

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UT-061420
)	
Complainant,)	
)	
v.)	
)	SETTLEMENT AGREEMENT
MCIMETRO ACCESS TRANSMISSION)	
SERVICES, LLC,)	
)	
Respondent.)	
_____)	

1 This Settlement Agreement (“Agreement”) is entered into by both parties to this proceeding for the purpose of resolving all issues raised in the above docket.

I. PARTIES

2 The parties to this Agreement are MCI metro Access Transmission Services, LLC (“MCI metro”) and the Staff of the Washington Utilities and Transportation Commission (“Staff”) (collectively, “the Parties”).

II. BACKGROUND

3 In November 2005, Staff began a compliance audit of the business practices of MCI metro. In June 2006, Staff completed an audit report which contained its findings and recommendations and set forth its opinion that there were violations of rules enforced by the Washington Utilities and Transportation Commission (“commission”) between July 1, 2005, and November 30, 2005. Staff recommended penalties against MCI metro for the types of violations that Staff believed had been previously addressed with technical assistance.

4 In the Notice of Penalties Incurred and Due for Violations of Laws Rules and Regulations issued October 6, 2006, to MCI metro, the commission assessed penalties for violations as follows:

1. Violations of WAC 480-120-103 (application for service), which requires companies to provide a date that the service will be provided or, if delayed, the reason for the delay.

2. Violations of WAC 480-120-165 (customer complaints), which requires that companies have adequate personnel available during regular business days to address customer complaints, to investigate complaints promptly, and to take corrective action as soon as appropriate.
3. Violations of WAC 480-120-166 (commission-referred complaints), which requires companies to respond to commission-referred complaints within specific time frames.
4. Violations of WAC 480-120-171 (discontinuing service), which requires that companies stop billing monthly charges upon the customer's request to discontinue service.
5. Violations of WAC 480-120-173 (restoring service after discontinuation), which requires that companies restore service within one business day when the cause for discontinuation has been corrected and a premises visit for reconnection is not required.
6. Violations of WAC 480-120-440 (repair standards for service interruptions), which requires companies to repair all out-of-service interruptions within 48 hours.

The assessed penalties totaled \$85,000 for alleged violations between July 1, 2005, and November 30, 2005.

- 5 MCImetro cooperated fully with Staff in its investigation.
- 6 MCImetro has made refinements to its systems and its processes which relate to the findings in Staff's audit. As a result, since November 30, 2005, there has been a significant reduction in the number of MCImetro customer complaints to the commission concerning the rule violations addressed in Staff's audit.
- 7 On October 20, 2006, MCImetro filed a Request for Hearing on the penalty assessment. The Parties subsequently engaged in settlement negotiations.

III. AGREEMENT

- 8 The Parties recognize that litigating this matter would be complex and time consuming, with an uncertain outcome. Both parties also recognize that a hearing would require substantial resources and could result in findings contrary to their respective positions.
- 9 Bearing these factors in mind, the Parties conclude that the public interest would be best served by a settlement of this matter.

- 10 The Parties have reached agreement on such a settlement and wish to present it for the commission's consideration and approval. The Parties therefore adopt the following Settlement Agreement, which the Parties enter into voluntarily to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding.
- 11 MCImetro acknowledges that violations occurred. The Parties agree that MCImetro will pay to the commission penalties totaling \$42,500.00 (forty-two thousand five-hundred dollars), one-half of the amount originally assessed.
- 12 The amount shall be ordered due and payable in full within thirty (30) days following the first day of the first month following the commission's issuance of its order approving this Settlement Agreement.
- 13 The Parties agree that MCImetro will comply with all applicable commission rules and statutes. This Agreement does not preclude the commission from pursuing penalties for violations of commission rules and statutes unrelated to the subject matter of this Agreement or for subsequent violations of the rules and statutes stated above.

IV. GENERAL PROVISIONS

- 14 The Parties agree that this Settlement Agreement is a settlement of all contested issues between them in this proceeding. The Parties understand that this Settlement Agreement is not binding unless and until accepted by the commission.
- 15 The Parties agree to cooperate in submitting this Agreement promptly to the commission for acceptance. The Parties further agree to support adoption of this Agreement in proceedings before the commission through testimony or briefing. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the commission's adoption of this Agreement.
- 16 The Parties agree to (1) provide each other the right to review, in advance of publication, any and all announcements or news releases that the other party intends to make about the Agreement (with the right of review to include a reasonable opportunity to request changes to the text of such announcements), and (2) include in any news release or announcement a statement that the Staff's recommendation to approve the settlement is not binding on the commission itself.
- 17 Nothing in this Agreement shall limit or bar any other entity from pursuing legal remedies against MCImetro or MCImetro's ability to assert defenses to such claims.
- 18 The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other

proceeding, except in any proceeding to enforce the terms of this Agreement or any commission order fully adopting those terms. This Agreement shall not be construed against either party because it was the drafter of this Agreement.

- 19 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the commission adopt this Agreement in its entirety.
- 20 The Parties may execute this Agreement in counterparts and, as executed, shall constitute one Agreement. Copies sent by facsimile are as effective as original documents.
- 21 The Parties shall take all actions necessary, as appropriate, to carry out this Agreement.
- 22 In the event the commission rejects all or any portion of this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the commission. Written notice must be served within ten (10) days of the order rejecting part or all of this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and either party shall be entitled to seek reconsideration of the order. Additionally, the Parties will jointly request that a prehearing conference be convened for purposes of establishing a procedural schedule to complete the case.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

MCImetro ACCESS TRANSMISSION
SERVICES LLC

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Dated: _____, 2007

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Dated: _____, 2007