

SERVICE DATE

JAN 20 1987

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION)	CAUSE NO. U-85-23
)	et al.
Complainant,)	
)	NINETEENTH
PACIFIC NORTHWEST BELL)	SUPPLEMENTAL ORDER
TELEPHONE COMPANY, et al.)	GRANTING PETITION
)	FOR CLARIFICATION AND
Respondents.)	DENYING PETITIONS FOR
.....)	RECONSIDERATION

I. BACKGROUND

On December 30, 1986, the Commission issued the Eighteenth Supplemental Order in this consolidated cause. On January 9, 1987, petitions for reconsideration were filed by Public Counsel and American Network, Inc. (AMNET). On January 12, 1987, a petition for clarification was filed on behalf of MCI Telecommunications Corporation (MCI). The Commission did not elect to request replies pursuant to WAC 480-08-250.

II. SUMMARY OF COMMISSION ORDER

The Commission denies the petitions for reconsideration, holding that the record supports the final order herein and further holding that AMNET failed to raise objections to the Seventeenth Supplemental Order (proposed order) by exceptions as required by WAC 480-08-230 and should not be allowed to circumvent Commission procedures by raising objections for the first time on petition for reconsideration.

The petition for clarification is appropriate for a response as it raises questions of interpretation which the Commission is, at all times, anxious to resolve. By this order, the Commission does revise its previous findings, and offers further clarification as to the meaning of said findings.

III. SPECIFIC ISSUES RAISED

A. Short-haul toll support. Both Public Counsel and AMNET argue against the provision for reduced short-haul toll rates. Both claim that the need for or propriety of such reductions is unsupported by the record. Both suggest that the Commission is bound to take no actions other than actions suggested in the Administrative Law Judge's proposed order and exceptions thereto. The

Commission rejects each assertion. The Commission's discretion is not circumscribed by an Administrative Law Judge's decision. It is the Commission which is appointed to exercise informed judgement and represent the public interest. That responsibility cannot and should not be delegated to an Administrative Law Judge. If any of the parties have failed to understand and anticipate the Commission's level of concern with the issue of a need for offsetting toll rate reductions, that is unfortunate. We are satisfied that our decision is consistent with the law, the evidence, and our responsibility to protect the public interest.

- B. Incorporation of prior consistent findings. Public Counsel argues for more definite findings of fact. It has been the Commission's past practice to recite that all facts as identified in its opinion constitute findings of fact. The findings are then summarized by numbered specific findings. In the Eighteenth Supplemental Order, the Commission also adopted such findings of the Seventeenth Supplemental Order as would support the final decision. We reject Public Counsel's assertion that this is error.

- C. AMNET objections to equal access definition and designation of PNB as "designated carrier." In a belated effort to argue two issues which were amply discussed by other parties on exceptions to the proposed order, AMNET now brings forth this "Petition for Reconsideration." The Commission's rules do not allow for this procedure. A party has the obligation to respond not only to the proposed order, but also to the exceptions filed thereto. This AMNET did not do. The Commission's resolution of the intraLATA access issue was supported by the limited record available. These issues will undoubtedly resurface in connection with PNB's recently filed petition for declaratory ruling (Cause No. U-86-143.) That may be the proper forum for consideration of these issues. This case is not.

- D. MCI petition for clarification. MCI has found certain provisions of our order ambiguous. The Commission encourages the parties to raise such interpretive questions in this fashion. MCI's first concern is the failure of Finding of Fact 22 to restate our earlier requirement (at page 12) that companies like PNB, in calculating their own toll rates, account for an access charge contribution equal to the CCLC charged to other carriers. We fail to see any conflict between Finding of Fact 22 and Finding of Fact 11 of the proposed order. As

previously noted, Finding of Fact 11 of the proposed order was adopted by reference to the extent not inconsistent with the final order (which it is not).

MCI's second concern is the adoption of a formula (at page 25-26) for the CCLC, which does not recognize intraLATA non-premium access minutes. (MCI erroneously interprets the "R" set forth in the formula as a reference to "revenue requirement" whereas it actually refers to "premium CCLC".) This formula was submitted by PNB and was not previously disputed by any party. The Commission recognizes that the formula involves an estimation of future usage at a premium and non-premium rate, which is based on prior experience and will therefore risk either over-recovery or under-recovery of the NTS revenue requirement. This risk is inherent in the adoption of a usage-based access charge. We agree with MCI that the formula is incorrect as stated. The formula should have been:

$$R = \frac{\$}{(.5 \times NP) + P + IA}$$

- R = Premium CCLC rate
- \$ = LEC's intrastate toll NTS revenue requirement.
- NP = LEC nonpremium intrastate interLATA and intraLATA access minutes
- P = LEC premium interLATA access minutes
- IA = LEC premium intraLATA access equivalent minutes
- .5R = Nonpremium rate

Page 12 and Finding of Fact 22 must be corrected accordingly.

Next MCI queries whether PNB minutes are subject to the USF surcharge. The answer is yes, as is clear from the computations shown on Exhibit 213 in the record.

Finally, MCI asks whether the 50 percent discount for non-premium access as shown at Page 25 is correct. It is. The reference to "mirroring" the FCC access charge (Finding of Fact 12) was intended only to recognize the FCC's methodology. The discount rate we have established is clearly 50 percent.

O R D E R

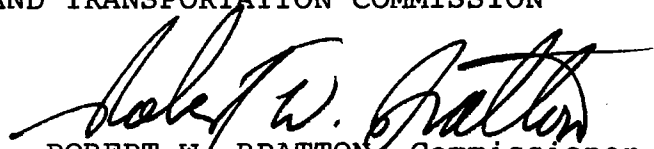
Wherefore, the Commission hereby denies the petition for reconsideration of Public Counsel and further,


Denies the petition for reconsideration of American Network, Inc. and further,

Grants the petition for clarification of MCI as provided in the body of this order revising page 12 and Finding of Fact 22 to correct the CCLC formula as set forth herein. With the clarifications set forth herein, the Eighteenth Supplemental Order shall be deemed final.

DATED at Olympia, Washington, and effective this 20th day of January, 1987.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION


ROBERT W. BRATTON, Commissioner


RICHARD D. CASAD, Commissioner