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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UT 132

In the Matter of an Investigation of )  
Telephone Dialing Parity in Oregon. ) ORDER

DISPOSITION: DIALING PARITY POLICIES ADOPTED

**BACKGROUND**

The Telecommunications Act of 1996 (Act) imposes on all local exchange carriers the duty to provide "dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." Section 251(b)(3) of the Act.

Federal Communications Commission (FCC) Rule 51.5 states: "The term 'dialing parity' means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications service provider of the customer's designation from among 2 or more telecommunications service providers (including such local exchange carrier)." FCC Rules 51.205 through 51.215 establish requirements that local exchange carriers (LECs) must meet to comply with §251(b)(3) of the Act.

Prior Oregon Public Utility Commission orders impact dialing parity issues. Order No. 88-666, Docket No. UT 52, declined to order telecommunications public utilities to provide intraLATA presubscription, which is one component of dialing parity. Order No. 94-336, Docket UT 113, granted GTE Northwest (GTE) responsibility for default carriage of all intraLATA toll from all its exchanges.

On May 29, 1996, GTE filed Advice No. 578, to be effective July 17, 1996, to authorize intraLATA equal access in all of its central offices. Because GTE's proposal implicates the duty for dialing parity under the Act, is inconsistent with the Commission's prior orders, and raises questions regarding implementation of dialing parity in Oregon, we suspended the Advice at our July 16, 1996, public meeting. Our decision was memorialized in Order No. 96-184, issued on December 31, 1996. That order also broadened the scope of the proceeding to address dialing parity issues on a generic basis, and made all local exchange carriers in Oregon parties to this proceeding. In Order No. 96-341, we extended the period of suspension until April 17, 1997.

On August 22, 1996, Lowell Bergen, an Administrative Law Judge for the Commission, presided over a procedural conference. Active parties were identified and a schedule was adopted at the conference. After receiving comments from the parties, the Administrative Law Judge established an issues list. The parties discussed the issues at a workshop, and then filed rounds of comments.

This order will address the issues as defined by the Administrative Law Judge.

**Issue One: Based on the FCC's parity order (Order 96-333), should there be additional state requirements for intraLATA toll dialing parity?**

Most parties recommend that the Commission review and approve dialing parity conversion plans, and establish

customer notification and cost recovery requirements consistent with the federal rules. AT&T Communications of the Pacific Northwest, Inc., however, recommends the adoption of an accelerated dialing parity implementation schedule using a bona fide request (BFR) procedure. MCImetro Access Transmissions, Inc., supports AT&T's proposal.

AT&T proposes a procedure whereby interexchange carriers (IXCs) would serve a BFR on a local exchange carrier (LEC) for intraLATA presubscription. The LEC would then have six months to implement the presubscription. BFRs could be served on LECs not subject to other intraLATA presubscription time frames at any time after 20 days following issuance of an order in this proceeding. An LEC upon whom a BFR had been served could request a waiver. Interested parties could comment on the request, and the requesting LEC would have to show that technological considerations would cause the cost of implementation to be excessive.

**Resolution.** Because of the Act's Section 271(e)(2), Oregon and other states may not impose accelerated dialing parity requirements on Bell operating companies (BOCs), such as USWC, that become effective prior to a BOC receiving authority to provide interLATA services originating in the state where the BOC operates, or February 8, 1999, whichever is first. AT&T's BFR procedure therefore would not apply to USWC.

FCC Rule 51.211 requires non-BOC LECs that provide in-region, interLATA toll service by August 8, 1997, to implement intraLATA and interLATA toll dialing parity by August 8, 1997. These carriers, together with USWC, provide service to approximately 94 percent of telephone access lines in Oregon.

FCC Rule 51.211 also requires non-BOC LECs that begin providing in-region interLATA toll service after August 8, 1997, but before February 8, 1999, to implement intraLATA and interLATA toll dialing parity no later than the date they commence providing in-region interLATA toll service.

