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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN  
CHAIRMAN

CARL KUNASEK  
COMMISSIONER

TONY WEST  
COMMISSIONER

Arizona Corporation Commission  
**DOCKETED**

FEB 05 1999

DOCKETED BY *CW*

IN THE MATTER OF RULES  
TO ADDRESS SLAMMING AND  
OTHER DECEPTIVE  
PRACTICES

Docket #RT-00000J-99-0034

**RESPONSE OF MCI WORLDCOM,  
INC. TO US WEST'S APPLICATION  
FOR EMERGENCY RULEMAKING**

1. Introduction

MCI WorldCom, Inc., ("MCIW") responds to the application for emergency rulemaking filed by US West Communications, Inc., ("US West") on or about January 28, 1999, at the Arizona Corporation Commission (the "Commission"). MCIW was not served a copy of the application but obtained one from the Commission's docket department on February 4, 1999.

This request for rulemaking should be recognized for what it is – a scare tactic designed to cause this Commission to act without sufficient facts and attempt to deny customers the right to choose, thereby preserving US West's market share in the 1+ intraLATA toll market in Arizona.

1 The conduct which US West is employing is the type of competitive mischief over  
2 which the Federal Communications Commission ("FCC") voiced concern in its Second  
3 Report and Order.<sup>1</sup> In paragraph 96, the FCC discussed its concern and stated:

4 . . . that an incumbent LEC might attempt to engage in conduct  
5 that would blur the distinction between its role as a neutral  
6 executing carrier and its objectives as a marketplace competitor.  
7 Specifically, the Commission stated that this type of conduct  
8 could occur if an incumbent sends a subscriber who has chosen  
9 a new carrier a promotion letter (winback letter) in an attempt  
10 to change the subscriber's decision to switch to another  
11 carrier. We conclude that this is a valid concern and therefore  
12 find that an executing carrier may not use information gained  
13 from a carrier change request for any marketing purposes,  
14 including attempts to change a subscriber's decision to switch  
15 to another carrier.

16 2. Other states have refused to grant the relief requested.

17 US West has also apparently filed rulemaking requests in eight other states and  
18 formal complaints in two states, namely Colorado and Utah. In each rulemaking, MCIW  
19 believes that US West has alleged an emergency exists, that the respective commission  
20 must act quickly and on an *ex parte* basis. In Colorado, US West attached the marketing  
21 material that is the subject of its complaint. A copy of that marketing material is attached  
22 to this pleading as Exhibit A so that the Commission can review the marketing material at  
23 issue.

24 Both in Colorado and Utah, the Commissions orally denied US West's requests for  
25 emergency relief on February 3, 1999, and agreed to set these matters for expedited  
26 hearings. Written orders will follow, but are not available at this time. In Utah, the

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<sup>1</sup> *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket No. 94-129, adopted December 17, 1998, Released December 23, 1998.

1 complaint will be heard on April 14, 1999. In Colorado, the hearing date has not been set.  
2 MCIW has not objected to handling these complaints in an expedited manner; however,  
3 MCIW has requested information from US West concerning its polling of 75,000  
4 customers, which is discussed below. Attached as Exhibit B is a newspaper article issued  
5 in the *Denver Rocky Mountain News*.

6 3. MCIW's practices are not deceptive.

7 MCIW denies that PIC<sup>2</sup> change orders used by MCIW are deceptive marketing  
8 practices or constitute a violation of state rules or statutes or the existing rules of the FCC.  
9 The letters of agency ("LOAs") contained in Exhibit A clearly identify two services,  
10 namely "residential long distance" and "local toll service." The forms also clearly state  
11 that a customer can only have one primary carrier for **each** of these services per telephone  
12 number. In addition, the forms provide toll free telephone numbers for customers to call  
13 for information or to make inquiries. In the event a customer calls the toll free number and  
14 seeks to convert any service to MCIW, that customer's choice is confirmed by third party  
15 verification as approved by the FCC.

16 US West has marketed what it calls "local long distance" services when it is  
17 referring to the intraLATA toll market. MCIW and AT&T have chosen the terms "local  
18 toll service" to describe the intraLATA toll market. The concept of LATAs is not a  
19 common concept for consumers. Companies are certainly trying to present the concept to  
20 consumers using common terms in order to distinguish traditional long distance services  
21 from this new offering. However, the use of "local toll service" is certainly no more  
22 deceptive than using "local long distance service."

