

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of TCG Omaha,) Application No. C-1379
of Omaha, Nebraska, Petitioning for)
Arbitration Pursuant to Section) Interconnection
252(b) of the Telecommunications) Agreement Approved
Act of 1996 of the Rates, Terms,) As Modified
and Conditions of Interconnection)
with US West Communications, Inc.) Entered: June 4, 1997

BY THE COMMISSION

On February 8, 1996, TCG Omaha (TCG) filed a request for negotiation of an interconnection agreement with US West Communications, Inc. (US West). Pursuant to Section 252(b)(1) of the Telecommunications Act of 1996 (the Act), TCG filed a petition for arbitration with the Commission on July 18, 1996. US West filed its response to the petition, pursuant to Section 252(b)(3) of the Act, on August 12, 1996.

A hearing was held before an Arbitrator on October 14-16, 1996. The Arbitrator's decision was rendered on November 1, 1996, and was subsequently amended on November 8, 1996. Consistent with the Arbitrator's recommended decision, TCG and US West filed an interconnection agreement with the Arbitrator.

The Arbitrator submitted the parties' interconnection agreement to the Commission for approval on February 3, 1997. A hearing was held on the interconnection agreement in the Commission Hearing Room on February 21, 1997, with Commissioner Rod Johnson chairing the proceeding.

On March 4, 1997, the Commission approved in part and rejected in part the Arbitrator's recommended decision. Furthermore, it was ordered that the interconnection agreement containing the terms and conditions as set forth in the order be filed with the Commission for approval within 30 days.

On April 14, 1997, the Commission extended the deadline for the parties to file the final interconnection agreement. A meeting with the Arbitrator, TCG and US West was held on May 2, 1997. Pursuant to the Commission's order, the Arbitrator entered a modified recommended decision on May 5, 1997. The Commission received the final interconnection agreement on May 15, 1997.

On May 30, 1997, US West filed exceptions to the arbitrator's modified decision. TCG filed a motion for oral argument on the issues set forth in the exceptions on June 3, 1997. The Commission granted the motion and the oral argument was held on June 4, 1997.

O P I N I O N A N D F I N D I N G S

Section 252(e) of the Act mandates state commissions to review arbitrated interconnection agreements to ensure they comply with Section 251 and 252(d) of the Act, as well as all applicable state laws. Using those standards, we find the proposed interconnection agreement, filed May 15, 1997, should be approved with the following modifications.

Section IX, paragraphs A(1)(a)(2) and A(1)(a)(3) are not approved. These paragraphs provide for (1) reciprocal compensation of local call termination to be conducted using a bill and keep arrangement and (2) treating TCG's switch as a tandem for purposes of local traffic termination. The Commission's order dated March 4, 1997, stated that the reciprocal compensation for local service should be a bill and keep system for the first year of the agreement. Subsequently, the Nebraska Legislature passed LB 660 effective June 4, 1997, which amends Neb. Rev. Stat. Section 86-803 by adding language restricting the Commission's ability to mandate the use of a bill and keep compensation arrangement. For that reason, the requirement of a bill and keep system for the first year is removed. The Commission also finds that TCG does not have a tandem switch at this time and, therefore, pursuant to Section 252(d), should not be allowed to charge for services it does not provide. Accordingly, the Commission rejects the Arbitrator's recommendation on the tandem issue and directs TCG to be compensated for call termination at the end office termination rate. Therefore, this agreement shall be modified back to the language in the proposed interconnection agreement dated February 7, 1997, whereby Section IX, paragraphs A(1)(a)(2), (3) and (4), page 46, shall read as follows:

(2) If the exchange of local/EAS traffic between the Parties is within a variation of plus or minus 5% (45% to 55%) of balance (as measured quarterly), the Parties agree that their respective call termination charges will offset one another, and no compensation will be paid for calls terminated during the following quarter.

(3) The Parties agree to perform quarterly joint traffic audits, based upon mutually agreeable measurements criteria and auditing standards. In the event that the exchange of traffic is not in balance as described above, the call termination charges in Appendix A will apply.

(4) Notwithstanding the above, the Parties agree to the presumption that traffic is in balance, and agree that no measurement needs to be conducted, until the total traffic exchanged between the Parties exceeds 6 million minutes per month. When the total traffic exchanged between the Parties exceeds 6 million minutes per month, reciprocal compensation shall apply at the rates set forth in Appendix A (unless traffic is in balance per subsection (2) above).

Furthermore, the section in Appendix A titled Interconnection Local - Call Termination Per Minute Use shall be changed to conform with the language in the proposed interconnection agreement dated February 7, 1997. The call termination per minute of use shall be set at the Arbitrator's original recommended price of \$0.003083 (Exhibit A, Page 1 of 6).

All other provisions of the proposed agreement are in compliance with the Act and with applicable state laws. Therefore, this agreement should be approved as modified above.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the interconnection agreement as modified between US West and TCG is hereby approved.

IT IS FURTHER ORDERED that Section IX, paragraphs A(1)(a)(2) and (3), page 46 of the interconnection agreement filed May 15, 1997, be modified as set forth herein and that a final interconnection agreement be filed with the Commission on or before June 13, 1997, to be effective June 16, 1997.

MADE AND ENTERED at Lincoln, Nebraska, this 4th day of June, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s//Rod Johnson

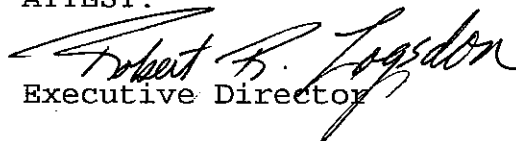
//s//Frank E. Landis

//s//Daniel G. Urwiller

Chairman



ATTEST:


Executive Director

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