The Commission is not persuaded that it should implement a faster schedule than the one established by the FCC. Generally, LECs will be required to implement toll dialing parity when they begin providing interLATA service themselves. The August 8, 1997, date applicable to most non-BOC telephone companies barely gives sufficient time for carriers currently providing interLATA service to go through the notification and other procedures necessary to implement toll dialing parity.

### **Issue Two: (a) When should intraLATA toll dialing parity plans be submitted to the PUC?**

FCC Rule 51.211 requires some of the parties to this proceeding to implement toll dialing parity by August 8, 1997. FCC Rule 51.213 requires them to obtain state approval prior to implementing their toll dialing parity plans. Obviously, they need to start their implementation plans now. The companies that have a later deadline have more time to implement their plans.

Rather than require all LECs to file plans simultaneously, the Commission will divide the LECs into two groups. The LECs that have a deadline of August 8, 1997, will constitute one group, and all other LECs will constitute the second group. Dividing the LECs into two groups, with a different timing requirement for each group, will allow those who must start immediately to do so, and will require timely filing with the Commission by those who will be implementing dialing parity in the future. If the Commission were to require all LECs to file their dialing parity plans now, the plans for the companies that do not implement dialing parity until 1999 will be out of date by the time the plans are put into effect.

The LECs required by FCC Rule 51.211 to implement toll dialing parity by August 8, 1997, shall file their dialing parity plans with the Commission within 30 days of the effective date of this order. The plans must comply with the requirements of the Act, applicable FCC rules, and this order. Internal Commission procedures to process the plans will be accomplished pursuant to the schedule recommended by Staff in its opening comments. That process includes Staff notification of all telecommunications carriers of the proposed conversion schedule by wire center, the opportunity for carriers to protest a proposed parity plan, and presentation of each plan to the Commission at a public meeting.

The LECs not required to implement dialing parity by August 8, 1997, shall file their dialing parity plans at least six months prior to the scheduled effective date of their plans. The six-month period will allow sufficient time to obtain Commission approval and notify affected customers. The plans must comply with the requirements of the Act, applicable FCC rules, and this order, and the Commission will follow the same procedures established for the first

group of LECs.

**Issue Two (b). What types of information should be included in each plan beyond the minimum FCC requirements? (For example; costs, sample customer notice, schedules, format, etc.)**

FCC Rule 51.213(b) requires an LEC's implementation plan to include the following information: an explanation of how the LEC will offer intraLATA toll dialing parity; a proposed schedule by exchange; a proposal for notification of its subscribers; a proposed method to enable subscribers to select an intraLATA toll service provider; and, for non-BOC LECs, identification of the LATA with which they will associate to provide toll dialing parity.

Most of the parties recommend that additional information be included with each dialing parity plan, but USWC recommends that only the information required by the FCC be included. USWC argues that the focus should be on less regulation as the industry becomes more competitive.

Staff suggests that, in addition to the information required by the FCC, dialing parity plans include the following:

A separate attachment showing the LEC's name and its proposed conversion schedule by wire center. Staff wants the conversion schedule to be by wire center rather than by exchange because some exchanges have multiple wire centers that may have different conversion schedules. The attachment would be used by the Commission for its published notice of dialing parity conversions;

Workpapers showing the costs of conversions;

A sample of the notification the LEC will send to its customers;

A proposed tariff stating the terms, conditions, and both recurring and non-recurring rates, with supporting workpapers.

GTE suggests that the implementation plan also include other information needed by IXCs, such as office name, common language location identification code, area code, central office code, and existing switch and intraLATA equal access date.

The Commission determines that it needs information beyond that required by the FCC to oversee the transition to a more competitive industry. Additional information will allow the Commission to encourage fair competition and reduce or eliminate conditions that favor one competitor over another. Staff and GTE have suggested the filing of specific additional information that will assist the Commission, and the suggestions are adopted.