23 The form of the LOAs of which US West complains has never been found by this  
24 Commission or the FCC to be a violation of any existing relevant rules or statutes.  
25 Moreover, the form of LOAs used by MCIW comply with the FCC rules in that the LOA

26 <sup>2</sup> "PIC" refers to primary or preferred interexchange carrier.

1 contains a separate statement regarding the choices available to a customer. Advising the  
2 customer that selecting MCIW to provide residential long distance **and** local toll service  
3 where available constitutes separate statements regarding each choice of service.

4  
5 4. US West has refused to provide MCIW with the information on which US West  
6 bases its claims.

7 The US West application is based upon an alleged poll of 75,000 customers in five  
8 states who have switched to another intraLATA interexchange carrier. US West has not  
9 attached any data to support its assertion. It has not submitted the survey form, the  
10 questions used in its poll or the actual results for each question. It has not demonstrated  
11 that its poll was statistically valid. It has not demonstrated that its poll was representative  
12 of customers in Arizona. It has not demonstrated that its sample was drawn correctly or  
13 was of sufficient size to be statistically significant. US West has not shown that MCIW  
14 customers were confused by LOAs at issue or that its polls demonstrated that MCIW's  
15 LOAs were the subject of consumer complaints. It has not provided any of its winback  
16 scripts.

17 MCIW requested of US West by letter dated January 22, 1999, that US West  
18 provide to MCIW the information it purportedly obtained through its polling of 75,000  
19 customers. However, in a letter dated February 1, 1999, US West did not provide the  
20 requested information when it responded to MCIW's January 22 letter. Attached as  
21 Exhibit C, D and E to this pleading are copies of a letter sent to MCIW by Mark Roellig of  
22 US West concerning slamming, MCIW's response dated January 22, 1999, and a response  
23 to MCIW's letter from a Tim Fyke of US West dated February 1, 1999. In this  
24 correspondence, MCIW responded to US West's allegations by specifically addressing the  
25 25 telephone numbers that US West provided. MCIW sought winback data from US West  
26 to support US West's assertions that customers were purportedly confused and did not

1 know that they had switched their local toll service providers. Mr. Fyke's response did not  
2 address MCIW's request for data at all.

3 5. Immediate emergency relief is not justified

4 MCIW denies that US West has only recently become aware of the practices of  
5 which it complains. IntraLATA equal access previously has been implemented in  
6 Minnesota, Arizona and New Mexico in 1996, in Wyoming in 1997, and more recently in  
7 Utah in 1998. MCIW, or its predecessors, have been using the LOA, or similar  
8 documents, which are attached here as Exhibit A, for several years as a means of verifying  
9 PIC changes for Minnesota, Arizona, New Mexico, Wyoming and Utah as well as in other  
10 states outside US West territory. Until now, MCIW, or its predecessors, have used this  
11 LOA language, or similar language without complaint from US West, and without  
12 experiencing any material level of customer complaints or regulatory inquiries. The  
13 marketing material of which US West complains has also been included in airline  
14 magazines and described in media. It is and has been publicly available.

15 US West has failed to demonstrate any irreparable harm exists and has based its  
16 petition on vague and unsupported allegations, rather than verified facts sufficient to  
17 warrant the relief requested. It has not provided "substantial evidence that failure to  
18 approve the rule(s) as emergency measures will result in imminent substantial peril to the  
19 public health, safety and welfare." See A.R.S. §41-1026. Moreover, MCIW has a policy  
20 of "satisfaction guaranteed" for PIC changes in which case MCIW agrees to change a  
21 customer back to their preferred carrier at any time, for any reason, without cost, which  
22 further mitigates any alleged irreparable harm.

23 While US West asserts that emergency relief must be granted, this is an emergency  
24 of US West's own making. US West began issuing press releases about this alleged  
25 problem on January 11, 1999. Attached as Exhibit F is a press release dated January 11,  
26 1999. If this were truly an emergency, rather than an effort to retain its dominant position

1 in the 1+/0- intraLATA toll market, US West would have filed this action on January 11,  
2 1999, rather than issuing press releases and waiting nearly two to three weeks to file its  
3 complaints and petitions for rulemaking.

4 WHEREFORE, for the reasons stated, MCIW requests the Commission deny the  
5 application and open a formal rulemaking if it believes further rules should be adopted. In  
6 deciding whether to open a rulemaking, the Commission should note that the Arizona  
7 legislature is currently considering legislation to address the public's concerns with  
8 slamming and similar practices.

9 RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of February, 1999.

10 LEWIS AND ROCA

11  
12 

13 Thomas H. Campbell  
14 40 N. Central Avenue  
15 Phoenix, Arizona 85004

16 - AND -

17 Thomas F. Dixon  
18 707 17<sup>th</sup> Street  
19 Suite 3900  
20 Denver, Colorado 80202  
21 Attorneys for MCI WorldCom, Inc.

