

U S WEST COMMUNICATIONS, INC.

REBUTTAL TESTIMONY

OF

MAX A. PHILLIPS

State of Iowa
Department of Commerce
December 23, 1999

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1

IDENTIFICATION OF WITNESS

2

3 **Q. PLEASE STATE YOUR NAME, TITLE AND ADDRESS.**

4 **A.** My name is Max Phillips. I am employed by U S WEST Communications
5 (U S WEST) as General Manager - Regulatory (Iowa). My business address is 925
6 High Street, Des Moines, IA, 50309.

7

8 **Q. ARE YOU THE SAME MAX PHILLIPS WHO FILED DIRECT TESTIMONY**
9 **FOR U S WEST ON SEPTEMBER 20, 1999 AND SUPPLEMENTAL DIRECT**
10 **TESTIMONY ON NOVEMBER 19, 1999?**

11 **A.** Yes.

12

13 **PURPOSE OF REBUTTAL TESTIMONY**

14

15 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

16 **A.** The purpose of my rebuttal testimony is to respond to portions of the prefiled testimony
17 of Michael L. Brosch on behalf of the Office of Consumer Advocate (OCA), Stacey
18 Stewart on behalf of McLeodUSA Telecommunications Services, Inc. ("McLeod"),
19 and Charles Ward on behalf of AT&T Communications of the Midwest, Inc.
20 ("AT&T"). Peter Cummings of U S WEST will address the financial aspects of
21 Messrs. Brosch's and Ward's testimony. William Taylor of the National Economic
22 Research Associates will respond to the testimony of Bridger Mitchell of McLeod and
23 the access charge testimony of Mr. Ward of AT&T.

24

25 **GENERAL RESPONSE**

26

27 **Q. DO YOU HAVE ANY GENERAL RESPONSES TO THE TESTIMONY OF**

1 THESE WITNESSES?

2 A. Yes. As a preliminary matter, all three witnesses to whom I respond raise numerous
3 purported issues pertaining to ~~wholesale~~ wholesale service quality, as well as other
4 ~~irrelevant~~ issues that have nothing to do with this merger docket. ~~After all~~ It is
5 important to note that; U S WEST Communications will continue to be the same
6 company in its same corporate form with its same assets and infrastructure after the
7 merger, and the Board will continue to have the same regulatory oversight that it has
8 today over the regulated aspects of U S WEST Communications' operations. In fact,
9 in the only merger hearing held to date, the Colorado Public Utilities Commission
10 recognized the lack of connection or nexus between the merger and ~~these wholesale~~
11 these wholesale service quality issues and the other collateral issues that the three
12 witnesses raise here. The Colorado Commission issued a procedural order that stated
13 that numerous issues that these same parties (AT&T and McLeod) have raised here,
14 including: 1) wholesale service, 2) service quality, 3) interconnection agreements, 4)
15 collocation, 5) competitive local exchange service and 6) intraLATA toll service; were
16 beyond the scope of review in that merger docket.¹ The same holds true here. As such,
17 U S WEST will not attempt to rebut every one of these irrelevant points raised by intervenors.
18 Nevertheless, U S WEST will address some of the most egregious examples -that these parties present
19 in their prefiled testimony.

20

21 Q. DO YOU HAVE ANY OTHER GENERAL OBSERVATIONS ABOUT
22 THE TESTIMONY PRESENTED BY THESE PARTIES?

23 A. Yes. Apart from the irrelevant matters that have no connection to the merger itself,
24 these parties also repeatedly raise conclusory allegations with little or no factual

¹ *In the Matter of the Application of Qwest Communications Corporation, et al. and U S WEST Communications, Inc., for Approval of the Merger of their Parent Corporations, Qwest Communications International, Inc. and U S WEST, Inc.*; Colorado Public Utilities Commission, Docket No. 99A-407T, Procedural Order of 10/21/99, pp. 5-6.

1 support. AT&T is especially guilty of this tactic, as it often makes inflammatory but
2 unsupported allegations, and either fails to cite any supporting facts, or cites to its own
3 complaints, or anecdotal information or purported data generated by groups to which
4 it is affiliated.²

5
6 Most of the allegations fail to make any connection to Iowa. Rather, they are simply the same boilerplate
7 allegations, almost word for word, that ~~they~~ AT&T and McLeod raised in the U S WEST and Qwest
8 merger docket in Colorado. AT&T even refers to a Colorado official as someone “in this state.” See
9 Mr. Ward’s testimony, at p. 37. Thus, rather than focusing on pertinent Iowa-specific information that
10 this Board needs in order to make its decision, AT&T and McLeod instead dredge up every
11 conceivable grievance and anecdote, ~~whether real or imagined~~, from across U S WEST’s 14-state
12 region. They apparently do so in the hopes of distracting the Board, prolonging this ~~docket~~ proceeding,
13 embarrassing U S WEST, or otherwise diverting attention from the real issues in this docket. Of
14 course, much of this information is neither relevant nor accurate. These alleged offenses, if legitimate,
15 have a number of resolution mechanisms that should be appropriately used to seek relief, rather than
16 in this merger proceeding.

17
18 Throughout their testimonies, these parties assert that the Board should deny, or at least “condition,” the merger
19 as a result of all of U S WEST’s purported offenses. They proceed as if the merger would somehow
20 fundamentally change the current regulatory environment. What the parties do not state, but which
21 is obvious to everyone involved, is that nothing about the Board’s regulatory oversight over
22 U S WEST ~~Communications~~ regulated operations will change as a result of the merger. The Board
23 will still continue to regulate U S WEST ~~Communications~~, and if the Board believes that U S WEST
24 is acting in any improper or anti-competitive manner, the Board retains all authority it has today. The
25 same can be said of the intervenors. They still retain every right that they have today, whether to
26 arbitrate, file a formal complaint with the Board, or file a lawsuit in a court of law, for any perceived

1 ² See e.g., Direct Testimony of Charles A. Ward at the following pages and lines (pages and lines are separated
2 by a colon):
3 -
4 8:9-12, 9:3-5, 9:5-7, 9:8-9, 9:9-12, 9:15-17, 9:20-23, 10:4-10, 10:17-22, 10:7-10, 13:1-13, 13:14-21, 13:22,
5 14:3, 14:4-9, 14:10-14, 14:15-22, 15:9-13, 16:2-7, 16:9-15, 16:16-23, 33:4-11, 34:2-12, 34:12-16, 35:6-12,
6 36:9-16, 36:17-24, 39:4-15, 40:5-10, 42:14-16, 45:3-8, 56:7-12, 56:13-57:1.

1 misdeed of U S WEST.

2

3 Finally, the testimonies contain a litany of negative outcomes the parties claim will likely result from the
4 merger; but rather than basing them on foundation or fact, they instead are based almost
5 exclusively on speculation and conjecture. These unfortunate tactics go well beyond the scope of this
6 merger docket. As a result, I will only respond to the most egregious claims.

7

8 **GENERAL SUMMARY AND COMMENTS REGARDING**
9 **THE SUBSTANTIVE MATTERS RAISED**

10

11 **BOTH AT&T AND McLEOD SUGGEST THAT U S WEST DOES NOT TAKE ITS**
12 **SECTION 251/252 OBLIGATIONS SERIOUSLY AND DOES ALL THAT IT**
13 **CAN TO KEEP CLECS OUT OF THE MARKET. HOW DO YOU RESPOND?**

14 Since passage of the Act, U S WEST has spent more than \$1 billion on providing CLECs with access to
15 interconnection, UNEs, resale, number portability, and operational support systems (OSS). U S WEST
16 has spent over \$160 million on OSS alone, about which AT&T complains at length. U S WEST has also
17 created an entire Wholesale Division, employing over 2,150 ~~people~~ employees, for the sole purpose of
18 providing such access to CLECs. These employees have created effective processes and procedures for
19 the ordering, provisioning, repair, and billing of all of these items. As a result, ~~as of October 1999,~~
20 U S WEST has accomplished the following throughout its region:

21 Provisioned over 415,000 interconnection trunks across its 14 states to permit interconnection with
22 CLECs and other carriers, with almost 4,100 of these in Iowa;

23 Provisioned nearly ~~522~~5,000 ~~{396,000?}~~ resold lines across the 14 states, with nearly 129,000 ~~(more~~
24 ~~than 116,000 of these are in Iowa);~~

25 Implemented "1+ dialing parity throughout U S WEST's 14 states, including Iowa;

26 ~~CLECs filled over ___ feet of ducts/conduits-~~

27 ~~— Exchanged over ___ million billed local and EAS minutes of use as of August 31, 1999~~

28 Executed over 860 interconnection and resale agreements as of November 5, 1999, with ~~(61~~ of these
29 ~~agreements are in Iowa);~~

30 Provisioned over ~~31,700~~37,000 unbundled loops, with over 4,200 ~~(— in Iowa);~~

31 Established processes and procedures, including a publicly available web site, to provide notice of

1 changes in the information necessary for the transmission and routing of services using U S WEST's
2 network, as well as any other changes that would affect interoperability;
3 Completed 1,068 collocations in 315 central offices of the 1,285 central offices throughout U S WEST.
4 From these collocations, CLECs have access to over 70% of U S WEST's access lines. In Iowa,
5 93 requests for collocation as well as requests for 28 augments have been received for collocation
6 in 27 wire centers. 68 of these collocations have been completed in 23 wire centers. (in
7 Iowa)
8 From these collocations, CLECs have access to about 55% of U S WEST's Iowa access lines;
9 Made changes to its network to enable local number portability (LNP) and as of November 30, 1999,
10 83% of the lines were LNP capable in the 14 state area and 97% in Iowa were LNP capable; and
11 ~~From these collocations, CLECs have access to over 70% of U S WEST's access lines~~
12 Continually worked to enhance its OSS interfaces to permit CLECs non-discriminatory access to those
13 systems necessary to compete in the marketplace.
14

15 **REBUTTAL TO OCA TESTIMONY**
16

17 **Q. MR. BROSCH IS CRITICAL AT PAGE 40 THAT U S WEST DID NOT**
18 **PROVIDE SPECIFIC SERVICE ASSURANCES AT PAGE 40, LINES 1-2.**
19 **WHAT IS YOUR RESPONSE TO THIS?**

20 A. Actually, in the referenced OCA Data Request No. 55, the response was emphatic that
21 Qwest and U S WEST are committed to providing total quality service, without
22 needing to list any more specific details. The response states:
23

24 Qwest and U S WEST are fully committed to ensuring that all customers in
25 Iowa, both rural and urban, business and residential, receive quality local
26 telephone service at affordable prices. We believe that providing good
27 service at reasonable prices is simply good business. ... We would also note
28 that Qwest and U S WEST remain committed to making affordable telephone
29 services widely available at just and reasonable rates.

