

OPEN MEETING ITEM



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MEMORANDUM

RECEIVED  
AZ CORP COMMISSION

Dec 11 4 10 PM '96

TO: THE COMMISSION

FROM: Utilities Division

DOCUMENT CONTROL

DATE: December 10, 1996

RE: IN THE MATTER OF THE PETITION OF TCG PHOENIX FOR ARBITRATION PURSUANT TO SECTION 252 (b) OF THE TELECOMMUNICATIONS ACT OF 1996 TO ESTABLISH AN INTERCONNECTION AGREEMENT WITH U S WEST COMMUNICATIONS, INC. (DOCKET NOS. U-3016-96-402 AND E-1051-96-402)

On July 17, 1996, TCG Phoenix (TCG) filed with the Arizona Corporation Commission (Commission), a petition for arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 (Act) to establish an interconnection agreement with U S WEST Communications, Inc. (U S WEST). The Federal Telecommunications Act of 1996 directed incumbent local exchange carriers to make their networks available for interconnection to new entrants to the local exchange market. The Act provided for Interconnection Agreements to be concluded by voluntary agreement. If the parties could not successfully negotiate all of the rates, terms, and conditions of an interconnection agreement, any party could request the Commission to arbitrate any open issues.

On October 29, 1996, the Commission issued Decision No. 59873, setting forth its resolution of the issues in dispute and directing the parties to file a written Interconnection Agreement within thirty days containing the terms and conditions of interconnection, including both those items that were voluntarily resolved between the parties and those on which the Commission directed a resolution. On November 29, 1996, the parties filed the Agreement. On December 6, the parties filed a substitute Agreement that contained some items that were not included in the originally-submitted Agreement due to time constraints.

According to the Federal Act and State Rule, the Commission must approve (or reject) the final Interconnection Agreement, deciding if its voluntarily-negotiated provisions are non-discriminatory and in the public interest. The Commission must also decide whether the arbitrated provisions are in compliance with the provisions of the Federal Act.

In the Arbitration Proceedings, conducted by the Commission's Hearing Division, only those matters in dispute were considered and included in Decision No. 59873. The Hearing Division has reviewed the Interconnection Agreement between TCG and U S WEST insofar as the issues subject to arbitration are concerned and has indicated that it is in compliance with Decision No. 59873 and that there are no grounds for rejection pursuant to Section 252(e)(2)(B) of the Act. Staff has reviewed the voluntarily-negotiated provisions of the Interconnection

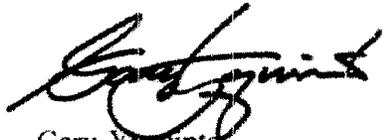
THE COMMISSION

December 10, 1996

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Agreement, that were not part of the Arbitration Proceedings, and has found them to be non-discriminatory and in the public interest. U S WEST and TCG have indicated that the negotiated provisions of the Interconnection Agreement are non-discriminatory and in the public interest.

Since the voluntarily negotiated portions of the Interconnection Agreement are non-discriminatory and in the public interest, and the arbitrated provisions are in conformance with Decision No. 59873 and that there are no grounds for rejection pursuant to Section 252(e)(2)(B) of the Act, Staff recommends that the Interconnection Agreement between TCG Phoenix and U S WEST be approved.



Gary Yaquinto  
Director  
Utilities Division

GY:DPJ:llh/DRS

ORIGINATOR: David P. Jankofsky

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

RENZ D. JENNINGS  
CHAIRMAN  
MARCIA WEEKS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

IN THE MATTER OF THE PETITION OF TCG )  
PHOENIX ARBITRATION PURSUANT TO )  
§ 252(b) OF THE TELECOMMUNICATIONS )  
ACT OF 1996 TO ESTABLISH AN INTER- )  
CONNECTION AGREEMENT WITH U S )  
WEST COMMUNICATIONS, INC., )  
PURSUANT TO § 252(b) OF THE TELE- )  
COMMUNICATIONS ACT OF 1996. )

DOCKET NO. U-3016-96-402  
DOCKET NO. E-1051-96-402

DECISION NO. \_\_\_\_\_

**ORDER**

Open Meeting  
December 17, 1996  
Phoenix, Arizona

**BY THE COMMISSION:**

On July 17, 1996, TCG Phoenix (TCG) filed with the Arizona Corporation Commission (Commission), a petition for arbitration pursuant to § 252(b) of the Telecommunications Act of 1996 (Act) to establish an interconnection agreement with U S WEST Communications, Inc. (U S WEST).