22 ORIGINAL and ten (10) copies  
23 Of the foregoing hand-delivered  
24 This 5<sup>th</sup> day of February, 1999, to:

25 Arizona Corporation Commission  
26 Docket Control – Utilities Division  
1200 W. Washington Street  
Phoenix, Arizona 85007

**LEWIS**  
AND  
**ROCA**  
LLP

LAWYERS

1 COPY of the foregoing hand-delivered  
this 5<sup>th</sup> day of February, 1999, to:

2 Paul Bullis  
3 Legal Division  
4 Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

5 Ray Williamson, Director  
6 Utility Division  
7 Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

8  
9 COPY of the foregoing mailed this  
5<sup>th</sup> day of February, 1999, to:

10 Timothy Berg  
11 Theresa Dwyer  
12 Fennemore Craig, P.C.  
3003 N. Central Avenue  
Suite 2600  
13 Phoenix, Arizona 85012

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A



**Delta Air Lines**  
**SkyMiles**

P.O. Box 20532  
 Hartsfield International Airport  
 Atlanta, GA 30320-2532

Dear SkyMiles Member:

Delta Air Lines is pleased to tell our SkyMiles customers about an easy, cost-saving way to pile up the miles. It's a straightforward long distance program that rewards members with Bonus Miles. Thousands of Bonus Miles.

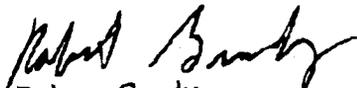
10,000 Bonus Miles are yours for enrolling in MCI WorldCom<sup>SM</sup> long distance service (and local toll service where available). You get 5,000 miles when you join and 1,000 each month for your next five months as an MCI WorldCom customer.\*

7 miles per dollar spent on long distance excluding taxes and credits...also yours when you join the MCI/SkyMiles program. Earn 5 miles for every dollar you spend on MCI WorldCom services including long distance, local toll calls (where available) and any calls you make with your MCI/SkyMiles Calling Card when traveling. Charge your bill to your Delta SkyMiles Credit Card from American Express and get 2 more miles for every dollar you spend. That's up to 7 times what you get on most other purchases made with your Delta SkyMiles Credit Card.

5¢ Sundays...24 hours long. MCI WorldCom brings your family together on the day you call most — Sunday — for just 5¢ a minute on all state-to-state calls from your home.† No other long distance carrier can offer Delta's frequent flyers 5¢ Sundays and Delta frequent flyer miles.

As a Delta SkyMiles member you're accustomed to great service and, of course, one great destination after another. The MCI/SkyMiles Program can help you "get there" sooner. To sign up, call 1-800-525-7150 (mention bonus code ZIND). Or return your postage paid enrollment card today. Please don't put off getting back to us. To earn all these benefits, you must sign up before March 31st.

Best Regards,

  
 Robert Grady  
 Partnership Marketing  
 Delta Air Lines

  
 Mary Davino  
 Partnership Marketing  
 MCI WorldCom, Inc.

P.S. Call 1-800-525-7150 by March 31, 1999 to get 10,000 Bonus Miles.  
 Or enroll online at <http://miles.mciworld.com/4delta> and get an extra 1,000 miles!

  
**MCI WORLD.COM.**

\* Offer for 10,000 bonus miles is available only to SkyMiles members who enroll in MCI WorldCom as new customers by the expiration date on the front of this letter. Existing MCI WorldCom customers are not eligible for 10,000 mile enrollment bonus. Bonus is awarded as 5,000 miles upon enrollment and 1,000 miles per month for the next five months of service with MCI WorldCom. You must remain an MCI WorldCom customer through time of fulfillment in order to receive full bonus. This program is in lieu of any other MCI WorldCom bonus program/promotion. MCI WorldCom reserves the right to amend its mileage program at any time. All standard Delta SkyMiles program rules and conditions apply. Please allow 6 to 8 weeks for miles to be posted to your SkyMiles account. Limit one enrollment bonus per SkyMiles member.

\* Rates exclude National Access and Federal Universal Service fees. \$3 monthly minimum for MCI WorldCom Basic service.

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# ENROLL TODAY FOR 10,000 MILES

Enroll me in MCI WorldCom residential long distance (and local toll service where available) and send me my calling card. Add 5,000 miles to my United Mileage Plus account when I enroll... 1,000 a month for the next five months...and 5 more miles for every dollar I spend with MCI WorldCom, standing it and credits.

