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**BEFORE THE ARIZONA CORPORATION COMMISSION**  
AZ CORP COMMISSION

MAR 29 1 33 PM '99

JAMES M. IRVIN  
Chairman

DOCUMENT CONTROL

TONY WEST  
Commissioner

CARL J. KUNASEK  
Commissioner

IN THE MATTER OF RULES	)	DOCKET NO. RT-00000J-99-034
TO ADDRESS SLAMMING AND	)	
OTHER DECEPTIVE PRACTICES.	)	AT&T'S Response to U S WEST's
	)	Memorandum in Support of
	)	Application for Emergency
	)	Rulemaking

AT&T Communications of the Mountain States, Inc. ("AT&T") hereby submits its response to U S WEST Communications, Inc.'s ("U S WEST") Memorandum in Support of Application for Emergency Rulemaking.

**RESPONSE IN OPPOSITION TO THE MEMORANDUM**

U S WEST is the company that cried, "wolf." It claims "[s]lamming is so extensive in the intraLATA toll market that immediate Commission action is required." This is simply not true, and U S WEST's invalid telemarketing "poll" does not support its assertion that 64.2 % of Arizona customers are being deceived or slammed, and therefore, an emergency exists.

In fact, the Memorandum in Support of its manufactured emergency is U S WEST's "last ditch attempt to shelter" the fallacies contained in their poll and the

defamatory statements against its competitors. Commissions' staffs in Colorado, Arizona, Minnesota and New Mexico have all reported to the press that they are not experiencing an increase in slamming complaints any where close to U S WEST's claims.<sup>1</sup> Professional research firms have concluded that the "poll" is dubious at best, and does not support U S WEST's conclusions.<sup>2</sup> And most importantly, of the nine "emergency" rulemakings filed by U S WEST, State Commission's have rejected or dismissed four,<sup>3</sup> U S WEST withdrew one with that Commission refusing to even open a regular rulemaking and three are awaiting decisions. Furthermore, in the two jurisdictions U S WEST filed formal complaints requesting expedited treatment, the Commissions have refused to hear the complaints on an expedited basis.<sup>4</sup> Not surprisingly, U S WEST's memorandum only mentions the Montana rulemaking—which to date—is the only forum in which U S WEST has succeeded in misleading the Commission with its ridiculous poll.

Curiously, U S WEST neglects to mention the other rulemakings in its Memorandum. Instead, it says "emergency action is really beyond dispute." Well, the existence of a *bona fide* emergency really is in dispute. And, in fact, the existence of a *bona fide* emergency is not supported by U S WEST's telemarketing effort to regain lost customers—otherwise described as a "poll." As the attached testimony of Paul A. Talmey reveals, the telemarketers' data collection efforts do not even rise to the level of a poll or survey, and the "poll" is itself misleading.

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<sup>1</sup> Roger Fillion, "*Slam*" claims hard to confirm, The Denver Post, March 7, 1999 at C-1 ("Post Article").

<sup>2</sup> See reference to Floyd Circuli in Post Article; see also, Direct Testimony of Paul A. Talmey, Utah Docket No. 99-049-01 dated March 23, 1998, attached.

<sup>3</sup> See Iowa Docket No. RMU-99-1; Oregon Docket No. AR-358; Washington Docket No. UT-980675.

<sup>4</sup> See Colorado Docket No. 99A-042T; Minnesota Docket No. P421/AM-99-70.

## CONCLUSION

No conclusions about slamming may be drawn from U S WEST's "poll" especially not that an emergency situation exists sufficient to warrant an exercise of the Commission's emergency rulemaking authority. Therefore, AT&T again requests that the Arizona Commission merely dismiss U S WEST's Petition for what it is—a cry of "wolf" aimed not at protecting customers, but rather at protecting U S WEST's bottom line from competition.

Respectfully submitted this 24<sup>th</sup> day of March, 1999.

AT&T Communications of the  
Mountain States, Inc.

