

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

In the Matter of the Petition of Sprint Communications
Company L.P. for Arbitration of Interconnection Rates, Docket No. UT-003006
Terms, Conditions and Related Arrangements with
U S WEST Communications, Inc.

LARRY B. BROTHERRSON

DIRECT TESTIMONY

ON BEHALF OF

U S WEST COMMUNICATIONS, INC.

APRIL 26, 2000

TABLE OF CONTENTS

| <u>TOPIC</u> | <u>PAGE</u> |
|--------------------------------|-------------|
| EXECUTIVE SUMMARY | 1 |
| QUALIFICATIONS | 2 |
| TESTIMONY | 3 |
| CONCLUSION | 21 |

EXECUTIVE SUMMARY

My testimony sets forth U S WEST's positions regarding the issue of reciprocal compensation that is raised by Sprint in its petition for arbitration with this Commission.

U S WEST should not be required to pay reciprocal compensation to Sprint for Internet-bound traffic to Internet service providers ("ISPs"). U S WEST's proposal exempting Internet-bound traffic from the reciprocal compensation provisions of the Agreement should be approved because it is beyond dispute that the Agreement covers interconnection related to, and the exchange of, local traffic. The FCC has made it clear that Internet-bound traffic is interstate in nature. Requiring the payment of reciprocal compensation for Internet-bound traffic is beyond the obligations of the parties' Interconnection Agreement, since the Agreement's reciprocal compensation obligations apply to local traffic only. Finally, requiring reciprocal compensation for interstate traffic is counter to public policy, and would produce a tremendous economic hardship to U S WEST and U S WEST's customers, an unearned economic windfall for Sprint, and perverse market distortions.

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QUALIFICATIONS

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. My name is Larry B. Brotherson. I am employed by U S WEST Communications, Inc. (“U S WEST”) as a director in the Wholesale Markets organization. My business address is 1801 California Street, Room 2350, Denver, Colorado 80202.

Q. BRIEFLY OUTLINE YOUR EMPLOYMENT BACKGROUND.

A. In 1979, I joined Northwestern Bell Telephone Company. I have held several assignments within Northwestern Bell, and later within U S WEST, primarily within the law department. Over the past 20 years, I have been a state regulatory attorney in Iowa, a general litigation attorney, and a commercial attorney supporting several organizations within U S WEST. My responsibilities have included evaluating and advising the company on legal issues, drafting contracts, and addressing legal issues that arise in connection with specific products. With the passage of the Telecommunications Act of 1996 ("the Act"), I was assigned to be the attorney in support of the Interconnection Group. In that role, I was directly involved in negotiating with the CLECs contract language implementing various sections of the Act, including the Act’s reciprocal compensation provisions. In 1999, I assumed my current duties as director of wholesale advocacy.

My current responsibilities include coordinating the witnesses for all interconnection arbitrations and for hearings related to disputes over

1 interconnection issues. Additionally, I work with various groups within the
2 Wholesale Markets organization of U S WEST to develop testimony
3 addressing issues associated with interconnection services.

4 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

5 A. I have two degrees: a Bachelor of Arts degree from Creighton University in
6 1970, and a Juris Doctorate degree from Creighton University in 1973.

7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE**
8 **WASHINGTON UTILITIES AND TRANSPORTATION**
9 **COMMISSION?**

10 A. No.

11

12 **TESTIMONY**

13 **Q. PLEASE PROVIDE AN OVERVIEW OF YOUR TESTIMONY.**

14 A. The purpose of my testimony is to show that: (1) Internet-bound traffic is
15 interstate, not local, and should not be included in any calculations for local
16 reciprocal compensation; (2) U S WEST already subsidizes Internet-bound
17 traffic through the ISP exemption and by providing additional investment
18 to handle the large volume of Internet traffic; (3) adding another subsidy to
19 Sprint's Internet business through the payment of reciprocal compensation
20 will not advance any public policy that benefits Washington rate payers,
21 and, indeed, ultimately will harm the rate payers; (4) Sprint's network plans,
22 in particular, highlight the inappropriateness of adding Internet-bound traffic

1 to reciprocal compensation; and (5) the costs this Commission has approved
2 for local voice traffic carried over a circuit switch network do not apply to
3 Internet-bound traffic carried over PRI trunks to ISP switching equipment
4 located in the Sprint central office.