For ease of use, please choose your 4 digit business calling card PIN:      
Do not select the same 4 digits (3333) or 4 consecutive 0's (1234 or 4321).

Please send me  Calling cards in addition to the two I will already be receiving.

Mrs. Lucy A. Higley  
4120 S Allison St.  
Denver, CO 80235-1917



If your address has changed, please indicate corrections above. To receive mileage credit, the MCI WorldCom account must be in the same name as the Mileage Plus account. See reverse for complete terms and conditions.

My current home telephone number is:  
**(303) 425-9409**

If number has changed/does not appear, cross out/provide new number above.  
(List additional telephone line(s) and/or fax line(s) below.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

897/TGG ZTNU  
Mileage Plus No. 00016877573

Your phone number and signature are required for enrollment.

I authorize MCI WorldCom to notify my local telephone company that I am changing MCI WorldCom as my primary carrier for residential long distance service (and local toll service where available). I understand that I can have only one primary carrier for each of these services per telephone number listed above, and my local telephone company may apply a small fee for this change.

**MILEAGE PLUS.**  
United Airlines

Respond today. This offer expires February 28, 1999

## GET UP TO 10,000 MILES!

Dear Mrs. Higley:

Mileage Plus No. 00016877573

The richest, most rewarding offer in the history of the MCI/United Mileage Plus partnership... 10,000 miles!

**Sign up today and receive up to 10,000 Mileage Plus miles.**

Call 1-800-246-9482 to sign up for MCI WorldCom<sup>SM</sup> residential long distance (and local toll service, where available). You will receive 5,000 miles for signing up and 1,000 more each month for the next five months as long as you remain an MCI WorldCom customer. *That's 10,000 miles in all!*

**Even more miles will be coming your way, month after month.**

Each month, five miles will be deposited into your Mileage Plus account for every dollar you spend with MCI WorldCom (excluding taxes and credits). Posting is automatic - there's nothing for you to do.

**You'll enjoy low rates, including 5¢ Sundays.**

MCI/Mileage Plus customers enjoy the same low rates as MCI WorldCom's other customers. On Sundays, for example, state-to-state calls from home cost just 5¢ a minute, all day long!

**This offer expires February 28, 1999. So call 1-800-246-9482 to enroll today.**

Act quickly and up to 10,000 Mileage Plus miles will be yours. To sign up for MCI WorldCom, simply call 1-800-246-9482 (mention code ZTNU), or return the certificate above.

Sincerely,

David Colman  
Senior Vice President, Marketing  
United Airlines

**EXTRA  
1,000-MILE BONUS  
WHEN YOU ENROLL AT  
<http://miles.mciworld.com/4usl>**

PS: Call 1-800-246-9482 for up to 10,000 Mileage Plus miles or, enroll online at <http://miles.mciworld.com/4usl>

**MCI WORLD COM<sup>SM</sup>**

02030747

The Mileage Plus<sup>®</sup> bonus miles offer is available only to Mileage Plus members who receive this mailing and enroll in MCI WorldCom by February 26, 1999. Please allow up to 8 weeks for Mileage Plus bonus miles to be posted to your Mileage Plus account. Limit one MCI WorldCom enrollment bonus per Mileage Plus member. You must remain an MCI WorldCom customer through fulfillment in order to receive full bonus. This offer—5,000 bonus miles upon enrollment, and 1,000 bonus miles per month for the next five months of service with MCI WorldCom — is in lieu of any other MCI WorldCom bonus program or promotion. Existing MCI WorldCom customers are not eligible for bonus offer.

\* Rates exclude National Access and Federal Universal Service Fees. \$3 monthly minimum for MCI WorldCom Basic service.

Miles earned and awards issued are in accordance with the terms and conditions of the United Mileage Plus program. United Airline and its affiliates are not responsible for any telecommunications product or service associated with this offer.

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The Mileage Plus® bonus miles offer is available only to Mileage Plus members who receive this mailing and enroll in MCI WorldCom by February 28, 1999. Please allow up to 6 weeks for Mileage Plus bonus miles to be posted to your Mileage Plus account. Limit one MCI WorldCom enrollment bonus per Mileage Plus member. You must remain an MCI WorldCom customer through fulfillment in order to receive full bonus. This offer—5,000 bonus miles upon enrollment, and 1,000 bonus miles per month for the next five months of service with MCI WorldCom — is in lieu of any other MCI WorldCom bonus program or promotion. Existing MCI WorldCom customers are not eligible for bonus offer.