30 ... Qwest and U S WEST take very seriously the obligation of being the incumbent local
31 telephone company in Iowa and will do their best to serve the needs of their Iowa customers.
32
33

1 —I would state that this is a firm service assurance. It is a commitment both companies
2 will abide by.

3

4 **Q. MR. BROSCH BELIEVES THAT SPECIFIC ASSURANCES THAT SERVICE**
5 **QUALITY WILL BE MAINTAINED OR IMPROVED FOR ALL CUSTOMERS**
6 **SHOULD BE GIVEN (PAGE 41, LINES 17-20). DO YOU HAVE ANY**
7 **COMMENTS REGARDING HIS BELIEF?**

8 A. Yes. As this Board is well aware, service issues are currently under the control of the
9 Board, and will remain so after the merger. It not a necessary part of the proceeding.
10 The Board has all of the tools it needs to assure that Iowa customers are provided with
11 high quality ~~trouble-free~~ telephone service. This is simply not the proper proceeding
12 to evaluate service. The joint companies' assurances and the Board's authority with
13 respect to service make this an issue that need not and should not be addressed in this
14 proceeding. ~~Even the~~ The Colorado Commission faced with similar, and in some
15 cases identical arguments from the intervenors, ruled that service quality, whether retail
16 or wholesale, was beyond the scope of its merger review. This Board should reach the
17 same conclusion.

18

19 **Q. MR. BROSCH DISCUSSES VARIOUS SERVICE RESULTS ON PAGES 42**
20 **THROUGH 43 OF HIS TESTIMONY. DO YOU HAVE ANY COMMENTS**
21 **REGARDING HIS TESTIMONY?**

22 A. Yes. My first comment goes to held orders. The data previously provided to the OCA
23 was for results through the month of September. Since that time, the October data has
24 been furnished to both the Board and the OCA. The number of held orders has been
25 reduced by 41% from September to October. Held orders are at the lowest level since
26 August of 1998. I would also point out that over 99% of the requests for service occur
27 without delay. While we are concerned about any service that is delayed, we also must

1 recognize that a ~~tremendous~~ the overwhelming number of services are installed in a
2 timely manner. In the twelve-month period from November 1998 through October
3 1999, U S WEST processed nearly 188,000 orders for service to its Iowa customers.
4 Furthermore, as the OCA almost reluctantly acknowledges, U S WEST consistently
5 exceeds the service provisioning intervals established in the Board's rules.

6

7 **Q. MR. BROSCH DISCUSSES THE LEVELS OF CUSTOMER COMPLAINTS.**
8 **WHAT ARE YOUR OBSERVATIONS REGARDING CUSTOMER**
9 **COMPLAINTS?**

10 A. As shown in Mr. Brosch's exhibit, executive complaints in October were the lowest
11 they had been since March of 1998. As far as complaints to the Board are concerned,
12 the quantity peaked in August and has steadily declined since then. From October to
13 November, there was a 42% drop in complaints to the Board.

14

15 One would actually expect the number of complaints handled by the Board Staff to
16 continually increase. There are several reasons for this. To begin with, the Staff
17 recently began handling slamming/cramming complaints that had previously been
18 handled by the Attorney General's office. In addition, in July, the Board Staff sent a
19 letter to all Community Action Agencies, Human Service Organizations and all Iowa
20 Utilities advising that it had taken steps to improve their ability to serve the public.
21 They added a toll free telephone number and a fourth customer analyst. They also
22 began using an automatic call distributor to more expeditiously route calls. The
23 announcement included a plan to expand their hours later in the year. Attached to the
24 memo was a flyer to share with clients and customers. This flyer included complete
25 information as to how the Customer Service Section of the Board could be reached,
26 including the toll free number and an email address. ~~This is an excellent service~~
27 ~~and~~ additional outreach is truly a great way for the Staff to improve their service to the

1 public. U S WEST supports such action. On the other hand, by making it easier for
2 customers to complain, it should be expected that the number of complaints made to
3 the Board would increase.

4

5 **Q. MR. BROSCH ALSO NOTES THE RESULTS OF SERVICE**
6 **INTERRUPTIONS. WOULD YOU PLEASE COMMENT?**

7 A. Again, U S WEST, ~~this is a result that~~ on a statewide basis, consistently exceeds the out
8 of service measurement by ~~being lower~~ having fewer than four trouble tickets per 100
9 access lines. While individual exchanges may exceed the measurement of four in any
10 given month, particularly due to storms, cable cuts, equipment malfunctions or other
11 unusual circumstance, the overall average statewide measurement is a clear indication
12 of the consistent ~~type~~ level of service being provided to our Iowa customers month
13 after month.

14

15 **Q. WHAT COMMENTS DO YOU HAVE REGARDING THE OTHER**
16 **MEASUREMENTS MENTIONED BY MR. BROSCH?**

17 A. I would note that in areas where the measurements are not being met, steps have been
18 taken to improve these service levels. ~~Among other mechanisms employed that will~~
19 ~~bring about an increase in these service levels,~~ Additional employees have been hired,
20 ~~and~~ capital expenditures have been increased, and strategies have been put in place to
21 deal with these service issues.

22

23 **Q. MR. BROSCH SETS FORTH A NUMBER OF CONDITIONS WITH RESPECT**
24 **TO SERVICE THAT HE CLAIMS SHOULD BE ADDRESSED AS**
25 **CONDITIONS OF THE MERGER (PAGE 44). PLEASE RESPOND.**

26 A. As I've previously stated, such conditions are not an appropriate subject for the merger
27 review process. The Board has implemented extensive service quality rules set forth

1 in IAC 199-22 that define acceptable levels of performance for basic exchange
2 services. If the Board believes that there is a pattern of non-compliance with the
3 service quality rules, the Board ~~may~~ has authority to begin a service quality
4 investigation or proceeding. The merger between U S WEST and Qwest ~~will not~~
5 ~~impact~~ does not change the Board's authority over service quality. Because the merger
6 occurs at the holding company level, and because local telephone service is provided
7 at the operating company level, the merger will not impact U S WEST's requirement
8 to meet the Board's service quality rules in the future. Because the Board has an
9 effective service quality monitoring process already in place, it is unnecessary to use
10 the merger review process to change or expand the current process.

11

12 **Q. MR. BROSCHE SPECIFICALLY SUGGESTS AN**
13 **ENHANCEMENT/MODIFICATION OF THE CURRENT U S WEST**
14 **ALTERNATIVE SERVICE PLAN. WHAT IS YOUR REACTION TO SUCH**
15 **A RECOMMENDATION?**

16 A. U S WEST is a pioneer in the industry with the service assurances offered to its
17 customers. U S WEST was the first in the industry to offer programs such as the
18 cellular loaner/subsidy program and credits for missed appointments. Many of these
19 remedies were instituted by the company, absent any regulatory rule or Board action.
20 U S WEST is committed to continuing these programs, because these programs
21 represent U S WEST's commitment to its customers. But it is inappropriate to require
22 U S WEST to unilaterally change this service assurance program as a condition of
23 merger approval. If the Board believes that a change of the service credits contained
24 in IAC 199-22.6 is appropriate, then the Board should initiate a rulemaking proceeding
25 to change these rules. A rulemaking proceeding would ensure that all consumers in
26 Iowa would benefit from a changed service credit program, as opposed to limiting
27 those benefits only to consumers within the U S WEST territory. I strongly disagree

1 with Mr. Brosch that this is the proper forum to discuss this.

2

3 Mr. Brosch admits that “These tariffs/plans are inherently complex in defining and
4 prescribing quality objectives and measures of penalty or relief” I believe they are
5 too complex to include in these proceedings. This proceeding has a limited amount of
6 time for its review and the proposal suggested by Mr. Brosch requires a considerable
7 amount of time and analysis that should not detract from this proceeding. It is also
8 questionable whether all of the changes would benefit Iowans. As one looks at the
9 plans ~~in place~~ in the states touted by Mr. Brosch ~~of~~ (Arizona, Colorado, Minnesota and
10 Washington), none of them offer \$200 for the first month of cellular subsidy like
11 U S WEST provides in Iowa. Each state has different definitions and different credits.
12 That is not to say that a change is needed in Iowa. And such changes should not be
13 made in this forum.

14

15 **Q. MR. BROSCH SUGGESTS A MEETING OF U S WEST AND THE OCA TO**
16 **DISCUSS HELD ORDER TARGETS (PAGE 48). WOULD YOU AGREE TO**
17 **SUCH A MEETING?**

18 A. Of course I would agree to meet with the OCA to discuss held orders and other service
19 issues. Such meetings have occurred in the past, absent any merger activity, and there
20 is no reason not to continue them in the future following the merger. ~~Keep in mind,~~
21 ~~however, that such a meeting and discussion should not be tied to the merger.~~

22

23 **Q. MR. BROSCH SUGGESTS MONTHLY REPORTING OF SERVICE**
24 **PERFORMANCE. DO YOU AGREE WITH SUCH A REQUIREMENT?**

25 A. I do not believe that monthly reporting is necessary. ~~If there are specific areas for~~
26 ~~which there is a desire to monitor performance for a limited period of time, such~~
27 ~~reporting would be acceptable.~~ The monthly reports are already available for the

1 Board or OCA to receive and review as needed. However, there should be no ongoing,
2 cumbersome, administrative burden for the Board, OCA and U S WEST with respect
3 to monthly reporting.

4

5 **Q. ON PAGE 41, LINES 7-8, MR. BROSCH ALSO RECOMMENDS THE BOARD**
6 **INSIST THAT REDUCTIONS IN THE WORK FORCE SHOULD NOT BE**
7 **EXCESSIVE OR DISPROPORTIONATELY LARGE WITHIN IOWA.**
8 **PLEASE COMMENT ON HIS PROPOSAL.**

9 A. Again, Mr. Brosch is advocating an issue that has no relevance in this merger
10 proceeding. There are no plans to reduce the number of employees in Iowa. In fact,
11 we are hiring new employees in Iowa. Staffing increases in other states also benefit our
12 Iowa customers. To put any kind of conditions on workforce levels within the state of
13 Iowa would be very short sighted. Changes within the business, advances in
14 technology, new services and certainly competition affect the numbers of employees
15 and the types of jobs they perform. U S WEST needs to be able to adapt to the ever
16 changing marketplace. The proposed condition has no place in any docket, let alone
17 this merger proceeding. Such a condition is not a candidate for the merger review
18 process.

19

20

REBUTTAL TO MCLEOD TESTIMONY

21

22 **Q. IN HIS TESTIMONY AT PAGE 4, MR. STEWART STATES THAT**
23 **U S WEST'S SERVICE QUALITY FOR WHOLESALE CUSTOMERS IS**
24 **WORSE THAN FOR ITS RETAIL CUSTOMERS, AND THUS THAT**
25 **U S WEST HAS DISCRIMINATED IN FAVOR OF ITS RETAIL**
26 **CUSTOMERS AND AGAINST ITS WHOLESALE CUSTOMERS. DO**

1 **YOU AGREE?**

2 A. No. U S WEST treats its wholesale customers in a nondiscriminatory manner, and
3 provisions ~~items~~ service to its wholesale customers in “substantially the same time and
4 manner” as it does for its own retail customers. In fact, year-to-date results through
5 October 1999 (~~the last month for which U S WEST has current information~~) on key
6 measures bear this out. For example, with respect to installation commitments met for
7 resold business customers, U S WEST’s statewide average for all CLECs in 1999
8 through October in Iowa was 97.50% ~~met~~, compared to 97.33% for U S WEST and
9 100% for McLeod, as shown below:

10

12 Installation Commitments Met (Business) – January through October, 1999

<u>13</u> All All CLECs	McLeod	U S WEST
<u>14</u> 97.50%	100%	97.33%

15

16 The following are the year-to-date results through October 1999 for installation
17 commitments met for DS0 service in Iowa:

18

20 Installation Commitments Met (DS0) – January through October, 1999

<u>21</u> All All CLECs	McLeod	U S WEST
<u>22</u> 89.80%	89.71%	84.77%

23

24 With respect to installation commitments met for DS1 service, the ~~year-to-date~~ results
25 through October 1999 in Iowa are as follows:

26

28 Installation Commitments Met (DS1) – January through October, 1999

<u>29</u> All All CLECs	McLeod	U S WEST
<u>30</u> 87.38%	87.38%	81.03%

31

32 Finally, the ~~year-to-date~~ results through October 1999 in Iowa for installation
33 commitments met for Centrex service are as follows:

34

36 Installation Commitments Met (Centrex) – January through October, 1999

<u>37</u> All All CLECs	McLeod	U S WEST
<u>38</u> 97.69%	97.81%	97.27%

39

1 Thus, as can be seen, Mr. Stewart's allegations that U S WEST discriminates in favor
2 of its retail customers and against its wholesale customers like McLeod in provisioning
3 services are simply without foundation.

4

5 **Q. MR. STEWART ALSO STATES AT PAGE 6 OF HIS TESTIMONY THAT**
6 **U S WEST HAS DENIED REASONABLE ACCESS TO COLLOCATION**
7 **AND NECESSARY CENTREX FEATURES. DOES U S WEST DENY**
8 **MCLEOD SUCH ACCESS TO NECESSARY FACILITIES?**

9 A. No. As set forth in its Statement of Generally Available Terms and Conditions
10 (SGATs), U S WEST offers CLECs access to caged and cageless physical collocation,
11 adjacent collocation, and virtual collocation, all in compliance with the Federal
12 Communications Commission's March 1999 706 Order on, among other things,
13 collocation.³ In fact, as of ~~October~~ November 31, 1999, U S WEST had already installed 4628
14 collocations in Iowa, including 11 physical collocations and 17 virtual plus an additional 22 collocation
15 augments, in Iowa. s. From these collocations, Iowa CLECs have access to about 55% of U S WEST's
16 Iowa access lines. Clearly, U S WEST is not denying reasonable access to collocation.

17

18 With respect to his claim regarding voice mail and voice mail facilities, these issues have no relevance
19 to Iowa. The reference Mr. Stewart is making is to a situation in both Colorado and South Dakota,
20 where U S WEST had regulatory authority to withdraw voice mail as a wholesale product.

21

22 **Q. MR. STEWART ALSO STATES AT PAGES 6 AND 7 OF HIS**
23 **TESTIMONY THAT U S WEST HAD CONSISTENTLY BEEN UNABLE**
24 **TO PROVIDE NON-BLOCKING NARS (NETWORK ACCESS**
25 **REGISTERS) UNTIL 1998, AND THAT THERE WAS NO LEGITIMATE**
26 **REASON FOR U S WEST'S FAILURE TO DO SO BEFORE 1998. WHAT**

³ See NE, CO & AZ SGATs, Section 8.

1 IS YOUR RESPONSE TO THIS ALLEGATION?

2 A. This is clearly not a merger issue, and while I cannot respond to McLeod's claims
3 regarding other states, I can speak to this issue in Iowa. Non-blocking NARs have
4 been a tariffed offering for many years in Iowa. However, when CentrexPlus was
5 originally introduced, the non-blocking NARs were limited to addresses with 50 or
6 more stations. The use of non-blocking NARS in this manner has been available to
7 McLeod since the resale of CentrexPlus began. A subsequent change to remove the
8 restriction was subsequently made in order to accommodate the needs of McLeod.

9
10 Q. MR. STEWART ALSO CLAIMS AT PAGE 8 OF HIS TESTIMONY THAT
11 U S WEST HAS ENGAGED IN OBSTRUCTIVE ACTS WITH RESPECT
12 TO OPERATIONAL SUPPORT SYSTEMS (OSS) IN AN EFFORT TO
13 DELAY MCLEOD'S ENTRY INTO CERTAIN MARKETS. IS THIS
14 TRUE? PLEASE COMMENT ON THIS CLAIM.

15 A. No. As the Board knows, U S WEST has been working with McLeod for some time
16 to improve the order flow process between the two companies. On September 7, 1999,
17 U S WEST and McLeod made a joint filing with the Board to address the flow through
18 of CentrexPlus orders in Iowa. The filing included the following paragraph:

19
20 Pursuant to the Order of the Iowa Utilities Board ("Board") dated March 26, 1999,
21 please find enclosed the joint study report regarding the service order process
22 for Centrex Plus orders. The study report includes a matrix delineating the
23 planned development and implementation of order processing enhancements
24 based in part on the Telcordia Technologies' analysis of Centrex Plus order
25 processing. Also included is a high level overview of how a McLeodUSA
26 Centrex order will be processed after the modifications have been deployed.
27 McLeodUSA and U S WEST are very pleased to report that there has been
28 an extremely positive relationship between the two companies during this
29 process. Both parties agree that the attached document represents agreement
30 and completely resolves the disputes of the docket and that when delivery is

1 satisfactorily completed, the docket will be closed. U S WEST is not seeking
2 any cost recovery from McLeodUSA to accomplish these modifications and
3 there are no disputed issues between the parties in this docket.
4

5 This paragraph speaks for itself and demonstrates that Mr. Stewart's tactics are not to
6 sincerely raise objective and current issues, but to ~~claim~~ assert every irrelevant and
7 misleading accusation possible, none of which is helpful in this proceeding.
8

9 ~~Q. MR. STEWART ALSO ALLEGES AT PAGES 8 AND 9 OF HIS~~
10 ~~TESTIMONY THAT U S WEST HAS FAILED TO PROCESS RESALE~~
11 ~~ORDERS TIMELY AND ACCURATELY. IS THIS TRUE?~~

12 ~~A. No. The truth is that U S WEST routinely provisions resold Centrex services to~~
13 ~~McLeod on time. The performance data shows that: [insert chart]. Over this nine~~
14 ~~month span, U S WEST provisioned **,*** Centrex resale orders on behalf of CLECs~~
15 ~~in Iowa, almost all of which went to McLeod.~~

16
17 ~~Q. MR. STEWART ALSO COMPLAINS AT PAGE 9 OF HIS TESTIMONY~~
18 ~~THAT U S WEST HAS INSISTED ON TRIVIAL AMENDMENTS TO~~
19 ~~INTERCONNECTION AGREEMENTS AND THAT U S WEST HAS~~
20 ~~UNIFORMLY DELAYED IMPLEMENTING AGREEMENTS. DO YOU~~
21 ~~AGREE?~~

22 ~~A. No. First, it is difficult to answer such unsupported and conclusory statements. Suffice~~
23 ~~it to say that U S WEST does not insist on "trivial" amendments to its interconnection~~
24 ~~agreements, and the mere fact that McLeod does not agree to particular provisions can~~
25 ~~hardly be said to be due to U S WEST's insistence on trivial provisions that serve no~~
26 ~~legitimate purpose. The same can be said of the conclusory statement that U S WEST~~
27 ~~has uniformly delayed implementing such agreements. Obviously, McLeod retains all~~

1 of its rights, including, where applicable, the right to demand arbitration, file a formal
2 complaint with the Board or commence litigation if it believes that U S WEST has
3 improperly delayed implementing agreements. The best response to this allegation is
4 that U S WEST has entered into 61 interconnection agreements in Iowa to date, a vast
5 majority of which, 95%, were negotiated without having to proceed to arbitration.
6 Moreover, McLeod itself opted into the existing interconnection agreement between
7 U S WEST and AT&T and thus did not proceed to arbitration.

8

9 **Q. AT PAGES 9 AND 10 OF HIS TESTIMONY, MR. STEWART ALSO**
10 **COMPLAINS THAT U S WEST HAS TAKEN STEPS TO INCREASE**
11 **COSTS TO MCLEOD AND THUS IMPAIR MCLEOD'S ABILITY TO**
12 **PROVIDE COMPETITIVE SERVICES TO ITS CUSTOMERS. CAN YOU**
13 **COMMENT ON THESE ALLEGATIONS?**

14 A. ~~Certainly. First, a~~ Although McLeod alleges that U S WEST seeks to increase
15 McLeod's costs, the truth of the matter is that, as described above, U S WEST has
16 invested more than \$1 billion and employed over 2,150 people to open up its network
17 to wholesale operations. With respect to the number of personnel which U S WEST
18 has hired in order to service its wholesale operations and network, U S WEST has
19 hired _____ people since _____, including at least _____ people 27 new Operations
20 and Technologies employees who either work in Iowa, and plans to hire 44 more
21 technicians in Iowa in 2000. or have responsibilities for the network in Iowa. These
22 U S WEST personnel have provisioned over 120,000 nearly 129,000 resold lines to
23 customers in Iowa alone.

