

**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. BROTHERSON**

**REBUTTAL TESTIMONY**

**ON BEHALF OF**

**U S WEST COMMUNICATIONS, INC.**

**MAY 10, 2000**



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**INTRODUCTION OF WITNESS**

**Q. ARE YOU THE SAME LARRY BROTHERSON WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?**

A. Yes.

**TESTIMONY**

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

A. The purpose of my testimony is to rebut statements in Mr. Stahly's Direct Testimony concerning reciprocal compensation for Internet-bound traffic.

**Q. MR. STAHLY STATES THAT THE WUTC HAS PREVIOUSLY RULED THAT RECIPROCAL COMPENSATION SHOULD BE PAID FOR INTERNET-BOUND TRAFFIC. DO YOU AGREE?**

A. U S WEST recognizes that in decisions concerning several interconnection agreements, the WUTC has ruled that ISP traffic be included in reciprocal compensation calculations.

**Q. WHY SHOULD THIS COMMISSION REVISIT THIS ISSUE IN THIS ARBITRATION?**

A. This Commission should revisit this issue because the record here is different from the record before the Commission in past cases. This Commission should address the issue of reciprocal compensation for Internet-bound traffic in the context of the facts presented in this arbitration,

1           with due consideration of the significant economic and policy implications  
2           that flow from these facts.

3           In this regard, the Colorado Public Utilities Commission ruled on May 3, 2000,  
4           on substantially the same evidence in a parallel arbitration between  
5           U S WEST and Sprint, that reciprocal compensation should *not* be paid on  
6           ISP-bound traffic. In reaching its decision, the Colorado PUC  
7           acknowledged that the record before it compelled a different analysis and  
8           result than that reached in prior Commission decisions based on different  
9           records. Significantly, the Commission emphasized that in prior  
10          proceedings, "no one, including the Commission, appreciated the economic  
11          ramifications of ordering termination compensation for ISP traffic. For  
12          example, the information presented in this case relating to the substantial  
13          and growing imbalance of that traffic on U S WEST's network as compared  
14          to CLECs' networks was not available at that time." In the Matter of the  
15          Petition of Sprint Communications Co. for Arbitration Pursuant to U.S.  
16          Code § 252(B) of the Telecommunications Act of 1996, Docket No. 00B-  
17          011T, Decision No. C00-479, Initial Commission Decision (Mailed Date  
18          May 5, 2000) ("Colorado Decision"), p. 12.

19          **Q. IS U S WEST PRESENTING HERE NEW INFORMATION**  
20          **CONCERNING THE GROWING IMBALANCE OF ISP-BOUND**  
21          **TRAFFIC ON U S WEST'S NETWORK AS COMPARED TO CLECS'**  
22          **NETWORKS?**

1           A. Yes it is. For the first time, U S WEST is presenting actual data derived  
2           from its CroSS7 system. As set forth in my Direct Testimony and in exhibit  
3           LBB-4, the CroSS 7 system measured over 1.6 billion minutes in January  
4           and February 2000 that were exchanged between U S WEST and CLECs in  
5           Washington. Of this total, over 1.5 billion minutes were calls from  
6           U S WEST customers to CLEC customers and only 109 million minutes  
7           were calls from CLEC customers to U S WEST customers. To put this data  
8           into perspective, over 93% of the traffic exchanged between U S WEST and  
9           CLECs originated from a U S WEST customer and was delivered to a  
10          CLEC customer. *The three-step process that U S WEST follows to identify*  
11          *Internet traffic separately from voice traffic -- described in my Direct*  
12          *Testimony -- further demonstrates that over 91% of the more than 1.5*  
13          *billion minutes delivered to CLECs were ISP-bound minutes.* Accordingly,  
14          the hard data establishes a huge imbalance of traffic exchanged between  
15          U S WEST and CLECs in Washington.

16          **Q. WHAT DOES THIS IMBALANCE SHOW IN TERMS OF CLECS'**  
17          **INCENTIVES TO SERVE ISPS?**

18          A. These disproportionate numbers substantiate the fact that CLECs have an  
19          incentive to target ISPs and that, in many cases, signing up ISPs is much  
20          more profitable than signing up Washington customers for local service  
21          (1FR and 1FB). If reciprocal compensation continues to include ISP traffic,  
22          the incentives for CLECs to market to ISPs to the exclusion of the other  
23          customers, including residential customers, will continue unabated.

1           Moreover, the economic impact of a massive transfer of reciprocal  
2           compensation dollars will ultimately affect Washington ratepayers.

3           **Q. MR. STAHLY ASSERTS THAT UNTIL THE FCC ADOPTS A**  
4           **PERMANENT RULE CONCERNING COMPENSATION FOR ISP-**  
5           **BOUND TRAFFIC, THIS COMMISSION'S RULING IN ITS 17TH**  
6           **SUPPLEMENTAL ORDER SHOULD GOVERN THE PARTIES'**  
7           **INTERCONNECTION AGREEMENT? DO YOU AGREE?**

8           A. No. As set forth above, this Commission's past rulings concerning  
9           reciprocal compensation for ISP-bound traffic were based on the record then  
10          before the Commission. The record here is different. For example,  
11          U S WEST has calculated the actual minutes of ISP-bound traffic for  
12          January and February of 2000. Simply extrapolating those minutes out to  
13          an annual number, *without* assuming any growth in calls placed to ISPs,  
14          yields 8.429 billion ISP-bound minutes originated from U S WEST  
15          customers. While no final end office rate has yet been established by the  
16          WUTC, using the rate contained in the MFS contract of \$0.005416, the  
17          projected compensation to CLECs could exceed \$45 million *for this year*  
18          *alone*, if all of these ISP minutes are subject to reciprocal compensation.  
19          Thus, this Commission has before it new information that affects the  
20          economic and public policy implications of including interstate ISP calls in  
21          reciprocal compensation calculations.