\* Rates exclude National Access and Federal Universal Service Fees. \$3 monthly minimum for MCI WorldCom Basic service.

Miles accrued and awards issued are in accordance with the terms and conditions of the United Mileage Plus program. United Airlines and its affiliates are not responsible for any telecommunications product or service associated with this offer.

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**B**

JRMD 1/4/99

# U S West loses round before utilities commission

By Fred Soto  
News Staff Writer

The Colorado Public Utilities Commission Wednesday denied U S West's request that it be allowed to temporarily stop processing customer change orders for its rivals in the in-state long-distance market.

But the commission said U S West's formal complaint, alleging that competitors such as MCI and AT&T were switching customers away from U S West without their permission in a practice known as "slamming," would be

heard on an expedited basis, commission spokesman Terry Bote said.

"It's a little disappointing," said U S West spokesman David Belgie, "but we're encouraged that we are going to get an expedited hearing."

MCI and AT&T last week accused U S West of simply trying to delay the arrival of competition in the lucrative in-state long-distance market.

U S West is supposed to begin switching customers who request new carriers on Feb. 8.

"This complaint should be recognized for what it is," said MCI WorldCom Inc. and AT&T in a filing at the Public Utilities Commission: "a scare tactic designed to cause this commission to act without sufficient facts and attempt to deny customers the right to choose, thereby preserving U S West's monopoly market share in the (in-state long-distance) market in Colorado."

In coming weeks, regulators are expected to clarify the rules regarding how such phone services can be marketed.

EXHIBIT B

**C**



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January 11, 1999

For media inquiries, please contact:

Jerry Brown  
U S WEST  
(303) 965-2689

## U S WEST Asks Long-Distance Companies to Take Steps to Protect Consumers from New Slamming Problem With In-State Long-Distance Calls

*60 Percent of Customers Report They've Been Slammed on In-State Long-Distance Telephone Service*

**DENVER** - Slamming, which has long been customers' number one complaint related to telephone service, is getting worse as local long-distance markets open to competition. Customers say they're being "slammed" in unprecedented numbers in five states that have given telephone customers the opportunity to choose the company that handles their in-state long-distance calls, U S WEST reported today.

"More than 60 percent of the customers whose in-state long-distance service has been switched to another company have told us the change was made without their knowledge or permission," said Mark Roellig, executive vice president-Public Policy, Human Resources and Law. "That's 10 times the slamming rate we've seen for customers' selection of an interstate long-distance company. It's unfortunate for customers that companies are using the opening of in-state long-distance markets as an opportunity to steal business rather than compete fairly."

In 1997, U S WEST helped nearly 400,000 customers who reported being slammed. That translates to about five percent of all the switches in long-distance service submitted by long-distance companies to be processed by U S WEST. "A slamming rate of five percent has been a nightmare for customers," Roellig said. "Increasing it to 60 percent cannot be tolerated."

With five more states served by U S WEST soon to allow customers to choose their in-state long-distance company, U S WEST today asked long-distance companies to verify they're legal safeguards designed to protect consumers and businesses from slamming.

"With such an enormous percentage of the customers expressing surprise and disclaiming any knowledge of the change in their L.P.C. (in-state long-distance company), we see very real and significant problems," Roellig said in his letter to the long-distance companies.

Roellig said he believes the problem stems from long-distance companies failing to make clear to customers that they now have two choices to make concerning their long-

<http://www.uswest.com/com/insideusw/news/011199.html>

1/13/99

EXHIBIT C

distance service. They can choose a company to handle their nationwide long-distance calls and a company to handle in-state calls within calling areas known as LATAs. Historically, U S WEST has handled most in-state long-distance calls.

If customers are confused and haven't been provided with adequate information to make a decision about their in-state long-distance carrier, "state laws that prohibit consumer fraud, including the suppression or omission of material facts, and both federal and state laws that forbid deceptive and unfair trade practices and conduct are implicated," Roellig said in his letter.

The five states that already allow telephone customers to choose their in-state long-distance company are Arizona, Minnesota, New Mexico, Utah and Wyoming. Customers in six more states served by U S WEST - Colorado, Iowa, Montana, Nebraska, Oregon and Washington - will be able to choose their in-state long-distance company beginning in February.

"As the new rules take effect in those six states, customers can expect to be bombarded with telemarketing calls from long-distance companies wanting them to switch from U S WEST," Roellig said. "We want to make sure they know what they're being asked to do - and to know that U S WEST still offers in-state long-distance service."

In fact, Roellig noted, U S WEST has recently lowered its in-state long-distance prices in many areas to make them even more competitive - as low as nine cents a minute in most states.

