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June 11, 1998

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Notification of Ex Parte Presentation

Petition of the Association for Local Telecommunications Services for a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under 706 of the Telecommunications Act of 1996
CC Docket No. 98-78

Petition of Bell Atlantic Corporation for Relief from Barriers to Deployment of Advanced Telecommunications Services
CC Docket No. 98-11

Petition of Ameritech Corporation for Relief from Barriers to Deployment of Advanced Telecommunications Services
CC Docket No. 98-32

Petition of U S West Corporation for Relief from Barriers to Deployment of Advanced Telecommunications Services
C Docket No. 98-26

Petition of the Alliance for Public Technology Requesting Issuance of Notice of Inquiry and Notice of Proposed Rulemaking to Implement Section 706 of the 1996 Telecommunications Act
CC Docket No. 98-15

Dear Ms. Salas:

On behalf of e.spire Communications, Inc. ("e.spire"), please take notice that on Wednesday, June 10, 1998, Riley Murphy of e.spire, and Brad Mutschelknaus and John Heitmann of Kelly Drye & Warren LLP, met with Lawrence E. Strickling, Carol E. Mattey, Melissa Newman and Linda Kinney of the Common Carrier Bureau to discuss e.spire's support for the above-captioned Petition of the Association for Local Telecommunications Services.

The discussion covered various items on the attached chart which was distributed at the meeting. Specifically, the conversation focused on the following points:

(1) e.spire's difficulties in securing Section 251(c) interconnection with the RBOCs for frame relay services;

(2) e.spire's difficulties in securing adequate collocation with some RBOCs and the need for the Commission to tighten its collocation rules;

(3) the need for the Commission to clarify and further define ILEC unbundling obligations with respect to xDSL loops, loop electronics and OSS;

(4) pricing alternatives for loops with electronics and for making loops ready for electronics;

(5) unbundling and interconnection options in a DLC environment; and

(6) the proposal that ILECs be permitted to establish lightly regulated data affiliates.

Per Mr. Strickling's request, e.spire has enclosed copies of two complaints filed against U S West – one with the Arizona Corporation Commission and the other with the New Mexico State Corporation Commission – with regard to U S West's failure to meet its collocation obligations.

Because e.spire's *ex parte* presentation may effect the merits and outcome of each of the above-referenced dockets, pursuant to Section 1.1206(b)(1) of the Commission's rules, e.spire submits an original and two (2) copies of this *ex parte* notification for inclusion in the record of each of those proceedings.

Respectfully submitted,

John J. Heitmann, Esq.

cc: Lawrence E. Strickling
Carol E. Mattey
Melissa Newman
Linda Kinney

e.spire
Ex Parte Presentation

Association for Local Telecommunications Services
Petition for Declaratory Ruling Regarding Section 706
CC Docket No. 98-78

Riley Murphy
Executive Vice President and General Counsel – e.spire

Brad Mutschelknaus, John Heitmann
Kelley Drye & Warren LLP

June 10, 1998

e.spire Communications, Inc.

- Formerly known as ACSI, *e.spire* is a CLEC that provides integrated local voice and data communications services in mid-sized metropolitan markets in the southern and southwestern United States.

- *e.spire*'s business strategy is based on supplying customers with advanced telecommunications services through its digital SONET-based fiber optic local networks.

- *e.spire* has completed construction of local fiber networks in 32 markets and has 16 local exchange switches in operation.

- *e.spire*'s senior management team is among the most experienced in the CLEC industry, with over 250 collective years of telecommunications experience and more than 50 combined years of experience in the CLEC business.

- *e.spire* has entered into State commission approved interconnection agreements with BellSouth, Southwestern Bell, Bell Atlantic, Sprint/Central, U S West and GTE.

e.spire Is Bringing Advanced Telecommunications Capabilities to Consumers Today

- *e.spire* has installed 45 of the more than 331 data switches that CLECs have deployed to date.