**Issue Three (a): What end user notification procedures (i.e. balloting, allocation, or other notification and presubscription procedures) are appropriate for (a) simultaneous interLATA and intraLATA conversions.**

An estimated 273 of the 291 wire centers in Oregon have interLATA equal access capability; issue 3(a) addresses the remaining wire centers that may be going through a simultaneous interLATA and intraLATA equal access conversion process. The parties agree that a balloting and allocation process patterned after the one mandated by the FCC for interLATA equal access conversions should be used. The Commission agrees, and adopts it for intraLATA equal access conversions.

The agreed-upon procedure calls for the LEC to send a ballot to each of its customers asking the customer to choose an interLATA and an intraLATA IXC. A second ballot will be sent to those who do not respond to the first ballot.

The adopted simultaneous interLATA and intraLATA equal access conversion process is summarized as follows:

The LEC shall notify the IXCs 120 days prior to conversion. The IXCs who intend to participate in the conversion must respond to the LEC by the requested date;

The LEC shall mail the initial carrier selection ballot to its end users 90 days prior to conversion. The IXCs participating in the balloting are to be separately listed for interLATA and intraLATA. The intraLATA

IXC list must contain the end user's current primary intraLATA toll carrier (PTC). The participating IXC lists are to be in random order.

The LEC shall instruct end users to return the initial ballot to the LEC 60 days prior to conversion. The end user may select an IXC listed on the ballot or may contact an IXC directly for presubscription.

For end users who have not selected an IXC, the LEC shall mail a second ballot to the end users 30 days prior to conversion. The second ballot shall contain the allocated interLATA IXC assignment for that end user should the end user again not select an IXC. The ballot shall also inform the end user if no intraLATA IXC is chosen, the LEC will assume that no change is desired from the end user's current PTC.

The LEC shall include in the ballot information consistent with FCC Order No. 85-293, Appendix B paragraphs 8 and 14.

**Issue Three (b): What end user notification procedures (i.e. balloting, allocation, or other notification and presubscription procedures) are appropriate for intraLATA-only conversion in a wire center already providing interLATA toll dialing parity?**

The parties agree that a balloting process is unnecessary for intraLATA-only equal access conversions. They propose that a Commission-approved competitively neutral notice be sent to customers telling them of their ability to now select the intraLATA carrier of their choice. AT&T points out that reliance on market forces is recommended by industry groups and is preferred by consumers.

The proposed notification process is adopted. It should minimize confusion among customers. The notice must list the carriers providing intraLATA toll service in random order, and tell the customers that failure to select a carrier will mean that the intraLATA carrier currently serving them will continue to do so. The intraLATA IXC list must contain the end user's current primary intraLATA toll carrier (PTC). Customers may contact their LEC or the intraLATA toll carrier of their choice to select their preferred carrier.

**Issue 3(c). Should the Commission adopt specific consumer protection or anti-competitive policies or procedures?**

The parties disagree about whether consumer protection/anti-competitive requirements should be mandated in this proceeding. Some say none should be imposed; others suggest detailed guidelines to govern the business practices of the LECs.

LECs have developed consumer contact and other competitively neutral business practices under the direction of the FCC for interLATA equal access. The record does not show that those practices have not worked well. Similar practices should be employed for intraLATA equal access. LECs shall include in their dialing parity plans a summary of their business office practices relating to consumer protection and customer contacts that affect carrier selections. Those practices shall be fair to all carriers while meeting the needs of the consumers. The process for Commission consideration of filed dialing parity plans provides for the filing of protests by carriers who think the plans are not fair.

One aspect of treating all carriers alike relates to the use of information that LECs obtain by virtue of their provision of local exchange service. Competing carriers want access to that information so they can use it in the same way the LECs use it. USWC is concerned about the use of information relating to customers who have non-published numbers (phone numbers not published in the phone books and not available to telephone operators) or who have a no-solicitation symbol beside their number in the phone book. USWC says it doubts it can provide information on those customers because of recent FCC limitations. USWC says it has stopped offering customer listing information as a product because of those limitations.

An LEC must treat itself and other carriers equally. However an LEC uses customer information itself for marketing purposes is how the information should be made available for use by other carriers. Of course, all carriers, including LECs, must comply with limitations placed on the use of the information by statute, the FCC, or this Commission.