5 **Q. CAN YOU PROVIDE SOME CONTEXT FOR WHERE YOUR**
6 **TESTIMONY, AND THAT OF OTHER U S WEST WITNESSES, FITS**
7 **INTO THIS ARBITRATION?**

8 A. Yes. In addition to my testimony addressing issues relating to Internet-
9 bound traffic, Joe Craig will address network issues relating to Internet
10 traffic, including the effects that Internet traffic is having on U S WEST's
11 network, the fundamental differences between the networks of CLECs that
12 handle primarily Internet-bound traffic and U S WEST's network, and a
13 comparison of Internet-bound calls and local calls from a network
14 perspective. Dr. William Taylor will address the economic issues that relate
15 to compensation for Internet-bound traffic. Perry Hooks will testify on the
16 unresolved unbundled network element issues, including combinations and
17 nonrecurring charges.

18 **Q. WHAT IS THE NATURE OF THE DISPUTE RELATING TO**
19 **RECIPROCAL COMPENSATION THAT IS BEFORE THE**
20 **WASHINGTON COMMISSION IN THIS PROCEEDING?**

21 A. Sprint is unable to charge interstate access to ISPs because of the FCC's
22 ESP exemption. But unlike U S WEST, GTE, and every independent
23 telephone company in Washington who accept the fact that interstate access

1 charges cannot be recovered, Sprint seeks to have U S WEST pay local
2 termination charges for interstate Internet-bound calls from U S WEST
3 subscribers that U S WEST delivers to Sprint and that Sprint delivers to
4 ISPs.

5 **Q. HAS INTERNET-BOUND TRAFFIC BEEN RECOGNIZED**
6 **HISTORICALLY AS BEING PREDOMINATELY INTERSTATE,**
7 **NOT LOCAL, IN NATURE?**

8 A. Yes. The FCC has traditionally and consistently concluded that Internet-
9 bound traffic is interstate in nature. As early as 1983, in a proceeding
10 involving the application of interexchange access charges to non-carrier
11 entities like enhanced service providers (a definitional category under FCC
12 rules that includes ISPs), the FCC stated:

13 A facilities-based carrier, reseller or enhanced
14 service provider might terminate few calls at its own
15 location and thus would make relatively heavy
16 interstate use of local exchange services and facilities
17 to access its customers.

18
19 MTS and WATS Market Structure, CC Docket No. 78-72 Phase I,
20 Memorandum Opinion and Order, 97 FCC 2d 682, 711
21 (1983)("MTS/WATS Market Structure Order"). In this Order, the FCC
22 extended interstate access charges to certain interstate access users, but
23 determined as a policy matter to exempt enhanced service providers from
24 such charges in order to spare those carriers the shock of a too-sudden
25 increase in charges. The FCC made it clear that its decision temporarily to
26 treat enhanced service provider traffic the same as local traffic for access

1 charge purposes did not affect the factual conclusion that such traffic is
2 jurisdictionally interstate in nature. The FCC stated:

3 We believe that it is reasonable similarly to require that
4 carrier access charges be applied to any private line
5 reseller to which ENFIA would have applied. Other
6 users who employ exchange service for jurisdictionally
7 interstate communications, including . . . enhanced
8 service providers, . . ., who have been paying the
9 generally much lower business service rates, would
10 experience severe rate impacts were we immediately to
11 assess carrier access charges upon them.
12

13 Id. at 715 (emphasis added). This conclusion was reaffirmed last year when the
14 FCC stated:

15 The Commission traditionally has characterized the link
16 from an end user to an [enhanced service provider] as an
17 interstate access service.¹
18

19 Dr. Taylor's testimony will provide further analysis of the FCC's findings
20 regarding the jurisdiction of ISP-bound traffic and the recent ruling by the D.
21 C. Circuit Court.

22 **Q. WHAT DOES U S WEST PROPOSE WITH REGARD TO**
23 **RECIPROCAL COMPENSATION IN THIS ARBITRATION?**

24 A. U S WEST agrees to pay reciprocal compensation for local traffic. Because
25 ISP traffic is not local, it should not be subject to reciprocal compensation.
26 Moreover, as Dr. Taylor discusses in his testimony, there are strong policy

¹ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98 and 99-68, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68, at ¶ 16 (released February 26, 1999) ("ISP Order"), vacated by Bell Atlantic Tel. Cos. v. FCC, 2000 US App. LEXIS 4685.