By: 

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**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF UTAH**

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**In The Matter of a Complaint Against AT&T )  
COMMUNICATIONS OF THE MOUNTAIN )  
STATES, INC., MCI WORLDCOM, Inc., and )  
SPRINT COMMUNICATIONS COMPANY, ) DOCKET NO. 99-049-01  
L.P., by U S WEST COMMUNICATIONS, )  
INC., Regarding In-state Long Distance )  
Slamming )**

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**DIRECT TESTIMONY OF  
PAUL A. TALMEY  
ON BEHALF OF  
AT&T COMMUNICATIONS  
OF THE MOUNTAIN STATES, INC.**

**MARCH 23, 1999**

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**I. BACKGROUND AND PURPOSE OF TESTIMONY**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Paul Talmey. My business address is 100 Arapahoe, Suite 1,  
4 Boulder, Colorado, 80302.

5

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am employed by Talmey-Drake Research & Strategy, Inc. as President and  
8 Chief Executive Officer (CEO).

9

10 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

11 A. I have a BA in economics with a minor in mathematics from the University of  
12 Colorado at Boulder. I also have an MBA from the University of Colorado at  
13 Boulder, and have completed the coursework for a doctorate in business,  
14 primarily in the area of statistics and operations research.

15

16 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

17 A. For the past 19 years I have been President of Talmey-Drake Research &  
18 Strategy, Inc. Prior to founding the company in 1980, I served as a Field  
19 Producer for CBS News, Administrative Assistant (Chief of Staff) for a U.S.  
20 Representative and a U.S. Senator, and as a statistical computer programming  
21 consultant to Stanford Research Institute. I have taught economics, statistics and

1 operations research at the undergraduate level and market research at the graduate  
2 level.

3  
4 As president and founder of Talmey-Drake I have overseen some 2,000 market  
5 and public opinion research projects, and I have been senior researcher on about a  
6 thousand of those projects. Though only a small percentage of our work is used  
7 in court or by governmental commissions, I have testified as an expert in  
8 market/public opinion research in Federal District Court (10th Judicial District),  
9 several Colorado District Courts and before the Colorado Public Utilities  
10 Commission.

11

12 **Q. DO YOU HAVE A SPECIALTY IN THE FIELD OF RESEARCH?**

13 A. Yes, in market and public opinion research.

14

15 **Q. HOW LONG HAVE YOU WORKED IN THE FIELD OF MARKET AND  
16 PUBLIC OPINION RESEARCH?**

17 A. Approximately 20 years.

18

19 **Q. WHAT IS MARKET RESEARCH?**

20 A. In the textbook sense, market or marketing research is the field of providing  
21 information to those within a company responsible for marketing of the  
22 company's products or services to assist them in making better decisions. Of

1 course, today the term has an expanded meaning that encompasses more than just  
2 markets and marketing. Today the term, particularly when combined with the  
3 words "public opinion," has come to include providing information for those  
4 responsible for making decisions in government, political campaigns, courts, and  
5 elsewhere. The better market research firms often also provide special types of  
6 marketing consulting based on their research.

7

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. I have been asked to evaluate the statistical information resulting from  
10 U S WEST's Winback telemarketing program that U S WEST has provided to the  
11 Commission, and to give an opinion as to whether this data supports the  
12 conclusions that U S WEST has drawn from it

13

14 **II. UTAH SLAMMING RULES**

15 **Q. ARE YOU FAMILIAR WITH THE TERM "SLAMMING?"**

16 A. Yes, it is the unauthorized change of a telephone customer's local exchange,  
17 intraLATA toll or interLATA toll carrier.

18

19 **Q. ARE YOU FAMILIAR WITH THE COMMISSION'S ANTI-SLAMMING  
20 RULES IN THE STATE OF UTAH?**

21 A. Yes; Utah has basically adopted the FCC's current rules against slamming.

1 Q. ARE YOU FAMILIAR WITH THE FCC'S CURRENT RULES AGAINST  
2 SLAMMING?

3 A. Yes.  
4

5 Q. IN UTAH, U S WEST HAS BROUGHT A COMPLAINT CASE AGAINST  
6 ITS PRIMARY COMPETITORS ALLEGING THAT THEY ARE  
7 SLAMMING CUSTOMERS. HAVE YOU READ THAT COMPLAINT?