**Issue Four: (a) What non-recurring charges should apply when customers select or change presubscribed**

## **carriers?**

The parties are not in agreement about non-recurring charges incident to equal access. Most of the comments address selection of presubscribed carriers at the time of conversion to equal access, but USWC also addresses selection of a presubscribed carrier by a new subscriber.

USWC contends it will incur costs to establish an intraLATA preferred interexchange carrier (PIC) program, and should be reimbursed for those costs. It wants reimbursement from the end users or the PICs.

Staff points out that current prices for changing an end-user's presubscribed carrier are estimated to be in the range between \$4.00 and \$5.00 and are charged to the end user. Staff recommends that LECs file rates and workpapers supporting their proposed rates for intraLATA equal access conversion.

Staff's proposal is reasonable and is adopted. LECs shall include with their dialing parity filings proposed rates for PIC selection along with workpapers supporting the proposed rates.

One aspect of the non-recurring charge issue relates to whether one or two charges should be imposed for customers who choose an intraLATA and an interLATA presubscribed carrier at the same time. GTE argues that two charges should be imposed, while the IXC's argue that only one charge should be imposed.

There is no evidence in this record to determine if there are significant cost savings when both intraLATA and interLATA carriers are presubscribed at the same time. Therefore, the LECs shall include in their dialing parity filings proposed rates for simultaneous selections along with workpapers showing any cost savings that occur because of simultaneous selection.

### **Issue Four (b). If customers are offered free presubscription, what time frame is appropriate?**

The parties disagree about the length of time a customer should be given to select and/or change PICs without incurring a charge. The time-period recommendations range from two months to an indefinite period, and the recommended number of times a PIC could be changed range from one to as many as desired during the free presubscription period.

A customer selecting a PIC should be able to determine if the selected carrier is providing satisfactory service within a few months. If the carrier is not providing satisfactory service, the customer may change to another presubscribed carrier. Four months is a reasonable time to allow customers to presubscribe intraLATA carriers without incurring non-recurring charges. Changes made after that time should incur a cost-based charge.

### **Issue Four (c). For end users who do not select an intraLATA interexchange carrier, what policy is appropriate for assigning them to carriers?**

It is anticipated that not all current customers will select an IXC, even after receiving two ballots. The parties are not in agreement as to how to assign an intraLATA IXC to those who fail to make an election. One possible solution would be to randomly assign an intraLATA IXC to those customers. No party recommended this approach. Another possible solution would be to leave those customers with the PTC they are currently using. A third possibility would be to assign those customers to their incumbent LEC.

The third possibility is rejected because not all LECs provide intraLATA toll service. The Commission does not want to use this proceeding to force all LECs into the intraLATA toll market. The Commission assumes that customers who fail to make an intraLATA selection after being given two opportunities are satisfied with their current PTC. If they were not, they could easily choose another carrier. The Commission adopts the option of leaving those customers with the PTC they are using at the time of equal access conversion.

New customers will be requested to select presubscribed toll carriers at the time service is obtained. If a new customer does not select a presubscribed toll carrier, FCC Order No. 96-333 (August 8, 1996) requires that customer to use carrier access codes to route intraLATA toll calls until the customer selects a presubscribed toll carrier.

### **Issue Five (a). What types of conversion costs are appropriate for recovery?**

FCC Rule 51.215 provides that an LEC may recover the incremental costs necessary for the implementation of dialing parity. The parties agree that those expenses include such things as hardware and software upgrades, customer notification, employee training, upgrades to customer billing, service order processing and administration systems, and switch installation and translations.

The LECs shall separately account for intraLATA equal access conversion costs in the same way they currently account for interLATA equal access costs.

#### **Issue Five (b). How should conversion costs be recovered and over what period?**

FCC Rule 51.215 states that the recovery of incremental costs must come from all providers of telephone exchange and toll service pursuant to a recovery mechanism established by the state. The rule states that the recovery mechanism must not give one service provider an appreciable cost advantage over another one when competing for a specific customer, or have a disparate effect on the ability of competing service providers to earn a normal return on their investment.

