

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

In the Matter of the Request of	)	DOCKET UT-033063
	)	
MCIMETRO ACCESS	)	ORDER 05
TRANSMISSION SERVICES, LLC	)	
	)	ORDER APPROVING
and	)	NEGOTIATED FIFTH AMENDED
	)	AGREEMENT ADDING
VERIZON NORTHWEST INC.	)	PROVISIONS FOR THE FEDERAL
	)	COMMUNICATIONS
For Approval of Negotiated Agreement	)	COMMISSION TRIENNIAL
Under the Telecommunications Act of	)	REVIEW ORDER AND ORDER ON
1996	)	REMAND
.....	)	

**BACKGROUND**

- 1 This matter comes before the Washington Utilities and Transportation Commission (Commission) for approval of a negotiated fifth amended agreement (Amended Agreement) under the Telecommunications Act of 1996 (Telecom Act).<sup>1</sup> The Amended Agreement is between MCImetro Access Transmission Services, LLC (MCImetro), and Verizon Northwest Inc. (Verizon). The Commission approved an interconnection agreement between the parties on December 31, 2003. The Commission ordered that in the event the parties amended their agreement, the amended agreement would be deemed a new agreement under the Telecom Act and must be submitted to the Commission for approval.
  
- 2 In Docket UT-043013 Verizon petitioned to amend its interconnection agreements with competitive local exchange carriers (CLECs) and commercial mobile radio service providers (CMRS) to address changes in interconnection obligations as a result of the Federal Communications Commission’s (FCC) Triennial Review Order in CC Docket Nos. 01-338, 96-98 and 98-147 (TRO). During the course of Docket UT-043013, portions of the TRO were subsequently vacated and remanded. In response, the FCC released its Order on Remand in WC Docket No. 04-313 and CC Docket No. 01-338 (TRRO).
  
- 3 In paragraphs 147-150 of Order 17, the Arbitrator’s Report and Decision in Docket UT-043013, the Arbitrator rejected Verizon’s proposed Circuit Retag fee included in its

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<sup>1</sup> Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56 (1996).

amendment pricing attachment, Exhibit A, for conversions from wholesale to unbundled network elements (UNEs) because Verizon provided no back-up information or cost model to support its proposal. The Arbitrator accepted in Order 17 the CLEC's argument that conversions from wholesale to UNEs require only a billing change. Verizon did not propose a charge in Exhibit A where the CLEC chooses to disconnect a UNE rather than convert to an alternative arrangement. The Arbitrator ruled that Verizon must first demonstrate that a previously approved disconnect fee is applicable to UNE disconnections, and file a tariff or propose a change to Exhibit A prior to charging disconnection or other charges, and must allow CLECs and the Commission an opportunity to address the proposal.

- 4 Verizon petitioned for administrative review of Order 17. In paragraph 23 of its final order, Order 18, the Commission modified a portion of the Arbitrator's decision to reflect that Verizon may assess an already-approved disconnection charge when a CLEC disconnects a UNE. Order 18 left intact the Arbitrator's rulings on the process that Verizon must follow prior to applying such charges: file a tariff or propose a change to Exhibit A, and allow CLECs and the Commission an opportunity to address the proposal. No party filed a petition for reconsideration or appealed the Commission's final order.
- 5 Also during the course of Docket UT-043013, Verizon Communications, Inc. purchased MCI, Inc., (property transfer approved by the Commission in Docket UT-050814), making Verizon and MCI metro affiliated interests as defined by RCW 80.16.010. On July 13, 2006, MCI metro and Verizon requested leave for MCI metro to withdraw from Docket UT-043013. The Commission granted the request, but required MCI metro and Verizon to file a negotiated amendment to the interconnection agreement within 30 days of the effective date of Order 19, February 1, 2007.
- 6 On March 5, 2007, in Docket UT-043013, Verizon and MCI metro Access filed an interconnection agreement amendment in compliance with Order 19. The Commission's Records Center recorded the title of that filing as "Draft Fifth Amendment Verizon." Draft Fifth Amendment Verizon has placeholder lines for certain services with prices "to be determined" (TBD). The Commission approved the compliance filing in paragraph 28 of Order 20 .