The Federal Telecommunications Act of 1996 directed incumbent local exchange carriers to make their networks available for interconnection to new entrants to the local exchange market. The Act provided for Interconnection Agreements to be concluded by voluntary agreement. If the parties could not successfully negotiate all of the rates, terms, and conditions of an interconnection agreement, any party could request the Commission to arbitrate any open issues.

On October 29, 1996, the Commission issued Decision No. 59873, setting forth its resolution of the issues in dispute and directing the parties to file a written Interconnection Agreement within thirty days containing the terms and conditions of interconnection, including both those items that were voluntarily resolved between the parties and those on which the Commission

1 directed a resolution. On November 29, 1996, the parties filed the Agreement. On December 6,  
2 1996, the parties filed a substitute Agreement that contained some items that were not included  
3 in the originally-submitted Agreement due to time constraints.

4 According to the federal act and state rule, the Commission must approve (or reject) the  
5 final Interconnection Agreement, deciding if its voluntarily-negotiated provisions are non-  
6 discriminatory and in the public interest. The Commission must also decide whether the  
7 arbitrated provisions are in compliance with the provisions of the Act.

8 In the arbitration proceedings conducted by the Commission's Hearing Division, only those  
9 matters in dispute were considered and included in Decision No. 59873. The Hearing Division  
10 has reviewed the Interconnection Agreement between TCG and U S WEST in so far as the issues  
11 subject to arbitration are concerned and has indicated that it is in compliance with  
12 Decision No. 59873 and that there are no grounds for rejection pursuant to § 252 (e)(2)(B) of the  
13 Act.

14 Staff has reviewed the voluntarily-negotiated provisions of the Interconnection Agreement,  
15 that were not part of the arbitration proceedings, and has found them to be non-discriminatory  
16 and in the public interest. Both U S WEST and TCG have indicated that the negotiated  
17 provisions of the Interconnection Agreement are non-discriminatory and in the public interest.

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Commission finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. TCG has applied to the Commission for authority to provide competitive  
22 telecommunications services to the public in Arizona.

23 2. U S WEST is certificated to provide local exchange and intraLATA  
24 telecommunications services to the public in Arizona pursuant to Article XV of the Arizona  
25 Constitution.

26 3. On July 17, 1996, TCG filed a petition for arbitration to establish an Interconnection  
27 Agreement, pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996.

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Decision No. \_\_\_\_\_

1           4. Arbitration proceedings regarding the disputed issues commenced September 18, 1996,  
2 at the Commission's offices in Phoenix.

3           5. In the arbitration proceedings, which were conducted by the Commission's Hearing  
4 Division, only those matters in dispute were considered.

5           6. On September 30, 1996, each party submitted a closing memorandum, which  
6 summarized the issues still unresolved and presented each party's proposed resolution of the  
7 issues.

8           7. On October 29, 1996, the Commission issued Decision No. 59873, setting forth its  
9 resolution of the issues in dispute and directing the parties to file a written Interconnection  
10 Agreement within thirty days. The Interconnection Agreement was to incorporate the issues as  
11 resolved by the Commission.

12           8. On November 29, 1996, the parties filed the Interconnection Agreement. On  
13 December 6, 1996, the parties filed an amended Interconnection Agreement that contained some  
14 provisions that were not included in the originally submitted Interconnection Agreement due to  
15 time constraints. In addition to the issues resolved by the arbitration, the Interconnection  
16 Agreement contained provisions that were resolved by the parties pursuant to negotiation.