- Provided that adequate collocation arrangements can be made, *e.spire* and "new-generation CLECs" will bring xDSL and other advanced technologies to millions of Americans.

- Over 41 percent of the nation's BTAs currently are covered by CLEC data facilities, including many smaller markets served by *e.spire* such as Amarillo, Greenville, Montgomery, Baton Rouge, El Paso, Lexington and Little Rock. Customers in these "on net" locations have ready access to advanced telecommunications capabilities *today*, through the efforts of *e.spire* and other CLECs – not the ILEC monopolies.

- Responding to competitive pressure from CLECs, ILECs have announced massive investments in digital and broadband networks. In short, there currently is neither a crisis nor any deficiency in the deployment of advanced telecommunications capability in the United States.

Full Implementation of ILEC Interconnection, Collocation, Unbundling and Resale Obligations with Respect to Digital and Broadband Networks Is Necessary to Achieve the Goal of Section 706

- The unavailability of data interconnection, collocation, unbundling and resale under the 1996 Act is the largest impediment to accelerating the deployment of advanced telecommunications capabilities.

- *e.spire* has experienced tremendous difficulties in seeking interconnection to, collocation with and unbundling of ILEC data facilities and services. Some ILEC already are refusing to provide Section 251 interconnection to frame relay networks.

- The Commission should clarify that Section 251(c) applies to data interconnection, collocation, unbundling and resale. ILEC data networks must be available for cost-based interconnection and unbundling.

- ILECs must provide unbundled access to xDSL functionality. CLECs also must have access to preordering functions that identify xDSL-capable loops.

The Commission Should Clarify That Its Unbundling Requirements Extend to Digital Loops and Subloop Electronics

- The Commission should clarify that ILECs must make the following categories of loops available on an unbundled basis:
  - 2-wire analog
  - 4-wire analog
  - 2-wire digital
  - 4-wire digital
  - Loops provided with electronics and at cost-based rates that reflect the cost of such electronics, including :
    - ILEC digital loop carriers (universal, integrated, next generation)
    - multiplexers
    - optical line terminating multiplexers and other optical-electrical converters
    - xDSL equipment, including remote DSLAMs, DSL line cards used in ISDN or DLC equipment, etc.
- Subloop electronics, including DSL, DLC, ISDN, MUX and OLTM, must be made available on an unbundled basis at cost-based rates.

CC Docket No. 91-141 Must Be Reopened So That the Commission Can Adopt New Collocation Rules That Will Ensure Reasonable and Nondiscriminatory Access to ILEC Data Facilities

- The Commission must establish new rules that:
  - Provide for "cageless" collocation that allows CLECs to avoid the cost of constructing enclosures for their collocation space, and allows them to collocate in a total area of less than 10 square feet.
  - Provide for enclosed collocation cages of as little as 10 square feet.
  - Allow multiple CLECs to share a single collocation cage.
  - Allow collocated CLECs to establish cross-connects to cages of other collocated CLECs.
  - Eliminate restrictions on CLECs' ability to collocate remote switching modules, xDSL electronics, internet routers and other advanced data equipment.

The Commission Must Establish New Collocation Rules
- continued -

- Require ILECs' virtual and physical collocation rates and charges to reflect the costing principles of Sections 251-252.

- Establish reasonable and nondiscriminatory rules for the allocation of space preparation charges among collocated carriers.

- Establish reasonable and nondiscriminatory deployment intervals for new collocation arrangements, and expansion of existing arrangements.

- As an ongoing practice, incorporate into the Commission's collocation rules the most innovative and effective collocation provisions established by the State commissions.

Virtual Collocation Must Be Available as a Means of Connecting UNEs

- Currently, all ILECs are refusing to allow virtual as a means of connecting UNEs, claiming it violates 8th Circuit's *Iowa Utilities Board* decision.

- Virtual collocation must be made available at all points of aggregation along the loop including the controlled environmental vault or its above-ground equivalent, and other points of aggregation where DLCs, MUXs, OLTMs and DSLs are deployed.

- CLECs must be able to identify the type of equipment installed at various points of aggregation.

- Line cards must be installed in aggregating equipment and CLECs must be able to cross-connect aggregating equipment to distribution or feeder plant.

Separate ILEC Data Subsidiaries Represent An Untenable Solution to a Problem That Simply Does Not Exist

- ILECs are announcing tremendous investments in advanced telecommunications networks and technologies on almost a daily basis. They have done this – and will continue to do this – without any promise of deregulation under Section 706. Rather, they are beginning to respond to competitive pressures from CLECs.

- The Communications Act is technology neutral. The Commission should avoid any regulatory structure that would differentiate a service based on the technology used.

- The vast majority of interoffice transmissions are made over high-capacity digital facilities – no "separate" data networks exist. All carriers, including the ILECs, are deploying the same digital equipment for voice and data services. It is impossible to create a workable regulatory policy based on technologies that are intertwined, interchangeable and difficult to distinguish.

- Permitting ILECs to place advanced telecommunications facilities in separate subsidiaries so that they can avoid the unbundling, resale and cost-based pricing obligations of Section 251(c) impermissibly would undermine and rewrite the 1996 Act.

Freeing ILEC Data Subsidiaries from Section 251(c) Obligations Will Undermine the Act

- continued -

- Trunk-side separation is unworkable. It would give ILECs bizarre incentives to place equipment in discrete locations outside the central office – whether or not such placement made technical or economic sense.

- The 1996 Act was intended to be forward-looking. Congress did not intend to allow ILECs to create new bottlenecks over advanced technologies by the simple device of transferring advanced capabilities to a separate subsidiary.

The Commission Should Preserve and Enhance Procompetitive Rules and Policies Adopted by State Commissions

- Section 706 jointly assigns jurisdiction to the FCC and State commissions.
- The Commission must not unilaterally take action under Section 706 that will disrupt State regulatory initiatives established under the Act, or other sources of authority.
- State-specific rules governing the combination of UNEs are critical to deployment of CLEC data services.
- State decisions requiring sub-loop unbundling facilitate the expansion of xDSL services.
- ILEC commitments to provide digital unbundled loops must be preserved.
- State actions regarding performance measurements and reporting standards should be sustained.

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DOCUMENTS ARE SUBJECT TO REVIEW BEFORE ACCEPTANCE AS A DOCKETED ITEM.

BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

In the Matter of AMERICAN COMMUNICATIONS SERVICES, INC., Complainant, v. U S WEST COMMUNICATIONS, INC., Defendant.	Docket No. _____ COMPLAINT

American Communications Services, Inc., on behalf of itself and its Arizona operating subsidiary ("ACSI"), brings this complaint against US WEST Communications, Inc. ("US WEST") to compel US WEST to provide reasonable, adequate and sufficient interconnection between US WEST and ACSI, including reasonable collocation. US WEST's current failures regarding interconnection include a pattern of delay, misinformation and unwillingness to coordinate with ACSI to achieve even the most basic interconnection and related testing. As a result of US WEST's failure to provide timely and adequate interconnection services, ACSI has been prevented from bringing competition to Arizona telecommunications consumers. This result is in violation of Arizona law and the federal Communications Act of 1934 (as amended by the Telecommunications Act of 1996 ("1996 Act")), contrary to the public interest and in breach of the Interconnection Agreement between ACSI and US WEST that has been approved by the Arizona Corporation Commission (the "Commission"). In support of its

complaint, and consistent with the requirements of A.A.C. R14-3-101 through R14-3-113 and applicable Arizona statutes, ACSI states:

THE PARTIES

1. ACSI, through its operating subsidiaries, is a competitive local exchange carrier ("CLEC") certificated to provide dedicated and switched local exchange service in Arizona and other states, including Colorado and New Mexico in US WEST's service territory. In Arizona, the Company currently operates local fiber optic networks in metropolitan Tucson. Its subsidiary, American Communications Services of Pima County, Inc. holds a certificate of convenience and necessity to provide competitive telecommunications services. ACSI has purchased and installed a Lucent Technologies 5ESS switch in Tucson, Arizona. The Company currently provides competitive local exchange services in Arizona via the resale of US WEST's wholesale products. ACSI's address is 13 National Business Parkway, Suite 100, Annapolis Junction, Maryland 20701 and ACSI's Arizona address is 33 North Stone, Suite 1200, Tucson, Arizona 85701.

