

SERVICE DATE

MAY 16 1997

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Request for the)	
Adoption of An Approved)	
Interconnection Agreement Between)	DOCKET NO. UT-960364
)	
U.S. Long Distance, Inc. and)	ORDER APPROVING ADOPTION OF
US WEST Communications, Inc.)	APPROVED INTERCONNECTION
)	AGREEMENT
Pursuant to 47 USC § 252)	
)	
.....)	

MEMORANDUM

I. Procedural History

On August 21, 1996, U.S. Long Distance, Inc. ("USLD"), requested negotiations with U S WEST Communications, Inc. ("USWC"), for interconnection under the terms of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56, codified at 47 USC § 151 et seq. (1996) ("the Act").

Prior to USLD's request for negotiation, MFS Communications Company, Inc. ("MFS"), also requested negotiation with USWC for interconnection under the terms of the Act on February 8, 1996, in Docket No. UT-960323.

A hearing was held in Docket No. UT-960323 before an arbitrator on September 18 and 19, 1996, at the offices of the Commission in Olympia, Washington. On November 8, 1996, the Arbitrator's Report and Decision was issued resolving the disputed issues presented by the parties in Docket No. UT-960323. The parties were instructed to submit an interconnection agreement in accordance with the Arbitrator's Report and Decision within 30 days.

On December 9, 1996, MFS filed a Memorandum Requesting Approval of Arbitrated Interconnection Agreement, and the parties filed a signed Arbitrated Interconnection Agreement for the State of Washington. The Commission reviewed the proposed Arbitrated Interconnection Agreement, the issues presented by the Arbitration Report and Decision, the parties filings and the record in Docket No. UT-960323 in an open public meeting on January 6, 1997. At the conclusion of the open meeting, the Commission approved all provisions of the Arbitrated Interconnection Agreement as submitted and directed that a written order reflecting that approval be prepared.

On January 8, 1997, the Commission issued Order Approving Negotiated and Arbitrated Interconnection Agreement in Docket No. UT-960323.

On May 6, 1997, USLD and USWC jointly filed Agreement to Adopt Arbitrated Interconnection Agreement and an interconnection agreement ("Agreement") which is the exact agreement approved by the Commission on January 8, 1997, except that USLD has been substituted for MFS, and the USLD address for notice replaces the MFS address (XXXIV. GG., p. 92).

On May 16, 1997, the Commission convened an open public meeting at its offices in Olympia, Washington, to consider USLD's request to adopt the MFS interconnection agreement. Commission Staff recommended that the request for adoption be approved. At the conclusion of the open meeting, the Commission approved the request to adopt the interconnection agreement as submitted.

II. Generic Pricing Proceeding

On October 23, 1996, the Commission entered an Order in Docket No. UT-960323 and other then pending arbitration dockets ordering that a generic proceeding be initiated to review costing and pricing issues for interconnection, unbundled network elements, transport and termination, and resale¹. The Commission stated that rates adopted in the pending arbitrations would be interim rates, pending the completion of the generic proceeding. Accordingly, the price proposals made in the MFS/USWC arbitration were reviewed with the goal of determining which offered a more reasonable interim rate. The conclusions of the arbitrator with respect to price proposals and supporting information were made in that context and do not necessarily indicate Commission approval or rejection of cost and price proposals for purposes of the generic case. Adoption of an interconnection agreement containing interim rates which are subject to the outcome of the generic case is also subject to the outcome of the generic case.

III. The Eighth Circuit Order and the FCC Rules

¹Order on Sprint's Petition to Intervene and to Establish Generic Pricing Proceeding (October 23, 1996)("Generic Pricing Order")

The FCC rules² implementing the local competition provisions of the Act have been appealed and those rules relating to costing and pricing have been stayed by the United States Court of Appeals for the Eighth Circuit.³ The Commission Order in Docket No. UT-960323, and this Order, adhere to the provisions of the FCC report and order not subject to stay. Those provisions which are subject to stay do not require compliance pending resolution of the underlying appeal. This Commission is free, therefore, to disregard those specific federal requirements. However, the stay does not preclude reference to underlying rationale and analysis contained in the FCC report and order for whatever value it may have on its merits.

Having considered the interconnection agreement and the Commission Order Approving Agreement in Docket No. UT-960323, the Agreement to Adopt Arbitrated Interconnection Agreement and the Agreement between the parties in this matter, the Commission makes the following findings and conclusions.

FINDINGS OF FACT

1. The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate in the public interest the rates, services, facilities, and practices of telecommunications companies in the state.

2. The Washington Utilities and Transportation Commission is designated by the Telecommunications Act of 1996 as the agency responsible for arbitrating and approving interconnection agreements between telecommunications carriers, pursuant to Sections 251 and 252 of the Act.

3. U S WEST Communications, Inc., is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington, and is a local exchange carrier as defined in the Act.

4. U.S. Long Distance, Inc. is a telecommunications carrier as defined in the Act, and is operating or intends to operate within the State of Washington, and intends to provide basic local exchange services within the USWC service area.

²*In the Matter of the Implementation of the Local Competition Rules of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order (August 8, 1996), Appendix B- Final Rules.

³*Iowa Utilities Board et al. v. FCC*, No. 96-3321, Order Granting Stay Pending Judicial Review (8th Cir. Oct. 15, 1996). The order also stays the "MFN" rule.

5. On December 9, 1996, MFS filed a Memorandum Requesting Approval of Arbitrated Interconnection Agreement and the parties filed a signed Arbitrated Interconnection Agreement for the State of Washington in Docket No. UT-960323. The Commission reviewed the proposed Arbitrated Interconnection Agreement, the issues presented by the Arbitration Report and Decision, the parties filings and the record in Docket No. UT-960323 in an open meeting on January 6, 1997. At the conclusion of the open meeting, the Commission approved all provisions of the Arbitrated Interconnection Agreement as submitted and directed that a written order be prepared. On January 8, 1997, the Commission issued Order Approving Negotiated and Arbitrated Interconnection Agreement in Docket No. UT-960323.

6. On May 6, 1997, USLD and USWC jointly filed Agreement to Adopt Arbitrated Interconnection Agreement and an interconnection agreement ("Agreement") which is the exact agreement approved by the Commission on January 8, 1997, except that USLD has been substituted for MFS, and the USLD address for notice replaces the MFS address (XXXIV. GG., p. 92). The Agreement is consistent with the terms and conditions provided in the MFS/USWC interconnection agreement approved by the Commission pursuant to section 252 of the Act.

7. The Commission has previously determined that the provisions of the Agreement meet the requirements of section 251 and 252 of the Act, including the regulations prescribed by the Federal Communications Commission pursuant to section 251 which have not been stayed, and the pricing standards set forth in section 252(d) of the Act. Furthermore, the Commission previously has determined that the provisions of the Agreement do not discriminate against a telecommunications carrier not a party to the agreement and are consistent with the public interest, convenience, and necessity.

8. The Commission has reviewed and analyzed the Commission Staff recommendation, the Agreement to Adopt Arbitrated Interconnection Agreement, the Agreement, the filings of the parties, and the record herein.

9. The Agreement to Adopt Arbitrated Interconnection Agreement filed by the parties expressly states that it shall not merge into the Interconnection Agreement between the parties, and states that it constitutes a separate and complementary agreement between the parties.

10. The Agreement will facilitate local exchange competition in the state of Washington by enabling USLD to enter the local exchange market and provide customers with increased choices among local exchange services.

11. On May 16, 1997, the Commission convened an open public meeting at its offices in Olympia, Washington, to consider USLD's request to adopt the MFS interconnection agreement. Commission Staff recommended that the request for

adoption be approved. At the conclusion of the open meeting, the Commission approved the request to adopt the interconnection agreement as submitted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties to this proceeding.
2. USWC is engaged in the business of furnishing telecommunications services, including, but not limited to, basic local exchange service within the state of Washington, and is a local exchange carrier as defined in the Act.
3. USLD is a telecommunications carrier as defined in the Act, and is operating or intends to operate within the State of Washington, and intends to provide basic local exchange services within the USWC service area.
4. The Washington Utilities and Transportation Commission is designated by the Telecommunications Act of 1996 as the agency responsible for arbitrating and approving interconnection agreements between telecommunications carriers, pursuant to Sections 251 and 252 of the Act.
5. Pursuant to section 252(i) of the Act, a local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under section 252, to which it is a party, to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.
6. The interconnection agreement between MFS and USWC was approved by Commission Order in Docket No. UT-960323 on January 8, 1997, and is available to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the interconnection agreement.
7. The Agreement between USLD and USWC is consistent with the same terms and conditions as those provided in the MFS/USWC interconnection agreement approved by the Commission in Docket No. UT-960323.
8. The Agreement to Adopt Arbitrated Interconnection Agreement filed by the parties expressly states that it shall not merge into the Interconnection Agreement between the parties, and expressly states that it constitutes a separate and complementary agreement between the parties.
9. Commission approval of the request to adopt an interconnection

agreement upon the same terms and conditions as previously approved by the Commission does not require the approval of a separate and complementary agreement between the parties.

10. The Agreement between USLD and USWC is otherwise consistent with the Act, Washington law, and orders and policies of this Commission.

ORDER

THE COMMISSION ORDERS:

1. The request by USLD to adopt the interconnection agreement between MFS and USWC, as approved by the Commission in Docket No. UT-960323, is approved.

2. The prices contained in the Agreement are interim prices, subject to replacement by prices adopted in the Commission's generic cost and price proceeding, Docket No. UT-960369, *et al.*

3. In the event that the parties revise, modify, or amend the Agreement approved herein, the revised, modified, or amended Agreement shall be deemed a new negotiated agreement under the Telecommunications Act and shall be submitted to the Commission for approval, pursuant to 47 USC § § 252(e)(1) and relevant provisions of state law, prior to taking effect.

DATED at Olympia, Washington, and effective this 16th day of May 1997.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner