[USWC 110]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Petition by AT&T Wireless Services, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 of the Rates, Terms, and Conditions of Interconnection with U S WEST Communications, Inc.	)))))))	**DOCKET No. UT-960381**

DIRECT TESTIMONY OF

CRAIG WISEMAN

April 25, 1997

PLEASE STATE YOUR NAME, POSITION, EMPLOYER, AND BUSINESS ADDRESS.

My name is Craig Wiseman. I am employed by U S WEST Communications Inc. ("U S WEST") as a Member of Technical Staff in the Interconnection Planning Group. My business address 700 W. Mineral Ave., Littleton, CO. 80120

PLEASE DESCRIBE YOUR WORK EXPERIENCE AND PRESENT WORK RESPONSIBILITIES.

I have 28 years of experience in the telecommunications industry in the areas of network planning, network engineering and central office maintenance. My current responsibilities include providing technical support to the U S WEST Interconnection Negotiation and Implementation teams. Prior to this assignment, I was the U S WEST representative on the Industry Carriers Compatibility Forum ("ICCF"). The ICCF develops and defines switching system capabilities and network architectures for nation-wide services provided by both wireline and wireless telecommunications service providers. In addition, I represented U S WEST at the Industry Numbering Committee ("INC"). The INC developed the Local Number Portability Document that describes the various network architectures that can be used for long term number portability. The INC also determines how the North American Numbering resources will be used and, when necessary, expanded. INC also develops guidelines for the assignment of these numbering resources.

WHICH REGULATORY COMMISSIONS HAVE YOU TESTIFIED BEFORE?

I have testified in regulatory proceedings in Wyoming, New Mexico, Arizona, Washington, Oregon, Montana, North Dakota, South Dakota, Minnesota, Idaho and Colorado as a technical witness for various telecommunications issues. I have also prepared technical comments on behalf of U S WEST Communications for various FCC dockets and Department of Justice inquiries.

PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. In my testimony, I explain why, from a technical perspective, AT&T Wireless Services, Inc. (AWS) is not entitled to charge U S WEST for tandem switching and transport functions. A tandem switch can perform primary, alternate/default and also transit network routing functions because it is interconnected to all local service providers, i.e. Interexchange Carriers (IXC), Independent LECs (ILEC), CLECs (CLECS) and Wireless companies (CMRS), that provide service within the tandem serving area. A fundamental tandem function is to establish a shared communications path between two switching offices through a third switching office , the tandem switch. Tandem switches also provide a default routing function. That is, when an originating end office has no direct route to another end office or has no routing instructions for a specific telephone number, the originating end office can send the call to a tandem switch and rely on the tandem switch to

complete the call. A tandem also provides a transit network function that connects various local service providers together, thus significantly reducing the interconnected local service providers' overall network investment required to provide service within the tandem's serving area. Furthermore, if the tandem is performing toll functions, it will also be connected to all Interexchange Carriers that provide service in the tandem serving area. Thus, the tandem and its ubiquitously interconnected network provide a vital switching and transport function that is separate and distinct from an end office switching function.

In this testimony, I provide a functionally equivalent comparison of the AWS and the U S WEST network components. This comparison clearly shows that the AWS Mobile Switching Center (MSC) is performing only end office switching functions. Therefore AWS is not entitled to usage sensitive tandem switching and transport compensation for calls that U S WEST terminates on their network.

Furthermore I explain that the purpose of the tandem switching and transport rate elements are to allow the tandem network provider to recover the costs plus a reasonable profit for the tandem network that the network provider has established. Thus it would not be just and reasonable, as required in Section 252 (d) of the Act, to allow AWS to charge for tandem switching and transport services that they do not provide. Six states, Colorado, Oregon, Nebraska, South Dakota, Montana and Idaho have already ruled that Western Wireless, a CMRS provider that provides wireless services using the same network architecture as AWS, is not entitled to

tandem switching and transport compensation for calls that terminate to the Western Wireless mobile switching office. U S WEST has also signed contracts in six additional states (including Washington) with other wireless companies; GTE Mobilenet, Southwestco, Aliant, U S Cellular, Cellular Mobile Systems of St. Cloud, ComNet, Durango Cellular, Triad Cellular, Sprint Spectrum, Century Yuma, Cellular One of Northeast Colorado, Blue Mountain and AWS in Idaho, that recognize wireless switching offices are end offices.

