

Commission ordered MCI and SWBT to appear before the arbitrators to answer questions regarding whether MCI had requested negotiations under the FTA. That fact-finding conference was conducted June 11, 1999, and the Arbitrators' Decision on the matter was issued July 14, 1999.

II. Findings and Conclusions

The Commission agrees with the arbitrators, and finds and concludes, that an interconnection agreement is an extensive document, arrived at through negotiation, mediation or arbitration, that establishes the many aspects of the relationship between the requesting carrier and the incumbent local exchange company. Absent such a thorough agreement, the interplay between §§ 251 and 252 of the FTA would be meaningless.

Section 252(c) establishes the standards for arbitration by the Commission:

In resolving by arbitration under subsection (b) any open issues and imposing conditions upon the parties to the agreement, a State commission shall- (1) ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the [FCC] pursuant to section 251; (2) establish any rates for interconnection, services, or network elements according to subsection (d); and (3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

Section 251(c)(1) imposes on the incumbent local exchange carriers the duty to negotiate in good faith with a requesting telecommunications carrier:

(1) Duty to Negotiate-The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection.

The referenced subsection (b) paragraphs delineate the obligations of all local exchange carriers with regard to (1) resale, (2) number portability, (3) dialing parity, (4) access to rights-of-way, and (5) reciprocal compensation.

It is clear from the foregoing interplay between §§ 251 and 252 that Congress envisioned that an interconnection agreement would address the many aspects of the relationship between the parties to the agreement.

The Commission, therefore, finds and concludes that, in order to invoke the arbitration rights and duties under § 252(b) of the FTA, the requesting telecommunications carrier must submit to the incumbent a request for negotiation for an interconnection agreement, or for the amendment of an existing interconnection agreement. It is evident from the evidence adduced at the fact-finding conference, and the Commission so finds, that the provisions for DA listings and databases were to be contained in an *appendix* to an interconnection agreement. However, at the time that MCI sent its alleged § 252 request for negotiations to SWBT, neither MCI Telecommunications nor MCI metro Access had an interconnection agreement with SWBT.

The Commission is dedicated to the fostering of competition in the Kansas telecommunications market; but, it can do so only within the confines of the law. The Commission finds and concludes that MCI did not submit a § 252 request for negotiations for an interconnection agreement. As such, the Commission lacks the requisite jurisdiction to arbitrate the DA matters as requested by MCI. SWBT's Petition for Reconsideration, as it pertains to the Commission's jurisdiction in this docket, is accordingly granted and the Petition of MCI is dismissed for lack of jurisdiction.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

Southwestern Bell Telephone Company's Petition for Reconsideration, as it pertains to the Commission's jurisdiction in this docket, is granted and the Petition for Arbitration of MCI is dismissed for lack of jurisdiction.

