

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

APRIL 24, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (GREER) *HG*  
DIVISION OF LEGAL SERVICES (BROWN) *MLB*

RE: DOCKET NO. 961230-TP - PETITION BY MCI TELECOMMUNICATIONS CORPORATION FOR ARBITRATION WITH UNITED TELEPHONE COMPANY OF FLORIDA AND CENTRAL TELEPHONE COMPANY OF FLORIDA CONCERNING INTERCONNECTION RATES, TERMS, AND CONDITIONS, PURSUANT TO THE FEDERAL TELECOMMUNICATIONS ACT OF 1996

AGENDA: MAY 5, 1997 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961230TP.RCM

CASE BACKGROUND

Part II of the Federal Telecommunications Act of 1996 (Act) provides for the development of competitive markets in the telecommunications industry. Section 251 of the Act concerns interconnection with the incumbent local exchange carrier, and Section 252 sets forth the procedures for negotiation, arbitration, and approval of interconnection agreements.

Section 252(b) addresses agreements arrived at through compulsory arbitration. Specifically, Section 252(b)(1) states:

(1) Arbitration. - During the period from the 135th to 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

Section 252(b)(4)(C) states that the State commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions as required. This section requires this Commission to conclude the resolution of any

DOCUMENT NUMBER DATE  
04174 APR 24 5  
001194  
FPSC-RECORDS/REPORTING

DOCKET NO. 961230-TP  
APRIL 24, 1997

unresolved issues not later than 9 months after the date on which the local exchange carrier received the request for negotiations under this section.

On May 6, 1996, MCI Telecommunications Corporation, individually and on behalf of its affiliates, including MCImetro Access Transmission Services, Inc. (collectively, MCI), formally requested negotiations with United Telephone Company of Florida and Central Telephone Company of Florida (collectively, Sprint), under Section 252 of the Act. On October 11, 1996, MCI filed with this Commission a Petition for Arbitration Under the Telecommunications Act of 1996. Docket No. 961230-TP was established for MCI's petition.

On August 8, 1996, the Federal Communications Commission (FCC) released its First Report and Order 96-325 in CC Docket No. 96-98 (Order). The Order established the FCC's rules and requirements for interconnection, unbundling, and resale based on its interpretation of the 1996 Act. This Commission appealed certain portions of the FCC's rules and Order, and requested a stay pending that appeal. On October 15, 1996, the Eight Circuit Court of Appeals granted a stay of those portions of the FCC's rules and Order implementing Section 252(i) and the pricing provisions of the Act.

On December 11, 1996, MCI and Sprint executed a Stipulation and Agreement (the Stipulation) in order to resolve certain issues that remained between the parties. The Stipulation was presented to this Commission as a preliminary issue at the evidentiary hearing for this docket on December 18, 1996, and received our approval.

On December 18, 1996, the Commission conducted an evidentiary hearing for this docket. The Commission issued Order No. PSC-97-0294-FOF-TP, on March 14, 1997, memorializing its decision in this arbitration proceeding.

On March 31, 1997, Sprint filed a motion for stay and a motion for reconsideration/clarification of the Commission order. MCI filed its response to Sprint's motions on April 7, 1997. These motions will be addressed in a later proceeding.

MCI and Sprint jointly filed their interconnection agreement on April 14, 1997. This agreement addresses all issues except for the issues that Sprint has requested reconsideration or clarification.

DOCKET NO. 961230-TP  
APRIL 24, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission address Sprint's motion for stay?

RECOMMENDATION: No. Since the parties have filed an arbitrated agreement, Sprint's motion for stay is moot.

STAFF ANALYSIS: Sprint filed a motion for stay of the portion of the Commission's order that directed the parties to file an agreement 30 days after issuance of the Commission's order. The parties have filed a signed agreement for all issues except the issues on which Sprint has requested reconsideration or clarification. Since the parties have filed an agreement, there does not appear to be a necessity to address Sprint's motion for stay.

**ISSUE 2:** Should the Commission approve Sprint and MCI's arbitrated agreement?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** On April 14, 1997, MCI and Sprint filed their interconnection agreement as required by Commission Order No. PSC-97-0294-FOF-TP. The agreement is a hybrid of the negotiation and arbitration processes conducted by the parties. Listed below are the different areas of origin for the various aspects contained in the agreement.

1. Some aspects were negotiated prior to arbitration.
2. Some aspects were contingent upon Commission decisions in other arbitration dockets.
3. Some aspects were the result of Commission decisions in this arbitration docket.
4. Some aspects were negotiated subsequent to the Commission vote and are intended to supplant those aspects of the arbitration decision.

Section 252(e)(2)(B) states that the Commission can only reject an arbitrated agreement if it finds that the agreement does not meet the requirements of Section 251, including the regulations prescribed by the FCC pursuant to section 251, or the standards set forth in subsection (d) of Section 252 of the Act. Although the resale portion of the agreement is inconsistent with the Commission's order, staff believes the agreement complies with the Act and the FCC's rules and order. Therefore, staff believes the Commission should approve MCI and Sprint's agreement filed in this proceeding. Staff believes that any modification to this agreement, except for language addressing the issues on reconsideration/clarification, should be filed in a separate docket.

DOCKET NO. 961230-TP  
APRIL 24, 1997

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open until the Commission has resolved Sprint's Motion for Reconsideration/Clarification, and the Commission has completed its review of Sprint's cost studies that were required to be filed pursuant to the Commission's order in this proceeding.