I also explain why the traffic exchanged between AWS and U S WEST will be out of balance and therefore, bill and keep is not an appropriate cost recovery mechanism for the mutual recovery of transport costs.

Finally, I explain U S WEST's policy for physical and virtual collocation, unbundling the SS7 signaling network and access to poles, conduits and Rights of Ways.

Q. ARE THE AWS NETWORK COMPONENTS COMPARABLE TO THE U S WEST NETWORK COMPONENTS ?

A. Yes. The FCC found, in para. 1013 of the Order, that PCS (personal communication services, which includes a carrier such as AWS) providers and LECs provide comparable local, two-way switched voice service through a combination of switching, transmission and other facilities. Therefore, while the two networks use different equipment, a different architecture and different acronyms, the network

components used to provide the local, two-way switched voice service can be compared on a functionally equivalent basis.

For instance, on Exhibit CW-1, page 1 [USWC 111.1], U S WEST subscribers are connected via cable pairs to a Digital Loop Carrier system (DLC), that connects to the U S WEST End Office via a digital facility. This arrangement, from end to end, is generally referred to as the local loop. In comparison, the AWS subscribers are connected via radio waves to a cell site that connects to the AWS MSC via a digital facility. This arrangement is also functioning as the local loop. Therefore, the cable pairs and radio waves, the DLCs and cell sites, the digital facilities, and finally the MSC and U S WEST end offices (EO) are functional equivalents. The cable pairs and radio waves; the DLCs and cell sites; and the digital facilities are functioning in combination as local loops. The AWS MSC and the U S WEST end office are functioning as end offices.

Q. HOW DOES THE FCC ORDER DEFINE A LOCAL LOOP?

A. In paragraph 380 of the FCC Order and in Rule 51.319 (a), a local loop is defined as a " transmission facility between a distribution frame, or its equivalent, in an ILEC central office, and the network interface device at the customer premises." This definition applies to both wireline and wireless networks.

Q. THIS DEFINITION ONLY REFERENCES ILEC NETWORK COMPONENTS. WHY DOES THIS DEFINITION ALSO APPLY TO WIRELESS NETWORKS?

A. While the FCC has used terminology throughout the Order that is associated with components in the ILEC networks, they have also used the phrase "or its equivalent" throughout the Order to include new technology (e.g., fiber rings, integrated digital loop carrier and wireless networks). Therefore, this definition does apply to wireless network components that perform comparable functions to the equivalent ILEC network components

Q. HOW ARE LOCAL LOOPS DESIGNED?

A. As illustrated on Exhibit CW-1, page 1 [USWC 111.1], the local loop is generally segmented into two categories, Feeder and Distribution. The Feeder extends from the local switching office, i.e., MSC or EO, to an interface point where it is connected to the Distribution portion of the local loop. The Feeder interface, i.e., the DLC or cell site, is the point where the Distribution facilities are combined onto a single digital facility. For example, in the wireline network, the DLC combines 24 individual subscriber calls onto a single DS1 facility. Similarly, the wireless cell site also combines 24 individual subscriber calls onto a single DS1 facility. These digital Feeder facilities connect to a local switching office (i.e., MSC or EO) that provides local switching call processing functions. The Distribution is the portion of the local loop that is distributed throughout a geographic area to connect individual subscribers to the Feeder. For example on Exhibit CW-1, page 1 [USWC 111.1],

the U S WEST Distribution connects to a Feeder consisting of a Digital Loop Carrier system (DLC) and an associated digital facility. In the wireline network the Distribution generally consists of copper cable pairs. However, in the future this may change to include coaxial cable, fiber and fixed wireless loops. In the AWS network, the Distribution consists of radio waves that connect wireless subscribers within a specific geographic area to the Feeder that consists of a cell site and an associated digital facility.

