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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

OPPOSITION TO PETITION FOR WAIVER

Pursuant to the Rules and Regulations of the Federal Communications Commission ("Commission"), American Communications Services, Inc. ("ACSI"), by its attorneys, hereby files its opposition to the Petition for Waiver filed by US WEST Communications, Inc. ("US WEST") in the above-referenced dockets. US WEST has requested that the Commission waive the requirements established in the *Interconnection Order* that incumbent local exchange carriers ("ILECs"), such as US WEST, have electronic interfaces to their Operational Support Systems ("OSS") to support certain identified functions available by January 1, 1997.[1] Specifically, US WEST requests a waiver of the Commission's requirement with respect to electronic OSS support for design services, including, but not limited to, CENTREX services, point-to-point private lines, multi-point private lines, foreign exchange circuits, DS-0, DS-1, and higher rates, T-1, SONET, PBX, PRI ISDN and WATS services.[2] In addition, to the extent necessary, US WEST requests a

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[1] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, ¶¶ 504-528 (1996) (hereinafter "*Interconnection Order*").

[2] *Petition for Waiver by U S WEST Communications, Inc., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, p. 2 (filed December 11, 1996) ("*Petition for Waiver*").

waiver for electronic interfaces to OSS supporting the provisioning and billing of unbundled network elements.[3]

US WEST claims that the Commission's mandate is impossible for it to accomplish because such electronic interfaces to OSS have not been available previously on a widespread basis and detailed product definitions have not yet been developed.[4] Further, US WEST states that it has been particularly difficult for it to meet the Commission's deadline because some of the personnel and resources involved in developing OSS access are also involved in working on both the operations systems changes needed in support of the implementation schedule for long-term number portability, as well as for the resale of US WEST's telecommunications products and unbundling of its network elements.[5]

US WEST also asserts that the OSS requirements outlined in the *Interconnection Order* exceed the scope of the OSS requirements that US WEST reasonably anticipated. Specifically, US WEST states that it had anticipated that ILECs would be required to provide access only to those OSSs necessary for purposes of call routing and control.[6] Thus, prior to issuance of the *Interconnection Order*, US WEST planned only to provide competitive local exchange carriers ("CLECs") access to its Line Information Database, operator services and directory assistance listings, certain of its AIN elements and basic billing data.[7] In addition, US WEST notes that,

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[3] *Id.*

[4] *Id.* at Affidavit of Robert H. Van Fossen, p. 4.

[5] *Id.* at 4.

[6] *Id.* at Affidavit of Robert H. Van Fossen, p. 5.

[7] *Id.*

prior to the *Interconnection Order*, it was not subject to any state commission mandates with respect to OSS access.[8]

In its Petition for Waiver, US WEST proposes to phase-in electronic interfaces over the course of the next year. In particular, electronic support for design services and unbundled network elements will be delayed by more than six months.[9] US WEST states that it is developing a CLEC Gateway that will: (1) support pre-ordering, ordering, provisioning and *basic*[10] maintenance and repair capabilities in support of resale of basic POTS services[11] by January 1, 1997; (2) support pre-ordering, provisioning, and basic maintenance and repair capabilities for unbundled network elements and resold design service[12] circuits (*i.e.*, special services) with OSS electronic access functionalities by July 1, 1997, along with enhanced trouble management[13] functions for POTS resale; and (3) support enhanced trouble management for

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[8] *Id.*

[9] *Id.* at 6.

[10] According to US WEST, "basic" maintenance and repair capabilities include the abilities to perform the following functions electronically: add, delete, cancel, or check the status of a trouble ticket. A phone call to a dedicated CLEC maintenance center will be required to escalate troubles or review trouble histories until enhanced maintenance capabilities are completed. *Id.* at Affidavit of Robert H. Van Fossen, p. 3.

[11] Pursuant to US WEST's proposal, basic services, or POTS, will generally involve only a loop, line equipment, telephone number, and associated switch calling features to enable the service. *Id.*

[12] According to US WEST, design services require specific engineering design to ensure that the appropriate transmission or signalling conditioning, or other required components, have been defined to meet the technical requirements of the ordered service. *Id.*

[13] Under the US WEST proposal, enhanced trouble management includes electronic access functions supporting the retrieval of trouble histories, trouble report escalation where appropriate, and on-line retrieval of test results. *Id.* at Affidavit of Robert H. Van Fossen, p. 4.

unbundled elements and design services with electronic access functionalities by November 1, 1997.