2. US WEST is a Regional Bell Operating Company that, among other things, provides switched local exchange and other telecommunications services in fourteen western and southwestern states. It is an incumbent local exchange carrier ("ILEC") in each of these states as defined in 47 U.S.C. § 251(h). US WEST is the incumbent provider of switched local exchange service in the markets currently served by ACSI in Arizona. US WEST's principal place of business in Arizona is 3033 North Third Street, Phoenix, Arizona 85012.

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JURISDICTION

3. The Commission has jurisdiction over US WEST because US WEST is a public service corporation supervised and regulated by the Commission. Ariz. Rev. Stat. Ann. ("A.R.S.") § 40-202. The Commission has jurisdiction to entertain and resolve this complaint by virtue of A.R.S. §§ 40-203, 40-246, 40-321, 40-322, 40-328, 40-334, 40-361(B) and A.A.C. R14-2-505 and R14-2-507(D)(1).

STATEMENT OF CLAIMS

Overview and Background

4. Congress, in order to promote competition in the telecommunications industry, passed the 1996 Act, which was signed into law in February, 1996. Pub. L. No. 104-104, 110 Stat 61.[1] A principal concern of the 1996 Act was the introduction of competition in the local exchange market dominated for decades by the monopoly ILECs, including US WEST. To enable new entrants to bring competitive local services to market, the 1996 Act imposed several obligations upon ILECs. Specifically, ILECs are required to provide reasonable and nondiscriminatory interconnection of their networks with the facilities and equipment of requesting telecommunications carriers for the transmission and routing of telephone exchange service "that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, and any other party to which the carrier provides interconnection." 47 U.S.C. § 251(c)(2)(C). *See also Id.* § 251(c)(2)(D). The 1996 Act also required ILECs to provide requesting telecommunications carriers with nondiscriminatory and reasonable access to US WEST's network through unbundled network elements ("UNEs"), to be used by telecommunications carriers to provide subscribers with services. 47 U.S.C. § 251(c)(3).

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[1] The 1996 Act amended the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.* ("1934 Act").

A principal means of obtaining access to UNEs is collocation of ACSI-provided equipment at US WEST's facilities. *Id.* § 251(c)(6). Collocation requires not only that US WEST provide ACSI access to US WEST's physical location but also that US WEST connect ACSI to US WEST's loops and other UNEs.

5. The 1996 Act also imposed obligations upon local exchange carriers to provide number portability in accordance with requirements prescribed by the FCC. *Id.* § 251(b)(2). Among the requirements adopted by the FCC is the obligation to provide number portability that "[d]oes not result in any degradation in service quality or network reliability when implemented" or "when customers switch carriers." 47 C.F.R. §§ 52.23(a)(6),(7)(1997).

6. ACSI, through its local exchange operating subsidiaries, is one of the first facilities-based providers of competitive local service in Arizona. Currently ACSI competes in Arizona's local exchange services market by reselling US WEST's services, pursuant to an Interconnection Agreement entered into with US WEST,[2] and approved by the Commission. ACSI has installed its own switch in Tucson in order to support local exchange services provided through a combination of ACSI's own facilities and UNEs obtained from US WEST and accessed through collocation arrangements with US WEST. The switch is also critical to ACSI's ability to originate traffic that is destined for subscribers on US WEST's network over interconnection facilities. Conversely, the switch enables ACSI to transport traffic originated on US WEST's network destined for ACSI's customers. However, the success of entry into the local exchange market is dependent on US WEST's compliance with the Commission-approved Interconnection Agreement with ACSI, this State's telecommunications laws, and the 1996 Act.

