	60.68%	59.31%
(b) Percentage of U S WEST Timely Provisioning DS0 services (Dig./VG):	79.02%	82.59%	88.64%	71.98%	77.83%

27. Achieving at least 90% compliance with these DMOQs is well within the capacity of current technology as evidenced by the fact that at least three RBOCs currently attain those levels, and the best in class RBOC consistently achieves 98%-100% on-time compliance.

28. Of course, the ability to implement and use such technology to meet these DMOQs requires that U S WEST devote sufficient resources to maintaining and upgrading its network and employing adequate personnel with the necessary training and experience to fulfill customer requests.

29. Interestingly, the Federal Communications Commission has reported that U S WEST may be failing to perform general network upgrades on an on-going basis; and, accordingly, its network is less up-to-date than other LECs. *Long-Term Number Portability Tariff Filings of U S WEST Communications, Inc.*, CC Docket No. 99-35, Memorandum Opinion & Order, FCC 99-169 (rel. July 9, 1999) at ¶ 19. The Order further states that U S WEST's could have paid for these standard upgrades out of its "existing rate base." *Id.* at ¶ 39.

30. As another indication that U S WEST may not be applying sufficient resources and personnel to adequately fulfill customer requests, U S WEST reported to the FCC in ARMIS Report 43-05, that it received 297 complaints in Arizona from business users in 1998 alone, and 1,602 complaints from residential users in 1998 alone.

31. AT&T's current problems with U S WEST involve both U S WEST's failure to timely provision access facilities and to meet Customer Desired Due Dates ("CDDD") that are promised, and a refusal to commit to provision facilities at all where none are currently available.

32. Both of these problems significantly affect the businesses and consumers of this state, and force AT&T into a position of being unable to offer interexchange service to those customers at all, or to offer service in such an untimely manner that customers suffer their own business, revenue and personal losses in the process. Both are unacceptable and anticompetitive results of U S WEST's conduct.

U S West Refuses To Provision Some Services At All

33. Despite the fact that AT&T provides U S WEST with forecasts on at least a biannual basis regarding the access facilities that it intends to order and utilize during

the forecasted period, U S WEST increasingly responds to AT&T's orders by alleging that no facilities are available, and that U S WEST is unable to give a timeframe within which such facilities will become available.

34. Apparently, unless U S WEST has its own independent business reasons for building new facilities to an area, it refuses to build such facilities for AT&T, arguing that no funding is available for such a project. Because AT&T has no alternative source for these facilities, AT&T is entirely unable to serve customers in these areas.

35. Not only is U S WEST refusing to timely provision AT&T's orders in these cases, thereby violating the agreed upon DMOQs between the parties, but is refusing to provide service at all – a situation not even contemplated by the DMOQs between the parties. Although this problem has become increasingly more common in the past year, U S WEST has been refusing to provision certain access trunks based on a lack of constructed facilities since at least June of 1997.

36. Due to U S WEST's failure to provision access facilities, at least 93 of AT&T's orders for access facilities are currently held in this state. A held order results when U S WEST is "holding" the order and cannot commit to a CDDD, typically due to a lack of available facilities.¹

37. The following communities are affected by these held orders: Benson, Chandler, Casa Grande, Castle Rock, Deer Valley, Flagstaff, Glendale, Globe, Kingman, Keams Canyon, Lake Havasu City, Marana, Mesa, Mohave Valley, Mericopa, Phoenix, Pine Top, Prescott, Paradise Valley, Scottsdale, Sedona, Safford, Superstition, Tuscon,

¹ These held orders include only those currently experienced by AT&T, not AT&T Local Services/TCG.

Tempe, Whiteriver, Winslow, Yuma. Some of these orders have been outstanding for as long as 328 days. This refusal to provide facilities by U S WEST has caused potentially over 1.5 million lines in this state to be out of service or unable to obtain the service they desire.

38. The extensive duration of certain AT&T held orders is even more curious given that it is U S WEST's policy, at least with respect to non-design services, to contact a carrier within 24 hours of issuing a held order to communicate an anticipated resolution date of no greater than 30 days.

39. In order to alert its potential customers to possible delays in getting service established, AT&T has requested, and U S WEST has refused to provide, a list of all locations affected by the lack of facility condition. Therefore, AT&T only learns about such situations once a customer places an order with AT&T and AT&T orders necessary facilities from U S WEST.

40. U S WEST's lack of facilities also exacerbates call blocking problems which cause customers' calls to be blocked or to experience an all trunks busy condition during peak hours. Although AT&T requests additional facilities from U S WEST when it becomes aware of call blocking, U S WEST's facilities' shortage make it impossible for those problems to be timely solved, and make the ability to expedite requests for necessary facilities impossible.

