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BERLIN  
CHARTERED

June 22, 1996

WT-960323  
(si)

DIRECT DIAL  
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**VIA FEDERAL EXPRESS**

Mr. Steve McClellan, Secretary  
Washington Utilities and Transportation  
Commission  
1300 South Evergreen Park Drive, S.W.  
Olympia, Washington 98504

*Re: Petition of MFS Communications Company, Inc. for Arbitration of  
Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. § 252(b) of  
the Telecommunications Act of 1996*

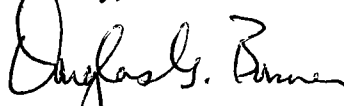
Dear Mr. McClellan:

I enclose for filing an original and 4 copies of the Petition of MFS Communications Company, Inc. ("MFS") for arbitration of open issues relating to the rates, terms and conditions of interconnection between MFS and U S West-Washington. MFS served a written request for interconnection, services, and network elements with U S West-Washington on February 8, 1996. This petition is being filed with the Washington Utilities and Transportation Commission pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 252(b).

Please date-stamp and return the enclosed additional copy and return it to me in the envelope provided.

Thank you for your assistance.

Sincerely,

  
Douglas G. Bonner

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96 JUN 24 AM 11:05  
STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

Enclosures

cc: Eric A. Artman  
Alex Harris  
Andrew D. Lipman  
U S West Communications, Inc.

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the matter of )  
)  
)  
MFS COMMUNICATIONS COMPANY, ) Docket No. \_\_\_\_\_  
INC. )  
)  
)  
Petition for Arbitration Pursuant to )  
47 U.S.C. § 252(b) of Interconnection Rates, )  
Terms, and Conditions with U S West )  
Communications, Inc. )  
)

**PETITION OF MFS COMMUNICATIONS COMPANY, INC.  
FOR ARBITRATION OF INTERCONNECTION RATES, TERMS AND CONDITIONS**

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Petition for Arbitration Pursuant to )  
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Terms, and Conditions with U S West )  
Communications, Inc. )  
 )

**PETITION OF MFS COMMUNICATIONS COMPANY, INC.  
FOR ARBITRATION OF INTERCONNECTION RATES, TERMS AND CONDITIONS**

MFS Communications Company, Inc. (“MFS”), by its undersigned attorneys,  
hereby petitions the Washington Utilities and Transportation Commission (“the Commission”)  
for arbitration of rates, terms and conditions for interconnection and related arrangements,  
pursuant to Section 252(b) of the Communications Act of 1934, as amended by the  
Telecommunications Act of 1996, Pub.L.No. 104-104 § 101(a), 110 Stat. 70, *to be codified at*  
47 U.S.C. § 252(b).<sup>1</sup>

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<sup>1</sup> The Communications Act of 1934, as amended by the Telecommunications Act of 1996, is hereinafter cited as the “1996 Act.”

In support of its petition, MFS states as follows:

**I. INTRODUCTION**

1. MFS, through its operating subsidiaries, is the largest provider of competitive local telecommunications services in the United States. The following subsidiaries of MFS offer telecommunications services in Washington:

a. MFS Intelenet of Washington, Inc. has authority to provide switched local and interexchange telecommunications services in Washington. *In the Matter of the Application of MFS Intelenet of Washington, Inc. For An Order Authorizing the Registration of Applicant as a Telecommunications Company.* Docket No. UT-940670 (Authorizing Registration, June 22, 1994).

2. MFS, through these and other subsidiaries, has installed and operates fiber optic communications networks in more than 25 states across the United States, and offers a wide range of high quality digital local access and private line services to communications-intensive business and government end users.

3. U S West-Washington ("U S West"), is a monopoly provider of local exchange services within the State of Washington. U S West is a corporation having its principal place of business at 1600 - 7th Avenue, Room 3204, Seattle, Washington 98191. U S West provides and at all material times has provided intrastate local exchange and exchange access service in Washington subject to the regulatory authority of this Commission.

4. For purposes of Sections 251 and 252 of the 1996 Act, U S West is and has been at all material times an “incumbent local exchange carrier” in the State of Washington as defined by Section 251(h) of the 1996 Act.