8 A. Yes, I have read the complaint.  
9

10 Q. HAVE YOU HAD AN OPPORTUNITY TO READ THE TESTIMONY OF  
11 U S WEST'S WITNESSES IN THIS PROCEEDING?

12 A. I have read the testimony of two U S WEST witnesses, a Ms. Janet Brodsky and a  
13 Mr. Robert McGinnis. I believe these are the only two U S WEST witnesses who  
14 have given testimony.  
15

16 Q. FROM YOUR READING OF THAT TESTIMONY AND THE  
17 COMPLAINT, WHAT IS THE ROLE, AS YOU UNDERSTAND IT, OF U S  
18 WEST'S TELEMARKETING WIN-BACK "POLL?"

19 A. First of all let's not use the term "poll." Based on the documents I've reviewed,  
20 it's quite clear that U S WEST was running a standard winback Telemarketing  
21 Campaign. These winback telemarketing crusades are quite common in service  
22 industries, and are designed to convert former customers who have switched to a

1 competitor back to being a customer of the initial service provider—the company  
2 conducting the campaign. Apparently, in the course of this telemarketing  
3 campaign a high percentage of people in the households that were contacted  
4 during the campaign were recorded by the telemarketers as being unaware that  
5 their household had changed 1+intraLATA carriers.  
6

7 It is my understanding that, U S WEST's telemarketing effort, which it is calling a  
8 "poll," and the percentage—an unchecked telemarketing byproduct—that  
9 U S WEST is calling its "poll findings," form the basis upon which U S WEST's  
10 asserts its claims against AT&T, MCI Worldcom and Sprint marketing materials.  
11

12 **Q. HAVE YOU REVIEWED ANY MATERIAL, OTHER THAN THE**  
13 **TESTIMONY, RELATED TO THE POLL DISCUSSED BY U S WEST'S**  
14 **WITNESSES?**

15 **A.** Yes. I have reviewed the telemarketing scripts used in U S WEST's winback  
16 campaign, a number of newspaper stories, transcripts of radio and television news  
17 stories and press releases issued by U S WEST, responses 001 through 020 to  
18 requests from AT&T to U S WEST for information, including U S WEST's  
19 intraLATA marketing materials, and examples of AT&T, Sprint and MCI  
20 WorldCom's marketing materials that were attached to Ms. Brodsky's and Mr.  
21 McGinnis' testimony.

1 Q. IN YOUR CAPACITY AS A PROFESSIONAL MARKET RESEARCHER,  
2 WHAT ARE SOME OF THE STEPS AND STANDARDS NECESSARY TO  
3 ENSURE AN ACCURATE POLL OR SURVEY?

4 A. Very briefly, the five cornerstones of survey research (of which polling is a  
5 subcategory) are sample and sampling, questionnaire design, interviewing, data  
6 processing and statistical analysis, and interpretation of results. Looking at these  
7 in order:

8  
9 Sample and sampling. The sample has to cover the population under study. For  
10 example, if the survey concerns all customers of a company, then the sample has  
11 to be drawn from the pool of all customers, and not a subset of customers.

12 Precautions also need to be taken to make sure the sample does not include those  
13 outside the population being measured, e.g. non customers. Sampling refers to  
14 the process of actually randomly drawing the sample from the population.

15  
16 Questionnaire design. This is the art, and it is an art, of creating a series of  
17 questions that in total measure the things that the survey is intended to measure.  
18 At Talmey-Drake all questionnaires are either written or reviewed by the most  
19 senior researchers. This is to insure that subtleties of the questions and  
20 questionnaire are taken into account: are there any unstated assumptions related to  
21 the question, respondents frame of reference when asked the question, can the  
22 respondent answer the question correctly, etc. The questionnaire is usually then

1           tested in the field, and often the interviewers are debriefed to see if they noticed  
2           any problems the respondents were having with the questions.

3  
4           Interviewing. Interviewers are trained for six to eight hours before they conduct  
5           their first live interview. Much of this training is to teach interviewers how to  
6           remain neutral during the interview, and not influence the respondents' answers.  
7           Because telemarketers have been trained to do the opposite—their job is after all  
8           to influence the person they're talking to into buying—Talmey-Drake has a  
9           general policy of not hiring people with telemarketing experience to work as  
10          research interviewers.

11  
12          Data processing and statistical analysis. Data is usually cross-checked between  
13          several computer programs to make sure the results match. Senior researchers  
14          further examine the data for reasonableness to make sure any results that are  
15          unexpectedly large or small are given a very close look and verified to the extent  
16          possible.

