

NOTE: THIS IS AN ELECTRONIC VERSION; APPENDICES NOT ATTACHED.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
CP 15**

In the Matter of the Application of MCI Metro Access )  
Transmission Services, Inc., for a Certificate of )  
Authority to Provide Telecommunications Services in ) **ORDER**  
Oregon and Classification as a Competitive )  
Telecommunications Provider )

**DISPOSITION: INTERCONNECTION ARRANGEMENT PROVIDED;  
SHOW CAUSE HEARING SET.**

**Introduction**

On March 11, 1996, MCI Metro Access Transmission Services, Inc. (MCI Metro), filed a motion for an order compelling U S WEST Communications, Inc. (USWC), to provide interconnection for the provision of local exchange services. In the motion, MCI Metro contends that it has been unable to negotiate an interconnection agreement with USWC and seeks Commission resolution of the dispute on an expedited basis.

On March 26, 1996, USWC filed an answer to MCI Metro's motion. It contends that USWC has been and is willing to negotiate with MCI Metro with respect to interconnection and that MCI Metro's motion to compel is an improper interference with that process. USWC also argues that the Commission does not have jurisdiction to resolve the dispute unless it makes a factual determination that an impasse exists in the negotiation process.

**Hearing**

On April 23, 1996, Administrative Law Judges Thomas Barkin and Michael Grant held a hearing in this matter in Salem, Oregon. Beth Kaye and Roger Pena, attorneys, appeared on behalf of MCI Metro. Molly Hastings, attorney, appeared on behalf of USWC. Benny Won, Assistant Attorney General, appeared on behalf of the Commission Staff (Staff). Mark Tincher, attorney, appeared on behalf of Teleport Communications Group, Inc. Patricia Raskin, attorney, appeared on behalf of AT&T Communications. Michael Morgan, attorney, appeared on behalf of the Oregon Independent Telephone Association. Sara Siegler-Miller, attorney, appeared on behalf of the Oregon Cable Telecommunications Association.

Based on the record in this proceeding, the Commission makes the following:

**FINDINGS OF FACT**

## **Background**

On December 20, 1994, MCI Metro applied for authority to provide intraexchange switched telecommunications service in the Portland metropolitan area exchanges served by USWC and GTE Northwest, Inc.(GTE). The Commission docketed MCI Metro's application as CP 15 and consolidated it for hearing with similar applications filed by Electric Lightwave, Inc. (ELI), and MFS Intelenet, Inc. (MFS).

After evidentiary hearings and briefing, the Commission granted MCI Metro's application in Order No. 96-021. Among other things, the Commission granted MCI Metro and the other applicants the right to interconnect with USWC and GTE to allow for the provision of local exchange services. The Commission, however, declined to designate interconnection meet points. Noting that the parties themselves were in the best position to determine the manner in which interconnection should take place, the Commission concluded:

The Commission anticipates that USWC, GTE and the applicants will negotiate in good faith and will establish mutually acceptable interconnection arrangements in the vast majority of the cases. Where parties are unable to agree, they should notify the Commission within three days. We will then take the steps necessary to resolve the dispute on an expedited basis. Order No. 96-021 at 69.

Shortly after the Commission's decision, MCI Metro contacted USWC and requested an interconnection agreement for the Portland competitive zone. On February 14, 1996, the parties participated in a conference call, during which USWC raised some concerns about the recently enacted Telecommunications Act of 1996. Due to those concerns and for other reasons, the parties were unable to reach a negotiated agreement. Consequently, on March 11, 1996, MCI Metro filed a motion to compel USWC to interconnect.

Following a March 26, 1996, prehearing conference, MCI Metro and USWC resumed negotiations and met for several hours on April 12, 1996. That session was followed by a four-hour telephone conference on April 16, 1996. During those sessions, the parties resolved many issues related to interconnection. The parties were unable, however, to resolve two primary issues: (1) where should MCI Metro interconnect with USWC; and (2) which party will bear the cost of interconnection.

### **MCI Metro Proposal**

MCI Metro's proposal is diagrammed in Appendix A. Relying on the Commission's interim bill and keep compensation arrangement adopted in Order No. 96-021, MCI Metro contends that there should be one point of interconnection (POI) within the Portland competitive zone. It proposes that the single POI be located at USWC's Capitol Wire Center, which currently serves as the point of virtual collocation between the companies' networks. MCI Metro favors the Capitol Wire Center because it is located just two blocks from its switching facilities at 425 SW Washington, and because it has already installed a fiber-optic cable between the two locations.

Under its proposal, MCI Metro explains that each company would be responsible for transporting all traffic originating on its network up to the single POI, as well as for terminating the traffic received at that point to its end subscriber. MCI Metro contends that a single POI is consistent with the terms of Order No. 96-021.

### **USWC Proposal**

USWC objects to MCI Metro's proposal on two primary grounds. First, it contends that, while Order No. 96-021 contemplates cost sharing, MCI Metro's proposal requires USWC to bear all transportation costs from the Capitol Wire Center to its end offices. Second, USWC contends that it has insufficient capacity at its Belmont Tandem to handle all of MCI Metro's incoming traffic.

Based on these considerations, USWC proposes multiple POIs at several end offices and at the Belmont Tandem, as diagrammed in Appendix B. Under this proposal, USWC explains that MCI Metro would bear the costs of constructing or leasing trunking facilities to the multiple POIs, as well as transportation costs between those locations and its subscribers. USWC contends that this combination of tandem switching and direct transport is similar to the terms and conditions it has used to interconnect with other carriers.