ACSI, through its local exchange operating subsidiaries, is a CLEC certificated to provide dedicated local exchange service in 14 states and switched local exchange service in 11 states. ACSI is in the process of arbitrating Interconnection Agreements with US WEST in New Mexico and Arizona, and negotiating interconnection terms with US WEST in Colorado. To date, US WEST has not been cooperative with regard to finalizing implementation procedures generally. Indeed, US WEST's Petition for Waiver appears to be consistent with US WEST's disinterest in providing in-region interLATA telecommunications services.

If US WEST is permitted to delay implementing critical electronic interfaces for OSS functions as described in its Petition for Waiver, ACSI's ability to provide competitive services in each of these states will be seriously and directly undermined. For the reasons stated herein, ACSI strenuously opposes US WEST's Petition for Waiver. Thus, ACSI respectfully requests that the Commission issue an order denying US WEST's request for an extension of time to implement the OSS access requirements established in the *Interconnection Order*.

I. US WEST'S REQUESTED WAIVER WOULD DENY ACCESS TO CRITICAL OSS FUNCTIONS

US WEST's request for a waiver of the Commission's requirement that ILECs grant access to identified OSS functions no later than January 1, 1997 is inconsistent with Commission policy. The Commission has articulated a clear policy favoring the expeditious implementation of mechanisms that will promote the development of meaningful competition. In particular, the Commission has concluded that "access to OSS functions is necessary for meaningful competition, and that failing to provide such access would impair the ability of requesting telecommunications

carriers to provide competitive service."[14] As a result, the Commission has specifically declined to extend the January 1, 1997 deadline.[15]

In the *Interconnection Order*, the Commission ordered ILECs to provide nondiscriminatory access to the OSS functions for pre-ordering, ordering, provisioning, maintenance and repair, and billing available to the ILEC itself no later than January 1, 1997.[16] In concluding that OSS functions are subject to the nondiscriminatory access duty imposed by Section 251(c)(3), and the duty imposed by Section 251(c)(4) to provide resale services under just, reasonable, and nondiscriminatory terms and conditions, the Commission recognized that "[m]uch of the information maintained by these systems is critical to the ability of other carriers to compete with ILECs using unbundled network elements or resold services."[17] Moreover, in determining that ILECs should provide, upon request, nondiscriminatory access to these OSS functions no later than January 1, 1997, the Commission noted that ILECs and several national standards-setting organizations "have made significant progress in developing such access."[18]

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[14] *Implementation of the Local Competition Provision in the Telecommunications Act of 1996*, Second Order on Reconsideration, CC Docket No. 96-98, ¶ 5 (rel. December 13, 1996) ("*Order on Reconsideration*").

[15] *Id.*

[16] *Report and Order* at ¶¶ 523-524. The Commission further determined that ILECs must also provide access to the functionality of any internal gateway systems it employs in performing these functions for its own customers. *Id.* at ¶ 523.

[17] *Report and Order* at ¶ 518. The Commission further stated that "providing nondiscriminatory access to these support systems functions, which would include access to the information such systems contain, is vital to creating opportunities for meaningful competition." *Id.*

[18] *Id.* at ¶ 525.

II. THE COMMISSION ALREADY HAS REFUSED TO GRANT EXTENSIONS OF THE OSS IMPLEMENTATION SCHEDULE

Upon reconsideration of the requirements established in the *Interconnection Order*, the Commission stated that "[i]n order to comply with its obligation to offer access to OSS functions as an unbundled network element by January 1, 1997, an [ILEC] must, *at a minimum*, establish and make known to requesting carriers the interface design specifications that [it] will use to provide access to OSS functions."[19] However, the Commission also reiterated its determination in the *Interconnection Order* that

> [b]y January 1, 1997, to the extent that an [ILEC] provides electronic pre-ordering, ordering, provisioning, maintenance and repair, or billing to itself, its customers, or other carriers, the [ILEC] must provide at least equivalent electronic access to requesting carriers in the provision of unbundled network elements or services for resale that it is obligated to provide pursuant to an agreement approved by a state commission.[20]

US WEST does not appear willing or able to fulfill these requirements and has not offered an adequate explanation as to why it is unable to do so. Until US WEST takes a more receptive approach to local competitors, such as ACSI, the Commission should reject US WEST's attempts to delay specific implementation mandates of the Commission.