17  
18          Interpretation of results. Again, the interpretation of results is either written or  
19          reviewed by our most senior researchers to make sure the interpretation fits the  
20          data and does not go beyond what is implied by the numerical results.

21  
22          Survey research is what I call a weakest link process: shoddy work at any one of

1           these steps or links, no matter how well the other steps are performed, leads to  
2           unusable results.

3       **Q.    IN YOUR OPINION, HAS U S WEST TAKEN THOSE PRECAUTIONS IN**  
4       **WHAT IT REFERS TO AS ITS WINBACK POLL?**

5       A.    Unequivocally no.

6  
7       **Q.    PLEASE DESCRIBE THE ANALYSIS UPON WHICH YOU BASE YOUR**  
8       **OPINION.**

9       A.    First I looked at how U S WEST developed the list it called. In Ms. Brodsky's  
10       testimony she state's "Using the Raw List, the Company, internally and with  
11       contracted suppliers, creates a targeted list of Utah residential customers to call  
12       based on the criteria established by the Consumer Toll group (the 'Targeted  
13       List')." Nothing in Ms. Brodsky's testimony refers to the quality of the list. We  
14       often find that many lists provide by corporate clients have a high percentage of  
15       erroneous information. For example, the high percentage of Utah customers who  
16       were supposedly unaware that their 1+intraLATA service provider had changed  
17       could be due to the Targeted List containing a significant percentage of phone  
18       numbers of households that had not, in fact, switched their 1+intraLATA  
19       provider. None of the U S WEST documents refer to any attempt to verify the  
20       quality and accuracy of the Target List.

21  
22       Because U S WEST appears to have been attempting to call all its former  
23       1+intraLATA customers, strictly speaking the Target List is not a sample.

1           However, like a sample it should completely cover the population in question, and  
2           it should not include households outside that population, particularly because the  
3           key awareness question would be answered as "no" by people in households who  
4           had not switched their 1+intraLATA service, and U S WEST is interpreting those  
5           who answer "no" as having been slammed.

6  
7           In addition to the quality of the Targeted List is the within household respondent  
8           selection. Nothing in the telemarketing script attempts to talk to the person in the  
9           household who changed its 1+intraLATA service provider. It's quite possible that  
10          even if the household being contacted had changed 1+intraLATA providers that  
11          the person being talked to was unaware that someone else in the household had  
12          ordered the change.

13  
14          It would also be valuable to know how many households were called who refused  
15          to talk to the telemarketer.

16  
17       **Q.    OTHER THAN AN ANALYSIS OF THE TESTIMONY REGARDING THE**  
18       **TARGET LIST AND WITHIN HOUSEHOLD SAMPLE WHAT DID YOU**  
19       **BASE YOUR OPINION ON?**

20       A.    Probably the most glaring distinction between real market research and what  
21           U S WEST is presenting is the script. Recognize that there's a big difference  
22           between a telemarketing script and researcher's questionnaire. They both ask  
23           questions, but the first is designed to sell and the second is designed to measure.

1 Using a telemarketing script as a research tool is sort of like trying to gauge the  
2 length of a board with a hammer.

3

4 For starters, at the beginning of the telemarketing call, the telemarketer states  
5 several times that he or she is calling from "U S WEST Communications, your  
6 local phone company." There are two significant problems with this. First, if this  
7 were research, the name of the sponsor of the research would not be given out of  
8 concern that if respondents know who's doing the research it will bias the  
9 responses; especially if the respondents have a relationship with the sponsor such  
10 as being a customer. Second, the respondent will inevitably start thinking about  
11 local phone service, not long distance. Therefore the respondent is more likely to  
12 misinterpret the questions about having switched PIC's as having switched local  
13 carriers.

14

15 After repeating "your local phone company" several times, the telemarketer then  
16 uses the rather strange term "local long distance service." Even though there is a  
17 brief attempt a clarification of the concept and a statement that "U S WEST is still  
18 your local phone company," based on my experience in research, I would expect  
19 that many of those receiving these calls are so totally confused by the end of the  
20 introduction of the script that when they are asked "Were you aware of this  
21 change?" (in 1+intraLATA carriers) that a very high percentage are thinking that  
22 it is their local phone service provider that has been switched. It is not surprising

1           that many say "no" even if their household had in fact ordered a change in 1+  
2           intraLATA carriers and the telemarketer was talking to the person who had  
3           requested the change.

