



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: JANUARY 25, 2001

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

FROM: DIVISION OF ~~COMPETITIVE~~ SERVICES (FULWOOD, BARRETT, HINTON, WATTS, AUDI, BLOOM, KING) DIVISION OF LEGAL SERVICES (CHRISTENSEN) *mcB* *W* *DK*

RE: DOCKET NO. 000649-TP - PETITION BY MCIMETRO ACCESS TRANSMISSION SERVICES LLC AND MCI WORLDCOM COMMUNICATIONS, INC. FOR ARBITRATION OF CERTAIN TERMS AND CONDITIONS OF A PROPOSED AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION AND RESALE UNDER THE TELECOMMUNICATIONS ACT OF 1996.

AGENDA: 02/06/2001 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: THE PARTIES HAVE AGREED TO WAIVE THE STATUTORY TIME LIMIT IN SECTION 252(b)(4)(c) OF THE TELECOMMUNICATIONS ACT OF 1996.

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000649.RCM

ISSUE 68: For the purposes of the interconnection agreement between WorldCom and BellSouth, should BellSouth require that payments for make-ready work be made in advance?

RECOMMENDATION: Yes, BellSouth ~~should~~ may require advance payments for make-ready work. (BARRETT)

POSITION OF THE PARTIES:

BELLSOUTH: WorldCom should be required to pay in advance for any work WorldCom requests BellSouth to perform as do other ALECs that have signed BellSouth's standard license agreement. BellSouth should not be required to finance WorldCom's business plans.

WORLDCOM: No. A requirement for advance payment would create delays and would not be commercially reasonable. It would be commercially reasonable for WorldCom to pay invoices for such work within 14 days of receipt.

STAFF ANALYSIS: This issue involves the timing of payments for make-ready work projects from WorldCom to BellSouth.

BellSouth witness Milner states that WorldCom "should be required to pay in advance for any work MCIW [WorldCom] requests BellSouth to perform as do other ALECs that have signed BellSouth's standard license agreement." (TR 1221) The witness contends that it is not unusual for contractors to require payment in advance. (Milner TR 1267) The witness believes that BellSouth should not be required to finance MCIW's [WorldCom's] business plans. (Milner TR 1221) He acknowledges, however, WorldCom's representation that it will pay BellSouth invoices promptly. (Milner TR 1267)

With respect to the scheduling activities of make-ready work projects, BellSouth states that it follows a nondiscriminatory, first-come, first-served format in which the scheduling process customarily begins within twenty (20) days of receipt of full payment, unless the period is extended for good cause. (BellSouth BR p.61) Witness Milner contends that there is "no harm" in requiring full payment prior to the scheduling of make-ready work projects. (TR 1266, 1267)

WorldCom witness Price contends that BellSouth's proposed requirement for advanced payment would "create delays and would not be commercially reasonable." (TR 417) The witness states:

A pre-payment requirement would delay the work and would not be commercially reasonable. BellSouth should be

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however, that the "middle ground" approach may have the effect of reducing the delays that witness Price is concerned about.

Conclusion: For the purposes of the interconnection agreement between WorldCom and BellSouth, BellSouth ~~should~~ may require advance payment for make-ready work.

ISSUE 96: Should BellSouth be required to give written notice when a central office conversion will take place before midnight or after 4 a.m.?

RECOMMENDATION: Yes. In addition to its website posting, the Commission should require BellSouth to provide WorldCom notification using E-mail when a central office conversion is rescheduled to take place outside of the agreed upon window of between midnight ~~or after~~ and 4 a.m. (AUDU)

POSITION OF THE PARTIES:

BELLSOUTH: BellSouth agrees to provide notification to ALECs concerning central office conversions via web postings. This method of carrier notification is used for all ALECs and ensures that BellSouth treats all ALECs in a nondiscriminatory manner.

MCIWorldCom: Yes. Because central office conversions can involve taking down an ALEC's switched services, WorldCom needs to receive specific written notice when such conversions will take place outside of the time window agreed to by the parties.

STAFF ANALYSIS: This issue seeks to address how BellSouth should notify WorldCom when a central office conversion scheduled to take place between the hours of midnight and 4:00 a.m. has to be rescheduled to occur at a different time.

BellSouth witness Milner testifies that BellSouth provides notification to ALECs concerning central office (CO) conversions via website postings. He asserts that this medium of notification is used for all ALECs and therefore treats all ALECs in a nondiscriminatory manner. (TR 1223) Witness Milner states that for an ALEC to become aware of CO conversion changes, the ALEC has to monitor BellSouth's website for any posted changes. (TR 1371)

BellSouth witness Milner acknowledges that a CO conversion can result in taking down an ALEC's, and BellSouth's, switched service. Witness Milner explains that

[W]hen we say a central office conversion, we are not talking about just a loop cutover for an individual customer. We are talking about a major event in the life of the switch. It could be to add big parts of equipment or even replace the entire switch with a newer model or something of that nature. (TR 1369)

rescheduling is necessary, there is ample time to notify ALECs of schedule changes, as posted on the website. (TR 1223) Staff believes with that amount of careful coordination on the part of BellSouth, a rescheduling should be known well in advance to allow BellSouth enough time to appropriately notify the ALECs. Staff observes that an additional form of notification can be construed to be a "safety valve" or an "insurance policy" that will most likely not be used; however, it is available should the need arise.

Staff agrees with BellSouth that WorldCom's proposal for additional forms of notification would increase " . . . BellSouth's costs of making such notifications." (TR 1223) Nevertheless, staff believes that WorldCom's proposal will potentially improve the delivery of these notifications. Staff believes that an additional form of notification will potentially double the chances that any rescheduling is known by all affected parties. Staff is not persuaded by BellSouth's argument that E-mail notification is unreliable. Staff believes that an E-mail notification is an active form of notification, because most electronic mail messengers notify the receiver of new mail, and often provide an audible sound that signals the arrival of new mail.

Therefore, staff believes that denying the ALEC community of foreknowledge of a CO conversion that could potentially disrupt service to these carriers' customers, while BellSouth and its customers are fully aware of and appropriately prepared to handle such service disruption, is discriminatory. Due to the critical nature of the potential impact of the lack of another form of notification, staff recommends that in addition to its website posting, the Commission should require BellSouth to notify WorldCom ALECs using E-mail when a central office conversion is rescheduled to take place outside of the agreed upon window of between midnight ~~or after~~ and 4 a.m.