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May 6, 2004

Ms. Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. S.W.
P.O. Box 47250
Olympia, WA 98504-7254

Re: UT 033062

Dear Ms. Washburn:

This is to notify the Commission of MCI WorldCom Communications, Inc.'s ("MCI") objection to Verizon Northwest Inc.'s ("Verizon's") attempt to impose additional terms and conditions on MCI's adoption of the AT&T/Verizon interconnection agreement, as outlined in the December 31, 2003 attachment to Verizon's January 7, 2004 letter to the Commission in this docket.

On December 19, 2003, pursuant to 47 U.S.C. Section 252(i) and this Commission's *Interpretive and Policy Statement Related to Section 252(i) of the Telecommunications Act of 1996*, Docket No. UT 990355 ("Interpretive and Policy Statement"), MCI filed its intention with this Commission to adopt in its entirety, the interconnection agreement between AT&T Communications of the Pacific Northwest, Inc. and Verizon Northwest, Inc., f/k/a GTE Northwest Incorporated, dated September 8, 1997, and all of its amendments to date, which have been approved by this Commission in Docket No. UT 960307 ("AT&T interconnection agreement"). On December 31, 2003, this Commission allowed the adopted agreement to go into effect.

On January 7, 2003, Verizon filed a letter in this docket with an attachment, attempting to impose multiple conditions on MCI's adoption of the AT&T interconnection agreement, which significantly change material terms of the AT&T interconnection agreement ("Verizon's December 31, 2003 proposal").

Section 252(i) of the Act states, "A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved

under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

The FCC has interpreted this section in 47 C.F.R. §51.809(a) (1998) to require, in relevant part:

> An incumbent LEC shall make available without unreasonable delay to any requesting telecommunications carrier any individual interconnection, service or network element arrangement contained in any agreement to which it is a party that is approved by a state commission pursuant to section 252 of the Act, upon the same rates, terms and conditions as those provided in the agreement...

This has become known as the "pick and choose rule." The Supreme Court specifically found that the FCC's pick and choose rule is valid. *AT&T Corp. v. Iowa Utilities Board, 525 U.S. 366 (1999).* Courts have subsequently found that incumbents must permit carriers to opt into individual provisions of an interconnection agreement without modifying its terms and conditions, and without unreasonable delay. *AT&T Communications of the Southern States, Inc. v. GTE Florida, Inc., 123 F. Supp. 23 1318, 1327 (2000); Southwestern Bell Telephone Company v. Waller Creek Comm., 221 F.3d 812, 814-816 (2000).*

Only two exceptions exist to the general rule that carriers may pick and choose individual interconnection agreement provisions. Those exceptions are where the incumbent can prove either that: "(1) the costs of providing a particular interconnection, service or element to the requesting telecommunications carrier are greater than the costs of providing it to the telecommunications carrier that originally negotiated the agreement; or, (2) the provision of a particular interconnection, service or element to the requesting carrier is not technically feasible." 47 C.F.R. §51.809(b). Verizon has not submitted any proof to this Commission that either of these exceptions should prevent MCI from adopting AT&T's interconnection agreement, without additional terms and conditions.

This Commission has also opined on the implementation of Section 252(i) of the Act in its Interpretive and Policy Statement. In its Policy Statement, this Commission adopted principles to guide its implementation of Section 252(i). Principle No. 2 provides:

> Except for changes in the names of the parties, internal references, or other minor changes, a requesting carrier that requests an existing agreement in its entirety, or to receive individual arrangements in an agreement, must adopt the original contract language verbatim.

MCI's adoption is consistent with this principle. Through its adoption, MCI intended to adopt the AT&T interconnection agreement verbatim, with only minor changes including the names of the parties to the agreement and contact references.

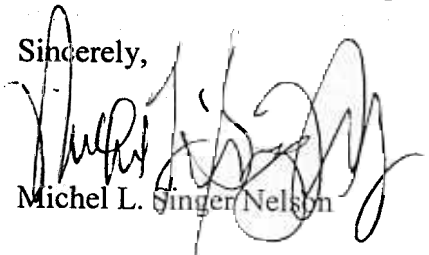
In contrast, Verizon's letter attempts to change and add material terms to the MCI agreement that do not exist in the AT&T interconnection agreement. For example, Verizon sets forth reservations of rights and includes a pricing attachment that is not part of the AT&T interconnection agreement. Requiring MCI to incorporate these additional terms as a condition of its adoption of the AT&T interconnection agreement is contrary to Section 252(i) and Principle No. 2.

Verizon's letter also does not comply with Principle No. 5, which is intended to "allow new entrants to enter the local exchange market quickly by taking interconnection under an already-approved agreement without incurring the costs of negotiation and arbitration. In addition, the pick and choose rule constrains an ILEC's ability to discriminate among CLECs." By imposing different terms on MCI that do not exist in the agreement with AT&T and Verizon, Verizon discriminates between CLECs. The Act requires Verizon to provide MCI with the same terms. To the extent that Verizon desires to modify the agreement, it must do so through a separate process. It cannot force MCI to accept modified terms and conditions of the AT&T interconnection agreement.

Thus, MCI objects to all terms outlined in Verizon's December 31, 2003 proposal other than changes to the names of the parties to the agreement and contact persons for those parties, as outlined in paragraphs 1 and 3 of the proposal.

Please contact me with any questions or concerns you may have about this letter.

Sincerely,



Michel L. Singer Nelson

Cc: Joan Gage (Verizon)
Director-Contract Performance and Administration (Verizon)
Vice President and Associate General Counsel (Verizon)