## **CONCLUSIONS**

### **Commission Jurisdiction**

At the outset, USWC contends that the Commission lacks jurisdiction to resolve interconnection disputes absent a specific finding of impasse between the parties. We disagree.

ORS 759.050 authorizes the Commission to certify competitive providers to provide local exchange services within a local exchange service area of a certified utility. Under ORS 759.050(2)(c), the Commission may establish reasonable conditions upon the authority of the competitive provider designed to promote fair competition, such as interconnection.

In granting MCI Metro's application for authority, the Commission declined to designate interconnection meet points. As previously stated, Order No. 96-021 provides only that the Commission expects the parties to negotiate in good faith, adding:

Where parties are unable to agree, they should notify the Commission within three days. We will then take the steps necessary to resolve the dispute on an expedited basis. *Id.* at 69.

Contrary to USWC's assertion, there is no jurisdictional or procedural requirement that the Commission make a specific finding of impasse. Rather, an aggrieved party need only contact the Commission and request resolution of the dispute. While we expect the parties to negotiate in good faith, we find no statutory authority requiring a finding of impasse. That obligation, in our opinion, would simply place another procedural burden on an already encumbered process.

#### **Discussion**

In Order No. 96-021, the Commission concluded that the applicants should be permitted to interconnect with the incumbent providers on the same terms and conditions that LECs have used to interconnect their telecommunications networks. The Commission also stated that the parties should negotiate mutually acceptable locations where facilities can be joined, adding that the aim of such negotiations should be to equalize costs and benefits to both carriers in selecting and constructing efficient interconnection points.

In this case, MCI Metro has failed to establish that its interconnection proposal meets those general guidelines. As noted by USWC, MCI Metro's proposal does not provide for an equitable sharing of costs. Rather, it requires USWC to incur substantially greater transportation costs by interconnecting at a single meet point and utilizing USWC's tandem to reach the company's end offices throughout the Portland area. Moreover, MCI Metro failed to establish that its single POI proposal is similar to the terms and conditions USWC uses to interconnect with other LECs and AECs. To the contrary, the evidence in this record indicates that such arrangements typically involve a combination of tandem switching and direct trunk transport.

Furthermore, the interim bill and keep compensation arrangement adopted in Order No. 96-021 does not, as MCI Metro asserts, require a single POI. We clarify that the method of interconnection is a separate issue based on cost sharing and network efficiencies discussed above. Once an interconnection arrangement has been mutually negotiated or determined, bill and keep then provides the intercompany compensation mechanism for the exchange of local and EAS traffic. For these reasons, the Commission declines to adopt MCI Metro's proposal.

With regard to USWC's proposal, the Commission is disappointed that the company failed to provide a detailed recommendation of its own for consideration. While the moving party carries the burden of proof in this proceeding, the Commission expects full and complete cooperation from both parties. In addition to raising its procedural objection in this proceeding, USWC should also have brought forth a substantive proposal and attempted to establish that it is consistent with the terms of Order No. 96-021. Absent an attractive proposal from the non-moving party, the Commission can adopt a moving party's proposal that meets the minimum requirements of that order, or adopt another arrangement of its own.

Nonetheless, the Commission finds that USWC's general proposition for multiple POIs--with a combination of tandem switching and direct transport to end offices--to be a reasonable interconnection arrangement with the following clarifications. First, MCI Metro must construct or lease facilities to the Belmont Tandem. Second, USWC should, to the greatest extent possible, provide interconnection with existing facilities at that tandem. Third, for the additional traffic that cannot be accommodated through switched facilities, MCI Metro should construct or lease direct trunking facilities to USWC end offices to the extent necessary to overcome the capacity limitations of the tandem. Furthermore, to ensure that interconnection costs are shared equally between the parties, the Commission concludes that USWC should lease back from MCI Metro, at the full tariff rate for private line service with an appropriate handling fee, one-half of the facilities MCI Metro uses to transport traffic from its switch to the designated USWC end offices.

The Commission concludes that the interconnection arrangement outlined above is consistent with the general guidelines set forth in Order No. 96-021. It is similar in terms with other interconnection agreements between USWC and other local exchange carriers, and provides for an equitable sharing of costs. It also does not impair network efficiencies or impair the ability of USWC to meet established service standards.

The Commission directs the parties to consult with each other and discuss this proposed agreement. Any technical questions about the proposal should be directed to our Staff. If both parties agree with such an arrangement, they should contact the Commission within five days of the service date of this order so that a final agreement can be adopted. If the parties oppose the agreement or are unable to reach a negotiated agreement of their own, they shall appear before the Commission to explain why such an agreement should not be adopted and provide alternatives that satisfy the criteria outlined above. If such a show cause hearing is requested, it shall be held before ALJs Barkin and Grant on May 29, 1996, at 9:30 a.m. in the Small

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Hearings Room at the Commission's offices at 550 Capitol Street NE, Salem, Oregon 97310-1380.

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**ORDER**

IT IS ORDERED that MCI Metro Access Transmission Services, Inc., and U S WEST Communications, Inc., shall consider the proposed interconnection arrangement outlined in this order and notify the Commission within five days if they agree with its terms. If any party objects to the proposal, or if parties are unable to reach a negotiated agreement on their own, both parties shall appear before the Commission on May 29, 1996, and show cause why the interconnection agreement should not be adopted.

Made, entered, and effective \_\_\_\_\_.

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**Roger Hamilton**  
Chairman

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**Ron Eachus**  
Commissioner

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**Joan H. Smith**  
Commissioner