

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation Into)
U S WEST Communications, Inc.'s) Docket No. UT-003022
Compliance With Section 271 of the)
Telecommunications Act of 1996)
_____)

In the Matter of U S WEST Communications,) Docket No. UT-003040
Inc.'s Statement of Generally Available)
Terms Pursuant to Section 252(f) of the)
Telecommunications Act of 1996)
_____)

**STATEMENT OF SUPPLEMENTAL AUTHORITY REGARDING
QWEST'S PERFORMANCE ASSURANCE PLAN**

AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle and TCG Oregon ("AT&T") hereby submit this Statement of Supplemental Authority in connection with the Commission's review of Qwest's Performance Assurance Plan.

The Wyoming Public Service Commission issued its First Order on Group 5A Issues on January 30, 2002, and the Montana Public Service Commission issued its Preliminary Report on Qwest's Performance Assurance Plan (both attached).

The Wyoming Order requires Qwest to implement language which: removes the 36% cap, provides a Tier II remedy scheme which includes per month penalties (vs. waiting for three months of poor performance), removes the escalation cap, implements a far more stringent "sticky" duration factor, removes any limits on CLECs suing for both contractual and non-contractual remedies in a court of law, requires Qwest to establish its right to offset to the relevant tribunal, and places provisions requiring Commission control vs. the current Qwest unilateral control.

The Montana Order (which AT&T acknowledges is a “preliminary” order) orders changes to the QPAP: to require a 36% **procedural** cap (vs. hard cap), to allow CLECs to sue for liquidated damages on contractual remedies, to strike the Qwest imposed language regarding limitations on non-contractual remedies, to require Qwest to establish its right to offset to the relevant tribunal, to eliminate CLEC Tier I funding related to any administrative effort, to possibly require escalation of Tier II payments, to eliminate an escalation cap, to expand the six month review to include issues that the Commission finds relevant, to eliminate American Arbitration Association arbitration in favor of Montana Commission arbitration, to place provisions requiring Commission control vs. the current Qwest unilateral control, and to give the Commission control over all auditing provisions.

AT&T also notes that the changes the Wyoming Public Service Commission and the Montana Public Service Commission are requiring represent the most significant issues that AT&T has been advocating in front of various commissions. The position taken by both the Wyoming Public Service Commission and the Montana Public Service Commission also substantially represents the positions taken by the Utah Advisory Staff, New Mexico Advocacy Staff, and Chairperson Raymond Gifford of the Colorado Public Utilities Commission. It also represents the positions taken by other state commissions in their plans including the New Jersey plan, the Pennsylvania plan, the Louisiana plan, the New York plan and the Texas plan and its progeny.

AT&T submits these initial findings as supplemental authority for consideration by this Commission in connection with its review and findings relating to Qwest's Performance Assurance Plan.

Respectfully submitted on February 1, 2002.

AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC. AND
AT&T LOCAL SERVICES ON BEHALF
OF TCG SEATTLE AND
TCG OREGON

By: _____

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