4  
5           As a sales tool this is quite effective. If a person says he or she is unaware of the  
6           change, it is easy to get them to "change back." Which is exactly what the script  
7           does: "That's exactly why we're calling today. If you would like U S WEST to  
8           continue handling your local long distance service, just like before, I can easily  
9           update our records." In other words, increasing "unaware" responses, increases  
10          sales (or in this case winbacks). Clearly, what in this case makes for an effective  
11          sales tool totally defeats its effectiveness as a measurement or research tool.

12  
13          U S WEST seems to deliberately contribute to the overall confusion by referring  
14          to themselves as "your local phone company" and referring to 1+intraLATA  
15          services as the oxymoron "local long distance." Note also that U S WEST's  
16          scripts do not make the distinction between intraLATA long distance and  
17          interLATA long distance, a sin of omission U S WEST accuses the three  
18          defendant companies of committing.

19

20   **Q.   HOW WOULD TALMEY-DRAKE HAVE CONDUCTED RESEARCH**  
21   **ABOUT THE LONG DISTANCES AND LOCAL TOLL SERVICES?**

22   A.   When Talmey-Drake Research conducts research about long distance or local  
23   phone service, we often have to ask a number of questions about each service to

1 clarify the distinction in the respondent's mind—despite the two services being  
2 separate for 15 years. Obviously, and as U S WEST states in its complaint  
3 (paragraph 15), "The difference between the interstate and in-state long distance  
4 markets are (sic) not well understood by consumers. Most consumers think of  
5 their phone service as comprised of local and long distance service." This lack of  
6 consumer understanding of the current telecommunications market puts an even  
7 greater burden on any research that attempts to measure the awareness of a  
8 distinction or difference that many, if not most, people are unaware of.

9  
10 To say the least, a true research questionnaire designed to get at 1+intraLATA  
11 slamming would require extensive explanation and a series of questions to not  
12 only clarify the distinction between interLATA and intraLATA long distance (a  
13 task that's somewhat easier in Utah because there is only one LATA), but to jog  
14 the respondent's memory concerning any situation in which they might have had  
15 the opportunity to switch their intraLATA PIC, e.g.: "I would now like to read to  
16 you several ways telephone companies market their services, after I read each  
17 one please tell me if in the past week or two you have been marketed to in this  
18 way. First, A telemarketing phone call; A letter that included a check; etc. " If the  
19 respondent said he or she had been marketed to in one or more of these ways, we  
20 would then go into detail on how he or she responded to the marketing effort.

21  
22 **Q. HOW DOES THIS COMPARE TO U S WEST'S APPROACH?**

23 **A.** In contrast to this clarifying approach, the U S WEST script uses confounding

1 introductory statements, and then asks "Were you aware of this change?" This is  
2 probably good telemarketing; it is not good research.

3  
4 Then there is the issue of interpretation. U S WEST seems to be claiming that  
5 every household where someone says he or she was unaware their 1+intraLATA  
6 service had been changed was, in fact, slammed—a jump in reasoning that goes  
7 beyond logic. Just as the statement: "All books have pages," does not imply all  
8 things that have pages are books; so the statement "all household that have been  
9 slammed are unaware of having their PIC switched," does not imply that all those  
10 households that are unaware of having their PIC changed have been slammed.

11 There is a litany of reasons why a respondent would be unaware of a change in  
12 1+intraLATA service: confused by telemarketer's statements, service wasn't  
13 changed, talking to wrong person in household, person forgot about the change  
14 order, etc.

15  
16 Another way of thinking of this is, suppose you weren't feeling well and you took  
17 your temperature and it was 101. You telephone your doctor and say: "Hey doc,  
18 I'm not feeling well and I have a temperature of 101." He replies, "Oh, that's  
19 terrible, you must have typhoid fever." At this point you might be inclined to  
20 think your doctor's diagnosis had gone well beyond what the evidence you had  
21 given him implied. Similarly, U S WEST interpretation of their telemarketing  
22 data goes well beyond anything that this data implies.