1 reasons for not requiring U S WEST to pay reciprocal compensation for this
2 traffic. Accordingly, U S WEST proposes the following contract language
3 in section (c) 2.3.4.1.3:

4 As set forth above, the Parties agree that reciprocal
5 compensation only applies to Local Traffic and
6 further agree that the FCC has determined that traffic
7 originated by either Party (the “Originating Party”)
8 and delivered to the other Party, which in turn
9 delivers the traffic to an enhanced service provider
10 (the “Delivering Party”) is primarily interstate in
11 nature. Consequently, the Delivering Party must
12 identify which, if any, of this traffic is Local Traffic.
13 The Originating Party will only pay reciprocal
14 compensation for the traffic the Delivering Party has
15 substantiated to be Local Traffic. In the absence of
16 such substantiation, such traffic shall be presumed to
17 be interstate.

18
19 Local/EAS traffic is described in section (A)2.56, which states:

20 Local Call is a voice or data transmission that
21 terminates in the same Local Calling Area as it
22 originates in, and the transmission does not continue
23 in any form beyond the termination point.
24

25 **Q. WHAT DOES SPRINT PROPOSE WITH REGARD TO**
26 **RECIPROCAL COMPENSATION IN THIS ARBITRATION?**

27 A. Sprint seeks to have the Commission require U S WEST to pay Sprint
28 reciprocal compensation for Internet-bound traffic in addition to local
29 traffic. Sprint proposes the following contract language in section (c)
30 2.3.4.1.3:

31 As set forth herein, the Parties agree that without

1 regard to characterization of traffic as interstate or
2 local, traffic carried or delivered to one carrier which
3 is then delivered to an ESP, including, but not
4 limited to ISPs, shall be compensated at the same
5 rates as the reciprocal compensation rates for the
6 termination of local traffic for the interim period
7 until such time as the FCC determines rates specific
8 to the transport and termination of traffic to ESPs
9 though a mechanism for intercarrier compensation.

10
11 **HAS THIS COMMISSION PREVIOUSLY ADDRESSED THE ISSUE OF**
12 **WHETHER RECIPROCAL COMPENSATION SHOULD BE PAID FOR**
13 **ISP-BOUND TRAFFIC?**

14 A. Yes, it has. In decisions concerning several interconnection agreements, the
15 Commission has determined that reciprocal compensation should be paid on
16 ISP-bound traffic. See Nextlink Washington, Inc. v. U S WEST
17 Communications, Inc., Docket No. UT-990340. In its 17th Supplemental
18 Order in Docket Nos. UT-960369, 960370, and 960371, the Commission
19 concluded that ISP-bound traffic should remain subject to reciprocal
20 compensation.

21 **Q. ARE YOU HERE TODAY TO DISCUSS THIS COMMISSION'S**
22 **PRIOR DECISIONS CONCERNING RECIPROCAL**
23 **COMPENSATION FOR ISP-BOUND TRAFFIC?**

24 A. No. Although I am a lawyer, I am not here to discuss prior decisions of this
25 Commission. What the Commission had done in the past, based upon the
26 record then before it, is something that U S WEST respectfully acknowledges
27 but leaves for its lawyers to address in their post-hearing briefing to the
28 Commission. I am here today along with Mr. Joe Craig and Dr. William

1 Taylor to create a current record of the facts and policy implications that this
2 Commission should consider as it revisits the issue of reciprocal compensation
3 in the context of the current interconnection agreement between U S WEST
4 and Sprint.

5 **Q. DOES U S WEST CONSIDER INTERNET-BOUND TRAFFIC TO BE**
6 **“LOCAL” TRAFFIC?**

7 A. No. U S WEST has continuously and publicly maintained that Internet-
8 bound traffic is not local traffic. U S WEST is required to bill certain ISP
9 connections out of the local exchange tariff because of the ESP exemption
10 mandated by the FCC. But U S WEST does not consider Internet-bound
11 traffic to be local traffic.

12 **Q. IS THE LOCAL EXCHANGE NETWORK USED TO PROVIDE**
13 **INTERNET SERVICE?**

14 A. Yes. Internet traffic, like long distance traffic, uses the local exchange
15 network. As described in the testimony of U S WEST witness, Joseph
16 Craig, when a caller makes a long distance call, the call originates on the
17 network(s) of one or more providers who route the call to an interexchange
18 carrier’s point of presence (“POP”). The interexchange carrier then routes
19 the call to the local exchange carrier serving the called party. That local
20 exchange carrier then terminates the call.

