

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET UT-061420
Against)	
)	
MCIMETRO ACCESS)	ORDER 02
TRANSMISSION SERVICES LLC)	
D/B/A VERIZON ACCESS)	
TRANSMISSION SERVICES)	INITIAL ORDER; ORDER
)	APPROVING SETTLEMENT
In the Amount of \$85,000)	AGREEMENT WITH
)	CONDITIONS
.....)	

1 ***Synopsis:** This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. If this Initial Order becomes final, the Commission will approve the settlement agreement on condition that MCImetro remain substantially free of violations of the telecommunications service quality rules for one year from the date of this order.*

2 **NATURE OF PROCEEDING.** Docket UT-061420 involves a request by MCI Metro Access Transmission Services LLC (MCImetro)for a hearing on a penalty assessment issued by the Commission in the amount of \$85,000 for alleged violations of the Commission’s telecommunications service quality rules, WAC 480-120.

3 **APPEARANCES.** Thomas F. Dixon, attorney, Denver, Colorado, represents MCImetro Transmission Services LLC (MCImetro). Michael Fassio, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).

4 **PROCEDURAL HISTORY.** The penalty assessed against MCImetro arose out of a compliance audit conducted by Commission Staff and completed in June 2006.¹ The Staff audit identified numerous violations of the Commission’s telecommunications

¹ See, Staff Investigation Report filed October 6, 2006.

service quality rules and recommended penalties for the types of violations that Staff had previously addressed with the company.

5 The Commission issued the penalty assessment on October 6, 2006. The assessed penalties totaled \$85,000 for alleged violations between July 1, 2005 and November 30, 2005.

6 On October 20, 2006, MCImetro filed a request for hearing on mitigation of the penalty assessment.

7 On January 11, 2007 the Commission convened a prehearing conference on the mitigation request.

8 On March 5, 2007, the parties filed a settlement agreement and a narrative supporting the settlement agreement.

9 **SETTLEMENT AGREEMENT.** Under the terms of the settlement agreement, MCImetro acknowledges that the alleged violations occurred.² The parties agree that MCImetro will pay to the Commission \$42,500, one half of the amount originally assessed.³ Furthermore, MCImetro agrees to comply with all applicable Commission rules and statutes in future.⁴

10 In the narrative supporting the settlement agreement, the parties state that because this is not a complex matter, they request the Commission to review the agreement without a hearing. The parties also waive entry of an initial order.⁵ The parties recommend that the settlement satisfies the Commission's public interest concerns because MCImetro acknowledges all the violations, pays a significant monetary

² Settlement Agreement, ¶ 11.

³ *Id.*

⁴ *Id.*, ¶ 13.

⁵ The parties state in their filing that they waive entry of an Initial Order so that the record might be submitted directly to the Commission for entry of a Final Order. The Commission's preferred process requires an Initial Order in proceedings in which the Commissioners do not personally preside. To expedite finality, parties may file a letter with the Commission stating that they waive their right to seek administrative review. The Commission can then determine quickly whether it will review the Initial Order on its own motion. If not, a notice of finality will be promptly served.

penalty, and agrees to comply with all rules and statutes in the future. Moreover, settlement avoids the expense and inconvenience of a hearing.

- 11 **DISCUSSION.** Under WAC 480-07-700 the Commission supports parties' efforts to resolve disputes without the need for contested hearings. The Commission reviews settlements resolving such disputes to determine whether the parties' resolution is lawful and consistent with the public interest.
- 12 In this case, the parties' settlement, for the most part, meets the Commission's public interest concerns. MCImetro acknowledges its violations of Commission rules, pays a substantial penalty and agrees to comply in the future. Also, settlement avoids expenditure of Commission resources because it obviates the need for further hearing. However, the Commission's concerns are not fully alleviated by the settlement as it stands. The Staff's audit report reveals numerous violations by MCImetro of the telecommunications service quality rules. The violations included in the penalty assessment relate to failure to provide a due date when service will be provided; failure to have adequate personnel available during regular business days to address customer complaints; failure to respond to complaints referred to the company by the Commission; failure to stop billing after a customer has terminated service; failure to restore service in one business day; and failure to repair service interruptions within 48 hours.⁶ While the parties state that MCImetro cooperated fully with Staff and improved its systems and processes significantly as a result of the Staff audit,⁷ this alone does not completely support mitigation of these serious violations.
- 13 The Commission concludes that it should only mitigate the remaining half of the assessed penalty if MCImetro can demonstrate its commitment to remaining free of violations for one year. Commission Staff should audit the company one year from the date of this order recommending a further penalty assessment if continuing violations are found, including the remaining half of the penalty assessed in this proceeding.

⁶ Narrative Supporting Settlement Agreement ¶ 7.

⁷ Settlement Agreement ¶¶ 5-6.

ORDER

IT IS ORDERED That the settlement agreement is approved on condition that MCImetro Access Transmission Services LLC remain substantially in compliance with the Commission's service quality rules in WAC 480-120 for one year from the date of this order. Staff must conduct an audit at the conclusion of that year to determine whether further penalties should be assessed, including the remaining \$42,500 of the penalty initially assessed in this proceeding.

Dated at Olympia, Washington, and effective March 9, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

NOTICE TO THE PARTIES:

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for Review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **five (5)** Copies of any Petition or Answer must be filed by mail delivery to:

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