41. This inability to obtain expedited service is even more problematic given that it is U S WEST's "policy" not to expedite any orders unless there has been a fire, flood, national emergency, disconnect caused by U S WEST or the customer, or an out of

service condition has occurred. The mere blocking of calls does not amount to one of these conditions.

42. The impact of untimely facility additions and resulting call blocking is that many customers beyond simply those that are waiting for dedicated facilities in Arizona are affected by U S WEST's refusal to provision adequate access facilities.

U S West Fails To Timely Provision The Facilities It Does Install

43. As shown in paragraph 26 above, U S WEST's on-time provisioning of services across its region has shown no sustainable improvement since 1995. Despite U S WEST's commitments to meet 100% compliance with its DMOQs, U S WEST has consistently failed to meet Customer Desired Due Dates ("CDDD"). In this state alone, U S WEST met its CDDD commitments for DS1 facilities only 53.27% of the time in May of this year, 48.28% in June, and 55.00% of the time in July of 1999. With these extremely low percentages of on time performance, U S WEST remains the poorest performing RBOC for provisioning of access services.

44. Typically, the access service requested by AT&T is not finally completed until AT&T has been forced to escalate the problem through several layers of U S WEST management, often as high as President and Chief Executive Officer Sol Trujillo himself.

45. Lack of timely provisioning is extremely detrimental to AT&T's ability to conduct business. During the period that the customer is out of service after having expected service to be turned up, the customer naturally blames AT&T for the problem. Further and more significantly, the customer remains unable to conduct personal or business affairs until the facilities are in place and properly initiated. This can result is

thousands of dollars of revenue losses for business customers, and extreme bad will toward AT&T and the Arizona telecommunications industry generally.

U S WEST discriminates in favor of itself, its affiliates, and its preferred communities in its provision of access facilities.

46. AT&T has continually asked U S WEST to identify "hot spots" in its network, or locations in Arizona where its facilities are at or near capacity or incapable of handling additional volumes or services without unreasonable call blocking. This information would enable AT&T to anticipate areas where it is likely to encounter problems in providing new or additional services to its customers. AT&T has also asked U S WEST to identify central offices where U S WEST has elected to make significant expansions to serve its preferred customers. This information would allow AT&T to understand where U S WEST is investing in its network and where its customers' orders may have a strong likelihood of being (or not being) completed on time.

47. U S WEST is providing its affiliates, such as U S WEST Enterprise, with access to this blocking information, information regarding "hot spots" on U S WEST's network and the central offices selected for expansion. By providing its affiliates with such information, its affiliates can build and provide services for targeted customers, knowing its customers will not be affected by U S WEST's poor service. U S WEST's practice of refusing to provide such information to AT&T, while providing such information to its affiliates, unfairly discriminates against AT&T.

48. U S WEST's unilateral decisions regarding when and where it will build facilities also negatively affects the economic viability of those communities where U S WEST chooses not to expand. U S WEST's decisions on where it will build or augment

facilities determines which communities will have the necessary telecommunications facilities to grow and which will not. Businesses can not and will not expand if their telecommunications needs cannot be met and if they can not be assured that an adequate telecommunications infrastructure exists.

49. By unilaterally making such decisions, U S WEST not only unfairly discriminates against AT&T by providing it inadequate facilities or service, or refusing to build facilities at all, but it also unfairly discriminates against the community, and the businesses and consumers residing therein, served by the inadequate facilities.

50. In addition, U S WEST's unilateral decisions regarding which communities it will serve essentially allow U S WEST to make business and economic decisions not only for the communities in Arizona, but also for AT&T by effectively determining when and where AT&T will be able to serve current and potential end user customers.

51. Finally, U S WEST's inadequate, inefficient and unreasonable facilities and its refusal to build the necessary facilities permits U S WEST to unfairly discriminate in a third way: between classes of customers. AT&T uses the access services it purchases from U S WEST to provide services to its customers; U S WEST uses the same facilities to provide services to its retail customers.

52. U S WEST has little incentive to remedy inadequate and inefficient facilities that serve AT&T customers; however, U S WEST has incentive to provide adequate, efficient and reasonable facilities to its retail customers. U S WEST can and does unilaterally decide to replace or augment inadequate and inefficient facilities, or build new facilities, to serve its own retail customers. U S WEST then makes

commitments to its customers based on its decisions. AT&T, however, is at the mercy of U S WEST and cannot make informed and reasonable commitments to its customers. By unreasonably preferring its own retail customers, therefore, U S WEST unfairly discriminates against its wholesale customers, such as AT&T. For example, U S WEST began adding facilities to handle traffic of its customers between Phoenix and Tucson, although it is presently legally precluded from handling traffic between these two cities for its own customers. *Plan to Implement Toll Carrier Presubscription System Based on State Rather Than LATA Boundaries*, Docket No. RT-00000J-99-0095, Comments of U S WEST Communications, Inc. (July 23, 1999) at 2.