1 **Q. ARE THERE OTHER ISSUES OF CONCERN?**

2 A. There is still the issue of using telemarketers instead of research interviewers.  
3 Telemarketers are trained to sell, not to collect objective data. How much they  
4 inadvertently or actively contributed to the confusion and apparent unawareness  
5 of switching is certainly subject to question. After all a certain amount of  
6 confusion helps them make sales. While Ms. Brodsky testified that U S WEST  
7 does not incent the telemarketing contractor based on sales, she says nothing  
8 about the subcontractor paying sales commissions or bonuses to their  
9 telemarketers or if the telemarketers were in any way bonused based on finding  
10 households that were unaware having changed their 1+intraLATA carrier.

11

12 While the most likely culprits influencing the number on which U S WEST bases  
13 its complaint are the Targeted List, the within household sample, the script and  
14 question and the telemarketer, one should not rule out data processing error. The  
15 program the subcontractor used to generate the 64.5% should be checked.

16

17 **Q. MR. TALMEY, DO YOU HAVE AN OPINION AS TO THE VALIDITY OF**  
18 **CONCLUDING THAT AT&T IS SLAMMING CUSTOMERS BASED**  
19 **UPON WHAT U S WEST REFERS TO AS ITS POLL?**

20 A. Yes.

21

22 **Q. PLEASE STATE THAT OPINION?**

23 A. Using the term "validity" to mean the degree to which a "measure" measures

1           what it claims to measure, the data U S WEST has presented concerning  
2           customers lacking awareness is not only highly suspect as a gauge of awareness, it  
3           is utterly worthless (and therefore invalid) as a measure of the extent to which it's  
4           1+intraLATA customers have, or have not, been slammed by AT&T or any other  
5           company.

6

7   **Q.    LIKELIKE, MR. TALMEY, DO YOU HAVE AN OPINION AS TO THE**  
8   **VALIDITY OF CONCLUDING ANYTHING ABOUT AT&T'S**  
9   **MARKETING MATERIAL BASED UPON WHAT U S WEST REFERS**  
10 **TO AS ITS POLL?**

11   A.    Yes.

12

13 **Q.    PLEASE STATE THAT OPINION.**

14   A.    Well, in light of the fact that the telemarketing script never asks if the person had  
15   seen or was aware of AT&T's (or any other company's for that matter) marketing  
16   materials, Mr. McGinnis makes a rather bizarre leap of distrust when he states:

17

18           The fact that over 64% of Utah customers polled were unaware of the  
19           change in their intrastate carrier clearly shows that the language in these  
20           materials does not provide sufficient clarity to enable Utah customers to  
21           arrive at informed decisions regarding their choices around interstate and  
22           intrastate long distance carriers, and creates an environment in which  
23           customers are misled into ostensibly choosing a particular carrier for all

1                   long distance services when their actual intent was to change only their  
2                   interstate carrier.

3  
4                   McGinnis Direct Test. at 15, ln. 16. Given that the telemarketing script doesn't  
5                   ask about marketing materials, its results obviously can't be a measure of the  
6                   extent to which these materials mislead customers. So, by definition the data  
7                   derived from U S WEST's winback telemarketing campaign is an invalid measure  
8                   of this subject.

9  
10       **Q.     MR. MCGINNIS, IN HIS TESTIMONY, COMPARES INTERLATA LONG**  
11       **DISTANCE COMPLAINTS TO U S WEST'S INTRALATA**  
12       **TELEMARKETING RESULTS. IS THIS A VALID COMPARISON?**

13       **A.**     Mr. McGinnis includes with his testimony exhibit USWC-1.3, a chart showing  
14                   national PIC Disputes as a percentage of national carrier initiated PIC changes. In  
15                   accordance with this chart Mr. McGinnis states: "...this chart illustrates that  
16                   slamming complaints as reported by Carriers for interLATA and intraLATA PIC  
17                   changes typically run between 5% and 7%." He then contrasts these percentages  
18                   with the U S WEST's telemarketing results. "When compared to the Utah-  
19                   specific intrastate results which show over 64% of the customers were unaware of  
20                   the PIC change, the incidence of slamming is much more prevalent in the  
21                   intrastate market." This is like comparing kilograms to kilometers. The 5% to  
22                   7% are actual slamming complaints as a percentage of overall PIC changes. The  
23                   64% is the percentage of those contacted by telemarketers who responded that

1           they were unaware of changes in their intraLATA carrier.