All parties agree that the conversion charge should be imposed on all interexchange toll carriers on a per-minute-of-use basis, rather than by access line or some other method. The parties disagree, however, as to which minutes should incur the recovery charge.

One dispute concerns whether the charge should be imposed on originating minutes of use, or on both originating and terminating minutes of use. Most parties recommend that the charge be imposed only on originating minutes, but USWC argues that it be imposed on both originating and terminating minutes. USWC argues that an IXC like AT&T could avoid paying a fair share of conversion charges by using competitive carriers, thereby not being the carrier originating the calls. It then would not incur originating-minutes charges.

The Commission decides to impose the conversion charge on originating minutes of use only, for two reasons. First, dialing parity is a concern only at the origination of a call, not at its termination. Dialing parity is important to the person making the call, not the person receiving it. Network equipment must deal with dialing issues when a call originates, not when it terminates.

Second, it is not clear how an IXC would avoid having to pay a charge imposed on originating minutes of use. Whether the IXC's equipment is used to originate a call and the IXC pays the charge directly, or it buys service from another carrier and pays the charge indirectly through that carrier, it pays the charge.

Another disputed issue concerns which minutes of use will incur the conversion charge. AT&T and MCI recommend that the charge be imposed only on intraLATA access minutes. Staff and the other parties recommend that the charge be imposed on intrastate access minutes, both intraLATA and interLATA.

AT&T and MCI contend that because only intraLATA callers will benefit from intraLATA presubscription, the charge should be imposed only for intraLATA calls. They contend that restricting the charge to intraLATA calls matches cost causation, cost recovery, and benefits. AT&T also recommends that only intraLATA calls subject to presubscription incur the charge, excluding, for example, calls in which the caller uses a carrier dialing code.

The arguments of those favoring spreading the charge to intrastate access minutes are summarized in Staff's comment that it would spread "recovery over the IXCs, who will be the primary beneficiaries of an expanded market, and the PTCs, who should support the conversion to avoid any toll pricing advantage."

The Commission is persuaded that conversion costs should be recovered through intraLATA minutes of use. Equal access conversion has already occurred in the interLATA market. It is the intraLATA market that will be most directly affected by the decisions made in this proceeding, so the costs should be recovered from the toll carriers in that market. Those costs will be passed on to intraLATA toll callers, the public segment that will benefit from intraLATA toll presubscription.

The parties also disagree about the length of time the charge should be imposed to recover the conversion costs. The recommended length of time ranges from three years to eight years. Most recommendations are in the three-to-five year

range.

The Commission chooses a recovery time of four years after toll dialing parity is implemented. Most of the costs incident to intraLATA presubscription will be incurred in the relatively near future, and should be recovered without undue delay. Spreading the recovery over a four-year period will mitigate the rate impact while the participants compete for market share.

The amount of conversion costs recovered will need to be monitored. LECs recovering conversion costs are directed to file annual reports with the Commission detailing their conversion costs and recovery amounts. The reports shall be for each 12-month period following each LEC's conversion to equal access, and shall be filed within 90 days of the end of each period. If appropriate, the Commission will then adjust the recovery amount.

**Issue Six: Should different practices apply to existing customers and new customers with regard to the provision of intraLATA toll dialing parity?**

In our discussion of Issue Four (c), we decided that existing and new customers who do not make a selection of an intraLATA interexchange carrier would be treated differently. We decided that existing customers who fail to make a selection would be assigned a presubscribed carrier, and new customers would have to make a carrier selection or would have to use carrier access codes to make intraLATA toll calls.

USWC and GTE recommend that a grace period be extended to new customers to give them time to select a primary carrier. The Commission agrees, and selects a 60-day grace period. Callers who fail to make a carrier selection will have their intraLATA calls carried by their default carrier during that grace period. At the end of the grace period, they will have to use carrier access codes to make intraLATA toll calls.

**Issue Seven: How should 0- and 00- calls (operator assistance) be handled?**

0- and 00- calls are operator assistance calls made by callers who do not dial any further digits. The parties agree that 0- calls should be handled by the caller's LEC, and 00- calls should be routed to the caller's presubscribed interLATA carrier. Such a result is consistent with the Commission's decisions on other issues in this proceeding, and is adopted. Operator service providers are reminded that they must comply with the requirements of Commission Rule OAR 860-32-005(9)(f).

**Issue Eight: What types of calls are subject to intraLATA toll dialing parity? What types of calls are not subject to intraLATA toll dialing parity?**

The parties agree that certain types of calls should not be subject to the dialing parity policies adopted in this proceeding. The types of calls include the following: 0+ calls in which the caller dials 0 plus a local number; in-WATS calls (1 plus 800 or 888); 1 plus 500 calls (called "follow me" or "go anywhere" service and functions somewhat like call-forwarding service); 1 plus 700 calls (interactive information service); N11 calls (411, 611, 911, e.g.); and information provider calls (976 and 900).

The parties disagree about whether directory assistance (DA) calls should be subject to the dialing parity policies adopted in this proceeding. The LECs argue that DA calls should not be included, contending that DA dialing patterns and filed tariff schedules suggest that such calls be handled by the caller's LEC. AT&T and MCI argue that DA calls should be handled by the presubscribed toll carrier. They contend that they would be disadvantaged if DA calls were not made subject to dialing parity policies. They also contend that customer confusion could result.

The Commission has addressed issues surrounding DA calls in other orders (*See* for example, Order Nos. 75-758 and 86-096). The Commission takes official notice that various telecommunications carriers in Oregon have dissimilar policies regarding the number (if any) of free DA calls allowed per month. The Commission wants to have the best possible DA policies in place to protect the public. The record in this proceeding is not sufficient to decide what is in the best interests of the public regarding intraLATA DA calls. Therefore, DA calls will not be subjected at this time to the dialing parity policies adopted in this proceeding. DA issues can be addressed in interconnection agreements among the parties or in another separate proceeding.

**Issue Nine: Customer Dial Around: If customers or carriers request the ability to have casual dialing available on an "as requested" basis, what issues and procedures need to be developed to insure fair and equal treatment to all customers and carriers? If this service is put in place, how should costs associated with upgrades to the network be recovered by the carrier? If only interLATA carriers have the ability to implement casual dialing, should this ability be blocked until there is interLATA relief for USWC and GTE?**

Callers who presubscribe a default toll carrier may on occasion want to use another carrier for one or more calls. The caller "dials around" the presubscribed carrier by dialing the carrier identification code assigned to the selected carrier.

USWC is currently prohibited from carrying interLATA toll calls. A caller presubscribed to another toll carrier could dial around the presubscribed carrier to obtain service from USWC. USWC expressed concern that a caller doing that may want USWC to handle an interLATA call and USWC's switch would not identify and reject such a request. Other carriers are not restricted from handling interLATA calls and would not have the potential problem USWC identifies.

We are not convinced that the potential problem is significant enough to warrant remedial action. USWC's network should be able to identify whether the call is intraLATA or interLATA and intercept interLATA calls. The record does not demonstrate why that solution is not viable until USWC is allowed to handle interLATA calls.

**Issue Ten: Should presubscription apply to coin phones?**

All parties agree that presubscription should apply to coin phones. The Commission agrees. Owners of coin phones should have the option to presubscribe their toll carriers of choice.

### CONCLUSIONS

1. The customer notification, cost recovery, carrier allocation, and other policies adopted in this order will further the Commission's goal of establishing an open, fair, and competitive telecommunications market in Oregon;
2. LECs should implement dialing parity plans according to the schedule established by the FCC.

### ORDER

IT IS ORDERED that LECs providing telecommunications service in Oregon shall file and implement dialing parity plans complying with the schedules and other requirements established in this order.

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

\_\_\_\_\_  
**Roger Hamilton**  
Chairman

\_\_\_\_\_  
**Ron Eachus**  
Commissioner

\_\_\_\_\_  
**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070. A party may appeal this order to a court pursuant to ORS 756.580.