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May 17, 2000

**VIA ELECTRONIC MAIL
ORIGINAL VIA FEDEX**

Carole J. Washburn
Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia WA 98504-7250

Re: U S WEST SGAT, Docket No. UT-003040

Dear Ms. Washburn:

Pursuant to the Notice of Workshop (May 19, 2000) in the above-referenced docket, NEXTLINK Washington, Inc., Electric Lightwave, Inc., Advanced TelCom Group, Inc., and Allegiance Telecom, Inc. (collectively "Joint Commenters"), provide the following comments on procedural issues arising from the Statement of Generally Available Terms ("SGAT") that was filed by U S WEST Communications, Inc. ("U S WEST").



Section 252(f) of the federal Telecommunications Act of 1996 ("Act") requires that the Commission review and approve or reject any SGAT U S WEST submits for Commission approval within 60 days of submission unless U S WEST agrees to an extension of that time period. Alternatively, the statute authorizes the Commission to allow the SGAT to "take effect," subject to additional Commission review. The Commission may not approve the SGAT as a result of that review unless it complies with Sections 251 and 252(d) and applicable FCC regulations, as well as requirements of Washington law. U S WEST submitted its SGAT to the Commission for review under Section 252(f) on April 28, 2000, requiring the Commission either to complete its review by June 27, 2000, unless U S WEST agrees to an extension, or to permit the SGAT to take effect.

Section 252(f), unlike Washington law, does not afford the Commission the opportunity to suspend and conduct an extensive investigation of what is essentially a tariff filing. Unlike a tariff filing, therefore, U S WEST should be required to provide more than just the SGAT itself in order to permit the Commission to complete its

review within the statutory time frame. U S WEST, however, has failed to provide the Commission with sufficient information to undertake the requisite review. Joint Commenters have yet to receive a copy of U S WEST's submission, but the Notice of Workshop made no reference to any brief, testimony, or other document that supports U S WEST's contention that the SGAT complies with Sections 251 and 252(d) and applicable FCC regulations, as well as requirements of Washington law. U S WEST bears the burden to make that demonstration and has yet even to attempt to do so. The Commission should not be required to make a determination unless it has all evidence and argument on which U S WEST intends to rely at the *beginning* of the 60-day review process.

Accordingly, the Commission should present U S WEST with the following alternatives: Commission rejection of the submission as procedurally and substantively deficient, or U S WEST's agreement to extend the statutory review period for 60 days beyond the date on which U S WEST supplements its submission to include a detailed demonstration that the SGAT complies with applicable federal and state law. Regardless of the option U S WEST selects, the Commission should establish a procedural schedule in advance of the beginning of the 60-day review period to maximize the available time. The Joint Commenters propose the following schedule:

Day 1	U S WEST makes complete filing, including service on interested parties
Day 21	Comments filed by interested parties
Day 35	U S WEST reply to comments
Day 42	Commission hearing (special Open Meeting session)
Day 60	Commission decision

Even under this schedule, the Commission will have insufficient time to do anything more than disapprove the SGAT and identify general areas that are inconsistent with legal requirements. U S WEST thus will be compelled repeatedly to resubmit its SGAT and supporting information in the hopes that the revisions it has made will pass Commission muster. This regulatory game of "Go Fish" can be avoided through the Section 271 review process, which those participating in other states have characterized as a "mini-arbitration" where participants examine and negotiate revisions to the SGAT in detail. To conserve party and Commission resources, therefore, the Commission should request that U S WEST agree to extend the statutory review time frame until completion of the workshops in Docket No. UT-003022.

U S WEST has recognized the time constraints and other limitations posed by Section 252(f) but proposes that the Commission allow the SGAT to take effect pending Commission approval or disapproval as a result of the Section 271 review process. The Joint Commenters strongly oppose U S WEST's proposal.

Section 252(f) does not define or explain how an SGAT can "take effect" absent Commission approval. U S WEST advocates this state of limbo as a way to permit requesting carriers to take some or all of the terms of the SGAT as part of their interconnection agreements, including enabling CLECs with existing agreements to "update" their agreements with SGAT provisions. Without Commission review and approval, however, the SGAT is nothing more than U S WEST's proposed form contract, which U S WEST has offered to requesting carriers regardless of whether it is on file with the Commission. The SGAT thus need not "take effect" to enable requesting carriers to accept some or all of its provisions as part of their interconnection agreements.

U S WEST's actual intent is to give a patina of legitimacy to its unilateral interconnection terms and conditions and to use that document to demonstrate that it has a legal obligation to provide the Section 271 checklist items. The Commission has already rejected that position, permitting U S WEST to rely on its SGAT only for elements or services that have not been requested by any CLEC. CLECs have requested every one of the Section 271 checklist items, requiring that U S WEST rely on interconnection agreements to establish that it has a legal obligation to provide these items as required by federal and state law. To the extent existing Commission-approved agreements do not reflect the latest requirements adopted by the FCC or the Commission, the remedy is to amend those agreements through negotiation between the parties, not to rely on U S WEST's contract of adhesion. Indeed,

most, if not all, interconnection agreements include a provision requiring modification of the agreement to reflect changes in governing law. If a CLEC adopts some or all of the terms that U S WEST proposes as part of that process, U S WEST can attempt to rely on those terms to demonstrate compliance with Section 271. If no CLEC has accepted some or all of those terms, U S WEST cannot use them to satisfy its legal obligations. Again, permitting the SGAT to take effect will not enable or facilitate either interconnection negotiations or the Section 271 review process.

An effective but unapproved SGAT not only provides no benefit to the Commission or CLECs, the SGAT poses substantial harm. The Act requires carriers to negotiate and, if necessary, arbitrate interconnection agreements. An SGAT was intended solely to address those circumstances when no competing carrier requests an element or service U S WEST is required to make available, not to serve as a substitute for interconnection agreements. U S WEST's protestations notwithstanding, U S WEST will have less incentive to negotiate terms and conditions if it can rely on an effective but unapproved SGAT to prove that U S WEST has a legal obligation to provide one or more of the Section 271 checklist items.

Permitting the SGAT to go into effect without Commission approval would serve no legitimate purpose and would provide a disincentive for U S WEST to negotiate access to, and interconnection with, its network. The Commission, therefore, should refuse to allow the SGAT to take effect without Commission approval. The Commission, at a minimum, also should not accept submission of the SGAT pursuant to Section 252(f) unless and until U S WEST makes a complete filing of evidence and argument to demonstrate that the SGAT fully complies with federal and state law. In addition, the Commission should strongly suggest to U S WEST that it agree to extend the statutory period for Commission review of the SGAT until the Commission and interested parties have thoroughly reviewed and resolved disputed issues with respect to the SGAT in Docket No. UT-003022.

The Joint Commenters appreciate the opportunity to provide comments on these issues and look forward to continued participation in this proceeding.

Sincerely yours,

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