- 7 On April 30, 2007, in Docket UT-033063, Verizon and MCImetro filed a Fifth Amendment to their interconnection agreement. Their amendment continues to list placeholder services with TBD prices.
- 8 Section 252(a)(1) of the Telecom Act requires that interconnection agreements “include a detailed schedule of itemized charges for the interconnection and each service or network element included in the agreement.”
- 9 RCW 80.16.020 requires that every public service company file with the commission its contracts, arrangements and amendments to contracts and arrangements entered into with its affiliated interests prior to the effective date of the contract, arrangement or amendment.
- 10 Exhibit A to the Fifth Amendment provides a helpful list of the types of services that could be provided consistent with prior orders in Docket UT-043013. To be clear, with this order the Commission does not authorize the provision of the TBD services listed in Exhibit A. Rather, pursuant to 47 USC Section 252(a)(1), RCW 80.16.020 and prior orders in Docket UT-043013, if and when the parties have settled on a rate for a service, the parties must file a new amendment that specifies the rate.

### **FINDINGS AND CONCLUSIONS**

- 11 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate public service companies, including telecommunications companies. *RCW 80.01.040; RCW 80.04 and RCW 80.36.*
- 12 (2) Section 252(e)(1) of the Telecom Act requires parties to a negotiated agreement to submit the agreement to the Commission for approval. Section 252(e)(2)(A) states that the Commission may only reject an agreement (or any portion thereof) adopted by negotiation if it finds that:
- (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
  - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

- 13 (3) Verizon is a public service company engaged in the business of furnishing telecommunications services including, but not limited to, basic local exchange service within the state of Washington.
- 14 (4) MCImetro is authorized to provide telecommunications services to the public in the state of Washington.
- 15 (5) The Commission approved an interconnection agreement between the parties on December 31, 2003. The Commission ordered that in the event the parties amended their agreement, the amended agreement would be deemed a new agreement under the Telecom Act and must be submitted to the Commission for approval.
- 16 (6) On April 30, 2007, the parties filed with the Commission a joint request for approval of a fifth amendment to the previously approved interconnection agreement, pursuant to the Telecom Act.
- 17 (7) The Amended Agreement between MCImetro and Verizon was brought before the Commission at its regularly scheduled meeting on July 25, 2007.
- 18 (8) The Amended Agreement meets the requirements of Sections 251 and 252 of the Telecom Act, including Section 252(e).
- 19 (9) The laws and regulations of the state of Washington and Commission Orders govern the construction and interpretation of the Amended Agreement. The Amended Agreement is subject to the jurisdiction of the Commission.
- 20 (10) Pursuant to 47 USC Section 252(a)(1) and RCW 80.16.020, the parties to interconnection agreements must file the schedule of itemized charges for each service or network element.
- 21 (11) Pursuant to RCW 80.16.020, public service companies must file their affiliated interest contracts, arrangements and amendments prior to the effective date of the contract, arrangement or amendment.

- 22 (12) After examination of the proposed Amended Agreement filed by Verizon and  
MCImetro on April 30, 2007, and giving consideration to all relevant matters, the  
Commission finds the proposed Amended Agreement should be approved.

**ORDER**

23 **THE COMMISSION ORDERS:**

- 24 (1) The Amended Agreement between MCImetro Access Transmission Services,  
LLC and Verizon Northwest Inc., which the parties filed on April 30, 2007, is  
approved and effective as of the date of this Order.
- 25 (2) In the event that the parties revise, modify, or amend the agreement approved in  
this Order, the revised, modified, or amended agreement will be deemed to be a  
new agreement under the Telecom Act and must be submitted to the Commission  
for approval, pursuant to 47 U.S.C. § 252(e)(1) and relevant provisions of state  
law, prior to taking effect.
- 26 (3) The laws and regulations of the state of Washington and Commission Orders  
govern the construction and interpretation of the Amended Agreement. The  
Amended Agreement is subject to the jurisdiction of the Commission.

The Commissioners, having determined this Order to be consistent with the public  
interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective July 25, 2007.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**CAROLE J. WASHBURN, Executive Secretary**