1           **Q. MR. STAHLY ASSERTS THAT THE TRAFFIC IMBALANCE**  
2           **WOULD NOT BE ALLEVIATED BY EXCLUDING ISP-BOUND**  
3           **TRAFFIC FROM LOCAL RECIPROCAL COMPENSATION. DO**  
4           **YOU AGREE?**

5           A. No. Mr. Stahly lists three reasons why ISP traffic can not or should not be  
6           separated out from local traffic for reciprocal compensation purposes. First,  
7           he says it cannot be identified. Second, he says that other types of calls also  
8           generate disproportionate traffic balances and ISP traffic should not be  
9           singled out for exclusion while these other calls are included. And third, he  
10          asserts that Sprint does not yet know the costs of its network, and,  
11          specifically, its costs to terminate ISP-bound traffic. I will address each of  
12          his arguments separately.

13          **Q. DO YOU AGREE WITH MR. STAHLY'S ASSERTION THAT ISP**  
14          **TRAFFIC CANNOT BE IDENTIFIED AND SEPARATED OUT**  
15          **FROM OTHER LOCAL TRAFFIC?**

16          A. No. We have the ability to identify ISP traffic, and we have identified it.  
17          My Direct Testimony sets forth how dial-up ISP traffic can be identified and  
18          how the actual minutes are derived with a high degree of certitude.  
19          Mr. Stahly asserts that U S WEST "assumes" that traffic is ISP-bound based  
20          on the fact that the traffic balance is one-sided, or that ILECs rely on  
21          terminating to originating (T to O) ratios to determine if there is ISP-bound  
22          traffic. In fact, U S WEST makes no such assumptions. As explained in my

1 Direct Testimony, U S WEST has developed a very accurate algorithm and  
2 modem identification process to identify ISP-bound traffic. This traffic can  
3 be rigorously identified and has been identified; there is no factual basis to  
4 the argument that ISP-bound traffic should be included in reciprocal  
5 compensation because of an inability to separate it from local traffic.  
6 Indeed, the Colorado Commission recently endorsed the appropriateness of  
7 the very method U S WEST has presented in this proceeding for identifying  
8 Internet traffic. Colorado Decision at 18.

9 **MR. STAHLY ASSERTS THAT OTHER TYPES OF CALLS ALSO**  
10 **GENERATE INBOUND TRAFFIC AND ISP-BOUND TRAFFIC SHOULD**  
11 **NOT BE SINGLED OUT AS "SOME TYPE OF ARBITRAGE CULPRIT"**  
12 **FOR DIFFERENT TREATMENT. HE STATES THAT IT IS NOT "A**  
13 **SEPARATE CLASS OF SERVICE." DO YOU AGREE?**

14 A. No, I do not. First, ISP traffic is already “a separate class of service.” The  
15 FCC has determined that ISP traffic is enhanced service in at least three  
16 different orders. The FCC has ruled this traffic is interstate, and has granted  
17 it an exemption from access charges. The status of ISP traffic as a unique  
18 class is clear; the only issue is whether there are sound economic and policy  
19 reasons to exclude this traffic from reciprocal compensation calculations for  
20 local traffic or if there are sound reasons to include this traffic in any  
21 reciprocal compensation for local traffic. Either way, there can be no  
22 disagreement that ISP traffic is a separate class of traffic, distinct from  
23 traditional local voice traffic.



1 Mr. Stahly raises examples of calls that are not to an ISP, but create high  
2 inbound minutes, such as calls to a radio talk show. I state again that  
3 U S WEST has never taken issue with payment for *local* calls even if the  
4 traffic is imbalanced for such calls. Traffic to a certain telephone number is  
5 or is not ISP-bound traffic. If it is local, it should be included in any  
6 compensation mechanism for local traffic regardless of the balance. If it is  
7 Internet traffic, currently exempt from access charges, it should not be  
8 included. Internet traffic should be singled out from other types of calls for  
9 the same reason the FCC singled out Internet traffic from other types of  
10 calls: it is not local, but interstate. Clearly, if this Commission excludes  
11 ISP-bound traffic from local reciprocal compensation, the traffic can be  
12 identified and billing issues resolved accordingly. The fact that some local  
13 calls also generate inbound traffic is not a legitimate argument for including  
14 ISP-bound traffic in reciprocal compensation. Dr. Taylor's rebuttal  
15 testimony will further address this issue.

16 **Q MR. STAHLY ALSO RAISES AS AN ARGUMENT AGAINST**  
17 **EXCLUDING ISP MINUTES FROM RECIPROCAL**  
18 **COMPENSATION THE FACT THAT SPRINT HAS NOT YET**  
19 **DETERMINED ITS COSTS ASSOCIATED WITH TERMINATING**  
20 **ISP TRAFFIC. IS THIS IS A VALID REASON FOR THIS**  
21 **COMMISSION INCLUDE ISP TRAFFIC IN ANY RECIPROCAL**  
22 **COMPENSATION FORMULA?**

23 A. No. As Dr. Taylor demonstrates in his testimony and as Sprint has

1                   acknowledged, it is already known that the costs CLECs incur to deliver  
2                   Internet-bound traffic are lower than the costs ILECs incur to terminate  
3                   voice traffic.

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

5                   A. Yes it does.