53. One problem with quantifying exactly how discriminatory U S WEST's conduct is, however, arises because U S WEST has refused to provide data to AT&T that compares U S WEST's treatment of itself, its own customers, its affiliates and other interexchange carriers with the delays and unavailability of service suffered by AT&T's customers. While AT&T specifically requested this information from U S WEST on March 18 of this year, U S WEST has consistently refused to provide such data in a disaggregated form that would allow meaningful comparisons to occur, and a determination of discrimination to be made.

AT&T Has Diligently Attempted To Reach A Resolution Of These Service Quality Problems With U S WEST.

54. Beginning in 1996, AT&T attempted to work cooperatively with U S WEST to improve U S WEST's access service performance. AT&T's efforts included daily telephone communications as well as a series of face-to-face management and executive meetings. U S WEST's performance deficiencies have been discussed in

detail between the parties, and U S WEST has promised again and again to implement plans designed to obtain improved levels of performance.

55. No significant or lasting improvements have been achieved, however, and access service performance has continued to be sporadic and inadequate. Although U S WEST's provisioning of access has remained largely untimely for the last six years, the problem of AT&T's being unable to provide service to its customers at all due to U S WEST's unwillingness to construct additional necessary facilities has risen to extreme levels primarily in the last year.

56. In February of 1997, after discussions intended to resolve U S WEST's access service quality problems remained fruitless, AT&T filed Complaints against U S WEST in Arizona and Minnesota seeking relief for U S WEST's conduct regarding provisioning and maintenance of access services.

57. The parties agreed to informally resolve those disputes, and entered into a Settlement Agreement governing U S WEST's access services across all 14 of its states. The Settlement Agreement provided that U S WEST would meet certain performance objectives each month for a period of 16 months in the areas of both provisioning and maintenance/repair of access facilities, and would compensate AT&T for every month in which those performance objectives failed to be met. In return, AT&T dismissed without prejudice both pending Complaints against U S WEST.

58. Both parties signed the Settlement Agreement on January 16, 1998, after extensive review of the Agreement by, and consultation with, legal counsel.

59. U S WEST, however, without ever performing under the Settlement Agreement, unilaterally terminated the Agreement on July 28, 1998, arguing that the

Agreement was illegal and unenforceable under federal and state law. U S WEST was unwilling to file the appropriate tariffs to support the Agreement.

60. U S WEST's performance with respect to access services has continued to decline despite U S WEST's commitment to improve service in concert with the promised levels of the Agreement.

CAUSES OF ACTION

A. Count I -- Insufficient, Unreasonable, Inadequate and Inefficient Provisioning of Access Service in Violation of Law.

61. AT&T restates paragraphs 1 to 50 as if set forth fully herein.

62. A.R.S. § 40-202 states that the Commission "may supervise and regulate every public service corporation in the state and do all things, whether specifically designated in [Title 40] or in addition thereto, necessary and convenient in the exercise of such power."

63. A.R.S. § 40-203 states that when the Commission finds that the practices of a corporation are unjust or insufficient, the Commission may prescribe appropriate practices.

64. A.R.S. § 40-361(B) states that "[e]very public service corporation shall furnish and maintain such service, equipment and facilities as will promote the safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable."

65. A.R.S. § 40-321 states that "[w]hen the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution or transmission, storage or supply employed by it

are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation.”

66. A.R.S. § 40-328 states that every telephone corporation “shall receive, transmit and deliver, without delay or discrimination, the conversations and messages of every other telephone corporation.”

67. A. R. S. § 40-331 provides the Commission authority to order additions or improvements, or changes to existing plant, that might reasonably be made to promote the security and convenience to the public.

68. U S WEST currently provides to AT&T access service and facilities that are insufficient, inadequate, inefficient and unreasonable in violation of the above-cited Arizona statutes, and that is impairing the speed, quality and efficiency of the lines used by AT&T to provide interexchange services. Also, by failing and refusing to timely provision new access service and facilities, U S WEST is unreasonably delaying access service to local exchange customers.

69. AT&T and its customers have been harmed by the actions and inactions of U S WEST set forth above, and will continue to be harmed so long as U S WEST continues such actions and inactions.

B. Count II -- Discriminatory, Preferential and Unjust Treatment Regarding Provisioning and Maintenance of Access Service.