5. On February 7, 1996, MFS delivered to U S West by express delivery, and U S West received on February 8, 1996, a written request for interconnection, services, and network elements pursuant to Section 251 of the 1996 Act. A copy of MFS’s interconnection request letter is attached as Exhibit A.

6. MFS, as the requesting telecommunications carrier, has negotiated in good faith in accordance with Section 251(c)(1) of the 1996 Act to attempt to establish terms and conditions for a binding agreement with U S West for interconnection, services, and network elements (“interconnection agreement”).

7. Since MFS initiated negotiations under the 1996 Act, MFS and U S West have been engaged in negotiations. The parties have been unable to reach a binding agreement through negotiations under Section 252(a)(1) of the 1996 Act, notwithstanding the fact that MFS has engaged in good faith negotiations.

8. The Act mandates that, during the negotiations period that has ensued following U S West’s receipt of MFS’s February 7, 1996 request for interconnection, U S West has “a duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements” to meet its duties under section 251(b) & (c). *See* Section 251(c)(1). However, U S West has refused to negotiate in good faith with MFS concerning the terms of an interconnection agreement. U S West’s failure to negotiate in good faith is

evidenced by its insistence that MFS sign a nondisclosure agreement limiting MFS's ability to seek arbitration under the 1996 Act and to inform this Commission of U S West's position in the negotiations, notwithstanding the requirements of Section 252(b)(2)(A)(ii) of the Act.<sup>2</sup> See *Notice of Proposed Rulemaking*, FCC Docket No. 96-98 (FCC96-182, released April 19, 1996 at ¶ 47 (“incumbent LECs have refused to begin to negotiate until the requesting telecommunications carrier satisfies certain conditions, such as signing a nondisclosure agreement.... We believe that such tactics might impede the development of local competition, and may be inconsistent with provisions of the 1996 Act.”) (citing Sections 252(h), (i) of the 1996 Act). A copy of the nondisclosure agreement between MFS and U S West is attached as Exhibit B.

9. In June 1996, MFS discussed its offer with U S West and expressed its willingness to discuss all rates, terms, and conditions. As of the date of this Petition, U S West has not accepted MFS's offer.

10. Under Section 252(b)(1) of the 1996 Act, Congress created a specific arbitration program for incumbent LECs and requesting telecommunication carriers to arrive at an interconnection agreement through “compulsory arbitration” by “petition [to] a State commission to arbitrate any open issues” unresolved by negotiation under Section 252(a). That provision states that either party to the interconnection negotiation may petition the State commission “[d]uring the period from the 135th to the 160th day (inclusive) after the date on

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<sup>2</sup> The nondisclosure agreement between U S West and MFS precludes MFS from providing additional evidence of U S West's failure to negotiate in good faith.

which an incumbent local exchange carrier receives a request for negotiation under this section....” Section 252(b)(1). This petition is being timely made with this Commission, on the 137th day after U S West received MFS’s interconnection request letter.

11. In accordance with the requirements of Section 252(b)(2), MFS, the petitioner, sets out in the following sections: (1) those issues that remain unresolved between the parties and the position of each of the parties with respect to those issues; and (2) any other issue discussed and resolved by the parties.

## II. UNRESOLVED ISSUES

MFS and U S West have not resolved any issues pertaining to MFS’s request for interconnection, services, and network elements. MFS requests that the Commission arbitrate the following disputed issues:

1. **Resale** (Sections 251(b)(1), 251(c)(4), 252(d)(3), 271(c)(2)(B)(xiv) of the 1996 Act)

MFS's position is set forth in Section 10.0 of Exhibit D hereto (incorporating by reference Exhibit E hereto).<sup>3</sup> U S West's position is set forth in Section VII of Exhibit C hereto.

2. **Number Portability** (Sections 251(b)(2), 251(e)(2), 271(c)(2)(B)(xi) of the 1996 Act)

MFS's position is set forth in Section 13.0 of Exhibit D hereto. U S West's position is set forth in Section V.A. of Exhibit C hereto.