21 Similarly, when a caller accesses the Internet, the call originates on the
22 network(s) of one or more providers who route the call to an ISP. The call
23 is then routed onto an Internet backbone to be terminated at the website the

1 caller seeks to contact. Attached as Exhibit LBB-1 is a diagram showing the
2 similarity between long distance traffic and Internet-bound traffic. The use
3 of the local network by an ISP or an IXC is not a proper measure of whether
4 a service is interstate or local.

5 **Q. HAS THE INTERNET TRAFFIC PLACED ANY ADDITIONAL**
6 **BURDENS ON LOCAL EXCHANGE CARRIERS?**

7 A. Yes. As Mr. Craig explains in his testimony, Internet traffic has
8 dramatically increased the usage in U S WEST's networks. This increase
9 has required U S WEST to invest millions of dollars to increase the capacity
10 of its network in Washington and its networks in other states. U S WEST
11 has added large volumes of trunks and switching capacity to respond to the
12 usage demands created by Internet traffic. With Internet usage continuing
13 to grow at rapid rates, the need for U S WEST to add large amounts of
14 capacity to its networks likely will continue for the foreseeable future. If
15 U S WEST is required to pay tens of millions annually in reciprocal
16 compensation in addition to the capital expenditures resulting from ISP
17 traffic, the financial burden will become monumental and the subsidy to the
18 Internet will be enormous. If the Commission were to adopt Sprint's
19 proposal for reciprocal compensation, the resulting financial burden would
20 have to be shouldered by U S WEST and ultimately by its rate payers. This
21 result would not be in the public interest.

22 **Q. IF THE TRADITIONAL ACCESS SERVICE RATE STRUCTURE**
23 **APPLIED, HOW WOULD U S WEST AND SPRINT RECOVER THE**
24 **COST OF ORIGINATING INTERNET-BOUND TRAFFIC?**

1 A. Since the FCC has recognized that Internet traffic is largely interstate,
2 U S WEST and Sprint both would recover the cost of originating Internet-
3 bound traffic through access charges. Historically, when two local exchange
4 carriers jointly provide access for an interstate service, the two LECs would
5 each collect their access charges from the ISP. As described in Mr. Craig's
6 testimony, from a network perspective, the routing of an ISP call is very
7 similar to the routing of a long distance call. Both types of calls involve two
8 local exchange carriers that are jointly providing access to an interstate
9 service. In addition, with both a long distance call and an ISP call, the
10 originating carrier – U S WEST – does not know the ultimate destination of
11 the call and does not deliver the call to that destination. Instead, the
12 originating carrier hands off the call to another carrier for delivery to the
13 final destination. The similarity in the routing of long distance and ISP calls
14 supports adopting a similar type of compensation mechanism for these calls.

15 ISP dial-up access is analogous to jointly provided Feature Group A service, a
16 type of access service that has been in place in Washington and other states
17 for many years. Both are line-side connections that allow end-users to dial
18 a local number to reach an interstate service provider, which then switches
19 the transmission to its ultimate destination using additional information
20 provided by the end-user.

21 **Q. WHAT IS THE AFFECT OF THE FCC'S ACCESS CHARGE**
22 **EXEMPTION UPON U S WEST'S AND SPRINT'S ABILITY TO**
23 **RECOVER THE NETWORK COSTS OF ORIGINATING**
24 **INTERNET-BOUND TRAFFIC?**

1 A. The access charge exemption leaves U S WEST and Sprint in essentially the
2 same position. Both carriers lose switched access revenues that, but for the
3 access charge exemption, would be collected from the ISP (or interexchange
4 carrier). Under the FCC's current rules, ISPs providing interstate service
5 purchase interstate access to the local network from their LECs' intrastate
6 exchange tariffs using the prices for basic exchange lines.

7 The FCC's access charge exemption places both U S WEST and Sprint in the
8 position of having to recover the cost of Internet use through some means
9 other than access charges. Both U S WEST and Sprint incur costs that
10 should be recovered -- regardless of where the Internet call is originated. If
11 the call originates on U S WEST's network and is routed over Sprint's
12 network in order to reach the interstate service provider, U S WEST incurs
13 the cost associated with the transport and switching on its network.
14 Depending upon its network facilities, Sprint may also incur transport and
15 switching costs.