Q. DOES THE CELL SITE PERFORM LOCAL SWITCHING FUNCTIONS?

A. No. Local switching functions, as defined in the para. 412 and Rule 51.319 (c) of the FCC Order, are "...the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, trunks to trunks. It also includes the same basic capabilities that are available to the incumbent LEC's customers, such as a telephone number, directory listing, dial tone, signaling and access to 911, operator services, and directory assistance." The cell site is not capable of performing these local switching functions. The cell site simply acts as an interface between the Feeder and the Distribution segments of the local loop. It is the MSC that performs the end office local switching call processing functions.

For example, when a wireless subscriber turns on their cell phone, an available for service signal is received, via radio waves, by the cell site. The cell site forwards the signal to the MSC over the digital feeder facility that connects the cell site to the MSC. The MSC recognizes that the subscriber is now available for service and

sends a ready for service indicator back to the subscriber, via the cell site. The ready for service indicator is functionally equivalent to the dial tone received by wireline customers. Upon receipt of the ready for service indicator, the subscriber can transmit the called party number. The cell site receives this information and forwards it to the MSC where the digits are analyzed to determine where the MSC should send the call. The MSC performs this function for every call, even if the call is to another wireless subscriber served by the same cell site. In this scenario, the MSC would send a ringing signal over the digital feeder facility and through the cell site to that called party. In all cases, the MSC is performing the end office local switching functions. The cell site is simply converting radio waves to digital signals or visa versa. The cell site does not have the capability to perform end office local switching functions.

Q. IS THE LOCAL LOOP AN INTEROFFICE TRANSMISSION FACILITY?

A. No. FCC Rule 51.319 (d) defines interoffice transmission facilities as "...transmission facilities.... that provide telecommunications between wire centers or between switches owned by incumbent LECs or requesting telecommunications carriers." Interoffice facilities are illustrated on Exhibit CW-1, page 2 [USWC 111.2]. Dedicated interoffice facilities connect MSC A to tandem B while shared interoffice facilities connect tandem B to end office C. Local loops do not connect wire centers or switches together and therefore local loops are not interoffice facilities. Local loops only connect subscribers to end offices for local switching call processing functions.

Q. UNDER THE FCC RULES, IS THE LOCAL LOOP USED TO CALCULATE USAGE-SENSITIVE TRANSPORT COMPENSATION?

A. No. Usage -sensitive transport, as defined in FCC Rule 51.509 (d) applies only to "...shared transmission facilities between tandem switches and end offices. Usage-sensitive transport is illustrated on Exhibit CW-1, page 3 [USWC 111.3]. The usage-sensitive transport calculation applies only to the shared interoffice transmission facilities that connect from the tandem switch to the terminating end office switch that directly serves the called party. The local loop does not connect tandem switches and end offices together and therefore it is not a shared interoffice transmission facility. Thus the local loop is not included in the transport compensation calculation.

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS REGARDING THE FUNCTION OF THE FACILITY THAT CONNECTS THE AWS MSC TO AWS' CELL SITE?

A. The facility that connects the AWS MSC to AWS' cell site is functioning, in conjunction with the cell site, as a local loop. The cell site and its associated digital facility are functionally equivalent to a wireline local loop consisting of a Digital Loop Carrier (DLC) system and its associated digital facility. The sole purpose of the cell site is to convert digital signals to radio waves or visa versa. Therefore the cell site and its associated digital facility are functioning as a local loop transmission facility between the MSC and the wireless subscriber as defined in

paragraph 380 of the FCC Order. Therefore, AWS is not entitled to usage-sensitive transport compensation for this local loop facility because it is not a shared interoffice facility, as defined in FCC Rule 51.319 (d) and FCC Rule 51.509 (d).

Q. HOW SHOULD AWS RECOVER THE COST OF THE DIGITAL FACILITY THAT CONNECTS AWS' MSC TO ITS CELL SITE?

A. As I have explained, the facility between the AWS MSC and its cell site is part of the local loop. Therefore, it would seem reasonable for AWS, like U S WEST, to recover the cost of this facility from their subscribers through monthly service charges.

Q. WHAT SWITCHING FUNCTIONS ARE PERFORMED BY THE AWS MSC?

A. The AWS MSC is performing end office switching functions. It is processing calls that originate from or terminate to AWS subscribers only. The AWS switch has some direct interconnections with IXCs, CLECS, Wireless companies and ILECs that are used only for calls that originate from or terminate to AWS subscribers. AWS depends on the U S WEST tandems to send calls to, or receive calls from, the vast majority of the subscribers in Washington as well as throughout the USA (See Exhibit CW-1, page 4 [USWC 111.4]).

Q. IS THE AWS MSC PERFORMING TANDEM SWITCHING FUNCTIONS?

A. No. the AWS switch is only connecting AWS subscribers to each other or to other local service provider networks that are directly connected to the AWS MSC for the sole purpose of delivering calls to or receiving calls from AWS subscribers. These are end office switching functions as defined in para. 412 of the Order and FCC Rule 51.319 (c) (i) (C) (1) (2). AWS depends on the U S WEST tandem to provide the tandem switching functions necessary to reach all other local service provider networks and their subscribers.

Tandems provide a communications path between two switching offices through a third switching office, the tandem switch. For example, as depicted on Exhibit CW-1, page 4 [USWC 111.4], the U S WEST tandem (B) connects end office (C) to the AWS MSC (A). It also provides a transit connection to CLEC end offices, other wireless provider end offices (CMRS), Interexchange Carriers and Independent LEC end offices. This allows AWS to avoid having to establish direct connections to each and every switching office in State of Washington.

Q. ON EXHIBIT CW-1, PAGE 2 [USWC 111.2], THE AWS SWITCH (A) HAS CONNECTIONS TO LOCAL SERVICE PROVIDERS, IXCS, CMRS AND ILECS. ISN'T THIS THE SAME CONFIGURATION AS THE U S WEST TANDEM?

A. No. The AWS switch is configured the same as U S WEST end offices C and D. The AWS MSC and the U S WEST end offices all have direct end office connections to a few locations where there is sufficient call volume to economically

justify the use of a dedicated trunk group. There is no tandem switching provided on these end office connections. On the other hand, the U S WEST tandem has connections to every local service provider in the tandem serving area. This allows the U S WEST tandem to provide a transit network capability which allows local service providers to deliver calls to and receive calls from other local service providers through the U S WEST tandem. This transit network capability provides a value added service, not only to AWS but also all other local service providers that use the U S WEST tandem. The transit network capability decreases their network investment costs as well as the transport and termination charges they would pay if they could not use the U S WEST tandem.

Q. DOES THE AWS MSC PERFORM TRANSIT NETWORK FUNCTIONS?

A. No. The AWS MSC is not performing transit network functions, described above, which are a primary switching function of a tandem switching office. The AWS MSC is only performing end office switching functions.

Q. CAN AWS AVOID PAYING THE U S WEST TANDEM SWITCHING AND TRANSPORT CHARGES?

A. Yes. AWS will not be charged for tandem switching and transport on direct interoffice trunk connections between the MSC and a U S WEST end office. Exhibit CW-1, page 4 [USWC 111.4], shows an example of a direct interoffice trunk connection between MSC A and end office C. It should be noted that if the Washington Commission determines that AWS is entitled to charge U S WEST

tandem switching and transport for U S WEST calls that terminate to their MSC, unlike AWS, U S WEST can not avoid those charges because U S WEST can not bypass their MSC.

Q. DOES THE AWS SWITCH SERVE THE SAME GEOGRAPHIC AREA AS THE U S WEST TANDEMS IN WASHINGTON?

A. No. Although AWS is licensed to provide service throughout a large geographic area, AWS only provides service to a small percentage of customers in Washington. In contrast, U S WEST provides service to more then two million access lines throughout State of Washington. In addition, U S WEST provides access to all subscribers in Washington through the U S WEST tandems. AWS will not serve the same geographic area as the U S WEST tandems until they provide access, through their MSC, to not only to their subscribers, but to all other subscribers in Washington as well.

Q. DOESN'T FCC RULE 51.711 STATE THAT CMRS PROVIDERS ARE ENTITLED TO THE TANDEM INTERCONNECTION RATE WHEN THEY SERVE THE SAME GEOGRAPHIC AREA AS THE U S WEST TANDEM?

A. It is my understanding that the Eighth Circuit Court has stayed this FCC rule. However, it is U S WEST's opinion that FCC Rule 51.711, when interpreted in conjunction with paragraph 1090 of the FCC's First Report and Order, means that AWS must not only serve the same geographic area but also provide the same

tandem functionality throughout the same geographic area served by the U S WEST tandem. In other words, AWS must have trunk side connectivity to end offices throughout the same geographic area served by the U S WEST tandem. They must also provide the same ubiquitous trunk to trunk switching functionality that permits interconnection of their subscribers, not only to each other, but also to the subscribers of all other local service providers in the same geographic area served by the U S WEST tandem.

Q. WHAT CONCLUSIONS DO YOU DRAW FROM THIS ANALYSIS OF THE AWS MSC?

A. The AWS MSC is performing only end office switching functions and does not serve the same geographic area as the U S WEST tandem. Therefore AWS is not entitled to collect a tandem interconnection rate for calls that terminate to their end office switch.

Q. HAVE THERE BEEN ANY PREVIOUS ARBITRATION DECISIONS ON THIS ISSUE?

A. Yes. Six western states, Colorado, Oregon, Nebraska, South Dakota, Montana and Idaho have ruled that Western Wireless, a CMRS provider that provides wireless services using the same network architecture as AWS, is not entitled to tandem switching and transport compensation. In addition, U S WEST has signed contracts in six additional states (including Washington) with other wireless companies, GTE Mobilenet, Southwestco, Aliant, U S Cellular, Cellular Mobile

Systems of St. Cloud, CommNet, Durango Cellular, Triad Cellular, Sprint Spectrum, Century Yuma, Cellular One of Northeast Colorado, Blue Mountain, and AWS in Idaho, that recognize wireless switching offices are end offices.

Q. WHAT IS THE PURPOSE OF THE TANDEM SWITCHING AND TRANSPORT RATE ELEMENTS?

The tandem switching and transport rate elements have been established to compensate a network provider for the cost, plus a reasonable profit, of the tandem network established and maintained by the network provider. Thus it would not be just and reasonable, as required in Section 252 (d) of the Act, to allow AWS to charge for tandem switching and transport services that their MSC and network infrastructure does not provide.

Q. WILL U S WEST INCUR ADDITIONAL COSTS TO PROVIDE TRANSPORT AND CALL TERMINATION FOR AWS?

A. Yes. Initially, AWS will deliver their traffic to the U S WEST tandems for completion to end offices throughout Washington. This will require U S WEST to establish interconnection facilities and provide interoffice trunk group augments to the trunk groups that connect the U S WEST tandems to the Washington end offices, interexchange carriers and other local service providers in Washington. The cost of the interconnection facilities and interoffice trunk group augments are directly related to Local Interconnection and should be recovered from the cost causer, in this case AWS.

Q. WILL U S WEST BE ABLE TO RECOVER THESE COSTS THROUGH BILL AND KEEP?

A. No. Cost recovery through bill and keep is only appropriate when traffic between the two interconnecting networks is balanced. That is, when the volume of call minutes being sent to an interconnecting network is equal to the volume of call minutes received from that same interconnecting network. A balance of traffic will not occur between AWS and U S WEST for many years, if ever.

Q. WHY WON'T THE TRAFFIC BETWEEN AWS AND U S WEST BE BALANCED?

A. As stated earlier, AWS will depend on the U S WEST tandems to connect their small percentage of Washington subscribers and roamers to the majority of subscribers in Washington as well as subscribers throughout the U. S. and perhaps world-wide. On the other hand, U S WEST will only be sending calls to the AWS network that will be completed to AWS' Washington subscribers and roamers. Moreover, the typical wireless subscriber uses their phone only on an outgoing basis to reduce air time charges. They typically have their incoming calls routed to pagers or voice mail for call screening. In this manner, urgent or necessary calls may be returned via the wireless phone while the majority of their calls are generally returned at a later time via a wireline phone. In this example the call minutes exchanged are out of balance because the voice mail and paging calls delivered by U S WEST to AWS are very short in duration, usually lasting from

only a few seconds to no more than one or two minutes. On the other hand, the majority of the calls that AWS sends to the U S WEST network will have a call duration of several minutes. Therefore, as demonstrated, both the volume of calls and the call duration on traffic exchanged between AWS and U S WEST will be out of balance. Thus bill and keep is not an appropriate recovery mechanism for the mutual recovery of transport costs.

Q. WHERE WILL U S WEST PROVIDE COLLOCATION FOR AWS?

A. U S WEST's policy provides for physical collocation in U S WEST central office buildings that house U S WEST end office and/or tandem switching equipment. In addition, physical collocation can and will only be provided where there is sufficient floor space available. Virtual collocation will be provided where physical collocation is not practical for technical reasons or because of space limitations. Collocation will only be allowed for the purpose of interconnecting AWS' collocated equipment to U S WEST's network or U S WEST's unbundled elements.

Q. ARE THERE RESTRICTIONS ON THE TYPE OF EQUIPMENT THAT AT&T CAN COLLOCATE?

A. Yes. Collocation equipment is limited to transmission equipment only. This is in compliance with the FCC's First Interconnection Order (¶581) which limits collocation equipment to transmission equipment only.

Q. DOES U S WEST PROPOSE TO OFFER SIGNALING ON AN UNBUNDLED BASIS?

A. Yes. U S WEST will provide signaling links and access to Switching Transfer Points (STPs) on an unbundled basis. Thus, U S WEST will provide the following unbundled network elements:

- Signaling links (CCS Links)
  - Entrance Facility
  - Direct Link Transport (DLT)
- Signal Transfer Point (STP) ports
- Access to U S WEST Service Control Point (SCP) databases via U S WEST's STPs

Q. IS THIS UNBUNDLING PROPOSAL CONSISTENT WITH THE REQUIREMENTS OF THE FCC's FIRST INTERCONNECTION ORDER?

A. Yes. U S WEST's signaling unbundling proposal is entirely consistent with the unbundled signaling requirements outlined in the First Interconnection Order.[1] The proposal provides unbundled signaling capabilities to requesting local service providers that allow signaling access to U S WEST's signaling network, signaling access to local service provider network nodes through U S WEST's signaling

[1] First Interconnection Order at ¶¶ 479-483.

network, and signaling access between local service provider through U S WEST's signaling network. U S WEST proposes to offer these capabilities by tariffed offerings and by responding to Bona Fide requests. U S WEST's proposal also includes unbundled access to call-related databases as required by that Order.[2]

Q. WILL U S WEST PROVIDE ACCESS TO POLES, CONDUITS AND RIGHTS OF WAY ON A NONDISCRIMINATORY BASIS?

A. Yes. U S WEST will provide nondiscriminatory access to poles, conduits and rights of way on a first come, first served basis, as long as sufficient capacity exists. This standard applies equally to all local service providers, including AWS and U S WEST.

Q. WILL U S WEST LEASE FACILITY SPACE UP TO THE POINT THAT IT IS 100% EXHAUSTED?

A. No. U S WEST must always keep a certain level of spare capacity available for maintenance and administrative purposes. For example, to assure uninterrupted high quality service to customers, a portion of spare facilities (e.g., 15%) must always be available to serve as a "backup" in case a particular facility goes down. Therefore, under normal circumstances, new capacity is designed and added when facilities reach a threshold capacity level (e.g., 85%). U S WEST will only make

[2] First Interconnection Order at ¶¶ 484-492.

space available up to this threshold level of capacity. It would be inappropriate for U S WEST to jeopardize service quality by leasing facilities beyond the threshold level.

Q. IF FACILITIES ARE NOT AVAILABLE (I.E. A FACILITY IS EXHAUSTED), SHOULD U S WEST BE REQUIRED TO CONSTRUCT ADDITIONAL CONDUIT AND/OR POLE FACILITIES FOR ANOTHER LOCAL SERVICE PROVIDER SUCH AS AWS?

A. No. The Federal Act does not require U S WEST to construct or rearrange facilities for another carrier -- nor would such a requirement be appropriate.

Section 703 of the Federal Act requires that a utility provide "nondiscriminatory access to any pole, duct, conduit or right of way owned or controlled by it."[3] Some local service providers claim that this section of the 1996 Act requires incumbent LECs such as U S WEST, to rearrange existing facilities or construct new facilities if local service providers request access and capacity is exhausted. However, the plain wording of Section 224(f) cannot be read to support such expansive interpretations of incumbent LEC's obligations to provide nondiscriminatory access to poles, conduits and rights of way.

[3] Telecommunications Act of 1996, Section 703, modifying USC § 224(f)(1).

The FCC rules do not require U S WEST to construct new facilities when existing facilities are exhausted. However, the FCC states that "a lack of capacity does not necessarily mean there is no capacity in the underlying right-of-way that the utility controls. . . a lack of capacity on a particular facility does not automatically entitle a utility to deny a request for access."[4] The FCC goes on to say, "We interpret sections 224(f)(1) and (f)(2) to require utilities to take all reasonable steps to accommodate requests for access in these situations. Before denying access based on a lack of capacity, a utility must explore potential accommodations in good faith with the party seeking access."[5]

Q. IS U S WEST WILLING TO EXPLORE SUCH "ACCOMMODATIONS," AND NEGOTIATE FOR THE CONSTRUCTION OF NEW POLE OR CONDUIT SPACE?

A. Yes. While U S WEST should not be *required* to construct new facilities for the sole benefit of its competitors, U S WEST and AWS should be free to negotiate, if they so choose, for the rearrangement of existing facilities or the construction/acquisition of additional poles, conduits and rights of way. Thus, U S WEST may, under some conditions, construct or rearrange facilities that would provide pole or conduit space for AWS. Such agreements would be negotiated on a *voluntary* basis.

[4] First Interconnection Order at ¶ 1162.
[5] First Interconnection Order at ¶ 1163.

Q. CAN U S WEST PROVIDE ACCESS TO ALL OF THE UTILITY POLES THAT U S WEST USES IN WASHINGTON?

A. No. U S WEST does not own all of the poles used by U S WEST in Washington. U S WEST also leases space on poles owned by power companies or other utility companies.

Q. HOW CAN AWS OBTAIN ACCESS TO THE UTILITY POLES OWNED BY POWER COMPANIES OR OTHER UTILITY COMPANIES?

A. In most cases, U S WEST does not have the right to authorize access to utility poles owned by other companies. Therefore, AWS will have to negotiate directly with the company that owns the utility pole(s).

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.