

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation Into)
U S WEST Communications, Inc.'s) Docket No. UT-970300
Compliance with Section 271 of the)
Telecommunications Act of 1996)

**U S WEST COMMUNICATIONS INC.'S PRELIMINARY
STATEMENT OUTLINING ITS SECTION 271 APPLICATION**

U S WEST Communications, Inc. (“U S WEST”) respectfully submits this preliminary statement pursuant to the Order Adopting Supplemental Interpretive and Policy Statement on Process and Evidentiary Requirements issued by the Washington Utilities and Transportation Commission (“Commission”) on March 15, 2000.

INTRODUCTION

On October 29, 1997, the Commission issued an order setting forth a 90-day procedure for consideration of any application U S WEST intended to file with the FCC pursuant to Section 271 of the Telecommunications Act seeking approval to provide interLATA services originating in Washington. On January 18, 2000, U S WEST filed a Request for Modification of Procedure in which it asked that the Commission recognize that the procedure set forth in its October 29, 1997 Order was unrealistic. U S WEST asked that

the Commission adopt a new procedure in which workshops would be held to consider the issues involved in U S WEST's Section 271 filing. In its March 15, 2000 Order, the Commission adopted a new procedural process. A series of three or four workshops will be held to fully investigate all issues relating to U S WEST's Section 271 filing.

In its 1997 order, the Commission ordered U S WEST to file the complete application it intended to file with the FCC. Under the new procedural process, U S WEST will file before each workshop all of the evidence and testimony upon which it intends to rely regarding the issues to be considered in that workshop. In place of a complete FCC filing, the Commission ordered U S WEST to file an outline of the evidence and documentation upon which it intends to rely in its Section 271 application. This preliminary statement is designed to provide such an outline.

In this preliminary statement, U S WEST will first provide a brief summary of the legal requirements of Section 271. Following that summary, U S WEST will outline the testimony and evidence it intends to produce before each workshop. U S WEST also respectfully submits a list of documents it anticipates filing in support of its application. These documents include: list of anticipated witnesses (Appendix A); list of anticipated exhibits (Appendix B); list of current interconnection agreements in Washington (Appendix C); and copy of the SGAT (submitted contemporaneously with this preliminary statement). U S WEST will rely on all of these documents as the basis for its 271 application. This list is evolving, and the documents filed before each workshop may differ somewhat from this list.

Before each workshop, U S WEST will file a brief, along with testimony and documentary evidence. The brief will completely set forth the legal requirements of each

checklist item or issue and will provide U S WEST's legal position regarding anticipated points of disagreement with CLECs. For each checklist item or issue, U S WEST will provide the sworn testimony of a subject matter expert who will describe how U S WEST has satisfied the checklist item or issue and who will attach as exhibits all of the documentary evidence U S WEST intends to submit in this proceeding and before the FCC.

Contemporaneously with this preliminary statement, U S WEST is submitting its complete filing for the first workshop, which encompasses seven checklist items. U S WEST submits the sworn testimony of three witnesses: (1) Mr. Tom Freeberg on checklist items 3 (Poles/Ducts/Conduits) and 13 (Reciprocal Compensation), Ms. Lori Simpson on checklist items 7(ii) (Directory Assistance), 7(iii) (Operator Services) and 8 (White Page Listings); and (3) Ms. Margaret Bumgarner on checklist items 7(i) (911), 9 (Number Administration), 10 (Access to Databases and Signaling) and 12 (Dialing Parity). Each witness has attached as exhibits to his or her testimony all of the documents upon which U S WEST intends to rely regarding these checklist items. U S WEST has also submitted a brief summarizing the legal issues related to these checklist items.

The other document filed contemporaneously with this preliminary statement is U S WEST's Statement of Generally Available Terms (SGAT) for Washington. U S WEST will rely upon the SGAT and its interconnection agreements in Washington to demonstrate that it is legally obligated to provide all of the required items under Section 271.

U S WEST is also engaged with the Regional Oversight Committee ("ROC") in a collaborative effort with CLECs and state commissions to develop a uniform set of performance measures and standards and to develop and conduct a test of the access that U S WEST provides to its operational support systems ("OSS"). Once the ROC completes

the development of performance measures and the Test Requirements Document (the plan for OSS testing) U S WEST will submit those documents to the Commission for consideration.

DISCUSSION

ROLE OF THE COMMISSION

Under Section 271 of the Telecommunications Act of 1996, and the related provisions of Sections 251 and 252, the state public service commission is assigned a pivotal role in assessing whether a BOC is entitled to provide interLATA services originating within that state. Although Section 271(d)(3) gives the FCC the ultimate responsibility to grant or deny a BOC's application to provide interLATA service within a state, that decision can only be made following consultation with the state public service commission. Specifically, Section 271(d)(2)(B) provides:

Before making any determination under this subsection, the Commission [FCC] shall consult with the State Commission of any state that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).¹

The Telecommunications Act provides that the FCC must consult with the state commission regarding the requirements of Section 271(c), which include whether a facilities-based competitor is providing service to residential and business subscribers within the state (generally known as Track A) and whether the BOC has fully implemented a 14-point checklist. In its orders on Section 271 applications, the FCC has also given weight to recommendations of state commissions regarding whether the BOC's entry into the interLATA market is in the public interest and whether the BOC will provide interLATA services pursuant to Section 272 of the Telecommunications Act.

In evaluating U S WEST's application, the Commission should focus on factors that matter most for Section 271 verification: the demographics of the state; the economics of service provision; the potential competitors that have incentives to provide service; the attributes showing that the local exchange market is open to competition; and the public benefits of BOC interLATA entry. These factors profoundly affect current and future local exchange competition in Washington and how the Commission should evaluate U S WEST's satisfaction of the requirements of Section 271. Each of these factors will be outlined below and detailed fully in the testimony and evidence that will be provided prior to each workshop.

The novel nature of the Section 271 process casts the Washington Commission as a potential agent for positive change. By verifying U S WEST's compliance to the FCC, the Commission will contribute in a direct and material way to promoting economic growth in

¹ 47 U.S.C. Section 271(d)(2)(B).

the state and to providing Washington subscribers with more, better, and lower-cost telecommunications services.

THE LEGAL FRAMEWORK OF SECTION 271

Section 271(d)(3)(C) of the Telecommunications Act provides that a BOC is entitled to provide interLATA services in a state if the FCC finds that:

The conditions of Section 271(c)(1) are met. (Section 271(c)(1) contains two sections, which are generally referred to as Track A and Track B. Track A is met if a facilities-based competitor is providing services to residential and business consumers within the state. Track B applies if the conditions of Track A are not met. This is a Track A application);

The BOC has fully implemented the fourteen-item “competitive checklist” contained in Section 271(c)(2)(B);

The requested authorization will be carried out in accordance with the requirements of Section 272; and

The BOC’s entry into the interLATA market would be consistent with the “public interest, convenience, and necessity.”

As noted above, the FCC has given weight to the recommendation of state commissions concerning all four elements of Section 271. In its workshop filings, U S WEST will demonstrate that all four elements are satisfied. In this section, U S WEST will briefly outline the legal requirements set forth by the FCC in its Section 271 Orders.

A. Track A

Section 271(c)(1)(A) of the Act (known as “Track A”) requires that a BOC

demonstrate that it has at least one binding interconnection agreement with an operating facilities-based local exchange competitor. Specifically, Section 271(c)(1)(A) provides that:

A [BOC] meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under Section 252 specifying the terms and conditions under which the [BOC] is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service . . . to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier. . . .²

In its Section 271 decisions, the FCC has determined that Track A is met if a facilities-based competitor is serving more than a *de minimis* number of access lines in the state.³ Track A does not require that a competitor be serving a specific market share or that there be a specific level of geographic penetration by a competitor.⁴ The FCC has also indicated that it will consider Track A to be met if a facilities-based competitor is serving business customers and residential customers are being served through resale.⁵

B. The 14-Point Checklist

A BOC may demonstrate that it is “providing” a checklist item in either of two ways:
(1) by actually furnishing the item in a manner that satisfies the requirements of Section 271

² 47 U.S.C. Section 271(c)(1)(A).

³ *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region InterLATA services in Michigan*, CC Docket No. 97-137, Memorandum Opinion & Order, FCC 97-298, ¶ 78 (rel. August 19, 1997) (“Ameritech Michigan Order”).

⁴ *Id.*, ¶¶ 76-77.

⁵ *Application of BellSouth Corporation Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region InterLATA services in Louisiana*, CC Docket No. 98-121, Memorandum Opinion & Order, FCC 98-271, ¶ 48 (rel. October 13, 1998) (“BellSouth Louisiana II Order”).

of the 1996 Act; or (2) by making the checklist item generally available, legally and practically, where no checklist item has been requested. This second alternative is absolutely critical because, without it, a BOC's ability to satisfy the checklist requirements would be foreclosed simply because competitors chose not to order all checklist items. Though the statute does not specify the types of measurements or methodologies needed to make these showings, the FCC has provided guidance on this matter.

In order to establish that U S WEST has made a checklist item available to competitors, U S WEST must show that it has a legal obligation to make each checklist item available and that it is providing (or is willing to provide) each checklist item at an acceptable level of quality.⁶ What constitutes an "acceptable level of quality" depends upon the specific checklist item or service at issue. The FCC has set three separate standards that apply in various circumstances.⁷ These standards are:

1. U S WEST must provision elements/services that have a retail analogue in "substantially the same time and manner" as it provides similar services to itself;
2. for elements that do not have a retail analogue, U S WEST must provide "efficient competitors a meaningful opportunity to compete"; and,
3. once U S WEST provisions an element/service it must provide the same

⁶ *Application of BellSouth Corporation Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region InterLATA services in Louisiana*, CC Docket No. 98-121, Memorandum Opinion & Order, FCC 98-271, ¶ 54 (rel. October 13, 1998) ("BellSouth Louisiana II Order").

⁷ *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, ¶ 490 (rel. November 5, 1999) ("UNE Remand Order").

quality of element/service that it provides to any carrier.⁸

Evidentiary Standards

The FCC has emphasized that a BOC has the ultimate burden of proof that its application satisfies the requirements of Section 271.⁹ However, the FCC recognized that, in complex cases such as Section 271 applications, no finder of fact can expect proof to an absolute certainty.¹⁰ The BOC must prove each element by a “preponderance of the evidence,” which means “the greater weight of evidence, evidence which is more convincing than the evidence which is offered in opposition to it.”¹¹

Once the BOC has made a *prima facie* case that it meets a particular requirement, opponents must produce evidence and arguments to show that the application does not meet the requirements of Section 271 or risk a ruling in the BOC’s favor.¹² Mere unsupported evidence will not suffice.¹³ Opponents must produce evidence that the BOC’s policies, procedures and capabilities preclude it from satisfying a requirement. Although anecdotal evidence may be indicative of systematic failures, isolated incidents may not be sufficient to overcome the BOC’s *prima facie* case. Moreover, a BOC may overcome anecdotal evidence by, among other things, providing objective performance data that demonstrate that it satisfies the requirements.¹⁴

⁸ *Id.*

⁹ *Application of Bell Atlantic New York Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region InterLATA services in New York*, CC Docket No. 99-295, Memorandum Opinion & Order, FCC 99-404, ¶ 47 (rel. December 22, 1999) (“Bell Atlantic New York Order”).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*, ¶ 49.

¹³ *Id.*, ¶ 50.

¹⁴ *Id.*, ¶ 50.

The FCC has emphasized that it will give substantial weight to the results of performance measurements and standards that have been developed through a collaborative process, such as the ROC process.¹⁵ “In this case, we conclude that to the extent there is no statistically significant difference between [the BOC’s] provision of service to competitive LECs and its own retail customers, we need not look any further. Similarly, if there is no difference between [the BOC’s] provision of service to competitive LECs and the performance benchmark, our analysis is done.”¹⁶ If there is a statistically significant difference in the provision of service, the FCC will examine the evidence further to determine if the statutory nondiscrimination requirements are met.¹⁷

EVIDENCE U S WEST WILL PRESENT BEFORE EACH WORKSHOP

In this section, U S WEST will outline the evidence it will produce before each workshop. As stated above, U S WEST is submitting contemporaneously with this preliminary statement the testimony and documentary evidence for the first workshop. For the second two workshops, U S WEST will outline the evidence it currently expects to present. However, due to the passage of time, the evidence produced by U S WEST before those workshops may be somewhat different than the evidence outlined here.

A. Workshop I

Workshop 1 will cover checklist items 3 (Poles/Ducts/Conduits), 7(i) (911), 7(ii) (Directory Assistance), 7(iii) (Operator Services), 8 (White Page Listings), 9 (Number Administration), 10 (Access to Databases and Signaling), 12 (Dialing Parity)

¹⁵ *Id.*, ¶ 54.

¹⁶ *Id.*, ¶ 58.

¹⁷ *Id.*

and13 (Reciprocal Compensation). This section outlines the evidence that is being submitted contemporaneously with this statement.

1. Checklist Item 3 - Nondiscriminatory Access to Poles, Ducts, Conduits, and Rights-of-Way

To satisfy checklist item 3, U S WEST must provide nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by it at just and reasonable rates in accordance with § 224 (the 1978 Pole Attachment Act).¹⁸ Thomas Freeberg, a Director in the Wholesale Markets Division at U S WEST, will provide detailed testimony that shows U S WEST is in compliance with § 224 through broad joint-use agreements into which U S WEST has entered with other telecommunications carriers pursuant to the 1978 Pole Attachment Act. The resultant Pole and Anchor Attachment and/or Duct Occupancy Agreements – which U S WEST has been successfully negotiating for years – contain the terms and conditions pursuant to which competing providers of telecommunications services may obtain nondiscriminatory access to U S WEST's poles, ducts, conduit, and rights-of-way. In addition, U S WEST will demonstrate that it has established procedures for responding to requests for poles, ducts, conduits, and rights-of-way and has a concrete and specific legal obligation to provide access as referenced in the U S WEST SGAT and various interconnection agreements between U S WEST and CLECs in Washington.

2. Checklist Item 7(i) - 911/E911

U S WEST satisfies the requirements of Checklist item 7(i) if it provides nondiscriminatory access to 911 and E911 services. Ms. Margaret Bumgarner, a Director in the Markets Strategy Organization at U S WEST, will testify that, in accordance with the

¹⁸ 47 U.S.C. Section 271(c)(2)(B)(iii).

requirements of the Act and FCC rules, U S WEST provides CLECs with nondiscriminatory access to Basic and Enhanced 911 services. Such access is available whether a CLEC resells U S WEST's retail services or whether a CLEC is facilities-based, either through the use of the CLEC's own end office switch or through the CLEC's use of unbundled switching provided by U S WEST. Ms. Bumgarner will testify that U S WEST has provided E911 service to numerous facility-based CLECs in Washington by providing E911 trunks between the CLECs' switches and the U S WEST selective router, and that U S WEST has provided 911/E911 services to numerous resellers in Washington, who access 911/E911 services using the same facilities as U S WEST's end user customers. Commission-approved interconnection agreements in Washington and the SGAT make access to Basic and Enhanced 911 services available to CLECs. CLECs have the ability to offer their customers the same access to 911 and E911 services as the customers of U S WEST utilize. U S WEST will also present the results of its performance measurements that relate to 911 services.

3. Checklist Item 7(ii)&(iii) - Directory Assistance Services, and Operator Assistance Services.

To satisfy checklist items 7(ii) and (iii), U S WEST must provide nondiscriminatory access to directory assistance ("DA")¹⁹ and operator services ("OS").²⁰ Under FCC rules, a LEC that provides DA, OS, or directory listings to its customers, or provides telephone numbers, must permit competing providers nondiscriminatory access to these services or features, with no unreasonable dialing delays. Ms. Lori Simpson, a Director in the Wholesale Markets Division at U S WEST, will provide detailed testimony that shows U S WEST

¹⁹ 47 U.S.C. Section 271(c)(2)(B)(vii)(II).

²⁰ 47 U.S.C. Section 271(c)(2)(B)(vii)(III).

satisfies these requirements by providing nondiscriminatory DA and OS access in any of three ways at the CLEC's option: subscription to US WEST's OSS and DA services; provision of its own services; or purchase of the services from a third party. U S WEST will show that it provides all three options in a nondiscriminatory manner and with prices for DA and OS that are cost-based, "just, reasonable and nondiscriminatory," as required by Section 252(d) of the Act. U S WEST will also rely on the results of its performance measurements, including DA 1 & 2 (Directory Assistance) and OS 1 & 2 (Operator Services).

4. Checklist Item 8 - White Pages Directory Listings

To satisfy checklist item 8, U S WEST must provide white pages directory listings for customers of another carrier's telephone exchange service.²¹ Section 251(b)(3) obligates LECs to permit all competing providers of telephone exchange service and telephone toll service to have nondiscriminatory access to directory listings.²² Ms. Lori Simpson, a Director in the Wholesale Markets Division at U S WEST, will provide detailed testimony that shows U S WEST satisfies this checklist item through (1) its actual processing of white pages directory listings for resellers and facility-based CLECs in the State of Washington; (2) its SGAT, which provides nondiscriminatory access to white pages directory listings by requiring the same procedures for U S WEST and CLEC listings; and, (3) its provision of the same types of directory listings, under identical terms, to facilities-based, resale and unbundled network element CLECs, and to itself.

Checklist Item 9 - Nondiscriminatory Access to Telephone Numbers

²¹ 47 U.S.C. Section 271(c)(2)(B)(viii).

²² 47 U.S.C. Section 251(b)(3).

To satisfy checklist item 9, U S WEST must provide, until the date by which telecommunications numbering administration guidelines, plans, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers.²³ Section 251(b)(3) of the Act requires all LECs to permit access to telephone numbers by all providers of telephone exchange and toll service.²⁴ As this Commission is aware, the FCC established a transition plan to transfer the numbering administration functions to an independent third party administrator. Prior to the transfer of these functions, U S WEST provided nondiscriminatory access to telephone numbers through the assignment of central office codes (NXXs) to itself and other carriers using the national industry guidelines and forms. Ms. Margaret Bumgarner, a Director in the Markets Strategy Organization at U S WEST, will provide testimony explaining that U S WEST is no longer the Central Office Code Administrator in its region; rather, the responsibility for numbering administration transitioned to NeuStar (formerly Lockheed Martin IMS) on September 1, 1998.

²³ 47 U.S.C. Section 271(c)(2)(B)(ix).

²⁴ 47 U.S.C. Section 251(b)(3).

6. Checklist Item 10 - Nondiscriminatory Access to Databases and Associated Signaling

To satisfy checklist item 10, U S WEST must provide “[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion.”²⁵ As interpreted by the FCC, such databases and signaling systems include the Line Information Database (“LIDB”), Calling Name (“ICNAM”), Toll Free Calling (“8XX”), , Advanced Intelligent Network (“AIN”), Enhanced 911 (“E911”), and Local Number Portability (“LNP”) databases, and access to the Service Management Systems (“SMS”), which facilitate the entry of data into these call-related databases.

Several carriers operating in Washington have interconnected with U S WEST’s signaling network, and there are third party signaling network providers interconnected to U S WEST’s signaling network providing access for other carriers. In addition, U S WEST complies fully with the requirements of Section 271(c)(2)(B)(x) through its interconnection agreements and its SGAT. In addition, Ms. Margaret Bumgarner, a Director in the Markets Strategy Organization at U S WEST, will provide detailed testimony that shows U S WEST provides competing carriers with nondiscriminatory access on an unbundled basis to the Signal Transfer Point (“STP”) and signaling links.. U S WEST’s local switch ports include CLEC use of U S WEST’s signaling network for traffic originated from the line-side switching port. Thus, U S WEST will show that it provides the required access under checklist item 10 in a nondiscriminatory manner with rates that are cost-based under Section 252(d). U S WEST will also rely on the results of its performance measurements, including DB 1 & 2 (Database Updates).

²⁵ 47 U.S.C. Section 271(c)(2)(B)(x).

7. Checklist Item 12 - Local Dialing Parity

To satisfy checklist item 12, U S WEST must provide “[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of Section 251(b)(3).”²⁶ Section 251(b)(3) requires each LEC “to provide dialing parity to competing providers of telephone exchange service. . . and the duty to permit nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”²⁷

Ms. Margaret Bumgarner, a Director in the Markets Strategy Organization at U S WEST, will provide testimony that shows U S WEST is in compliance with checklist item 12 because its customers and CLEC customers dial the same number of digits to make local calls. These local calls include calls to other customers regardless of their local service provider, and calls to operator services, directory assistance, and provisions for directory listings. Furthermore, it will be shown that there are no unreasonable dialing delays because any given local call is made in the same manner with the same number of dialed digits by U S WEST customers and CLEC customers.

8. Checklist Item 13 - Reciprocal Compensation

To satisfy checklist item 13, U S WEST must provide “reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2).”²⁸ Section

²⁶ 47 U.S.C. Section 271(c)(2)(B)(xii).

²⁷ 47 U.S.C. Section 251(d)(2).

²⁸ 47 U.S.C. Section 271(c)(2)(B)(xiii).

252(d)(2), in turn, provides that a state commission may not consider the terms and conditions for reciprocal compensation to be just and reasonable unless they: (1) provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination of calls that originate on the network facilities of the other carrier, and (2) determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.²⁹ In addition, Section 251(b)(5) of the Act imposes on all LECs “the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.”³⁰

Mr. Thomas Freeberg, a Director in the Wholesale Markets Division at U S WEST will provide testimony that shows U S WEST meets the requirements of Section 271(c)(2)(B)(xiii) through its various interconnection agreements and the SGAT, pursuant to which U S WEST and CLECs provide interconnection and reciprocal compensation for the exchange of local traffic. The reciprocal compensation rates provided for in these agreements are cost-based under Section 252(d)(2). Mr. Freeberg will demonstrate that U S WEST has met its obligation to pay reciprocal compensation pursuant to the Act, FCC, and Washington Commission Orders so it satisfies this checklist item.

Workshop II

The second workshop will cover checklist items 1 (Interconnection/Collocation), 11 (Number Portability) and 14 (Resale). The second workshop will also address

²⁹ 47 U.S.C. Section 252(d)(2).

³⁰ 47 U.S.C. Section 251(b)(5).

Section 272 issues. The following is an outline of the evidence U S WEST intends to submit before the second workshop.

1. Checklist Item 1 - Interconnection

To satisfy checklist item 1, U S WEST must provide "[i]nterconnection in accordance with the requirements of Sections 251(c)(2) and 252(d)(1)."³¹ Section 251(c)(2) imposes the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the incumbent local exchange carrier's ("ILEC") network "for the transmission and routing of telephone exchange service and exchange access ... at any technically feasible point within the [LEC's] network ... that is at least equal in quality to that provided by the [ILEC] to itself. . . ."³² Section 252(d) requires that the rates established by a state commission for interconnection under section 251(c)(2) be cost-based and nondiscriminatory, and expressly permits such rates to include a reasonable profit.³³ Thomas Freeberg, a Director in the Wholesale Markets Division at U S WEST, will provide testimony that shows U S WEST complies with checklist item 1 because it actually provides interconnection for the exchange of local traffic under terms of the various interconnection agreements between U S WEST and CLECs in Washington, as well as through its SGAT and on non-discriminatory terms and in a non-discriminatory manner. Mr. Freeberg will also demonstrate that U S WEST is providing all required forms of collocation in a manner that allows an efficient competitor a reasonable opportunity to compete. U S WEST will also rely upon its results under its performance measurements NI-I

³¹ 47 U.S.C. Section 271(c)(2)(B)(i).

³² 47 U.S.C. Section 251(c)(2).

³³ 47 U.S.C. Section 252(d)(1).

(trunk blockage), CP-1-6 (the collocation measures) and the relevant pre-order, order, maintenance and repair and billing measurements.

2. Checklist Item 11 - Number Portability

To satisfy checklist item 11, U S WEST must provide “interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, and convenience as possible.”³⁴ To satisfy this section, U S WEST must be in full compliance with the FCC’s permanent or long-term number portability (“LNP”) regulations. The FCC required LNP deployment in the nation’s 100 largest metropolitan areas. U S WEST has specific legal commitments to make number portability available under its various approved interconnection agreements and under its recently-filed SGAT. U S WEST will show that its procedures for LNP are fully documented and LNP may be ordered both manually and electronically. Moreover, Ms. Margaret Bumgarner, a Director in the Markets Strategy Organization at U S WEST, will provide testimony that shows U S WEST has successfully deployed long-term number portability in Washington. U S WEST will also rely on the results of the relevant performance measurements.

³⁴ 47 U.S.C. Section 271(c)(2)(B)(xi).

3. Checklist Item 14 - Resale

To satisfy checklist item 14, U S WEST must provide “telecommunications services for resale in accordance with the requirements of Sections 251(c)(4) and 252(d)(3).”³⁵ Section 251(c)(4) requires incumbent LECs “to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers,” and “not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service.”³⁶ Section 252(d)(3) provides that “wholesale rates” must be based upon “retail rates charged to subscribers for the telecommunications service requested, excluding the portion . . . attributable to any marketing, billing, collection, and other costs that will be avoided. . . .”³⁷

Ms. Lori Simpson, a Director in the Wholesale Markets Division at U S WEST, will provide testimony that shows U S WEST makes all of its retail telecommunications services available for resale, including: residence exchange service; business exchange service, PBX; basic exchange switched features, IntraLATA toll, ISDN; public access lines and DS0, DS1, and DS3 services.

U S WEST will show that it has procedures in place for CLEC ordering of services for resale (either manually or electronically), and provides extensive documentation and assistance to assist CLECs in ordering and obtaining services for resale. Moreover, U S WEST will demonstrate that its provisioning and maintenance procedures are

³⁵ 47 U.S.C. Section 271(c)(2)(B)(xiv).

³⁶ 47 U.S.C. Section 251(c)(4).

³⁷ 47 U.S.C. Section 251(d)(3).

nondiscriminatory as between CLECs and U S WEST's retail operations. U S WEST will also rely upon its results for the relevant pre-order, order, maintenance and repair, and billing performance measurements.

Section 272

Section 272 of the Act describes how U S WEST must conduct itself once it obtains interLATA authority.³⁸ Ms. Judy Brunsting, Director, Regulatory and Network Implementation and Optimization at U S WEST Long Distance, Inc., and Ms. Marie Schwartz, Manager, FCC Regulatory Accounting at U S WEST, will provide testimony that demonstrates that U S WEST meets all requirements of Section 272. In particular, U S WEST has established a separate long distance affiliate, U S WEST LD, a wholly-owned subsidiary of U S WEST, Inc.³⁹ U S WEST LD is a separate corporate entity from U S WEST Communications, which is also a wholly-owned subsidiary of U S WEST, Inc. U S WEST Communications owns no stock in U S WEST LD, and U S WEST LD owns no stock in U S WEST Communications.

The testimony will demonstrate that U S WEST LD will operate independently from U S WEST Communications.⁴⁰ U S WEST Communications and U S WEST LD currently operate independently in accordance with the FCC's Non-Accounting Safeguards Order.⁴¹ U S WEST Communications, Inc., and U S WEST LD do not and will not jointly own

³⁸ 47 U.S.C. Section 272.

³⁹ 47 U.S.C. Section 272(a).

⁴⁰ 47 U.S.C. Section 272(b)(1).

⁴¹ First Report and Order and Further Notice of Proposed Rulemaking, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, 11 FCC Rcd 21905 (1996) ("Non-Accounting Safeguards Order").

switching or transmission facilities or land and buildings where those facilities are located so long as this restriction applies under FCC rules. U S WEST Communications has not transferred any facilities to U S WEST LD that must be unbundled under 47 U.S.C. § 251(c)(3).

The testimony will also demonstrate that U S WEST maintains books, records, and accounts in accordance with FCC requirements that are separate from the books, records, and accounts U S WEST LD maintains.⁴² U S WEST LD issues separate financial statements from U S WEST Communications, maintains a separate Chart of Accounts, maintains separate internal financial controls, possesses its own federal tax ID number, and maintains separate assets.

U S WEST Communications and U S WEST LD have separate officers, directors, and employees.⁴³ U S WEST LD's Chief Operating Officer is not an officer of U S WEST Communications, no U S WEST Communications officer or employee is also an officer or employee of U S WEST LD, and no U S WEST LD officer, director or employee is also an officer, director or employee of U S WEST Communications. The members of the Board of Directors for U S WEST Communications are not officers or directors of U S WEST LD, and both subsidiaries pay their respective employees from separate payrolls. U S WEST Communications also provides services to U S WEST LD as an independent contractor, not as an agent or employee of U S WEST LD.

Section 272(b)(4) provides that U S WEST LD cannot "obtain credit under any

⁴² 47 U.S.C. Section 272(b)(2).

⁴³ 47 U.S.C. Section 272(b)(3).

arrangement that would permit a creditor, upon default, to have recourse to the assets of" U S WEST Communications.⁴⁴ U S WEST meets this requirement because: (a) U S WEST Communications and U S WEST LD are separately capitalized; (b) U S WEST Communications issues its own commercial paper to obtain financing, separate from debt financing of unregulated affiliates which is obtained through U S WEST, Inc.; and (c) neither U S WEST, Inc. nor U S WEST Communications has co-signed a contract or any other instrument that would allow U S WEST LD to obtain credit in a manner that would permit creditors to have recourse to U S WEST Communications' assets.

Section 272(b)(5) requires that all transactions between U S WEST Communications and U S WEST LD must be conducted at arms' length, in writing, and publicly available.⁴⁵ All services that U S WEST Communications provides to U S WEST LD are either tariffed services or provided under separate contract. For tariffed services, U S WEST LD obtains services through the same processes and on the same terms as any non-affiliated telecommunications customer. U S WEST Communications provides non-tariffed services under stand-alone agreements and under "umbrella" agreements, such as the Master Services Agreement with associated Work Orders. All transactions between U S WEST Communications and U S WEST LD can be inspected on the U S WEST Internet Home Page site (www.uswest.com/about/policy/docs/long_distance.html). In addition, U S WEST has posted on this site an annual true-up for all the prior year's transactions.

Furthermore, the testimony will show that U S WEST Communications does not

⁴⁴ 47 U.S.C. Section 272(b)(4).

⁴⁵ 47 U.S.C. Section 272(b)(5).

discriminate in favor of U S WEST LD or any other entity in the provision of goods, services, facilities, information, or the establishment of standards.⁴⁶ U S WEST must account for all transactions between U S WEST Communications and U S WEST LD in accordance with FCC-approved accounting principles. Arthur Andersen, L.L.C., has independently verified that U S WEST Communications complies with GAAP and FCC accounting rules.

Finally, U S WEST complies with the Act's joint marketing restrictions.⁴⁷ U S WEST LD will not market telephone exchange service unless U S WEST Communications permits other carriers offering similar services to market and sell U S WEST Communications' services. Furthermore, U S WEST Communications does not currently market or sell interLATA services through U S WEST LD and will not until U S WEST LD receives Section 271 approval. Once U S WEST LD can provide in-region interLATA service, U S WEST Communications and U S WEST LD will be permitted to jointly market their services so long as their transactions are arms' length, in writing, available for public inspection, and properly accounted for under FCC rules.

Both U S WEST Communications and U S WEST LD conduct extensive compliance training for their respective employees to ensure that they understand and abide by the requirements of the Act and relevant FCC orders, including Section 272 and FCC orders implementing Section 272.

⁴⁶ 47 U.S.C. Section 272(c)(1).

⁴⁷ 47 U.S.C. Section 272(g).

C. Workshop III

The third workshop will cover the unbundled network element checklist items – 2 (Access to Unbundled Network Elements), 4 (Loops), 5 (Transport) and 6 (Switching). The third workshop will also cover Track A and public interest issues. The following is an outline of the evidence U S WEST currently intends to produce before the third workshop.

1. Checklist Item 2 - Unbundled Network Elements

To satisfy checklist item 2, U S WEST must provide “[n]ondiscriminatory access to network elements in accordance with the requirements of Sections 251(c)(3) and 252(d)(1).”⁴⁸ Section 251(c)(3) obligates incumbent LECs to provide such access on an unbundled basis at any technically feasible point “in a manner that allows requesting carriers to combine such elements in order to provide [a] telecommunications service.”⁴⁹ Section 252(d)(1) requires the pricing for UNEs to be at a just and reasonable rate that is cost-based (including a reasonable profit) and nondiscriminatory, as determined by a state commission.⁵⁰

a) UNEs

(1) Evolution of the FCC’s UNE Rules

In August 1996, the FCC adopted two regulations, one identifying a list of unbundled network elements (“UNEs”) that ILECs must offer to competitors⁵¹ and one requiring ILECs to provide combinations of network elements to competitors.⁵² On January 25, 1999, the

⁴⁸ 47 U.S.C. Section 271(c)(2)(B)(ii).

⁴⁹ 47 U.S.C. Section 251(c)(3).

⁵⁰ 47 U.S.C. Section 252(d)(1).

⁵¹ 47 C.F.R. 51.319 (“Rule 319”).

⁵² 47 C.F.R. 51.315 (“Rule 315”).

Supreme Court of the United States issued a decision which vacated the FCC's list of UNEs, but reinstated one portion of the FCC's combination rule (Rule 315(b), which requires ILECs to make pre-existing combinations of UNEs available to CLECs).⁵³

On November 5, 1999, the FCC released its second list of UNEs to comport with the Supreme Court decision.⁵⁴ The FCC required that a BOC make available the following UNEs: local loop, network interface device ("NID"), circuit switching capability (including local switching, vertical features, and tandem switching), interoffice transmission facilities (including unbundled dedicated interoffice transport and shared interoffice transport), call-related databases and signaling systems, and operation support systems. The FCC also found that U S WEST must make preexisting combinations of these UNEs available to competitors in accordance with Rule 315(b). Finally, the FCC added several new elements to the list of UNEs, including: subloop elements/inside wire; dark fiber; and OSS functionality that provides loop qualification information on a preorder basis.

U S WEST will provide testimony that demonstrates that it meets the standard of checklist item 2 as interpreted by the FCC.

(2) Access to UNEs

Ms. Karen Stewart, Director of Retail Markets at U S WEST, will provide detailed testimony that shows a CLEC is able to access U S WEST's UNEs in several ways. It can access UNEs by obtaining virtual, caged-physical, or cageless-physical collocation at a

⁵³ AT&T Corp., et al. v. Iowa Utilities Board, et al., 525 U.S. 366.

⁵⁴ UNE Remand Order.

U S WEST central office; ordering the desired UNEs; and using Interconnection Tie Pairs (ITP) to connect the UNEs to equipment located in its collocation space. Alternatively, a CLEC may access U S WEST's UNEs at the ICDF, without having physically to collocate any of their own transmission equipment at the U S WEST central office. Finally, a CLEC may use the bona fide request (“BFR”) process to request unique or nonstandard access to UNE configurations. Ms. Stewart will provide testimony demonstrating that U S WEST is providing access to all required UNEs in a non-discriminatory manner that allows an efficient competitor a reasonable opportunity to compete. U S WEST will also rely upon its results for the relevant pre-order, order, maintenance and repair, and billing performance measurements.

(3) Combinations of UNEs

Ms. Stewart will provide testimony demonstrating that U S WEST is providing access to all required forms of combinations of UNEs on non-discriminatory terms and in a non-discriminatory manner. For those elements that CLECs combine themselves, U S WEST allows CLECs to combine such elements in a manner that allows an efficient competitor a reasonable opportunity to compete. U S WEST will also rely upon its results for the relevant pre-order, order, maintenance and repair, and billing performance measurements.

(4) Pricing for UNEs

U S WEST's UNE and related collocation prices are contained in its approved

interconnection agreements and its SGAT.⁵⁵

(5) The Network Interface Device

U S WEST will show that it provides access to the Network Interface Device (NID), which allows a CLEC to terminate its own loop facility at a customer premises and access the inside wiring. The FCC requires ILECs, such as U S WEST, to provide access to the NID.⁵⁶ U S WEST will show that for access to the NID, it provides two options: the CLEC may install its own NID, and run a jumper from its NID to the U S WEST NID; or, space permitting, a CLEC may terminate its loops directly into the U S WEST NID.

b) Operations Support Systems

Although the Telecommunications Act of 1996 does not refer to OSS, the FCC has defined access to OSS as a network element to which ILECs must provide non-discriminatory access. The Supreme Court upheld the FCC's decision that OSS is a "network element."⁵⁷

In its opinions on the applications of other BOCs, the FCC established a two-part inquiry regarding OSS. First, "the [FCC] must determine whether the BOC has deployed the

⁵⁵ The Supreme Court specifically recognized the interrelationship between Rule 315(b) and the list of unbundled network elements in its vacation of the FCC's list of UNEs contained in Rule 319. In its review of Rule 315(b), the Court addressed ILEC concerns that such a rule would result in price arbitrage of resale through UNE-based rates by stating: "As was the case for the all-element rule, our remand of Rule 319 may render the incumbents' concern on this score academic." In spite of the Supreme Court's best intentions, the FCC's UNE remand order has not addressed ILEC concerns that such a rule would result in price arbitrage of resale through UNE-based rates.

⁵⁶ First Interconnection Order at ¶392.

⁵⁷ AT&T v. Iowa Utils. Bd., at p. 9.

necessary systems and personnel to provide sufficient access to each of the necessary OSS functions [pre-ordering, ordering, provisioning, repair and maintenance, and billing] and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."⁵⁸ The FCC described this to mean that the BOC must demonstrate that: (1) it has developed sufficient electronic and manual interfaces to allow competing carriers to access all necessary OSS functions; (2) for those functions that the BOC accesses electronically, it has provided equivalent access for competing carriers; (3) it has provided technical specifications to enable competing carriers to design or modify their computer systems; and (4) its OSS are able to handle current and reasonably foreseeable demand.⁵⁹ Second, the FCC must assess "whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter."⁶⁰

For those OSS functions that are analogous to OSS functions the BOC performs for itself (such as pre-ordering, ordering, and provisioning for resale), the BOC must offer access that is "equivalent" to the access it provides itself.⁶¹ Equivalency is not defined as identical, however, but rather as access so that CLECs are able to perform OSS functions in "substantially the same time and manner" as the BOC.⁶² The FCC has specifically

⁵⁸ *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region InterLATA Services in Michigan*, Memorandum Opinion and Order, CC Docket No. 97-137, ¶ 136 (rel. August 19, 1997) ("Ameritech Michigan Order"); *see also BellSouth Louisiana II Order* at ¶ 85.

⁵⁹ *See Ameritech Michigan Order* at ¶ 137.

⁶⁰ *Ameritech Michigan Order* at ¶ 136; *see also BellSouth Louisiana II Order* at ¶ 85.

⁶¹ *See BellSouth Louisiana II Order* at ¶ 87 and ¶ 98.

⁶² *Id.*

recognized that the ordering and provisioning of unbundled network elements do not have a retail analogue.⁶³ For those functions with no retail analogue (such as ordering and provisioning of UNEs), the BOC must establish that its interfaces provide efficient CLECs with a "meaningful opportunity to compete."⁶⁴

As will be demonstrated through detailed testimony submitted before and subjected to inquiry at the appropriate workshop, U S WEST meets these standards. U S WEST will submit the testimony of Lynn Notarianni, a Director of Wholesale Systems at U S WEST Information Technologies, Inc., which will demonstrate that, to provide CLECs non-discriminatory access to OSS, U S WEST has built a computer-to-computer EDI interface and a GUI interface called IMA. Ms. Notarianni will demonstrate that U S WEST's interfaces have the required and necessary functionalities to provide non-discriminatory access to OSS for pre-order, order, provisioning, maintenance and repair, and billing. U S WEST will also rely upon its results for the relevant gateway availability, pre-order, order, maintenance and repair, and billing performance measurements. U S WEST will present evidence that the OSS functions that it has deployed are operationally ready, as a practical matter. That evidence will include commercial usage, third-party testing, carrier-to-carrier testing, and internal testing. U S WEST will present the ROC OSS Test Requirements Document and that it will result in test results that will demonstrate that: U S WEST has deployed the necessary and required OSS functionality and that the OSS functions that it has deployed are operationally ready, as a practical matter. When they are

⁶³ *BellSouth Louisiana II Order* at ¶ 87; *Ameritech Michigan Order* at ¶ 141.

⁶⁴ Id.

available, U S WEST will present the results of the ROC OSS testing.

2. Checklist Item 4 - Unbundled Loops

To satisfy Checklist Item 4, U S WEST must provide “local loop transmission from the central office to the customer’s premises, unbundled from local switching or other services.”⁶⁵ One UNE is associated with provision of this checklist item: the local loop itself, defined as “a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and an end user customer premises.”

Both the FCC’s old and new Rule 319 require U S WEST to make both two and four-wire analog or digital loops available to competitors.⁶⁶ The FCC has also determined that U S WEST must provide access to sub-loops, dark fiber loops and xDSL-capable loops. Ms. Karen Stewart, a Director of Retail Markets at U S WEST, will show that by offering a variety of loops through both its SGAT and various interconnection agreements, U S WEST meets the FCC requirements.

U S WEST will show that it has collected substantial data on its performance provisioning, installing and repairing unbundled loops. This data will demonstrate that U S WEST satisfies this checklist item.

U S WEST will show that it uses standard installation intervals to provision unbundled loops in a manner that provides an efficient CLEC with a meaningful opportunity to compete. Moreover, the standard service intervals for unbundled analog loops mirror the intervals that U S WEST offers to its retail customers that purchase design services. Thus,

⁶⁵ 47 U.S.C. Section 271(c)(2)(B)(iv).

⁶⁶ First Interconnection Order at ¶ 380.

U S WEST will show that it is providing CLECs with nondiscriminatory access to unbundled loops in Washington today.

The FCC has ruled that repair and maintenance of UNEs is the retail analogue to unbundled loops.⁶⁷ Because a retail analogue does exist, U S WEST must demonstrate nondiscrimination by maintaining unbundled loop service in substantially the same time and manner as it maintains retail basic exchange service for its own retail customers. For this reason, U S WEST will show that the maintenance performance indicators for unbundled loops are the same as the performance measures for basic exchange service. These indicators will show that U S WEST maintains unbundled loop service in a manner that is “substantially the same as” the manner in which it maintains retail basic exchange service for its own retail customers.

3. Checklist Item 5 - Unbundled Transport

To satisfy checklist item 5, U S WEST must provide “[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.”⁶⁸ The FCC has defined two general categories of local transport: dedicated transport – incumbent LEC transmission facilities dedicated to a particular customer or carrier; and shared transport – transmission facilities shared by more than one carrier, including the incumbent LEC. Ms. Karen Stewart, a Director of Retail Markets at U S WEST, will provide detailed testimony that shows U S WEST satisfactorily provides

⁶⁷ *BellSouth Louisiana II Order* at ¶ 145.

⁶⁸ 47 U.S.C. Section 271(c)(2)(B)(v).

to CLECs both dedicated and shared transport.

U S WEST provides unbundled dedicated transport through its “unbundled dedicated interoffice transport” (“UDIT”) element, at all technically feasible transmission capability levels. In addition, U S WEST offers shared transport including all transmission facilities connecting U S WEST's switches – facilities between an end office and a tandem switch, between two end offices, or between two tandem switches.

Washington CLECs have placed very few orders for unbundled transport to date. U S WEST has included unbundled transport in its SGAT, and has put in place all necessary processes for shared transport to be ordered and installed. Because of the low demand, U S WEST conducted a Bench Test. The Bench Test demonstrates that U S WEST can furnish these services within standard intervals in quantities that CLECs may reasonably demand and at an acceptable level of quality. U S WEST will also rely upon its results for the relevant pre-order, order, maintenance and repair, and billing performance measurements.