16 **Q. HAS U S WEST IDENTIFIED THE TRAFFIC EXCHANGED BY**
17 **U S WEST AND CLECS IN WASHINGTON?**

18 A. Yes, it has.

19 **Q WHAT IS THE MAGNITUDE OF THE LOST ACCESS REVENUE IN**
20 **THE STATE OF WASHINGTON FOR TRAFFIC GENERATED BY**
21 **ISPS THAT ARE BEING SERVED BY CLECS?**

22 **[PROPRIETARY DATA BEGINS]**

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10 **[PROPRIETARY DATA ENDS]**

11 **Q. PLEASE DESCRIBE HOW U S WEST HAS IDENTIFIED ISP-**
12 **BOUND TRAFFIC.**

13 A. U S WEST has implemented the Hewitt-Packard CroSS 7 system designed
14 to capture all set-up and traffic flow information within the Public
15 Switched Telephone Network. Mr. Craig describes the CroSS 7 system in
16 his testimony. The CroSS 7 system was used by U S WEST to measure the
17 traffic exchanged between U S WEST and CLECs in Washington in
18 January and February 2000. The data captured consists of the number of
19 calls and the associated minutes of use ("MOUs") for calls originated by
20 U S WEST customers and delivered to CLEC customers in Washington
21 and also calls delivered by CLECs to U S WEST's customers in
22 Washington. U S WEST has also developed an algorithm to identify
23 modem traffic based on various call characteristics. A detailed description
24 of the model and analysis of the algorithm is provided as exhibit LBB-2.

1 When U S WEST applies this programming logic to the recorded usage, it
2 can identify the traffic which is ISP-related.

3 **Q. AFTER THE DATA IS ANALYZED THROUGH THE ALGORITHM,**
4 **IS ALL TRAFFIC CONSIDERED INTERNET-BOUND TRAFFIC?**

5 A. No. U S WEST uses another process -- the modem identifier process -- to
6 further filter modem calls. This process will determine if the called
7 telephone number is associated with voice termination, analog modem
8 termination, ISDN modem termination, or facsimile termination. This
9 process is used to remove data calls that may not terminate to an Internet
10 service provider. A description of the modem identifier process is attached
11 as exhibit LBB-3.

12 **Q. WHY IS THE MODEM IDENTIFIER PROCESS IMPORTANT?**

13 A. This process will identify modems associated with facsimile transmission
14 and eliminate the associated traffic from the data MOU to derive the
15 Internet-bound traffic.

16 **Q. HOW ARE MODEMS ASSOCIATED WITH FACSIMILE**
17 **TRANSMISSION IDENTIFIED?**

18 A. Facsimiles usually transmit at a baud rate of less than 1000 bits per second.
19 Minutes associated with transmission rates of less than 1000 bits per
20 second are removed from the Internet minutes analysis.

21 **Q. WHAT DO THE CROSS 7 RESULTS SHOW WITH RESPECT TO**
22 **THE TRAFFIC EXCHANGED BETWEEN U S WEST AND CLECS**

1 **IN WASHINGTON?**

2 A. As set forth in exhibit LBB-4, the CroSS 7 measured over 1.6 billion
3 minutes in January and February 2000 that were exchanged between
4 U S WEST and CLECs in Washington. Of this total, over 1.5 billion
5 minutes were calls from U S WEST customers to CLEC customers and
6 only 109 million minutes were calls from CLEC customers to U S WEST
7 customers. To put this data into perspective, over 93% of the traffic
8 exchanged between U S WEST and CLECs originated from a U S WEST
9 customer and was delivered to a CLEC customer. The CroSS 7 data
10 further identified that over 91% of the over 1.5 billion minutes delivered
11 to CLECs were ISP-bound minutes. This huge imbalance of traffic flow
12 between companies is completely the opposite of the historic patterns of
13 local telephone companies such as GTE, U S WEST, PTI or Citizens
14 exchanging customer calls in Washington over the past several decades.

15 Another compelling statistic is that, of the 1.5 billion minutes of Internet
16 minutes, the modem identifier process identified only 700 telephone
17 numbers that are associated with these minutes. These 700 telephone
18 numbers will receive over 13 million minutes annually. Each telephone
19 number will receive over 36,500 Internet minutes per day.