24

25 **Q. MR. STEWART ALSO COMPLAINS AT PAGES 11 AND 12 OF HIS**
26 **TESTIMONY THAT U S WEST ATTEMPTS TO FRUSTRATE**

1 MCLEOD'S EFFORTS TO COMPETE BY SELLING RESOLD
2 CENTREX. FOR EXAMPLE, HE ALLEGES THAT U S WEST FAILS TO
3 PROVIDE UPDATED AND ACCURATE CMS STATION MESSAGE
4 RECORDING SERVICE, AND THAT IT HAS FAILED TO ELIMINATE
5 CERTAIN FUNCTIONS ON RESOLD CENTREX LINES, OR REFUSED
6 TO INCLUDE CORRECT INFORMATION FOR MCLEOD RESALE
7 CUSTOMERS IN U S WEST'S LIDB DATABASE. ARE THESE
8 STATEMENTS TRUE? PLEASE RESPOND.

9 A. It is Mr. Stewart who is attempting to frustrate these proceedings. I believe he is
10 ~~attempting~~ trying to raise concerns over issues that are not current and may or may not
11 have occurred in Iowa in the past. Certainly the Board is familiar with prior complaints
12 involving CMS and LIDB. The LIDB complaint was in 1996. It is difficult to respond
13 to Mr. Stewart's broad allegations and a waste of everyone's time to have to sort out
14 issues that have been resolved and that ~~did~~ may or ~~did~~ may not have applied to Iowa.
15 Clearly, if McLeod has current concerns with any service provisioning, they should be
16 directed to the McLeod account team who work very closely with McLeod personnel
17 on a day to day basis to seek solutions and work through issues.

18
19 Q. MR. STEWART ALSO CLAIMS AT PAGE 12 OF HIS TESTIMONY
20 THAT U S WEST MAKES FAR LESS OF AN EFFORT TO RESTORE
21 THE SERVICES OF CLEC CUSTOMERS THAN FOR ITS OWN RETAIL
22 CUSTOMERS. WOULD YOU PLEASE COMMENT?

23 A. Yes. This allegation is unequivocally false. U S WEST's goal is to provide CLECs
24 with nondiscriminatory access to repair service – i.e. repair services in “substantially
25 the same time and manner” as it provides it to its own retail customers. The facts
26 establish that U S WEST has succeeded in achieving this objective. The following

1 charts show the year-to-date (October 1999) mean times to restore business service,
2 DS0 service and DS1 service in Iowa for all CLECs, individually for McLeod, and for
3 U S WEST:

4
5
6 Mean Time to Restore (Business) (Hours) – January through October, 1999
7 All ~~the~~ CLECs McLeod U S WEST
8 25.41 27.77 24.44

9
10
11 Mean Time to Restore (DS0) (Hours) – January through October, 1999
12 All ~~the~~ CLECs McLeod U S WEST
13 4.55 7.29 6.35

14
15
16 Mean Time to Restore (DS1) (Hours) – January through October, 1999
17 All ~~the~~ CLECs McLeod U S WEST
18 4.78 1.78 4.75

19
20 In addition, the following charts show, ~~the year-to-date (through October 1999), the~~
21 clearance of trouble tickets for business customers in Iowa for all CLECs, as well as
22 for McLeod and U S WEST:

23
24
25 Out of Service Cleared < 24 Hours (Business) - January through October, 1999
26 All ~~the~~ CLECs McLeod U S WEST
27 67.20% 72.73% 63.28%

28
29
30 Troubles Cleared < 48 Hours (Business) - January through October, 1999
31 All ~~the~~ CLECs McLeod U S WEST
32 85.41% 83.87% 84.89%

33
34 As the charts clearly display, U S WEST does not discriminate in favor of its retail
35 customers or against McLeod (or any other CLEC).

1

2 **Q. MR. STEWART ALSO ALLEGES AT PAGE 15 OF HIS TESTIMONY**
3 **THAT U S WEST EMPLOYS POOR REPAIR SERVICES TO**
4 **FRUSTRATE MCLEOD'S EFFORTS TO COMPETE. DO YOU AGREE?**

5 A. Absolutely not. U S WEST attempts to repair all out of service trouble complaints as
6 thoroughly and expeditiously as it can. This area has been one upon which U S WEST
7 has focused substantial attention and is seeing positive improvements. The truth of the
8 matter is that the statistics provided by Mr. Stewart are misleading. Rather, as
9 previously stated, for the specified time frame more than 7268% of all out-of-service
10 trouble tickets for business customers were resolved within 24 hours for McLeod
11 customers, and more than 8372% of all troubles were resolved within 48 hours. These
12 statistics are generally higher than the repair services that U S WEST provided during
13 the same time period to its own retail business customers. Any attempt to infer anti-
14 competitive behavior to the company in its network repair operations is obviously
15 unsubstantiated by the results. In short, Mr. Stewart's allegation is false.

16

17 **Q. AT PAGES 12 AND 14 OF HIS TESTIMONY, MR. STEWART ALSO**
18 **COMPLAINS WITH RESPECT TO U S WEST'S FACILITY HOLDS,**
19 **AND CLAIMS THAT U S WEST ATTEMPTS TO FRUSTRATE**
20 **MCLEOD'S EFFORTS TO COMPETE BY IMPOSING UNJUSTIFIED**
21 **AND DISCRIMINATORY FACILITY AND BUSINESS HOLDS. IS THIS**
22 **A TRUE STATEMENT?**

23 A. No, it is not. U S WEST provisions the overwhelming majority of all orders accurately
24 and on time. However, some holds are inevitable due to the tremendous growth the
25 company is experiencing in certain geographical areas. As would be expected, a
26 facility hold is never satisfactory to the affected wholesale or retail customer. These

1 holds affect both U S WEST and its CLEC customers the same. Mr. Stewart in his
2 testimony alleges unequal treatment and points to two customer situations to
3 supposedly prove his point. It is interesting to note that of the ~~over~~ nearly 129,000
4 ~~100,000~~ lines that U S WEST has provisioned over the past three-plus years for
5 McLeod and their customers, only a handful of inequities can be spotlighted, hardly
6 evidence of unjustified and discriminatory treatment.

7

8

9 **Q. IN HIS TESTIMONY, AT PAGE 16, MR. STEWART CRITICIZES**
10 **U S WEST FOR NOT “FORBEARING” FROM PRACTICES THAT ARE**
11 **NOT ALLOWED IN CERTAIN STATES? IS THIS A FAIR CRITICISM?**

12 A. No, it is not. As McLeod fully knows, the Telecommunications Act of 1996 and the
13 various state telecommunications acts, statutes and rules provide for numerous
14 different rights and obligations. Mr. Stewart knows that each individual jurisdiction
15 has its own laws, rules, standards and interpretation of the law. Thus, what may not
16 be allowed in one state may be allowed, and in fact even encouraged, in another.
17 Presumably, McLeod is aware that U S WEST; serves the largest number of states of
18 any RBOC and should expect that U S WEST would assess the regulatory, legal and
19 competitive environment in each state, in addition to the Federal Communications
20 Commission (FCC), regarding any particular practice it employs. Thus, it would not
21 be prudent for U S WEST to “forbear” from a practice simply because it has been
22 disallowed in a jurisdiction. I am reasonably sure any rational business, including
23 McLeod, would not agree to forbear any of its own beneficial practices simply because
24 one was disallowed in a particular state.

25

26 **Q. MR. STEWART ALSO DISCUSSES PERFORMANCE METRICS TO**

**1 ASSESS U S WEST'S PERFORMANCE AT PAGES 16 THROUGH 18,
2 AND COMPARES THEM WITH ITS PURPORTED EXPERIENCE WITH
3 AMERITECH. ARE THESE PERFORMANCE METRICS ACCURATE,
4 AND ARE THESE COMPARISONS FAIR? THAT MCLEOD MAKES?**

5 A. First, the performance metrics McLeod cites on pages 16 through 18 are not accurate
6 or current. For example, as I have previously shown, installation commitments met for
7 business customers in 1999 are: 1) in the 97-100% range for all CLECs including
8 McLeod, 2) at least 89% for all CLECS and McLeod for installation commitments met
9 for DS0 service and, 3) at least 87% installation commitments met for all CLECs and
10 McLeod for DS1 service. FOCs met within 48 hours are not “22%” as McLeod claims,
11 but rather, are more than 59.30% for residential and business service combined,
12 (which is better than the Ameritech data cited by McLeod). Finally, the mean time to
13 restore is not “45 hours,” as McLeod claims, but rather, over the past nine months are
14 as follows: 27.77 hours for business, 7.29 hours for DS0 service and 1.78 hours for
15 DS1 service. There is no foundation for McLeod’s performance metrics allegations.

16

**17 Q. MR. STEWART CONTINUES WITH HIS OPINIONS AT PAGES 18
18 THROUGH 20 REGARDING THE OVERALL EFFECT OF U S WEST'S
19 ALLEGED ACTIONS ON MCLEOD’S ABILITY TO COMPETE.
20 SPECIFICALLY, HE ALLEGES THAT U S WEST'S CUSTOMERS
21 (BOTH WHOLESALE AND RETAIL) WILL BE DISADVANTAGED BY
22 THE PROPOSED MERGER, AND CLAIMS THE COMBINED
23 COMPANY WILL NOT IMPROVE SERVICE QUALITY. WHAT IS
24 YOUR RESPONSE TO THESE OPINIONS?**

25 A. I do not agree with Mr. Stewart’s opinions. First, as I stated previously, the proposed
26 merger will bring together Qwest Inc.’s advanced network and broadband Internet

1 service capability with U S WEST, Inc.'s innovative local communications and
2 broadband Internet access capability. Through this combination, we will be able to
3 offer customers more choices and greater access to next generation telecommunications
4 and broadband Internet based services including web hosting and value added web
5 based applications. There are few overlaps in services; therefore, the merged company
6 will create an increased ability to rapidly meet the evolving needs of both residential
7 and business customers.

