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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by MCI for)
arbitration of certain terms and)
conditions of a proposed agreement)
with GTE Florida, Incorporated)
concerning interconnection and resale)
under the Telecommunications Act of)
1996)
_____)

Docket No. 960980-TP

Filed: August 26, 1996

MCI's MOTION TO ESTABLISH PROCEDURE
FOR "MEDIATION PLUS"

MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (collectively, "MCI") hereby move the Commission to establish a Mediation Plus procedure for the arbitration of a set of technical, operational, and administrative issues on which MCI believes that it and GTE Florida Incorporated ("GTEFL") may be able to reach a negotiated agreement without an arbitrated decision by the Commission.

1. MCI is today filing its petition pursuant to Section 252(d) of the Telecommunications Act of 1996 (Act) for arbitration of unresolved issues between itself and GTEFL. Although negotiations continue, there are many issues on which the parties have not yet reached agreement.

2. MCI is also today filing its motion for consolidation, asking that the proceeding on the MCI/GTEFL arbitration petition be consolidated with the pending proceeding on the AT&T/GTEFL arbitration petition.

3. The unresolved issues between MCI and GTEFL include a number of major issues, such as the menu of network elements to

be unbundled, the price of unbundled elements, the scope of services that must be available for resale, and the appropriate wholesale price level for resold services. Unless GTEFL's position on some of these items changes as a result of the FCC's recent order, these issues will clearly need to be litigated and resolved by the Commission.¹

4. The unresolved issues also include numerous other technical, operational, and administrative issues.² GTEFL and MCI may have reached agreement in principle on some of these other issues, but those agreements have not been fleshed-out in detail nor incorporated into specific contractual language. At this time, MCI must therefore treat them as unresolved within the meaning of the Act. MCI is optimistic that with the proper Commission-mandated and supervised mechanism in place, many of these items can still be resolved by negotiations, without the necessity for resolution by the Commission.

5. Nevertheless, because of the potentially inflexible arbitration provisions and timetables contained in Act, MCI has requested arbitration of all unresolved issues, including those identified for the Mediation Plus arbitration procedure described below, in order to preserve its right to obtain a final

¹ MCI believes that these generally are issues that also remain unresolved between AT&T and GTEFL.

² These include issues such as the provision of support for intercompany 64kbps clear channel signalling, the reporting to MCI of all ALIT/SLIT (Auto/Subscriber Line Test) failures that occur on MCI's customers' lines, and the details of arrangements for billing resold GTEFL services.

arbitrated Commission decision within the federal statutory time frame.

6. The Act does not dictate the specific procedures to be followed by state commissions in conducting arbitration proceedings, but instead leaves wide discretion to the states. The procedures and time table that the Commission has established for the AT&T/GTEFL docket with which MCI has requested consolidation are well-suited to the resolution of the major issues. The application of those procedures to the multitude all of the other technical, operational and administrative issues, however, could result in overburdening the Commission with detailed issues that may yet be capable of negotiated settlement by the parties.

7. MCI therefore proposes that the Commission establish a Mediation Plus arbitration procedure to be followed as part of the overall arbitration process. Under Mediation Plus, the Commission would:

(a) accept all issues for arbitration, but bifurcate the proceeding and refer certain issues to a separate portion of the docket to be resolved through a Mediation Plus arbitration procedure;

(b) direct the parties to continue to negotiate these detailed technical, operational and administrative issues with the assistance of a mediator, preferably a member of the Commission staff,

(c) establish milestones for written progress reports to the Commission and a firm deadline for the conclusion of those negotiations,

(d) require the parties to file with the Commission for approval any agreement that results from the negotiations, and

(e) arbitrate and decide, by the 9-month deadline (January 3) applicable to MCI/GTEFL, any detailed technical and operational issues which the parties do not resolve through Mediation Plus.

8. Under Mediation Plus, MCI proposes that the current hearing schedule for the AT&T/GTEFL docket be used to address the major issues which will clearly require Commission resolution.³ For the technical, operational and administrative issues identified in MCI's petition for arbitration as Mediation Plus issues, MCI requests that the Commission:

(a) establish an October 18, 1996 deadline for the conclusion of the Mediation Plus negotiations, together with a series of earlier progress reporting dates;

(b) establish an October 25, 1996 deadline for the parties to file with the Commission any agreement that results from the negotiations, together with supplemental testimony addressing any issues that remain unresolved; and

³ MCI believes that the bulk of these issues are common to the MCI and AT&T arbitrations, and they therefore can be disposed of by the 9-month deadline applicable to AT&T.

(c) schedule an additional hearing date or dates in early November to consider these issues on a schedule which is consistent with a final decision by the January 3, 1997 federal deadline.

Because the issues that have been identified for Mediation Plus are generally more detailed than the issues that AT&T has submitted for arbitration, the use of the Mediation Plus procedure to attempt to resolve these MCI-specific issues should have no effect on MCI's request for consolidation of the MCI and AT&T proceedings.

9. MCI believes that this bifurcated, parallel path procedure -- a typical Commission hearing on the major issues together with Commission-supervised mediation followed, if necessary, by a typical Commission hearing on the other unresolved issues -- is the most efficient way to resolve the numerous issues that MCI has submitted for arbitration.

WHEREFORE, MCI moves that the Commission approve the Mediation Plus proposal set out above.

RESPECTFULLY SUBMITTED this 26th day of August, 1996.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by hand delivery this 26th day of August, 1996.

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