20 **Q. WHAT IS THE SIGNIFICANCE OF U S WEST'S MEASUREMENT**
21 **OF THIS TRAFFIC?**

22 A. This measurement shows that U S WEST can, in fact, identify ISP traffic;
23 and the traffic patterns establish that there is no policy reason for the

1 Washington Commission to order reciprocal compensation on ISP traffic.
2 Competition for ISP business clearly already exists in this area.

3 **Q. WHAT WAS THE OBJECTIVE OF THE**
4 **TELECOMMUNICATIONS ACT OF 1996 AND THE RELATED**
5 **FCC RULES?**

6 A. The intention of the Act was to promote local competition. In the case of
7 ISP business, based on the traffic volumes that U S WEST has reviewed
8 CLECs have been very successful in competing with U S WEST for the
9 business of selling connections to ISPs. U S WEST sells these connections
10 to the public switched telephone network (PSTN) to ISPs out of
11 Washington local exchange tariffs. They are called Primary Rate
12 Interconnections or PRI. Each PRI, and a large ISP can purchase hundreds
13 of these pipes, can cost over \$1250 depending on the volume of traffic.
14 U S WEST understands that in a competitive marketplace it may lose some
15 of this business to competitors such as Sprint. But U S WEST does not
16 believe that in addition to losing ISP customer business to competition it
17 must pay the competitor, Sprint, to accept the interstate traffic for which it
18 has chosen to compete.

19 **Q. IS THERE A DISTINCTION BETWEEN INTERNET PROVIDERS**
20 **AND CLECS?**

21 A. Yes, but that distinction is rapidly disappearing. AT&T recently
22 announced its strategic alliance with AOL, America's largest Internet
23 service provider. And in conjunction with its purchase of a 39% stake in

1 Net2Phone AT&T's own ISP, WorldNet, is offering 1000 free minutes of
2 domestic long distance calling from personal computers to phones using
3 Net2Phone's web-based communications technology. Nextlink has just
4 announced a \$2.9 Billion investment in Concentric, an Internet service
5 provider, and of course, most relevant to this arbitration, Sprint announced
6 a strategic partnership with EarthLink. Sprint now owns 14.7% of the
7 second largest Internet service provider in the world. Every CLEC-owned
8 Internet provider already receives subsidies from the local telephone
9 provider today by virtue of the access charge exemption. The local
10 telephone company must make the investment to beef up its network for
11 end users to accommodate these interstate calls with their extremely long
12 hold times and yet cannot recover this investment from the cost causer
13 because the ISP is exempt from access charges. There is no sound policy
14 reason for the Washington Commission to expand this subsidy by requiring
15 payment to Sprint -- the CLEC that owns the ISP -- for accepting this
16 traffic.

17 **Q. IN THE CASE OF SPRINT, WHAT IS THE IMPACT OF SPRINT**
18 **MIGRATING THE PRI BUSINESS TO THE SPRINT LOCAL**
19 **SWITCH?**

20 **[PROPRIETARY DATA BEGINS]**

21 A.

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[PROPRIETARY DATA ENDS]

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**Q. CAN U S WEST MARKET TO INTERNET SERVICE PROVIDERS
4 IN THE SAME WAY THAT A CLEC SUCH AS SPRINT CAN?**

5

6 A. No. While U S WEST can market to ISPs, it cannot create the one-way
7 flow onto its network that a CLEC such as Sprint can generate. The reason
8 for this is simple. U S WEST already serves a large diverse customer base
9 including business and residential customers. It is the existence of a large
10 customer base, not who serves the ISP, that determines the imbalance of
11 traffic. Since Sprint is not the carrier of last resort, it is able to market its
12 services in order to capture the types of customers it wants. If, for example,
13 Sprint chooses to serve only ISPs, it is free to do so. Internet traffic is
14 characterized by a one-way flow. A subscriber dials the number for its ISP
15 which routes the subscriber's call onto the Internet. The website does not
16 call back. Thus, a carrier that loads its network with ISPs can guarantee a
17 one-way flow of traffic, which translates into revenue in a world where
18 reciprocal compensation is paid on Internet traffic. An incumbent LEC,
19 which already has a large number of residential and business customers,
20 cannot create that one-way flow since some of those residential and
21 business customers will be Internet users who dial Internet service
22 providers located on another carrier's network. Attached as Exhibit LBB-5
is a diagram illustrating this example.