8
9 In addition, the purpose of the merger is to become an end-to-end facilities-based
10 company that provides customers with a full range of telecommunications options.
11 This is impossible without the ability to offer interLATA services. As a result, both
12 companies understand the importance of obtaining Section 271 approval. Moreover,
13 pre-271 approval, Qwest must cease providing interLATA services in U S WEST's 14-
14 state region. U S WEST is already active in Section 271 proceedings in Nebraska, and
15 Arizona and Colorado and is working closely with 11~~2~~ other states that are members
16 of the Regional Oversight Committee (ROC) in an attempt to gain more rapid Section
17 271 approval in those states. Specifically in Iowa, U S WEST is working with
18 McLeodUSA to bring about significant improvements in the ability for service orders
19 generated by McLeodUSA, to enter into the U S WEST computer system without delay
20 or error. This improvement will expedite successful Section 271 proceedings in Iowa.
21 Thus, both U S WEST and Qwest have greater incentives to obtain approval in an
22 expedited manner, and this will improve wholesale service quality to all CLECs.

23
24 Finally, it is difficult to give much credence to Mr. Stewart's opinion about future
25 service quality, especially given that U S WEST will continue to be the same company
26 that provides local service in Iowa today.

27

1 Q. FINALLY, MR. STEWART ADVOCATES THE IMPOSITION OF A
2 NUMBER OF CONDITIONS TO THE MERGER, SUCH AS
3 GUARANTEED MINIMUM LEVELS OF INVESTMENT IN THE
4 NETWORK, COMMITMENTS WITH RESPECT TO OSS,
5 STRUCTURAL SEPARATION OF U S WEST'S WHOLESALE AND
6 RETAIL FUNCTIONS, AND AN EXPEDITED ARBITRATION
7 MECHANISM. WHAT IS YOUR RESPONSE?

8 A. Conditions or commitments are completely unnecessary. There is no need for
9 conditions because Congress and the FCC have, through the incentives and
10 requirements in the Telecommunications Act and subsequent FCC orders, such as
11 section 271 and the like, established the appropriate regulatory mechanisms for
12 U S WEST and any other RBOC to comply with market opening and competition
13 producing goals and requirements. Further, the Board has the ability to address each
14 of these issues in other ~~pending or expected~~ more appropriate rate proceedings. For
15 example, in the ongoing ROC and Arizona OSS tests, U S WEST's systems and
16 performance are being systematically tested by an independent third party to ensure
17 CLECs have nondiscriminatory access to OSSs for interconnection, UNEs and resold
18 services.

19

20

REBUTTAL TO AT&T TESTIMONY

21

22

Section 251 and 252

23

24 Q. MR. WARD OF AT&T ASSERTS AT PAGE 12 OF HIS TESTIMONY THAT
25 U S WEST REQUIRES CLECS TO USE AN INTERMEDIATE
26 DISTRIBUTION FRAME (SPOT FRAME) IN ORDER TO PROVISION

1 UNES FROM U S WEST. IS THIS TRUE?

2 A. No. This assertion is not true anywhere in U S WEST's 14-state region. However, this
3 assertion is especially misplaced in Iowa where, ~~twenty~~ 20 months ago, the Board ordered
4 U S WEST to offer CLECs direct access to its COSMIC frames. AT&T; and Mr. Ward
5 were intimately involved in this particular case and should be explicitly knowledgeable
6 about the Board's decision and order in Docket No. RPU-96-9. In that case, U S WEST
7 unsuccessfully advocated the use of an intermediate frame as the sole means by which to
8 provision UNEs. U S WEST still firmly believes that such a frame is both industry
9 practice and the best, most efficient means by which to provision UNEs. In fact,
10 U S WEST often uses intermediate frames to provision service to its own retail customers.
11 Moreover, U S WEST has successfully provisioned thousands of unbundled loops to
12 CLECs via intermediate frames throughout its region. The facts simply do not support
13 AT&T's assertion that intermediate frames create an additional point of failure and thereby
14 result in a lower quality loop for the customer. For example, as of June 1999, all 1,361
15 unbundled loops that had been provisioned in the state of Nebraska were run through
16 intermediate distribution frames. If loops provisioned through intermediate frames were
17 of a lower quality, one would expect to see a higher "trouble rate" for these loops as
18 compared to loops serving U S WEST's retail customers. In actuality, however, the data
19 showed that the trouble rate for unbundled loops was virtually the same as; or lower than
20 or lower than that experienced by U S WEST's own retail customers.⁴

21
22 Moreover, despite AT&T's protests, a number of carriers have supported U S WEST's proposal to
23 provision UNEs through use of an intermediate frame. For example, Aliant Midwest (now Alltel) stated

⁴ *In the Matter of . . . U S WEST's . . . Compliance with Section 271(c) . . .*, C-1830, Testimony of Michael Williams at page 53 (Errata Filing dated August 31, 1999). U S WEST uses Nebraska data here for two reasons: (1) it knows that 100% of the 1,300 plus unbundled loops that it had provisioned in Nebraska were routed through intermediate distribution frames; and (2) it has not yet gathered this information for the state of Iowa.

1 that it “believes that the SPOT frame proposal as set forth by U S WEST is an acceptable manner in which
2 to make unbundled elements network elements available pursuant to Section 251(c)(3).”⁵ Amazingly,
3 AT&T itself has also indicated that they support the SPOT frame as a means by which to provision
4 individual UNEs, such as the unbundled loop. AT&T has taken this position not once, but twice in various
5 dockets. First, in a written pleading filed in Colorado, AT&T/TCG and MCI stated that the SPOT frame
6 was an appropriate means by which to access elements such as unbundled loops.⁶ ~~[get cite]~~. Second, in
7 the Nebraska Cost Docket (Application C-1415), AT&T’s outside expert, Steven Turner, testified that the
8 SPOT frame was an appropriate means by which to provision individual elements such as the unbundled
9 loop:

10

11 —Q. —I was listening to your . . . sSummary and I thought you said
12 something and I just want to make sure that I heard you accurately.
13 I thought you said that the spot bay is useful if you want to provision .
14 . . aAn unbundled loop. . . .
15

16 A. I would think that would be very accurate is if you are connecting the
17 CLEC’s network up to an unbundled element owned by the ILEC, that
18 the appropriate way to interconnect those would be at some form of
19 distribution frame such as the SPOT frame.⁷
20

21 Thus, U S WEST is not alone in its view that an intermediate distribution frame such as the SPOT frame
22 is an appropriate means by which to make individual network elements available to competitors.
23

24 **MR. WARD ALSO ASSERTS AT PAGE 15 OF HIS TESTIMONY THAT**
25 **U S WEST REFUSES TO ALLOW CLECS TO COLLOCATE REMOTE**
26 **SWITCHING UNITS (RSUsS). IS THIS TRUE?**

⁵ *-In the Matter of . . . U S WEST’s . . . Compliance with Section 271(c) . . .*, C-1830, Aliant’s Response to U S WEST Data Request No. 23

⁶ Application for rehearing, reargument or reconsideration of MCI WorldCom and AT&T, Colorado Public Utilities Commission, Docket No. 96S & 331T (November 17, 1998).

⁷ A transcript of U S WEST’s Permanent Cost Docket at 1026 (date) (Cross-Examination of Steven Turner, December 11, 1998).

1 A. No. In March, 1999, the FCC issued its 706 Order on, among other things, collocation,
2 which ~~order~~ became effective on June 1, 1999. That order states that ILECs, like
3 U S WEST, must allow CLECs “to permit collocation of all equipment that is
4 necessary for interconnection or access to unbundled network elements”⁸ thereby
5 excepting “equipment used exclusively for switching or for enhanced services.”⁸ U S WEST’s SGATs
6 mirror this requirement and ~~specifically thus~~ allows for the collocation of RSUs ~~(check)~~.⁹
7

8 Consistent with the FCC rules, U S WEST allows CLECs to collocate equipment that
9 is necessary for interconnection or access to unbundled network elements (UNEs),
10 regardless of whether such equipment includes a switching functionality, provides
11 enhanced services capabilities, or offers other functionalities. Section 8.2.1.2 of the
12 SGAT contains only one limitation on the equipment that cannot be collocated --
13 CLECs may not collocate equipment that is not necessary for either access to UNEs or
14 for interconnection, such as equipment used exclusively for switching or for enhanced
15 services. The FCC expressly authorizes this limitation.¹⁰ U S WEST will permit collocation
16 of any equipment required by law, unless U S WEST first proves to the Board that the equipment will
17 not be actually used by a CLEC for the purpose of obtaining interconnection or access to unbundled
18 network elements.

19
20 AT&T’s testimony does not reflect accurately U S WEST’s current policy, but instead a policy of the
21 past. In this instance, they focus on a policy that preceded an FCC decision that clarified the issue in
22 ~~(year)~~ on March 31, 1999.

23
24 **Q. MR. WARD ASSERTS AT PAGE 22 OF HIS TESTIMONY THAT**
25 **U S WEST MUST PROVIDE CLECS WITH ACCESS TO “DSL**

¹ 8 Advanced Services Order at ¶¶28 & 30.

⁹ NE SGAT § 8.2.1.2.6.

¹⁰ See the FCC’s Order, CC Docket No. 98-147, ¶ 30.

