

BV
DJ
CK
Ro
Tus

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 25th day of March, 1998.

In the Matter of the Mediation and Arbitration)
of Remaining Interconnection Issues Between)
MCI Telecommunications Corporation and Its) Case No. TO-98-200
Affiliates and Southwestern Bell Telephone)
Company.)

ORDER REGARDING ADOPTION NOTICE AND MOTION FOR EXTENSION

On March 11, 1998, the Commission modified its procedural schedule to permit MCI Telecommunications Corporation and its Affiliates, including MCImetro Access Transmission Services, Inc., (MCI) to adopt the agreement filed on March 4 by Southwestern Bell Telephone Company (SWBT) and AT&T Communications of the Southwest, Inc. (AT&T) in Case No. TO-98-115 as an alternative to arbitrating the interconnection issues raised in this case. MCI had requested a delay in the mediation and arbitration schedule so that it could review the SWBT and AT&T agreement and decide whether to adopt its terms for interconnection. The Commission directed MCI to file an adoption notice by March 20 if it wished to proceed with adoption rather than arbitration and, by separate order of the same date, ordered its Staff to file a Memorandum concerning the SWBT and AT&T agreement in Case No. TO-98-115 by March 17.

The Commission's March 11 order also stated that if MCI were to file an adoption notice, the adoption would constitute a waiver of MCI's right to seek judicial review of, or otherwise contest, the provisions of the SWBT and AT&T agreement. The Commission stated that it would not

entertain further petitions for arbitration between MCI and SWBT until the expiration of any agreement approved by the Commission, even if a reviewing court stays enforcement of either the SWBT and AT&T agreement or the MCI and SWBT agreement. MCI was directed not to file an adoption notice unless MCI was willing to accept these limitations. Finally, MCI was ordered to file a dismissal of its petition in this case by noon on March 25 if the Commission had approved an adoption notice filed by MCI by that time.

The Staff filed its recommendation in Case No. TO-98-115 and, on March 19, the Commission approved the agreement between SWBT and AT&T. The Commission's order will become effective on March 30. On March 20, MCI filed a notice in this case to adopt the March 4 agreement between SWBT and AT&T. MCI states that its adoption will be effective on March 30, and makes the adoption contingent upon the Commission's March 19 order taking effect without modification. MCI also claims to reserve all of its rights under Section 252 of the Telecommunications Act of 1996 "and all other applicable laws," including any right it may have to judicial review or to arbitration. MCI requests the Commission to establish a deadline for MCI and SWBT to file a signed interconnection agreement to implement the adoption.

The Commission's March 11 order established a deadline of March 23 for other parties to file responses to any adoption notice filed by MCI. No party filed responses.

On March 24, MCI filed a Motion for Extension of Time to file a dismissal of its petition. MCI notes that the Commission's order approving the AT&T and SWBT interconnection agreement will not take effect until March 30, that its adoption notice has not yet been approved by the Commission and that its adoption notice will not take effect until

March 30. MCI asserts that it cannot dismiss its petition by noon on March 25 absent an effective order approving the AT&T and SWBT agreement and an effective adoption notice approved by the Commission. MCI requests extension of the deadline for filing a dismissal until April 1, and requests the Commission to extend the procedural schedule so that no filings are required before April 17. Under the Commission's March 11 order revising the procedural schedule, the parties' direct testimony is currently due March 27. MCI argues that the procedural schedule may resume as late as April 17 in the event that the parties do not follow through with adoption because the Commission will continue to have jurisdiction over the arbitration beyond May 20.

SWBT has not filed a response to MCI's Motion for Extension of Time. Under the Commission's rules, SWBT would normally have until April 2 to file a response. See 4 CSR 240-2.080(12). However, given the circumstances, the Commission cannot wait 10 days to rule on the motion, or the procedural schedule will already have resumed and the motion will have been rendered moot.

The Commission has reviewed the pleadings and will approve MCI's adoption notice. The Commission finds that MCI's adoption notice substantially complies with the Commission's order of March 11 in that it unequivocally adopts the agreement filed on March 4 by SWBT and AT&T in Case No. TO-98-115.

The Commission will grant in part and deny in part MCI's Motion for Extension of Time. The Commission was not able to take up MCI's adoption notice in time to allow MCI to file a dismissal by noon on March 25. However, there is no reason that MCI cannot file a dismissal prior to the March 30 effective date of the Commission's March 19 order in

Case No. TO-98-115 or the MCI adoption notice. The Commission finds that the March 27 deadline for pre-filing direct testimony must remain in place unless MCI is willing to abandon its petition in this case, so that this arbitration proceeding can be concluded by May 20. MCI shall be required to file an adoption notice by noon on March 26 if MCI intends to proceed with adoption rather than arbitration. MCI may designate March 30 as the effective date of any such dismissal so that it coincides with the effective dates of the Commission's March 19 order in Case No. TO-98-115 and this order. The revised schedule established in the Commission's March 11 order shall apply if no dismissal is filed.

IT IS THEREFORE ORDERED:

1. That the March 20, 1998, Adoption Notice filed by MCI Telecommunications Corporation and its Affiliates, including MCImetro Access Transmission Services, Inc., is approved effective March 30, 1998.

2. That MCI Telecommunications Corporation and its Affiliates, including MCImetro Access Transmission Services, Inc., shall file a dismissal of its petition in Case No. TO-98-200 by noon on March 26, 1998.

3. That if MCI Telecommunications Corporation and its Affiliates, including MCImetro Access Transmission Services, Inc., (MCI) files a dismissal pursuant to Ordered Paragraph 2, then MCI and Southwestern Bell Telephone Company (SWBT) shall file an interconnection agreement by April 24, 1998 to implement MCI's adoption of the agreement between SWBT and AT&T Communications of the Southwest, Inc. (AT&T) that was filed on March 4, 1998, and approved by the Commission on March 19, 1998.

4. That the parties shall comply with the procedural schedule established in the Commission's March 11, 1998, order in the event that MCI Telecommunications Corporation and its Affiliates, including MCImetro

Access Transmission Services, Inc., do not file a dismissal as required in
Ordered Paragraph 2.

5. That this order shall become effective on March 25, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer
and Murray, CC., concur.

Randles, Regulatory Law Judge

RECEIVED

MAR 25 1998

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION