

February 4, 2000

VIA ELECTRONIC MAIL
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Carole J. Washburn, Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Re: *Investigation Into U S WEST Compliance with Section 271*, Docket No. UT-
970300

Dear Ms. Washburn:

Pursuant to the Commission's Notice of Opportunity to Comment (February 4, 2000) in the above-referenced docket, NEXTLINK Washington, Inc. ("NEXTLINK"), Electric Lightwave, Inc. ("ELI"), and Advanced TelCom Group, Inc. ("ATG") (collectively "Joint Commenters") provide the following comments.

U S WEST Communications, Inc. ("U S WEST") proposes that the Commission modify its Interpretive and Policy Statement to require a series of workshops on individual Section 271 checklist items, rather than requiring that U S WEST make a single filing 90 days in advance of its filing with the FCC. The Joint Commenters agree that a collaborative process, including multiple workshops on individual checklist items, would facilitate Commission and party review of the extent to which U S WEST is, or is not, in compliance with its obligations under Section 271. Indeed such a process is long overdue. No modification of the Interpretive and Policy Statement would be necessary to initiate such a collaborative process, if that is U S WEST's genuine interest and concern.

The Joint Commenters, however, strongly oppose modifying the Interpretive and Policy Statement to replace the 90-day prefiling with individual checklist item workshops as U S WEST proposes. Workshops enable a free flow of information and exchange of ideas but they are not designed to resolve disputes between parties on legal or factual issues. The Joint Commenters' experience with U S WEST to date is that the company has a very different interpretation of its legal obligations than the FCC, this Commission, and CLECs. U S WEST also has consistently refused to provide CLECs or the Commission with meaningful measures or reporting on U S WEST's performance, or lack thereof. Workshops cannot and will not resolve these issues.

In addition, U S WEST must demonstrate to both the Commission and the FCC that U S WEST is in full compliance with Section 271 *at the time it makes its filing with the FCC*. Even if some disputed issues could be resolved in a workshop, satisfaction of one aspect of Section 271 many months before U S WEST makes its filing with the FCC is insufficient to demonstrate current and continuing compliance with each and every checklist item. Section 271 is not a series of individual tests, but a single, multi-factor evaluation of the extent to which U S WEST's local exchange markets in Washington are irreversibly open to competition. U S WEST must make a single filing with the FCC, and the Commission and interested parties are entitled to review and evaluate that entire filing 90 days in advance of its submission to the FCC. The Commission simply cannot properly discharge its obligation to consult with the FCC on the status of U S WEST's compliance with Section 271 under the modified procedures that U S WEST proposes.

The Joint Commenters, therefore, recommend that the Commission deny U S WEST's Request for Modification of Procedure. In the alternative, the Commission should modify the procedure in the Interpretive and Policy Statement only to add a schedule for workshops, not delete the requirement that U S WEST make a single filing on its compliance with all Section 271 requirements at least 90 days in advance of making a filing with the FCC.

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NEXTLINK, ELI, and ATG appreciate the opportunity to provide comments to the Commission on these issues. Please contact me if you have any questions about these comments.

Sincerely yours,

DAVIS WRIGHT TREMAINE LLP

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