2

3       **Q.    IF CUSTOMERS ARE BEING SLAMMED AT A RATE OF 64.4%,**  
4       **WOULDN'T YOU EXPECT TO SEE A SIMILAR COMPLAINT**  
5       **STATISTIC LODGED WITH THE UTAH COMMISSION AND/OR THE**  
6       **FCC?**

7       A.    If close to two-thirds of all households that switched their intraLATA carrier had  
8       been slammed it would not be U S WEST bringing this complaint. It would be  
9       the thousands of angry citizens howling before the Public Service Commission of  
10       Utah. However, I understand that AT&T has received very few complaints of  
11       intraLATA slamming in Utah, and if this is correct, it certainly throws even more  
12       suspicion on the 64% number and quite belies Mr. McGinnis' claim of "...the  
13       incidence of slamming (in Utah) is much more prevalent in the intrastate market."  
14       To put it bluntly, it would be impossible for the three companies listed in the  
15       complaint to slam this many people without leaving far more notable and apparent  
16       evidence than a number in an internal U S WEST's telemarketing subcontractor's  
17       report.

18

19       **Q.    DO YOU HAVE ANY CONCLUDING REMARKS CONCERNING ANY**  
20       **OF THE U S WEST MATERIAL THAT YOU EXAMINED?**

21       A.    Yes. I don't believe that U S WEST has faith in its own 64.4% number.  
22       Let me explain. Were I a U S WEST executive and saw the a report from my  
23       telemarketing contractor that 64.4% of winback contacts in Utah said they were

1           unaware of their PIC having been changed, I too would wonder if there was a  
2           high degree of slamming going on. But before charging forward with a slamming  
3           complaint, I would want to make sure I was absolutely right. I would want my  
4           data to be bulletproof. I would call in U S WEST's well regarded market research  
5           department to conduct an in-depth study of U S WEST customers in Utah who  
6           had switched their 1+intraLATA carrier and determine what percentage of these  
7           had in fact been slammed. I would make sure this research was conducted in a  
8           manner that would stand up in court. Only if the results coming from the research  
9           department showed a high level of slamming would I then proceed with a  
10          complaint to the Commission.

11

12          Following along the lines of the medical analogy I used earlier. A reputable  
13          doctor learning that he had a patient with an above average temperature would  
14          want to conduct further diagnostic tests or procedures before announcing a  
15          diagnosis. This is what U S WEST should have done.

16

17          The fact that those responsible at U S WEST for this complaint before the  
18          Commission did not have U S WEST's research department conduct any further  
19          research (see response to intervenor request 020) in support of the 64.5% number,  
20          and the claim of slamming based on it, is rather strong evidence that they did not  
21          want this number to face close scrutiny—even by a friendly source. Given the  
22          extent to which U S WEST's complaint rests on this number, I find the decision  
23          not to have it internally verified as totally unfathomable, unless of course, this

1 complaint is about something other than slamming.

2

3

**III. SUMMARY AND RECOMMENDATIONS**

4

**Q. PLEASE SUMMARIZE YOUR TESTIMONY?**

5

A. In summary, what U S WEST calls its poll results in a complaint before the Utah Public Utilities Commission is not a poll. It is not a market research survey. It is merely the percentage of telemarketing contacts who are branched to section of the telemarketing script based on their response to a query regarding their awareness about their PIC being changed. The similarity between what U S WEST presents as their poll data and actual poll or survey results is limited to them both being displayed as percentages.

12

13

And ultimately, given the methodological weakness underlying the 64.5%, the foundation upon which almost all of U S WEST's complaint rests, this complaint should never have been filed with the Commission.

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17

**Q. SHOULD THE UTAH COMMISSION RELY ON WHAT U S WEST REFERS TO AS ITS POLL TO MAKE ANY DECISIONS IN THIS PROCEEDING?**

18

19

20

A. No.

21

**Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

22

A. Yes.

## CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of the AT&T's Response to U S WEST's Memorandum in Support of Application for Emergency Rulemaking on behalf of AT&T Communications of the Mountain States, Inc., regarding Docket No. RT-00000J-99-034, were sent via overnight delivery this 26th day of March, 1999, to:

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

and a true and correct copy was sent via United States Mail, postage prepaid, this 26th day of March, 1999, to:

Paul Bullis, Esq.  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Timothy Berg  
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