3. **Dialing Parity** (Sections 251(b)(3), 271(c)(2)(B)(xii) of the 1996 Act)

MFS's position is set forth in Section 14.0 of Exhibit D hereto. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position with regard to this issue.

4. **Access to Telephone Numbers** (Sections 251(b)(3), 251(e)(2), 271(c)(2)(B)(ix) of the 1996 Act)

MFS's position is that, until an impartial entity is appointed to administer telecommunications numbering and to make such numbers available on an equitable basis, U S

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<sup>3</sup> Exhibit D is an agreement between an MFS subsidiary and another Bell Operating Company, Ameritech Illinois, pursuant to Sections 251 and 252 of the 1996 Act. It reflects one set of terms and conditions to which MFS is willing to agree. MFS is not, however, inflexibly wedded to this set of terms and conditions, and expects to enter into agreements with other Regional Bell Operating Companies reflecting variations on this set of terms and conditions in the near future. MFS reserves its rights to supplement this Petition by filing with the Commission copies of such agreements as they are made public. MFS also reserves the right to tailor any proposed terms and conditions to address the specific circumstances in which those terms and conditions are provided.



West should assign to MFS NXX codes in accordance with national guidelines at no charge.

U S West's position is set forth in Section IV.F.1 of Exhibit C hereto.

5. **Operator Call Completion** (Sections 251(b)(3), 271(c)(2)(B)(vii)(II) of the 1996 Act)

MFS's position is that U S West should provide operator services call completion to MFS's operators for the termination of calls to MFS's subscribers for completion of calls on U S West's network to U S West's customers, and that U S West should provide operator services call completion for its customers to enable the non-discriminatory termination of calls from U S West's customers to MFS's customers on MFS's network. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position with regard to this issue.

6. **Directory Assistance** (Sections 251(b)(3), 271(c)(2)(B)(vii)(II) of the 1996 Act)

MFS's position is set forth in Section 18.0(b) of Exhibit D hereto and Exhibit F hereto. U S West's position is set forth in Section V.C. of Exhibit C hereto.

7. **Directory Listings** (Sections 251(b)(3), 271(c)(2)(B)(viii) of the 1996 Act)

MFS's position is set forth in Section 18.0(c) and (d) of Exhibit D hereto and Exhibits G and H hereto. U S West's position is set forth in Section V.D. of Exhibit C hereto.

8. **Access to Poles, Ducts, Conduits, and Rights-of Way** (Sections 251(b)(4), 271(c)(2)(B)(iii) of the 1996 Act)

MFS's position is set forth in Section 15.0 of Exhibit D hereto. U S West's position is set forth in Sections VIII and IX of Exhibit C hereto.

9. **Reciprocal Compensation** (Sections 251(b)(5), 252(c)(2), 271(c)(2)(B)(xiii) of the 1996 Act)

MFS's position is set forth in Section 5.8 of Exhibit D hereto. U S West's position is set forth in Section IV.G.7 of Exhibit C hereto.

10. **Interconnection** (Sections 251(c)(2), 252(d)(1), 271(c)(2)(B)(i) of the 1996 Act)

MFS's position is set forth in Sections 4.0-8.2 of Exhibit D hereto. In addition, it is MFS's position that U S West should provide MFS with Dedicated Transit Service, which is a dedicated connection between an MFS collocation arrangement at a U S West premises and a collocation arrangement of a third party carrier that maintains a collocation arrangement at the same premises. Dedicated Transit Service should be provided using a cross-connection (dedicated connection) using suitable U S West-provided cable or transmission facilities or any other mutually agreed upon arrangement. The rate for Dedicated Transit Service should be twice the applicable Service Access Charge ("SAC"). U S West's position is set forth in Sections IV and V.E. of Exhibit C hereto.

11. **Unbundled Access** (Sections 251(c)(3), 252(d)(1), 271(c)(2)(B)(ii), (iv), (v), (vi), (ix), (xi) of the 1996 Act)

MFS's position is set forth in Section 9.0 of Exhibit D hereto. U S West's position is set forth in Section VI of Exhibit C hereto.