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[2] *See infra* ¶ 8.

7. To date, throughout its service territory, including Arizona, US WEST's approach to collocation, including provisioning and its actual provisioning performance, indicates that US WEST is unwilling to meet its obligations under the Interconnection Agreement, Arizona law, or the 1996 Act. In Arizona, ACSI has experienced unreasonable difficulties and delays in response to requests for interconnecting facilities, collocation, unbundled network elements, cutting-over customers and services from US WEST to ACSI, and number portability. These difficulties and delays — accounts of which will be fully described below — are both discriminatory and unreasonable and, as such, constitute failures to comply with (i) the Interconnection Agreement, (ii) Arizona law, and (iii) the 1996 Act. In addition, ACSI has been the target of systemic anticompetitive activity by US WEST. US WEST's failure to comply with the terms of the Interconnection Agreement with ACSI and state and federal laws negatively impacts the ability of ACSI to attract and retain customers and, as a result, jeopardizes the development of competitive markets in Arizona. Thus, it is in the public interest that this Commission act immediately on this complaint so that further irreparable injury to ACSI and consumers in US WEST's Arizona service territory can be avoided.

The Interconnection Agreement

8. ACSI and US WEST entered into an Interconnection Agreement which sets forth the terms and conditions for ACSI's interconnection, including collocation, with US WEST's network. While portions of the Agreement were arbitrated, the overwhelming majority of all provisions, including all of those relevant to this complaint, were voluntarily negotiated by the parties. Pursuant to Section 252(e) of the 1996 Act, codified at 47 U.S.C. § 252(e) Arizona law and the Commission's Rules concerning Competitive Telecommunications Services and Interconnection and Unbundling, the Interconnection Agreement was approved by the Commission in Decision No. 60123 (March 19, 1997). In its Decision No. 60123, the Commission found

"6. The Commission's approval of the Interconnection Agreement, as modified, is just and reasonable, meets the requirements of the Act and regulations prescribed by the F.C.C. pursuant to the Act, and is in the public interest.

7. The Commission maintains jurisdiction over the subject matter of the Interconnection Agreement, as modified, and amendments thereto to the extent permitted pursuant to the powers granted the Commission by the Arizona Constitution, Statutes, Commission Rule, and the Federal Act and the rules promulgated thereunder."

[Decision No. 60123 at 4]

9. The Commission-approved Interconnection Agreement specifically sets forth the obligations of both ACSI and US WEST with respect to the collocation of ACSI's equipment at US WEST's central office facilities for purposes of access to UNEs and interconnection of the ACSI and US WEST networks. The Agreement provides *inter alia*, that:

- ACSI may establish points of interconnection with US WEST through expanded interconnection collocation arrangements maintained at US WEST's end office or tandem switch buildings. Interconnection Agreement, §§ IV.E.1 & VI.A.1.a.
- Such interconnection may be through virtual collocation or physical collocation. *Id.*, § IV.E.1.
- Virtual collocation will be offered via the terms and conditions in US WEST's FCC Tariff No. 5. *Id.*, § IV.E.1.a.
- US WEST will provide ACSI collocated access to its unbundled loops at each of US WEST's wire centers. *Id.*, §§ VI.E.1.c. & d.
- US WEST will not in any way hinder ACSI from deploying modern DLC equipment, such as TR303 equipment, throughout the US WEST network.
- US WEST will not discriminate against ACSI and ACSI customers and shall provide parity treatment to ACSI and ACSI customers as compared to its own end users. *Id.*, §§ VI.A.1.f. & j.