The Commission already has liberalized its approach to the January 1, 1997 deadline by stating affirmatively that it does not anticipate "initiating enforcement action against [ILECs] that are making good faith efforts to provide [nondiscriminatory access to OSS functions] within a reasonable period of time, pursuant to an implementation schedule approved by [a state

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[19] *Order on Reconsideration* at ¶ 8. The Commission noted that "[i]nformation regarding interface design specifications is critical to enable competing carriers to modify their existing systems and procedures or develop new systems to use these interfaces to obtain access to the [ILEC's] OSS functions." *Id.*

[20] *Id.* at ¶ 9.

commission]."[21] If US WEST cannot demonstrate that it is attempting in good faith to implement nondiscriminatory access to OSS functions as required by the *Interconnection Order*, pursuant to an implementation schedule approved by the relevant state commission, it is *not* doing the minimum necessary to comply with its statutory obligations. Thus, the Commission should critically and carefully examine US WEST's waiver request to determine whether US WEST is acting in good faith at all. A simple declaration by US WEST that it is working on the issue is not sufficient.

III. US WEST HAS NOT DEMONSTRATED SUFFICIENT CAUSE FOR A WAIVER

US WEST has not demonstrated that there is good cause for permitting it to delay, by up to one year, providing nondiscriminatory access to certain OSS functions as required by the Commission in the *Interconnection Order*. Regardless of whether US WEST's plan to provide competing carriers access to its Line Information Database, operator services and directory assistance listings, certain of its AIN elements and basic billing data, was reasonable, the Commission's mandate that OSS functions for pre-ordering, ordering, provisioning, maintenance and repair, and billing be made available on a nondiscriminatory basis was reasonable. Moreover, the Commission's January 1, 1997 deadline for such access was reasonable, as the Commission affirmed upon reconsideration.[22]

The fact that US WEST did not develop electronic interfaces for OSS in a timely manner does not, by itself, mean that it was impossible for it to do so or that its failure to do so should be excused. Moreover, the Commission should be mindful of the fact that US WEST has little or no

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[21] *Id.* at ¶ 11. The Commission did note, however, that it was not precluding initiating enforcement action where circumstances warrant. *Id.*

[22] *Id.* at ¶ 10.

incentive to expedite the availability of access to its OSS.[23] Thus, the Commission must continue to take a firm stand in implementing the requirements of Section 251(c).

For the reasons stated herein, ACSI submits that US WEST has not demonstrated good cause supporting an extension of the January 1, 1997 deadline for providing access to OSS functions as mandated by the *Interconnection Order*. Therefore, ACSI respectfully requests that the Commission deny US WEST's request for a waiver.

Respectfully submitted,

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[23] On January 6, 1997, ACSI filed a complaint with the Commission against BellSouth Telecommunications, Inc. ("BellSouth") alleging that BellSouth's processing of three orders for installation of unbundled loops completely failed to comply with the cutover standards required by ACSI's Interconnection Agreement with BellSouth. As a result of BellSouth's failure, ACSI's customers could not place outgoing calls nor receive incoming calls on their lines for an amount of time exceeding the period for service disruptions provided for in the Interconnection Agreement. In at least one instance, an ACSI customer was out of service for an entire day. BellSouth's inability to cure serious order processing and cutover problems for over a month has significantly limited ACSI's ability to obtain unbundled loops because BellSouth has not implemented procedures to ensure that ACSI's customers will not experience severe service disruptions. This situation has severely disrupted ACSI's ability to provide competitive services and demonstrates the manner in which the BOCs, if not held to the strictest standards by state and federal regulators, can thwart their new competitors.