70. AT&T restates paragraphs 1-69 as if fully set forth herein.

71. A.R.S. § 40-202 states that the Commission “may supervise and regulate every public service corporation in the state and do all things whether specifically

designated in [Title 40] or in addition thereto, necessary and convenient in the exercise of such power.”

72. A.R.S. § 40-203 states that when the Commission finds that the practices of a corporation are unjust, discriminatory, preferential, illegal or insufficient, the Commission may prescribe appropriate practices.

73. A.R.S. § 40-334(A) states that “[a] public service corporation shall not, as to rates, charges, service, facilities or in any other respects, make or grant any preference or advantage to any person or subject any person to any prejudice or disadvantage.”

74. A.R.S. § 40-334(B) states that “[n]o public service corporation shall establish or maintain any unreasonable differences as to rates, charges, service, facilities or in any other respect, either between localities or between classes of service.”

75. AT&T and its customers have been harmed by the actions and inactions of U S WEST set forth above, and will continue to be harmed so long as U S WEST continues its unjust, discriminatory, preferential, illegal and insufficient practices, and maintains unreasonable differences as to services and facilities between localities and classes of service in the provision of access services.

76. U S WEST’s conduct in failing to timely provision, or to provision at all in some cases, access facilities, particularly while U S WEST continues to grow its own and its affiliates’ business at a rapid rate in those locations it finds attractive, constitutes practices that are unjust, discriminatory, preferential, illegal and in violation of A.R.S. § 40-203, and maintains unreasonable differences as to services and facilities between localities and classes of service in violation of A.R.S. § 40-334.

77. U S WEST's practice of providing to its affiliates, and refusing to also provide AT&T, information on blocking, "hot spots" and central office improvements in its network, is an unlawful preference and advantage, and prejudicial and a disadvantage to AT&T.

78. AT&T has been, and continues to be, harmed by U S WEST's violation of A.R.S. §§ 40-203 and 40-334.

C. Count III – U S WEST Fails to Comply with its Service Quality Plan Tariff.

79. AT&T restates paragraphs 1-78 as if set forth fully herein.

80. Pursuant to the Commission's Decision No. 59421, U S WEST filed its Service Quality Plan tariff, which became effective December 20, 1995.

81. Pursuant to Section 2.5.4, Interoffice Trunking, "[l]ocal and extended area service interoffice trunk facilities shall have a minimum engineering design standard of B.01 (P.01) level of service. Toll and toll tandem facilities shall have a minimum engineering design standard of B.005 (P.005) level of service."

82. Due to U S WEST's inadequate, inefficient and unreasonable access service and facilities, U S WEST is violating the terms of its Service Quality Plan tariff.

83. AT&T has been, and continues to be, harmed by U S WEST's violation of Section 2.5.4 of the Service Quality Plan.

PRAYERS FOR RELIEF

84. AT&T respectfully requests that the Commission investigate this Complaint and take appropriate action, as follows:

(1) Find that the access service being provided to AT&T by U S WEST is unjust, inadequate, inefficient and unreasonable, and is impairing the speed, quality and efficiency of the service provided by AT&T to its customers;

(2) Find that by providing unjust, inadequate, inefficient and unreasonable access service to AT&T, U S WEST is violating Arizona law and public policy;

(3) Find that U S WEST's degraded service quality is discriminatory toward AT&T, preferential to U S WEST and/or others, and is generally unjust;

(4) Find that U S WEST has discriminated against and maintained unreasonable differences between its wholesale customers, including AT&T, and its retail customers;

(5) Find that U S WEST has maintained unreasonable differences as to services and facilities between localities;

(6) Find that U S WEST's is granting a preference to itself and its affiliates, and unfairly discriminates against AT&T, by providing information on call blocking, "hot spots" and network improvements to U S WEST's affiliates and refusing to provide such information to AT&T;

(7) Find that U S WEST is failing to comply with Section 2.5.4 of U S WEST's Service Quality Plan tariff.

(8) Under the authority granted in A.R.S. §§ 40-202, 40-203, 40-321 and 40-322, order U S WEST to immediately, or by a certain date specified by the Commission, provide to AT&T, in all respects, adequate, efficient and reasonable access service;

(9) Under the authority granted in A.R.S. §§ 40-202, 40-203, 40-321 and 40-322, order U S WEST to take all necessary steps to immediately and hereinafter cease its discriminatory practices, illegal preferences and unreasonable differences between localities and classes of service on the provision of access services;

(10) Under the authority granted it in A.R.S. §§ 40-202, 40-203, 40-321, 40-322, and 40-331, order U S WEST to immediately fill all of AT&T's outstanding held orders, whether those result from a lack of available facilities or from Customer Desired Due Dates which have not been met on time;

(11) Under the authority granted it in A.R.S. §§ 40-202, 40-203, 40-204 and 40-322, order U S WEST to report to the Commission and to AT&T at least monthly the number of AT&T orders for access facilities which are held due to a lack of available facilities, and U S WEST's plan for remedying the situation and filling those orders within 30 days;

(12) Under the authority granted it in A.R.S. §§ 40-202, 40-203, 40-204 and 40-322, order U S WEST to report to the Commission and to AT&T at least monthly the number of installation appointments met, including the percentage of time that such commitments are not met and the duration of delay from the CDDD to the time the facilities are actually delivered in working condition, and U S WEST's plan for remedying its inability to deliver requested facilities on time;

(13) Under the authority granted it in A.R.S. §§ 40-202, 40-203, 40-204 and 40-322, order U S WEST to report to the Commission and to AT&T the same information requested in (11) and (12) above for all other CLECs, U S WEST itself and its affiliates, including U S WEST Interprise, separately, so that the Commission may

ascertain whether U S WEST is continuing to unreasonably prefer or advantage one carrier or affiliate other others;

(14) Under the authority granted it in A.R.S. §§ 40-202, 40-203, 40-204 and 40-322, order U S WEST to respond to the forecasts provided by AT&T for all access and interoffice facilities within 2 weeks of receiving the forecasts, notifying both the Commission and AT&T of any locations where it believes such facilities will be unavailable or their availability delayed if ordered by AT&T within the forecasted period, and providing a plan for remedying the situation prior to the time AT&T forecasts placing such orders; and

(15) Under the authority granted it in A.R.S. §§ 40-202, 40-203, 40-204 and 40-322, order U S WEST to notify both the Commission and AT&T on a monthly basis of any geographic areas in the state where U S WEST anticipates access or interoffice facilities will be unavailable in the coming year, and to provide a plan for remedying the situation.

(16) Under the authority, A.R.S. § 40-202 and 40-321, order U S WEST to comply with Section 2.5.4 of U S WEST's Service Quality Plan tariff.

AT&T further prays that the Commission issue an order for any and all such additional relief as may be requested during these proceedings and/or that the Commission may deem appropriate under the circumstances.

RESPECTFULLY SUBMITTED this 18th day of August, 1999.

AT&T COMMUNICATIONS OF
THE MOUNTAIN STATES, INC.

By: 

Maria Arias-Chapleau
Richard S. Wolters
1875 Lawrence Street
Suite 1575
Denver, Colorado 80202
Telephone: 303-298-6471
Facsimile: 303-298-6301
E-mail: rwolters@att.com

CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of the Complaint of AT&T Communications of the Mountain States, Inc. in Docket No. _____, were Hand Delivered this 18th day of August, 1999 to:

Arizona Corporation Commission
Docket Control
1200 West Washington Street
Phoenix, AZ 85007

and that a true and correct copy of the foregoing was Hand Delivered this 18th day of August, 1999 to the following:

Carl J. Kunasek, Chairman
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Jerry Porter
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Jim Irvin, Commissioner
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Patrick Black
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

William A. Mundell, Commissioner
Arizona Corporation Commission
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Teena Wolfe
Arizona Corporation Commission
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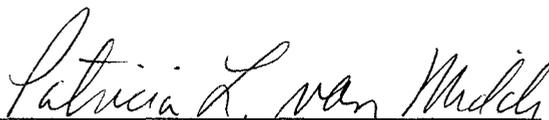
Ray Williamson
Acting Director - Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Deb Scott
Director - Utilities Division
Arizona Corporation Commission
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Maureen Scott
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Legal Division
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Jerry Rudibaugh
Chief Hearing Officer
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007


Patricia L. van Mudd

and that a true and correct copy of the foregoing was Hand Delivered this 18th day of August, 1999 to the following:

Timothy Berg
Fennemore Craig, P.C.
3003 North Central Ave., #2600
Phoenix, AZ 85012

Maureen Arnold
Director Regulatory Matters
U S WEST Communications, Inc.
3033 North 3rd Street, Room 1010
Phoenix, AZ 85012

Scott Wakefield
Residential Utility Consumer Office
2828 North Central Ave., #1200
Phoenix, AZ 85004

and that a true and correct copy of the foregoing was Sent Via Facsimile this 18th day of August, 1999 to the following:

Thomas M. Dethlefs, Esq.
U S WEST Communications, Inc.
1801 California Street, #5100
Denver, CO 80202
(303) 295-7069