12. **Notice of Changes** (Section 251(c)(5) of the 1996 Act)

MFS's position is set forth in Section 11.0 of Exhibit D hereto. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position with respect to this issue.

13. **Collocation** (Section 251(c)(6) of the 1996 Act)

MFS's position is set forth in Section 12.0 of Exhibit D hereto. U S West's position is set forth in Section IV.E of Exhibit C hereto.

14. **911/E-911 Service** (Section 271(c)(2)(B)(vii)(I) of the 1996 Act)

MFS's position is set forth in Section 18.0(a) of Exhibit D and in Exhibit I hereto. U S West's position is set forth in Section V.B of Exhibit C hereto.

15. **Database Access** (Section 271(c)(2)(B)(x) of the 1996 Act)

MFS's position is that U S West should provide it with interfaces to access U S West's databases, including without limitation LIDB and 800/888, as well as DCAS for ordering and provisioning purposes, and associated signaling necessary for the routing and completion of MFS's traffic through the provision of SS7 under its applicable tariffs. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position with regard to this issue.

16. **Referral Announcement**

MFS's position is set forth in Section 17.0 of Exhibit D hereto. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position with regard to this issue.

17. **Yellow Page Maintenance**

MFS's position is that U S West should work cooperatively with MFS to ensure that Yellow Page advertisements purchased by customers who switch their service to MFS (including customers utilizing Interim Telephone Number Portability) are maintained without interruption. U S West should allow MFS customers to purchase yellow page advertisements without discrimination, under the identical rates, terms and conditions that apply to U S West customers. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position as to this issue.

18. **Information Pages**

MFS's position is that U S West should include in the "Information Pages" or comparable section of its White Pages directories for areas served by MFS, listings provided by MFS for MFS's installation, repair and customer service and other service-oriented information, including appropriate identifying logo. Such listings should appear in the manner that such information appears for subscribers of U S West and other LECs. U S West should not charge MFS for the inclusion of this information. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position as to this issue.

19. **General Responsibility of the Parties**

MFS's position is set forth in Section 19.0 of Exhibit D hereto. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position with regard to this issue.

20. **Liquidated Damages for Specified Activities**

MFS's position is set forth in Section 26.0 of Exhibit D hereto. MFS is prohibited under a nondisclosure agreement with U S West from disclosing U S West's position with regard to this issue.

21. **Miscellaneous**

MFS seeks to include in the Agreement a number of additional, miscellaneous provisions including, for example, those contained in Sections 20.0, 22.0 and 28.0 of Exhibit D. U S West's position as to some of these provisions is set forth in Exhibit C. MFS is prohibited under a nondisclosure agreement with U S West from disclosing further U S West's position with respect to these issues.

**III. OTHER ISSUES DISCUSSED AND RESOLVED BY THE PARTIES**

None.

WHEREFORE, MFS demands arbitration before this Commission pursuant to Section 252(b) of the 1996 Act of the disputed issues identified above. As part of the arbitration, MFS demands that U S West be required to produce, before the arbitration commences, all relevant documentation, including cost studies pertaining to its past, current or proposed rates,

concerning those disputed issues, and that MFS be afforded an opportunity to examine that documentation and to present its position as part of that arbitration.<sup>4</sup>

Respectfully submitted,

Andrew D. Lipman

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Dated: June 22, 1996

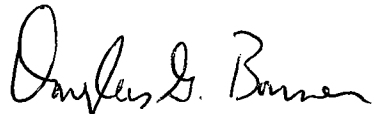
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<sup>4</sup> MFS's ability to comply with Section 252(b)(2)(A) of the 1996 Act in this petition has been significantly impaired by (i) its inability to obtain all relevant documentation concerning U S West's position on all unresolved issues and (ii) the nondisclosure agreement between the parties.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of June 1996, a copy of the Petition of MFS Communications Company, Inc. for Arbitration of Interconnection Rates, Terms and Conditions was served by overnight delivery, prepaid, on:

Dennis Okamoto, Vice President  
U S West - Washington  
1600 - 7th Avenue, Room 3204  
Seattle, WA 98191

  
\_\_\_\_\_  
Douglas G. Bonner

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