23

Q. HOW SIGNIFICANT IS INTERNET USE?

1 A. Internet use in the United States is exploding. “Sell it on the Web”
2 estimates that the number of PCs connected to the Internet jumped from 45
3 million at the beginning of 1998 to over 60 million in August 1998, an
4 increase of 35%. The Wall Street Journal estimates that there are 2,000
5 new Internet users per hour. It is estimated that Internet traffic is more than
6 doubling each year. Requiring U S WEST to fund the expansion of
7 Internet use in Washington already produces a tremendous economic
8 burden to U S WEST. Requiring reciprocal compensation on this traffic
9 as well does not further any public policy goal for the ratepayer in
10 Washington.

11 **Q. HOW DOES REQUIRING PAYMENT OF RECIPROCAL**
12 **COMPENSATION ON INTERNET-BOUND TRAFFIC IMPACT**
13 **BASIC RESIDENTIAL RATES?**

14 A. The answer depends upon how much any given individual uses the Internet,
15 but it is easy to see that reciprocal compensation payments can completely
16 consume the revenues that an incumbent LEC receives from its customers
17 through the flat monthly residential rate. In Washington, for example, the
18 Commission has set the monthly rate for basic residential service at \$12.50.
19 If an Internet subscriber uses the Internet for just one hour a day, the
20 reciprocal compensation payments using the end office rate of \$.005416
21 from the MFS Interconnection Agreement will total about \$9.75 per month,
22 which is 78% of the current residential basic service rate in Washington.
23 If an Internet subscriber uses the Internet for three hours a day (for
24 example, to shop, research, or play online Internet games), the reciprocal

1 compensation payments would total about \$29.25 and more than double the
2 flat monthly rate for basic residential service. This is clearly creating the
3 wrong kind of incentive and will result in a problem that will not go away.
4 Given the growth patterns in ISP traffic, the problem will only get bigger.

5 **Q. WHAT OTHER IMPACTS WOULD RESULT IF THIS**
6 **COMMISSION REQUIRES RECIPROCAL COMPENSATION FOR**
7 **INTERNET-BOUND TRAFFIC?**

8 A. My example above shows that if U S WEST is required to pay "local"
9 reciprocal compensation for interstate Internet-bound traffic the
10 compensation amount becomes a cost of providing local service in
11 Washington. Inevitably, the local Washington end user will be impacted
12 by these increased costs being used to subsidize CLECs and their ISPs.
13 These costs should not be borne by end users, especially those who do not
14 use the Internet, to pay a CLEC such as Sprint, for passing interstate traffic
15 to a website. The benefits of reciprocal compensation that CLECs, ISPs
16 and their customers would gain through reciprocal compensation would
17 come at the expense of others. Someone must pick up the tab. In this
18 proceeding, Sprit suggests this Commission unjustly identify that someone
19 as U S WEST, and ultimately, U S WEST's customers.

20 **Q. ARE THERE OTHER ISSUES WITH RESPECT TO RECIPROCAL**
21 **COMPENSATION FOR INTERNET-BOUND TRAFFIC THAT THIS**
22 **COMMISSION SHOULD CONSIDER?**

23 A. Yes. While there are compelling reasons for the Commission not to require

1 reciprocal compensation for Internet-bound traffic, if the Commission
2 decides to order such compensation, there is still a related issue.

3 As discussed in the testimony of Mr. Craig, the costs incurred by Sprint in
4 receiving Internet-related traffic are less than the costs incurred in carrying
5 the average voice call. Requiring the payment of reciprocal compensation
6 for such calls without adjusting the rates to reflect the difference in costs
7 results in substantial overpayments to carriers serving ISPs. The greater the
8 percentage of ISP traffic carried by a CLEC the greater the windfall it
9 receives. This is particularly true where the CLEC, such as Sprint in this
10 case, simply receives traffic and passes it through to an Internet provider
11 usually located near the switch. As Mr. Craig explains in his testimony,
12 this process is different from and has little in common with the voice
13 network switches that this Commission has reviewed in its cost docket
14 when reviewing U S WEST termination rates.