1 FACILITIES, MULTI-HOST DSLAMS AND FULL ACCESS TO
2 U S WEST’S EXISTING LOOP MAKE-UP DATABASES.” HOW DO
3 YOU RESPOND?

4 A. The basis for AT&T’s assertion is unclear. AT&T does not cite any law, FCC decision
5 or Board Order. AT&T does not even set forth any policy rationale for its position.
6 The reason may be that the FCC’s recent UNE Remand Order runs contrary in almost
7 every respect to this assertion. As an initial matter, it is unclear what AT&T means by
8 “DSL Facilities.” U S WEST assumes it means packet switching. The only alternative
9 is digital capable loops and U S WEST has offered access to and provisioned such
10 loops for many months. The FCC has found specifically that ILECs such as
11 U S WEST; need not unbundle packet switching or DSLAMs:

12

13 We decline at this time to unbundle the packet switching functionality,
14 except in limited circumstances.¹¹ . . .

15

16 . . . We find that with today’s technology, packetizing is an integral function of the
17 DSLAM. Accordingly, we include the DSLAM functionality, with the routing and
18 addressing functions of the packet switches, in our functional definition of packet
19 switching . . .¹²

20

21 The only aspect of AT&T’s assertion that has any merit is U S WEST’s obligation to
22 provide “loop qualification” information to CLECs through its OSSs.¹³ Even on this item,
23 however, the FCC found that ILECs have 120 days from publication of the Order in the Federal Register
24 to provide access to this item.¹⁴ The Order is yet to be published; therefore, U S WEST has at least until

1 ¹¹ *In the Matter of Implementation of the Local Competition Provisions of the*
2 *Telecommunications Act of 1996*, CC Docket No. 96-98, ¶ 306 (released Nov. 5, 1999)
3 (hereinafter “UNE Remand Order”).

1 ¹² *UNE Remand Order* at ¶ 304.

1 ¹³ 47 CFR 51.319(g).

2

1 ¹⁴ *UNE Remand Order* at ¶ 525.

1 mid-April 2000 to provide this capability. Despite that, even before the UNE Remand Order was released,
2 U S WEST had modified its OSSs to enable CLECs to obtain underlying information about the loop during the
3 pre-order process. In late October, 1999, U S WEST released OSS version 4.2,¹⁵ which provides competitors
4 with a “loop qualifying tool” that provides CLECs with the pre-order information necessary to anticipate if
5 conditioning is required and/or to determine if a prospective loop might or might not support their xDSL
6 service.¹⁵ To determine if a prospective customer has a compatible loop, the competitor submits a loop
7 qualification pre-order transaction via IMA/EDI by entering the prospective end user’s telephone number or
8 street address. Specifically, the IMA/EDI loop qualification tool provides competitors with the
9 following raw, non-manipulated cable make-up data: (a) loop length; (b) bridge tap length;
10 (c) insertion loss for non-loaded loops (in decibels) calculated at 196-kilohertz frequency
11 with 135-ohm termination; (d) circuit type: copper or pair gain; (e) number of wires; and (f)
12 load coil type. Thus, U S WEST is well ahead of schedule on deployment of this OSS
13 capability. Again, AT&T’s testimony does not reflect U S WEST’s current capabilities.

14

15 **Q. IN HIS TESTIMONY, AT PAGE 14, MR. WARD ASSERTS THAT**
16 **U S WEST DOES NOT PROVIDE CLECS WITH**
17 **NONDISCRIMINATORY ACCESS TO IDLC (INTERGRATED DIGITAL**
18 **LOOP CARRIER) LOOPS. IS THIS TRUE?**

19 A. No. U S WEST abides by the FCC requirement to provide unbundled loops to CLECs
20 regardless of whether Integrated Digital Loop Carrier (IDLC) or similar technologies
21 are utilized by U S WEST to provide service to a particular address.

22

23 **Q. AT&T RECOMMENDS A NUMBER OF MERGER CONDITIONS**
24 **SURROUNDING OSS CAPABILITIES. ARE THESE PROPOSALS**
25 **WELL FOUNDED?**

¹ 15 The initial loop pre-qualification tool was labeled “ADSL”; however, this is a misnomer.
² From the very beginning, it has been available for all types of DSL.

1 A. No. Peppered throughout his testimony, Mr. Ward asserts that U S WEST's OSS and
2 provisioning capabilities are inadequate and recommends that the Board place several
3 conditions on the merger. For example:

4

5 Mr. Ward states (at page 14) that U S WEST's OSS capability is
6 inferior to the systems it provides to its own retail operations.

7

8 Mr. Ward recommends (at page 20) that U S WEST have an
9 independent party test its OSS capability for interconnection,
10 UNEs and resale.

11

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These proposals are completely misplaced, as AT&T is raising these issues in the wrong docket. The correct place to raise these issues is in section 271 proceedings. However, as Mr. Ward knows, that is unnecessary because U S WEST is already undergoing thorough third-party reviews of its OSSs as a part of satisfying section 271 throughout the region. Two different testing plans are underway.

U S WEST has participated in numerous workshops in Arizona for the specific purpose of determining what to test, setting performance benchmarks, and establishing provisioning expectations. All of the issues discussed above are already a part of the OSS test. Similarly, while not as far along, U S WEST is engaged in similar efforts with the Regional Oversight Committee (ROC). The Board is involved in this process and Board Chair Allan Thoms is on a five-member ROC subcommittee overseeing that test. Thus, there is simply no need to duplicate effort and consider these incredibly complex

1 and time-consuming issues in this merger docket as well. The entire purpose of the ROC
2 plan is to ensure that both U S WEST and the ROC states only need to confront these
3 difficult issues once.

4 [REDACTED]
5 It is incredible that Mr. Ward would claim that U S WEST cannot provision unbundled
6 loops in a timely manner in Iowa. Mr. Ward and AT&T have no first hand experience
7 with purchasing unbundled loops in Iowa.

8
9 Accordingly, wholesale performance measurements and penalties are not necessary and
10 should not be made a condition of the merger.

11

12 **Q. AT PAGE 9, MR. WARD ACCUSES U S WEST OF HAVING**
13 **NEGOTIATED IN BAD FAITH BECAUSE THE UNRESOLVED ISSUES**
14 **BETWEEN THE PARTIES WENT HAVE GONE TO ARBITRATION, AND**
15 **U S WEST HAS APPEALED MANY DECISIONS. IS THIS AN**
16 **INDICATION OF BAD FATIH?**

17 A. Of course not. U S WEST has followed the statutory framework of the Act in
18 negotiating 860 approved interconnection agreements with Co-Providers (61 in Iowa)
19 throughout its region, including 61 in Iowa. When we are unable to reach final
20 resolution, U S WEST has responded to the Co-Providers' petitions for arbitration.
21 While several negotiations have resulted in arbitrations, the overwhelming majority of
22 the cases, 95% in Iowa, have resulted in negotiated agreements, 95% in Iowa.

23

24 **Q. AT PAGE 10 MR. WARD CLAIMS THAT U S WEST HAS DELAYED**
25 **NEGOTIATING MEETINGS AND HAS NOT HAD REPRESNATIVES**
26 **WITH AUTHORITY TO SPEAK ON BEHALF OF THE COMPANY. IS**

1 **THIS TRUE?**

2 A. No it is not. In the current round of negotiations, it has been AT&T that has often
3 cancelled meetings and failed to have representatives present that could address the
4 issues at hand. U S WEST is currently meeting with AT&T three times a week to
5 negotiate a new agreement.

6

7 **Q. AT PAGE 10 MR. WARD STATES THAT U S WEST HAS REFUSED TO**
8 **RECOGNIZE A CARRIER'S SECTION 252(i) RIGHTS TO PICK AND**
9 **CHOOSE. IS THIS CORRECT?**

10 AT&T does not accurately depict U S WEST's current policy on "pick and choose."
11 U S WEST requires that Co-Providers pick from approved agreements because
12 agreements are not effective until approved. The contractual language that U S WEST
13 is currently proposing confirms that it will comply with section 252(i).

14

15 **Q. ON PAGE 11 MR. WARD STATES THAT U S WEST RENEGED ON AN**
16 **UNDERSTANDING TO PURSUE A CONSOLIDATED 14-STATE**
17 **NEGOTIATION AND ARBITRATION FOR THE NEXT ROUND OF**
18 **INTERONNECTION AGREEMENTS WITH AT&T. IS THIS TRUE?**

19 A. No. There was no such understanding; there were simply discussions which U S WEST
20 reasonably believed would be treated as confidential. U S WEST has agreed to
21 negotiating a 14-state agreement, and once the negotiations are further down the line, will
22 explore alternatives, such as mediation. The 1996 Act statutory framework calls for
23 arbitrations by the individual states.

24

25 ~~**Q. REGARDING OUT-OF-HOUR PROVISIONING FOR LOCAL NUMBER**~~
26 ~~**PORTABILITY. IS U S WEST CURRENTLY CONDUCTING A TRIAL**~~

1 **~~AND IS AT&T PARTICIPATING?~~**

2 A. ~~Yes.~~

3

4 Q. **MR. WARD DISCUSSES COLLOCATION ON PAGE 15. IS U S WEST**
5 **COMPLYING WITH ALL EFFECTIVE LEGAL REQUIREMENTS FOR**
6 **COLLOCATION, AND DOES AT&T HAVE ANY U S WEST**
7 **COLLOCATIONS?**

8 A. Yes, U S WEST is in compliance with all effective legal requirements for collocation.
9 U S WEST provides for collocation of any type of equipment used or useful for
10 interconnection or access to UNEs. In fact, U S WEST has provided collocation in 315
11 of its central offices region-wide, and such collocation provides access to more than
12 70% of U S WEST's access lines. In Iowa, collocation is provided in 23 central
13 offices, none of which include has been requested by AT&T. U S WEST also began
14 providing CLECs with access to cageless collocation prior to the FCC's requirement that
15 it do so.

16

17 Q. **DO YOU HAVE ANY COMMENTS REGARDING AT&T'S PROPOSED**
18 **CONDITIONS AS THEY RELATE TO SECTIONS 251 AND 252 OF THE**
19 **1996 ACT?**

20 A. Yes. AT&T has made nothing more than unsubstantiated allegations of noncompliance.
21 The request to impose these types of conditions is totally unfounded and beyond the
22 scope of the Board's review of the proposed merger. I would note that AT&T's litany
23 of proposed conditions for collocation, except those dealing with performance
24 measurements, are basically the requirements that are contained in the FCC's 706 order
25 on collocation and therefore it is unnecessary for this Board to take any further action in
26 this regard. U S WEST is already in compliance with the FCC Order. AT&T also
27 proposes conditions based on other FCC Orders. Examples of these FCC dockets

1 include the FCC's rules and decisions on Pick-and-Choose, the pending FCC decision
2 on reciprocal compensation for ISP traffic, and the FCC's UNE Remand Order.
3 U S WEST will also be in compliance with these orders as they become legally binding
4 and effective. I am ~~also~~ uncertain as to why Mr. Ward refers to the Third Report and
5 Order on Number Portability in regards to cost recovery for U S WEST's OSS, as that
6 Order only dealt with cost recovery related to number portability, and U S WEST has an
7 approved FCC tariff that covers that particular cost recovery.