4. Checklist Item 6 - Unbundled Switching

To satisfy checklist item 6, U S WEST must provide nondiscriminatory access to “[l]ocal switching unbundled from transport, local loop transmission, or other services.”⁶⁹

Ms. Karen Stewart, a Director of Retail Markets at U S WEST, will provide testimony that shows U S WEST meets the requirements under this checklist item. Moreover, as reflected in its recently filed SGAT, U S WEST offers both unbundled local switching and unbundled tandem switching; access to all vertical features installed in the switch (with the CLEC using the BFR process to request features installed but not yet

⁶⁹ 47 U.S.C. Section 271(c)(2)(B)(vi).

activated in the switch); and customer routing (to the extent technically feasible).

U S WEST has included unbundled switching and features in its SGAT, and has put in place all necessary processes for unbundled switching to be ordered and installed. As yet, there has been no demand for stand-alone unbundled switching. As a result, the performance measures that U S WEST has developed on this checklist item contain no data. Because of the absence of actual performance data, U S WEST conducted a Bench Test. The Bench Test demonstrates that U S WEST can furnish these services within standard intervals in quantities that CLECs may reasonably demand and at an acceptable level of quality.

5. Public Interest

Section 271(d)(3)(C) of the Telecommunications Act allows a BOC to enter an in-region interLATA market if the FCC finds that, among other things, such entry would be consistent with the “public interest, convenience, and necessity.” The Washington Commission is ideally situated to advise the FCC about the public interest considerations associated with U S WEST’s Section 271 application because it understands both the realities of the telecommunications marketplace in Washington and the needs and desires of Washington’s subscribers regarding telecommunications services. U S WEST will present the testimony of Dr. Robert Harris which will demonstrate that the public interest weighs very heavily in favor of allowing U S WEST to enter the interLATA market in Washington. The grant of U S WEST’s Section 271 application would produce a panoply of public benefits to residential and business consumers, including access to one-stop shopping for an array of telecommunications services and lower long distance prices.

U S WEST will demonstrate through the testimony of Dr. Harris that its entry into interLATA services will generate the following significant benefits to Washington

consumers:

First, U S WEST will demonstrate that the interLATA market currently is not fully competitive. U S WEST will show that the interLATA market remains highly concentrated and, except for the highest volume customers, interLATA prices exceed competitive levels. U S WEST will show that the basic tariffed interstate prices of AT&T, MCI WorldCom and Sprint have increased steadily over the last several years, despite decreases in access charges and an increase in the number of long distance competitors. During the same time period, access charges, a major component of IXC costs, declined significantly. The long distance market is highly concentrated both nationally and in Washington. Hence, Washington subscribers are being forced to pay needlessly high long distance rates because of oligopolistic pricing practices or broken promises by the IXCs regarding access charge reduction pass-throughs. IXCs charge Washington consumers higher rates than would be the case if competition in the long distance market truly existed.

Second, U S WEST will demonstrate that granting this application is the only way that Washington consumers will get the bundles of services they want. U S WEST is prepared to offer competitively priced packages of a wide range of telecommunications services to a broad group of Washington consumers. U S WEST will show that many residential and small business customers outside of urban areas do not have a choice of bundled services, because CLECs are focusing their efforts on large businesses in urban areas. Until U S WEST obtains Section 271 authority, it would appear that these customers will be denied the numerous benefits that flow from one-stop shopping. U S WEST will demonstrate that because it offers ubiquitous service throughout its Washington service territory, U S WEST is in a position to market packaged services to a much broader range

of consumers within its region.

Third, U S WEST will demonstrate that it will be an efficient and effective competitor in interLATA services markets. U S WEST's history of providing ubiquitous service places the company in a unique position to compete vigorously with the major incumbent long distance carriers. With or without the Qwest merger, U S WEST can realize legitimate economies of scale and scope in serving the interLATA market. U S WEST will establish that its entry into the long distance market would therefore reduce the amount of concentration, generate enormous competitive pressure, and, in turn, lower prices.

Fourth, U S WEST's will demonstrate that its provisioning of interLATA services will accelerate competitive entry in local markets. U S WEST will show, by examining the experiences in Connecticut and New York, that the incumbent long distance carriers have little interest in providing local services to a broad range of consumers unless they are at risk of losing existing long distance customers. U S WEST's entry into Washington's long distance market will likely force the major incumbent long distance carriers to quickly expand their local service offerings in order to protect their long distance business. In the past, incumbent long distance carriers in Washington faced limited competitive pressure in the provision of long distance service, particularly for residential customers. U S WEST will prove that its ability to offer a full range of telecommunications services, however, will create a strong incentive for the incumbent long distance carriers to respond with comparable service offerings, or lower prices, to avoid losing their long distance customers. This is a healthy competitive activity that is beneficial to Washington consumers.

Track A

Section 271(c)(1)(A) of the Act, known as "Track A," requires that a BOC

demonstrate that it has at least one binding interconnection agreement with an operating facilities-based local exchange competitor. Specifically, Section 271(c)(1)(A) provides that:

A [BOC] meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under Section 252 specifying the terms and conditions under which the [BOC] is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service . . . to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier. . . .⁷⁰

Facilities-based competitors are operating in Washington, and U S WEST has binding agreements with those competitors. As of March 20, 2000, this Commission has approved 86 interconnection agreements. Competitors in Washington are successfully entering the local exchange market through all avenues available under the Act -- interconnection, resale, and unbundled network elements. U S WEST will fully illustrate the quantity of competition and variety of local telecommunications market entry strategies presently being pursued in Washington. This evidence will show that the local telecommunications competition in Washington overwhelmingly satisfies the Act's Track A requirement.

U S WEST will provide empirical evidence that CLECs have entered the local telecommunications business in Washington and that the growth of competition is accelerating. Competitors in Washington have demonstrated that viable ways exist to enter local exchange markets in Washington and that U S WEST's markets are open to competition.

⁷⁰ 47 U.S.C. Section 271(c)(1)(A).

CONCLUSION

In conclusion, U S WEST will present before each workshop all of the evidence it currently intends to provide to the FCC. That evidence will demonstrate that the conditions for Track A exist in Washington, that U S WEST meets all items in the 14-point checklist, that allowing U S WEST to provide interLATA services originating in Washington is in the public interest, and that U S WEST meets the requirements of Section 272. This preliminary statement has outlined the evidence U S WEST intends to present before each workshop. Circumstances may change while this proceeding is pending, and U S WEST reserves the right to present other evidence as circumstances change.

DATED this 22nd day of March, 2000

Respectfully submitted,

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