10. The procedures by which ACSI may obtain virtual collocation to access UNEs are contained within US WEST Tariff FCC No. 5, § 21.3. These include the

submission of a VEIC[3] order form, specifying the interconnected designated equipment ("IDE") to be installed in the US WEST wire center. *Id.* §§ 21.3.1.D., 21.3.2.A. Upon receiving the order for collocation, US WEST will only receive from the interconnected equipment *US WEST determines* is basic transmission terminating equipment *conforming to industry standards*. *Id.* § 21.3.4.B.4. Upon approval of the VEIC order, US WEST is responsible for installation and working cooperatively with ACSI to conduct joint testing and maintenance. *Id.* §§ 21.3.1.G, & 21.3.3.D. US WEST is also obliged to "ensure that the IDE is engineered, standard designed, and installation detailed-designed to meet both the customer's specified needs and to ensure capability with [US WEST] equipment and operating systems." *Id.* § 21.3.1.U.

11. The Interconnection Agreement also provides that US WEST will offer interim service provider number portability to ACSI, enabling former US WEST customers to retain their telephone numbers when they switch to ACSI. Agreement § V.A.1. Number portability, when requested, is to be provided "upon the coordinated or simultaneous termination of the first [read "US WEST"] Exchange Service and activation of the second [read "ACSI"] Exchange Service." *Id.* The Agreement further provides that, where a former US WEST customer requests number portability, "[US WEST] will route the forwarded traffic to [ACSI] over the appropriate trunk groups." *Id.* § V.A.1.a.

12. *All* of the provisions in the Agreement cited above were entered into by US WEST and ACSI, and were approved by the Commission.

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[3] Virtual Expanded Interconnection-Collocation.

US WEST's Failure to Provide Adequate, Sufficient and Reasonable Interconnection Services, Including Access to Unbundled Network Elements and Collocation

13. A fundamental requirement for local telephone service competition is the ability of ACSI to interconnect its network with US WEST's network facilities. Interconnection is required so that, as necessary for call completion, local and long distance calls which travel over US WEST's network can be connected to ACSI's network and thereafter to ACSI's local telephone customers, and vice versa. Interconnection is also required to connect, through collocation, ACSI's network to US WEST unbundled network elements, such as local loops, which are used to provide customers service in conjunction with ACSI's own network facilities.

A. **US WEST Has Proved Itself Incapable of Handling ACSI's Requests for Service Cut-Overs.**

14. Under the Interconnection Agreement, US WEST must process ACSI's requests to move US WEST customers that have decided to switch to ACSI as their local exchange carrier. The process of moving the customers off of US WEST's network onto ACSI's network is known as a "cutover."

15. The Interconnection Agreement also mutually obligates the parties to accommodate the physical linking of US WEST's network to ACSI's network. A principal means to this end is "collocation" whereby, for example, US WEST permits ACSI to place equipment within US WEST's central office for purposes of interconnection.

16. Such collocated equipment may typically be used to accommodate what ACSI calls "Off-Net" local exchange services because the ACSI customer's telephone is connected directly with US WEST facilities, *i.e.*, "off" ACSI's network, albeit the service is ultimately routed to ACSI's switch through collocated or other interconnection facilities, regardless of the other termination point of the communications link, *i.e.*, the called party. Specifically, to provide Off-Net services, ACSI leases from US WEST an unbundled loop,

which is a featureless connection from the customer's premises to the US WEST's end office serving that customer. The loop, which terminates on a distribution frame within the US WEST end office, is then connected by US WEST to ACSI's network, via collocated equipment contained in space leased by ACSI within US WEST's end office. (In some cases, an Off-Net customer's loop may be connected to ACSI's network via US WEST switching and interoffice transport facilities carrying the communications to collocated ACSI equipment in another US WEST end office, at which point it is transported to ACSI's switching facilities.) Thus, the unbundled loop is the first step to giving the customer physical access to the ACSI network.

17. To facilitate Off-Net service to a US WEST customer that wishes to retain its telephone number when it switches to ACSI, US WEST forwards the calls to and from the customer's phone number to the corresponding ACSI phone number in a process known as number portability. When this functions smoothly, ACSI then is able to provide full support to the customer as its new local exchange carrier.