8
9 **Q. IN HIS TESTIMONY, MR. WARD STATES AT PAGES 17 AND 18 THAT**
10 **THE BOARD SHOULD ADOPT CONDITIONS THAT WILL REQUIRE**
11 **U S WEST TO MEET ITS OBLIGATIONS UNDER SECTIONS 251 AND**
12 **252 OF THE TELECOMMUNICATIONS ACT OF 1996. ARE ANY OF**
13 **THESE CONDITIONS NECESSARY?**

14 A. Absolutely not. First of all, of the 12 bullet point items Mr. Ward discusses at pages 21
15 and 22, U S WEST already complies with at least 10 of them. As to the third bullet,
16 U S WEST does allow ~~or~~ collocations; outside of its central offices through the BFR
17 process; however, many of these locations are simply not available for collocation for
18 numerous reasons, not the least of which is a lack of space. U S WEST also does not
19 agree with the last bullet point, regarding liquidated damages, which is not a requirement
20 under the Act. In short, AT&T's unsupported allegations that U S WEST has not
21 complied with sections 251 and 252 of the Act, and thus that the Board should establish
22 "conditions" to the merger, are absolutely without foundation, and thus should be
23 dismissed in their entirety.

24 .

25 **Wholesale Service Quality**


26

27 **Q. MR. WARD'S TESTIMONY INCLUDES A LONG DISCUSSION OF**

1 WHOLESALE SERVICE QUALITY ISSUES AND WHAT HE PERCEIVES
2 ARE U S WEST'S SERVICE QUALITY FAILINGS, AND RECOMMENDS
3 THAT THE BOARD IMPOSE CONDITIONS ON THE MERGER. WHAT IS
4 YOUR GENERAL RESPONSE?

5 A. As I have stated previously, most of the testimony regarding service quality is completely
6 without factual support and consists almost exclusively of conclusory allegations,
7 anecdotal information, or mischaracterized information which is primarily from states
8 other than Iowa. Perhaps more importantly, there is absolutely no basis for Mr. Ward's
9 testimony at pages 30 and 31, and throughout the service quality section, that U S WEST's
10 service quality "may be greatly affected by the merger."

11
12 First, Mr. Ward's conclusory and speculative allegations defy common sense. The Board
13 already regulates U S WEST on service quality issues. Post-merger, the Board will
14 continue to regulate these issues, and will oversee the exact same company - U S WEST
15 Communications. Mr. Ward's baseless speculation regarding "diminished information"
16 makes no sense. Further, U S WEST has committed to invest more than \$4 billion to
17 upgrade its network, and to hire more than 2,400 technicians and customer service
18 representatives, in 1999 throughout its fourteen states. Mr. Ward, however, complains
19 about the fact the merged company (which, of course, has not yet merged) does not yet
20 have detailed plans as to precisely how and where future investments will occur. In light
21 of these U S WEST service improvement activities and the Board's continuing role in
22 service quality regulation, it is hard to take Mr. Ward's professed concerns about post-
23 merger service quality degradation seriously.

24 
25 Mr. Ward also fails to acknowledge that U S WEST must achieve a certain level of
26 wholesale service quality in order to obtain section 271 relief. While Mr. Ward states that
27 the "carrot" of 271 is not enough, this allegation also defies common sense. As Mr. Ward

1 recognizes, one of the primary assumptions made in developing the merger synergies is
2 U S WEST's ability to obtain 271 relief in all 14 states by December 31, 2001. The only
3 way to do this is to provide quality wholesale service.

4
5 Further, Finally, Mr. Ward's approach seems to mischaracterize the facts by raising the testimony
6 of third parties and anecdotal allegations in other states regarding other CLECs'
7 complaints about U S WEST, or editorial comments in an out-of-state newspaper
8 (testimony and comments which therefore cannot be rebutted or subject to cross-
9 examination). Another tactic Mr. Ward uses is to cite to IXC or other groups (Local
10 Competition User Groups or "Frontiers of Freedom") to which it belongs or which it funds
11 as "factual support" for its allegations. (See pages 33 through 36, 37 through 41.) For that
12 reason, I will respond only to those a limited number of the service quality allegations that
13 merit a response.

14

15 **MR. WARD TESTIFIES AT PAGE 33 THAT AT&T'S OWN INTERNAL SURVEY**
16 **SHOWS THAT U S WEST MEETS—MET 59.31% OF ITS DS1**
17 **COMMITMENTS IN 1999, AND THAT ONE CLEC IN ARIZONA**
18 **REPORTED THAT U S WEST MISSED 20 TO 40% OF APPOINTMENT**
19 **DATES. HOW DO YOU RESPOND?**

20 First, it is difficult to give any credence to AT&T's "internal survey," which can hardly be said
21 to be objective. Second, as "factual support" for these "results," AT&T cites to its own
22 Access Complaints, which are, of course, merely allegations and not facts. Finally, as
23 shown previously in this rebuttal testimony, U S WEST's percentage for meeting
24 installation due dates in provisioning DS1 service in Iowa in 1999 is not 59.31% as AT&T
25 alleges, but instead is more than 88%, which is very close to the 90% compliance of the
26 other RBOCs that AT&T touts. In addition, although AT&T attempts to use anecdotal

1 allegations about alleged missed installation dates, the fact remains that U S WEST
2 consistently meets more than 97% of all CLEC residential and business installations.
3 Thus, for AT&T to assert a 59% level for DS1 provisioning, or 20 to 40 percent missed
4 installation dates, is completely ill-founded and not reflective of the actual performance
5 and service CLECs receive from U S WEST in Iowa.

6

7 **Q. MR. WARD ALSO CITES TO U S WEST'S ARMIS REPORT AND**
8 **ALLEGES THAT IT RECEIVED 36 COMPLAINTS FROM BUSINESS**
9 **USERS AND 239 COMPLAINTS FROM RESIDENTIAL USERS IN 1998.**
10 **HOW DO YOU RESPOND?**

11 A. U S WEST strives to provide good quality service to its customers, and it is not pleased
12 when any customer feels there is a reason to complain. However, AT&T fails to recognize
13 that U S WEST serves more than 1 million access lines in Iowa, and although U S WEST
14 regrets that it had 275 complaints, this number is less than .03% (or 1 in more than 3,600
15 customers) in Iowa last year.

16

17 **Q. THROUGHOUT HIS TESTIMONY, MR. WARD CITES TO THE SO-**
18 **CALLED "ACCESS COMPLAINTS" IT FILED IN FIVE STATES OTHER**
19 **THAN IOWA. DO YOU BELIEVE THIS IS PERTINENT TO THIS**
20 **MERGER DOCKET IN IOWA?**

21 A. Absolutely not. This appears to be yet another example of AT&T's apparent strategy to
22 introduce as many irrelevant and inflammatory allegations against U S WEST as it can.
23 These complaints, which are simply allegations and not facts, should be pursued in
24 appropriate regulatory or court venues and not in this merger docket. U S WEST firmly
25 believes it is acting in the appropriate manner, and is confident it will prevail in these
26 complaints in the appropriate jurisdictions.

1

2 **Q. MR. WARD ALSO PURPORTS TO GIVE EXAMPLES OF U S WEST'S**
3 **"CURRENT POOR SERVICE QUALITY TO ITS CUSTOMERS" AT PAGE**
4 **34. CAN YOU RESPOND?**

5 A. Again, these are nothing but AT&T's allegation in its Access Complaint dockets.
6 Moreover, it claims it has difficulty obtaining loops, which up to this point it has not
7 even ordered in Iowa, and yet mixes loops and high-capacity transport and special
8 access services in its testimony.

9

10 **Q. AT PAGE 35, MR. WARD COMPLAINS THAT U S WEST REQUIRES CO-**
11 **PROVIDERS TO ESTABLISH A LOCATION ROUTING NUMBER (LRN)**
12 **IN EACH RATE CENTER, WHICH THUS REQUIRES AT&T TO OBTAIN**
13 **A CENTRAL OFFICE CODE IN EACH RATE CENTER. CAN YOU**
14 **COMMENT ON THIS MATTER?**

15 A. Yes. AT&T has taken somewhat of a different ~~tact~~-approach in its Petition for
16 Reconsideration of the Second Report and Order in CC Docket No 96-98. In its Third
17 Order on Reconsideration of Second Report and Order released on October 21, 1999, the
18 FCC cited AT&T's Petition, wherein it was commenting on the then-current requirement
19 that all CLECs operating in a proposed area code overlay area must be assigned one NXX
20 in that area during the ninety days prior to the implementation. In that Petition, AT&T
21 made the following statements:

22

23 It is clear, however, that the one NXX-per-NPA requirement will not have the
24 effect [to "advance competition"] the Commission intended. Access to a single
25 NXX does not provide a new entrant with a meaningful opportunity to offer
26 service in the existing area code. Under prevailing industry practices, one NXX
27 is required for each rate center served by a local exchange carrier. * * * Allotting
28 a single NXX to a new entrant would permit that carrier to offer numbers in the

1 desirable, existing NPA for only one of those rate centers.¹⁶ ~~at pp. 6-7.~~

2

3 In that case AT&T was arguing that having only one NXX in an overlay area (which could be roughly the
4 same size as a LATA) would be a competitive disadvantage. AT&T also acknowledged that one NXX is
5 required per rate center.

6

7 The FCC agreed with AT&T, at least on the latter point. In paragraph 6 of the Order, the FCC was very clear
8 that if AT&T wants to serve customers in a rate center, AT&T needs a NXX for that rate center.

9

10 The FCC acknowledged that the requirement for one NXX per rate center might create a
11 shortage of NXXs and still supported the requirement. It follows naturally that as a part
12 of AT&T's management of its NXX codes in each rate center where it is serving customers
13 and wants to port numbers, AT&T can assign an LRN out of its NXX code for the rate
14 center.

15

16 U S WEST supports 1000 block number pooling and will continue to evaluate the
17 requirement for one NXX per rate center as the industry moves closer to deploying number
18 pooling.