17           9. Pursuant to 47 U.S.C. § 252(e)(2)(A), the Commission must determine whether an  
18 agreement (or any portion thereof) adopted by negotiation is nondiscriminatory as to  
19 telecommunications carriers not parties to the Interconnection Agreement and that the  
20 implementation of such agreement or portion thereof is consistent with the public interest,  
21 convenience, and necessity.

22           10. Pursuant to 47 U.S.C. § 252 (e)(2)(B), the Commission must determine whether an  
23 agreement (or any portion thereof) adopted by arbitration meets the requirements of 47 U.S.C.  
24 § 251, F.C.C. regulations, and the standards set forth in 47 U.S.C. § 252 (d).

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1 11. Staff has reviewed the Interconnection Agreement and has determined that the  
2 negotiated portions do not discriminate against telecommunications carriers not parties to the  
3 agreement, and that the implementation of such negotiated portions are consistent with the public  
4 interest, convenience and necessity.

5 12. U S WEST and TCG have both indicated that the voluntarily-negotiated provisions  
6 of the Interconnection Agreement are non-discriminatory and in the public interest.

7 13. The Hearing Division has reviewed the Interconnection Agreement as to the issues  
8 subject to arbitration and has indicated that the agreement is in compliance with Commission  
9 Decision No. 59873, and has determined that the portions adopted by arbitration pursuant to 47  
10 U.S.C. § 252 (b), meet the requirements of 47 U.S.C. § 251, federal and state regulations, and  
11 the standards set forth in 47 U.S.C. § 252 (d).

12 **CONCLUSIONS OF LAW**

13 1. TCG is a public service corporation within the meaning of Article XV of the Arizona  
14 Constitution.

15 2. TCG is a telecommunications carrier within the meaning of 47 U.S.C. § 252.

16 3. U S WEST is a public service corporation within the meaning of Article XV of the  
17 Arizona Constitution.

18 4. U S WEST is an incumbent local exchange carrier (ILEC) within the meaning of 47  
19 U.S.C. § 252.

20 5. The Commission has jurisdiction over TCG and U S WEST and the subject matter  
21 of the Interconnection Agreement.

22 6. The Commission's approval of the Interconnection Agreement is just and reasonable,  
23 meets the requirements of the Act and regulations prescribed by the FCC pursuant to the Act, and  
24 is in the public interest.

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**PROPOSED AMENDMENT**

RECEIVED  
AZ CORP COMMISSION

DEC 16 3 19 PM '96

COMPANY: MFS Communications Co., Inc.  
U S West Communications, Inc.

AGENDA NO.: U-18

DOCUMENT CONTROL

DOCKET NOS.: U-2752-96-362 & E-1051-96-362

OPEN MEETING DATE: 12/17/96

PREPARED BY: Barbara M. Behun, Hearing Officer

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Page 3, Line 26, INSERT new Finding of Fact No. 13 and renumber to conform:

"13. On December 13, 1996, the parties filed a Notice of Supplemental Interconnection Agreement Language, which included modifications to the Interconnection Agreement submitted by the parties."

Page 3, Line 26 (existing Finding of Fact No. 13), INSERT after "Agreement":

"as modified by the parties in the filing on December 13, 1996,"

Page 4, Line 3 (existing Finding of Fact No. 14), INSERT after "submitted":

"and modified"

Page 4, Line 14 (Conclusion of Law No. 5), INSERT after "Agreement":

"and the modifications filed by the parties on December 13, 1996"

Page 4, Line 15 (Conclusion of Law No. 6), INSERT after "Agreement":

"as modified by the parties on December 13, 1996"

Page 5, Line 3, INSERT after "Agreement":

"as modified by the parties on December 13, 1996"

Page 5, Line 4, INSERT new Ordering paragraph:

" IT IS FURTHER ORDERED that the parties shall file a signed Interconnection Agreement incorporating the modifications filed on December 13, 1996 with Docket Control, within thirty days from the date of this Decision."

Page 5, Line 4:

DELETE: "THEREFORE"

INSERT: "FURTHER"