U S WEST (NYSE:USW) provides a full range of telecommunications services - including wireline, wireless PCS, data networking, directory and information services - to more than 25 million customers nationally and in 14 western and midwestern states. More information about U S WEST can be found on the Internet at <http://www.uswest.com>

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<http://www.uswest.com/com/insideusw/news/011199.html>

1/13/99

**D**

**U S WEST, Inc.**

1601 California Street, Suite 4750  
 Denver, CO 80202  
 Phone 303 840-6674  
 Facsimile 303 296-4700  
 Cellular 303 527-4874  
 E-mail [info@uswest.com](mailto:info@uswest.com)  
 Home 303 840-0521  
 Mobile PBX/Cellular 303 840-0521

**Mark Roellig**

Executive Vice President  
 Public Policy, Mutual Resources & Law  
 Customer Council and Secretary

January 8, 1999

Mr. Michael Beach  
 Vice President West Region Telco/  
 Line Cost Management  
 MCI Communications  
 707 17<sup>th</sup> Street  
 Suite 4200  
 Denver, Colorado 80202

Dear Mr. Beach:

I am writing you to request information regarding the change in the primary interexchange carrier of a sample of our customers. By way of explanation, we are requesting this information because, as you are aware, many, many customers have indicated to U S WEST that they have been slammed by a change in their intraLATA carrier without their knowledge, consent or understanding. Since the implementation of 1+ presubscription for intraLATA services in Arizona, Minnesota, New Mexico, Utah, and Wyoming, I am told that roughly sixty percent of the customers who have had their intraLATA presubscription carrier changed, allege that they had not requested or authorized a change in their intraLATA carrier from U S WEST. Based on the pending new rules from the Federal Communications Commission, U S WEST may have to advise these customers that they need not pay your firm's intraLATA charges during the thirty days following the change, and a complex, time consuming review could follow.

We think it is imperative for both of us to understand and address the reasons for this customer response. We are very confident of our information, and with such an enormous percentage of the customers expressing surprise and disclaiming any knowledge of the change in their LPIC, we see very real and significant problems and risks to both of our businesses and our industry.



EXHIBIT D

Mr. Michael Beach

January 8, 1998

Page 2

Moreover, when we review the marketing material from MCI and other carriers, and as we hear about telemarketing contacts by MCI telemarketing representatives and those of other carriers, we share our customer's concerns regarding the information that is being provided to these customers, and the manner in which the sales contacts are being conducted. While the results of our customer contacts present a real, practical concern to both our companies, we think the main concern ought to be with the affected customers. Customers are rightly concerned about these issues, and we know of no consumer advocate or regulatory agency that will accept circumstances where customers are misled, misinformed, or confused by the marketing of products and services that are so important to their lives.

As you no doubt remember, in the regulatory proceedings that led to 1+ presubscription in each of the five states, the Commissions, their staffs, and the participants were concerned about the fairness and integrity of customer contacts. Based on our findings, it appears that there is something wrong in the customer contact. And, it appears that there may be a failure to comply with the letter and spirit of the Telecommunications Act, the existing and pending rules of the FCC, and the rules of the state regulatory commissions. Essentially, over sixty percent of intraLATA customers in the five states where 1+ presubscription has been implemented seem to be saying that they have been slammed with respect to the change in their LPIC.

Moreover, if these customers are confused and have not been provided with the necessary information to make a decision, the state laws that prohibit consumer fraud, including the suppression or omission of material facts, and both federal and state laws that forbid deceptive and unfair trade practices and conduct are implicated.

Thus, I am writing to you to secure the proof of authorization or verification for the change in the primary interexchange carrier that is required by existing and pending rules of the Federal Communications Commission for the telephone accounts identified on the attachment to this letter. Also, for the reasons I outlined above, I want you to provide me with other data and information that shows the practices MCI follows to secure a customer's change in the primary carrier for intraLATA service (the so-called LPIC) to MCI within the states served by U S WEST. The attached list is a random sample of telephone accounts that MCI requested be changed from LPIC Number 5123 to MCI during the past year, and who subsequently indicated to U S WEST that they did not authorize or request that change. We are requesting this information, before taking further action, so we can effectively deal with an increasingly complex, time consuming issue. We need to examine and evaluate the actual evidence or proof of authority and verification that was obtained by the carriers, to confirm or contradict the information that we are getting from the customers. I believe that the information on the enclosed list is adequate to find the required proof of authorization or verification, however, if you need further information, please let me know.