19

20 **Q. WHAT IS YOUR RESPONSE TO MR. WARD'S ALLEGATIONS AT PAGES**
21 **36 AND 37 OF "DISCRIMINATORY" CONDUCT IN PROVIDING SERVICE**
22 **TO WHOLESALE CUSTOMERS?**

23 A. Again, it is difficult to respond to what are clearly unsubstantiated allegations. AT&T
24 provides absolutely no factual support for these allegations. In stark contrast, the statistical
25 data I have provided above shows that U S WEST does not discriminate against its CLEC
26 customers.

¹ ¹⁶ Third Order, CC Docket No. 96-98, at paragraph 6-7. See also paragraph 26.

1

2 **Q. MR. WARD TRIES TO RAISE ISSUES ABOUT SERVICE QUALITY**
3 **DOCKETS IN STATES OTHER THAN IOWA. IS THIS MEANINGFUL?**

4 A. No. AT&T does not discuss Iowa-specific facts, and, as such, I do not believe that these
5 allegations are meaningful to the task that the Board has in considering this merger.
6 Finally, although Mr. Ward constantly refers to Colorado throughout his testimony, he fails
7 to mention that the Colorado Commission determined that service quality, whether
8 wholesale or retail, is beyond the scope of its merger review.

9

10 **Q. MR. WARD ALSO APPEARS TO COMPLAIN THAT THE MERGED**
11 **COMPANY'S BUSINESS PLAN INCLUDES DEPLOYMENT OF**
12 **ADVANCED SERVICES AND BROADBAND CONNECTIVITY. IS THIS A**
13 **FAIR CONCLUSION?**

14 A. All telecommunications providers must invest in new technologies to survive, much less
15 to prosper. AT&T is doing the same, as it increases its advanced broadband offerings,
16 including its cable systems to which it refuses to provide open access until late 2001. The
17 mere fact that U S WEST, like all prudent telecommunications providers entering the 21st
18 Century, is increasing its deployment of advanced broadband offerings does not mean it
19 is going to neglect the local network. This is especially so because much of these
20 broadband offerings, like xDSL, are based on the same copper infrastructure that is integral
21 in the local network. Moreover, as stated previously, U S WEST has committed to invest
22 more than \$4 billion to upgrade its network in 1999. In short, Mr. Ward's speculations
23 about the dire "implications of the proposed merger" are simply unsupported.

24

25 **Q. FINALLY, MR. WARD ADVOCATES THAT THE BOARD IMPOSE**
26 **SERVICE QUALITY CONDITIONS ON U S WEST AND QWEST AS PART**

1 OF ITS APPROVAL OF THE MERGER. HE ADVOCATES THAT THE
2 BOARD SHOULD REQUIRE: 1) ILLINOIS SBC/AMERITECH CARRIER-
3 TO-CARRIER SERVICE STANDARDS AND 2) THAT FAILURE TO MEET
4 THE STANDARDS RESULT IN SELF-EXECUTING PENALTIES OR
5 REMEDIES REQUIRING THE MERGED COMPANY TO MAKE
6 PAYMENTS TO CLECS OR AFFECTED CUSTOMERS. DO YOU AGREE
7 SERVICE QUALITY CONDITIONS ARE WARRANTED?

8 A. Absolutely not. Such conditions are not warranted for a number of reasons, including that:
9 (tThese issues are matters that will be addressed in the 271 process. Accordingly, there is
10 no need for the Board to impose any service quality conditions in the approval of this
11 merger application.

12)

13 ~~Implementation of carrier-to-carrier wholesale service quality standards in this docket is~~
14 ~~unnecessary.~~

15 ~~Interconnection Agreements, which will, of course, be honored by the merged company, contain~~
16 ~~service quality standards and dispute resolution mechanisms that address any concerns~~
17 ~~raised by AT&T, McLeod or the OCA;~~

18 ~~The Board and its Staff, including Board Chair Thoms, is actively participating in the ROC~~
19 ~~workshops to design performance measures and system requirements that will apply to~~
20 ~~U-S WEST and, in turn, to the merged company;~~

21 ~~The Illinois SBC/Ameritech carrier-to-carrier service standards include the measurements to~~
22 ~~which SBC agreed in Texas. These Texas standards are part of the discussion in the ROC~~
23 ~~workshops and need not be addressed in the context of this merger docket;~~

24 ~~Mr. Ward also suggests that the Board adopt the 27 service standards of the Local Competition~~
25 ~~Users Group, of which AT&T and the other major IXCs are members. These standards are~~
26 ~~being addressed in the context of the ROC workshops and need not be addressed here;~~

27 ~~U-S WEST has invested over \$1 billion to open its network and build facilities necessary to~~
28 ~~competitors; and~~

29 ~~AT&T is using this merger docket in Iowa inappropriately to collaterally attack the same issues~~
30 ~~it has pending before numerous state commission outside of Iowa in its so-called Access~~
31 ~~Complaints.—~~

32
33

Exchange Sales

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Q. MR. WARD OF AT&T ALSO CRITICIZES U S WEST WITH RESPECT TO SALE OF EXCHANGES, AND REQUESTS A THREE-YEAR MORATORIUM ON ALL SUCH SALES. WHAT IS YOUR RESPONSE TO MR. WARD'S TESTIMONY ON THIS ISSUE?

A. I strongly disagree with Mr. Ward. First, discussion of exchange sales is not pertinent to this merger proceeding. The testimony of Mr. Ward with regard to any conditions on additional exchange sales should be disregarded as it is essentially outside the scope of this hearing as described above docket.

Second, it is interesting that Mr. Ward is concerned with U S WEST's and Qwest's commitment to rural areas. ~~For the reasons previously stated,~~ U S WEST has obligations, as will the merged company, to serve all customers throughout its serving area in Iowa. The merger with Qwest does not change that fact. It is self-serving, however, for AT&T, who can pick and choose the customers it wants to serve, to recommend a condition that U S WEST continue to serve its rural areas in Iowa for basic local exchange service.

Third, U S WEST is committed to providing quality basic service to its customers. There is no condition, statute, rule or regulation that I am aware of that precludes U S WEST from evaluating the best way to serve its existing customer base and, if appropriate, to sell exchanges, whether rural or urban.

It would be unnecessary and inappropriate to place any moratorium or other restriction on exchange sales. The exchange sale process requires that U S WEST provide extensive details of the transaction in order to obtain Board approval. The Board currently has, and will retain, the authority to approve any asset transfer of an operating utility in this state.

1 In such a proceeding, the Board determines the issues that should be addressed, including
2 investment commitment and customer impacts for the particular exchanges being sold.

3

4 In addition, AT&T cites to “Frontiers of Freedom” as a basis for their argument in
5 advocating that the Board should place a three-year moratorium on U S WEST exchange
6 sales. What AT&T does not say is that “Frontiers of Freedom” is an AT&T-funded
7 organization whose sole purpose is to advance AT&T’s regulatory agenda. Given the
8 source of its funding and the motives of its sponsor, the press accounts noted by Mr. Ward
9 in his testimony by this organization should be highly suspect and disregarded.

10

11 A suggested moratorium on the sale of exchanges is nothing more than AT&T’s attempt
12 to limit the company’s investments generally, and to foreclose the merged company’s
13 ability to compete with it either in-region or out-of-region. There is no sincere desire on
14 AT&T’s part to protect rural customers. Rather, this is simply a maneuver to hamper the
15 merged company’s ability to make ongoing financial decisions. AT&T is free to generate
16 capital and make investment decisions based upon market criteria and has done so
17 repeatedly in the past with its acquisitions of NCR, TCG, TCI and now MediaOne.
18 Nevertheless, it desires to hamstring U S WEST and the new merged company with
19 conditions in order to retain disparate regulatory treatment between U S WEST and AT&T.

20

21

22 For all these reasons, there is absolutely no need for any type of conditions or a moratorium
23 for any U S WEST sale of exchanges.

24

25

SUMMARY

26

27 **PLEASE SUMMARIZE YOUR TESTIMONY.**

1 A. First, many of the allegations which AT&T, McLeod and the OCA make do not really have
2 a place in this docket, but rather, if truly legitimate, should be the subject of specific
3 proceedings on those particular issues. Moreover, after the merger, the intervenors retain
4 all rights that they presently have. And, as stated, many of the matters that the intervenors
5 raise are not only irrelevant to the issues in this merger docket, but are also based on: 1)
6 conclusory allegations without any factual support, 2) non-Iowa matters 3) old information
7 or grievances, 4) mere speculation, or 5) unsupported allegations of third parties or parties
8 affiliated with such intervenors. These are simply not issues that are meaningful to the task
9 which the Board has in this merger docket.

10

11 In addition, U S WEST takes its wholesale obligations under section 251 and 252 of the
12 Telecommunications Act very seriously. For example, we have spent more than \$1 billion
13 to open up our network to competitors, including more than \$160 million on OSS alone,
14 and we have hired more than 2,150 employees to service our wholesale customers.
15 Second, I have shown that U S WEST does not discriminate in provisioning or repair in
16 favor of its retail customers or at the expense of its wholesale customers, including AT&T
17 and McLeod. I have also shown that U S WEST does not deny reasonable access to
18 collocation, interconnection or necessary Centrex features. Further still, the parties retain
19 all existing rights under their interconnection agreements or applicable law to file
20 complaints, seek arbitration or initiate appropriate proceedings regarding any issue on
21 which they believe U S WEST is deficient or acting in an anti-competitive manner.

22

23 Finally, Qwest and U S WEST have both committed to providing quality service. In fact,
24 U S WEST has spent more than \$4 billion this year on its network, much of which has
25 been spent to improve service quality, both retail and wholesale, and we have already
26 begun to see improvements. In addition, although AT&T and McLeod make numerous
27 allegations purportedly based on performance metric results, I have shown that the vast

1 majority of these results are not accurate, or are merely anecdotal or selective. These
2 performance metric results do not take into consideration U S WEST's performance as a
3 whole. Thus, there is simply no need for the Board to impose either retail or wholesale
4 service quality conditions to the merger. This is especially so since the Board will retain
5 its regulatory authority over these issues after the merger.

6

7 In short, U S WEST and Qwest have demonstrated that this merger is in the public interest,
8 that it will benefit Iowa consumers, and that no conditions are necessary or appropriate.
9 Accordingly, we believe that the Board should approve this merger application without any
10 conditions.

11

12 **DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

13 A. Yes, it does.