18. Since entering into the Interconnection Agreement, ACSI has conducted tests in an effort to ascertain US WEST's capability to process orders for unbundled loops. Over a series of tests, US WEST has manifested an inability to process the orders on numerous occasions. These botched orders would, if they occurred with real customers, lead to lost ACSI business and a diminishment in ACSI's good will. For example,

- US WEST has provided ACSI with inconsistent instructions regarding the use of Network Channel Interface Codes and Billing Account Number codes, leading to delayed cutovers after ACSI received Firm Order Confirmation ("FOC") dates for such cutovers.
- Cutovers simply occurred at times and dates different than on Firm Order Commitments received from US WEST.

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- Number portability was not coordinated to begin at the time of the cutover, which in actual situations would prevent customers from receiving calls.
- US WEST had no procedures in place to attempt to resolve issues experienced during a cutover; cutovers are simply rescheduled through a separate work group, leading to unacceptable delays on top of the service disruption due to the botched cut-over.

19. ACSI also repeatedly found that work groups within US WEST responsible for the cutovers were not coordinated. These groups carried out their respective functions without any synchronization.

20. Moreover, US WEST failed to adhere to procedures established between the parties, including notification of ACSI, during "coordinated" cutovers. Time and again, ACSI was forced to initiate calls to US WEST to learn when a cutover was to begin and when it was completed. During coordinated cutovers, US WEST is to call ACSI to confirm the validity of the order 48 hours prior to the cutover, immediately prior to cutover, and at the end of the cut.

21. In short, US WEST has proven itself incapable of processing an even modest level of orders, hardly at all representative of those anticipated in the case of moderately robust competition. If facilities-based competition is to gain a foothold in Arizona, then such procedures must be implemented. Furthermore, the Interconnection Agreement, as well as the 1934 Act and Arizona Law, require that US WEST be able to process cutovers, including number portability, in an efficient, pro-competitive, non-discriminatory manner. US WEST is unable and unready to do so.

B. US WEST Has Denied ACSI Use of Compatible, but Appropriate, Collocation Technology.

22. To provide local telephone service in as efficient a manner as possible, ACSI selected SLC 2000 digital loop carrier equipment for those US WEST end offices in which ACSI collocated. The SLC 2000, is the current state-of-the-art equipment and

provides numerous features that enhance and improve service to consumers. It also is the most cost-effective and efficient equipment readily available on the market today. Indeed, US WEST uses SLC 2000's in its network today. The superior monitoring capability of the SLC 2000 improves service quality and facilitates improved individual customer care. Moreover, the SLC 2000 when properly collocated and configured, allows ACSI to economically serve customers with fewer than ten lines. If the SLC 2000 is not properly collocated, ACSI can only market its facilities-based services to customers requiring more than ten lines, which excludes many small businesses and virtually all residential customers from choosing ACSI service as an alternative to the incumbent carrier. In essence, when the SLC 2000 is not configured properly, it operates in a manner akin to the previous generation equipment, *i.e.*, the SLC 96.

23. When ACSI first informed US WEST it would seek to collocate SLC 2000s, US WEST approved the equipment for collocation. US WEST did not indicate this would create any compatibility problems. However, it has become clear that US WEST is unwilling to provide adequate or reasonable interconnection with the SLC 2000 equipment, seriously undermining the utility of the equipment and ACSI's ability to offer competitive local exchange services in Arizona.

24. A SLC 2000 (also known as a TR-303 subscriber loop carrier) can accommodate 768 DS1 lines, each serving 24 loops on a fully channelized basis. ACSI numbers these lines consecutively, from 1 to 768. It has deployed successfully the SLC 2000 in this manner with numerous other ILECs, including Bell Atlantic, BellSouth, GTE, and Southwestern Bell. Only with US WEST have problems arisen.

25. Specifically, during the testing previously described, US WEST informed ACSI that the last four numbers in every 100 ports of ACSI's SLC 2000 under the numbering scheme ACSI uses are not recognized by US WEST (*e.g.*, 97 to 100, 197 to 200, etc.). US WEST stated that it stencils its collocation equipment consecutively,