Mr. Michael Beach

January 8, 1998

Page 3

We will appreciate your prompt response to this request, and we look forward to receiving the evidence and other information by January 15, 1999. And, if you have any questions or comments, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to be "M. Beach", with a large loop at the end of the signature.

Enclosure

cc: Beth Halvorson  
Gary Knudson

CARRIER CHANGES FROM 5123

0222-MCI	AZ	TEL NO	MN	TEL NO	UT	TEL NO
		5203296312		2183352860		4356231409
		5203784648		2187419512		4357527815
		5204859409		6123892813		8012253520
		5205675824		6126892706		8012544202
		5206205824				8013790603
		5207283721				8013927023
		5207613344				8015442346
		5207728609				8017731734
		5208684165				8017739414
		6023745766				
		6029863527				
		6029962618				

**E**

**MCI Telecommunications  
Corporation**

201 Spear Street  
San Francisco, CA 94105  
415 228 1004  
415 228 1094 FAX

James L. Lewis  
Regional Executive - Public Policy  
Western Public Policy Group

January 22, 1999

Mark Roellig, Esq.  
Executive Vice President  
US West, Inc.  
1801 California Street  
Suite 4750  
Denver, Colorado 80202

Dear Mr. Roellig:

Your January 8, 1999 letter to MCI WorldCom Vice President Michael Beach has been forwarded to me for reply.

Your letter makes various accusations against MCI WorldCom and demands that we produce information relating to 25 alleged examples of local toll service slamming. You also make the sweeping claim that sixty percent of the customers who have had their intraLATA presubscription carrier changed allege that they had not requested or authorized a change in their intraLATA carrier from US West (I note that in press release dated January 21, 1999, U S West has increased the percentage of alleged unauthorized conversions to 65%). As I document below, the accusations against MCI WorldCom are false and without merit, and your statements regarding industry-wide intraLATA slamming problems in your service region are grossly distorted.

MCI WorldCom does not concede any obligation to provide the information you demand, but will do so in order to bring the truth to the surface. With respect to the 25 presumably carefully selected ANIs listed in your letter, here are the facts:

- 12 of the ANIs are from Arizona, 4 from Minnesota and 9 from Utah;
- MCI WorldCom does not have intraLATA account records for three of the 25 ANIs listed, and therefore I believe that these are not MCI WorldCom customers; I would appreciate your providing me support for your belief that these ANIs were assigned to MCI WorldCom local toll customers;
- *None* of the 22 examples contained in your letter to Mr. Beach involved an unauthorized conversion. MCI WorldCom obtained valid third party verification (TPV) for all 22 of the intraLATA accounts;

EXHIBIT E

- Not one of the listed ANIs resulted in a PIC dispute or customer complaint to a regulatory agency;
- MCI WorldCom local toll service has now been cancelled for 21 of the 22 accounts, in a manner that our records indicate were the result of U S West winback efforts;
- MCI's TPV vendors separately verify long distance and local toll accounts, so that in cases where a customer signs up for both services, separate TPV questions are asked for the long distance and the local toll accounts;

These facts conclusively refute any inference that MCI WorldCom switched these customers' local toll service without authorization. And, while MCI WorldCom cannot speak on behalf of other carriers in the industry, we are confident that the allegation you make in your letter that "sixty percent of consumers are switched without authorization" is, at best, a gross exaggeration.

MCI WorldCom does not minimize the very real consumer concerns about slamming. However, we are becoming increasingly concerned about the role that competitive mischief and misinformation is having on this issue. Much of the press activity on this subject, and a significant number of consumer complaints, have in fact been generated or encouraged by U S West and other incumbent LECs who advance their interests by tarring their competitors in the local toll market with slamming allegations. Our concerns are magnified by the baseless allegations leveled against MCI WorldCom in your recent letter, and by the fact that your letter was (and continues to be) accompanied by a well funded public relations campaign throughout your region. I believe that this campaign has been carefully timed to coincide with the date on which the Telecommunications Act requires U S West to provide intraLATA equal access, and is motivated by a desire to avoid that legal obligation. Allegations by your firm that MCI WorldCom has slammed these customers is particularly galling given our role as an industry leader in adopting consumer protection mechanism such as third party verification, to protect against slamming.

MCI WorldCom is committed to the proposition that customers' choices to select a competitive carrier for long distance and intraLATA toll service not be frustrated or impeded either by slamming or by unlawful or unethical practices on the part of incumbent local carriers such as U S West. To that end, I ask that you provide me the following information within five days:

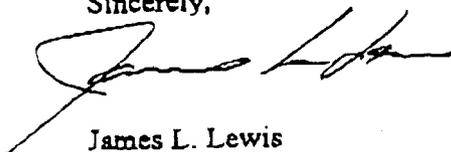
- The dates on which U S West or its representatives or agents contacted each of the customers alluded to in your letter to Mr. Beach;
- The manner of communication (whether it was by telephone, direct mail or other solicitation);

- The script used by U S West's representatives or agents in any of those telephone communications, or the text of the communication if it was in writing;
- Any manuals, instructions, guidelines or other written documents used by U S West to assure that its representatives do not impede or interfere with the choice of customers to select carriers other than U S West for local toll calling.

MCI WorldCom agrees that neither the public nor the telecommunications industry should have any tolerance for intentional slamming or deceptive sales practices, and we challenge you to take more constructive approach to assure that we achieve that goal.

I look forward to a timely response to my letter, and to receipt of the information requested above.

Sincerely,



James L. Lewis

**F**

5000 North 40th Street  
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Phoenix, Arizona 85018  
Voice No. (602) 351-6351  
Facsimile No. (602) 912-9447

**USWEST**

Life's better here

LAW DEPARTMENT  
TIM R. FYKE  
Senior Attorney

February 1, 1999

Mr. James L. Lewis  
Regional Executive - Public Policy  
MCI Telecommunications Group  
201 Spear Street  
San Francisco, California 94105

Dear Mr. Lewis:

Mr. Roellig requested me to respond to your letter of January 22, 1999. We are very disappointed in your letter. It was confrontational and simply did not respond to our honest attempt to try to combat a significant problem. After polling over 75,000 customers in the five states that have already converted to 1+ intraLATA presubscription, over 65% have indicated that they were unaware that they had selected a new intraLATA toll carrier. This staggering statistic is simply unacceptable and constitutes the exact problem the Federal Communications Commission (the "FCC") is attempting to address with its new rules.

Our original inquiry was based, in part, on copies of promotional material circulated by your company. Nowhere in the material does it distinguish between intraLATA toll service and interLATA toll service. For example:

" . . . I am choosing MCI . . . for residential long distance and local toll service, where available. I understand that I can have only one primary carrier for each of these services . . . ."

That information is not enough to describe the differences in the services, and it has fueled our concerns that marketing practices of many interLATA carriers may be relying upon and exploit the lack of knowledge of many customers.

The recent FCC order released December 23, 1998 (the "FCC Order") has confirmed our view. It utterly condemns marketing practices that fail to



EXHIBIT F

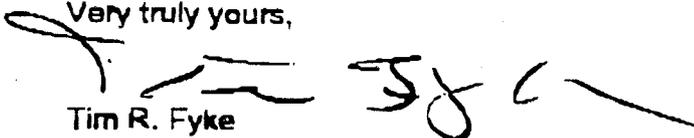
Mr. James L. Lewis  
Regional Executive - Public Policy  
MCI Telecommunications Group  
February 1, 1999  
Page 2

provide the customer with sufficient information to make a knowing carrier selection. As the FCC said, carriers must identify specifically each type of service being offered in any solicitation or letter of agency, and a carrier marketing both intraLATA and interLATA calling on the same call "... must explain to the subscriber the difference between the two services. ..." These marketing requirements are necessary so that "... carriers will be prevented from taking advantage of consumer confusion. ..." ¶ 82 of the FCC Order."

U S WEST has requested state commissions to take immediate action to protect consumers from the deceptive and unreasonable practices that result in both customer confusion and slamming victims. We urge MCI WorldCom to join us to overcome this significant consumer issue; however, your response suggests you have no intention to deal with the very real problems that exist. U S WEST believes that the entire industry must work with these commissions, to provide clear, fair, accurate, and complete information to customers that is consistent with the law, and the FCC Order, so that customers can truly enjoy the benefits of competition by being able to make *informed* choices for their telecommunications needs.

We regret that MCI WorldCom does not seem willing to help with this matter. Nonetheless, we continue to urge you and the other carriers to change your marketing and solicitation material, including telemarketing scripts, to provide real information to customers, and to help them make informed decisions.

Very truly yours,

  
Tim R. Fyke  
Senior Attorney

cc: Mark Roellig  
Beth Halvorson  
Gary Knudson

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U S WEST has explained intraLATA toll service and interLATA toll service by describing intraLATA toll as "Local Long Distance" and providing customers with maps and descriptions using identified cities in ad copy, bill inserts, and in its directories. And, in telemarketing calls we have used city pairs to help customers understand intraLATA toll.