15 **Q. WHAT DOES U S WEST RECOMMEND REGARDING THIS**
16 **RECIPROCAL COMPENSATION ISSUE?**

17 A. First, this Commission should find that Internet-bound traffic is interstate
18 traffic, not local traffic. Alternatively, U S WEST is willing to file
19 testimony introducing a reduced termination rate for ISP-bound traffic in
20 its May 19, 2000 filing in Docket No. UT-003013 and recommends that
21 this Commission defer the application of reciprocal compensation until the
22 cost docket is completed. This additional time will allow the companies
23 and this Commission to observe the impact Internet traffic has on
24 U S WEST's and Sprint's network infrastructure, end user Internet calling

1 habits, usage on the network, further FCC decisions in their open
2 rulemaking docket, and the changes associated with the increasing
3 consolidation of CLECs, DSL providers, and ISPs.

4 **Q. WHY DOES U S WEST BELIEVE THAT INTERNET-BOUND**
5 **TRAFFIC SHOULD BE ASSESSED A LOWER TERMINATION**
6 **RATE?**

7 A. The costs incurred by Sprint in receiving Internet-related traffic are less
8 than the costs incurred in providing the average voice call. Requiring the
9 payment of reciprocal compensation for such calls without adjusting the
10 rates to reflect the difference in costs results in substantial overpayments
11 to carriers serving ISPs. The greater the percentage of ISP traffic carried
12 by a CLEC, the greater the windfall it receives. The interim terminating
13 rate (\$0.005416 per minute of use) does not accurately reflect the cost to
14 pass on Internet-related traffic. In fact, the costs to deliver an Internet call
15 to an ISP are lower than the costs to terminate a voice call, which were the
16 calls reviewed in the Washington cost docket. (Docket No. UT-960369).
17 First, the cost to terminate a call includes the cost to set up the call and the
18 costs associated with the duration of the call. Since the termination rate is
19 charged on a per minute of use basis, the call setup costs are spread over
20 the average call duration (i.e. converted to a per minute of use cost). Since
21 the average Internet call is about seven times longer than the average voice
22 call, the set-up cost (which is the same for every call) for an Internet call
23 must be spread over a longer call duration. This reduces the per minute of
24 use termination rate. Second, trunk utilization levels are much higher for

1 Internet calls than for basic voice traffic. This also results in a reduction in
2 the per minute of use cost. Third, voice calls are routed through a line unit
3 in a switch, which incorporates line concentration. This is typically not the
4 case with Internet calls where the ISP port is dedicated to the ISP---thereby
5 reducing the cost. For these reasons, the cost to handle an Internet call by
6 Sprint is significantly lower than the cost to terminate a voice call.
7 Approving a voice based call termination rate for interstate ISP traffic fails
8 to reflect this significant cost differential.

9

10 **CONCLUSION**

11 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

12 A. My testimony describes why U S WEST should not be required to pay
13 reciprocal compensation to Sprint for Internet-bound traffic. The FCC has
14 made it clear that ISP traffic is interstate in nature. Requiring the payment
15 of reciprocal compensation on interstate Internet-bound traffic is both
16 illogical and counter to the public policy goals of increasing local
17 competition. It is unreasonable to assume U S WEST should pay Sprint, the
18 local company, in addition to subsidizing their Internet partner, Earthlink,
19 by providing the traffic to them without access charges. Paying a CLEC
20 reciprocal compensation in addition to losing the ISP account to the CLEC
21 is contrary to public policy objectives. The benefits gained by CLECs, ISPs
22 and their customers, through reciprocal compensation subsidies, come at the
23 expense of U S WEST's residential and business customers that may or may
24 not generate any Internet-bound traffic. Second, the rates established

1 previously for voice traffic are not the appropriate rates for ISP calls.

2 For the reasons stated above, the proposed contract language by Sprint should
3 be dismissed and the contract language proposed by U S WEST should be
4 adopted.

5 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

6 A. Yes.

7

ISP Traffic Is Analogous to Access Traffic

EXHIBITS LLB-2, LLB-3, AND LLB-4

Local Loop LIS Trunk PSTN Connection Internet Backbones

ARE CONFIDENTIAL

AND SUBJECT TO PROTECTIVE ORDER

User

ISP

Local Loop

PSTN Connection

Internet Backbone

User

LEC

ISP

Local Loop

Switched Access

Interexchange Network

User

LEC

IXC POP

IMBALANCE OF TRAFFIC