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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of )  
MCI METRO ACCESS TRANSMISSION )  
SERVICES, INC. for Authority to )  
Compete as a Telecommunications )  
Corporation and to Offer Local )  
Exchange for Public Telecommunica- )  
tions Services. )

DOCKET NO. 96-095-02

REPORT AND ORDER

ISSUED: January 29, 1997

SYNOPSIS

By this Report and Order, the Public Service Commission of Utah (the "Commission") grants the request of MCImetro Access Transmission Services, Inc. ("MCImetro") for a Certificate of Public Convenience and Necessity ("Certificate") authorizing MCImetro to provide local exchange services and other public telecommunications services within the State of Utah, except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone corporation with fewer than 30,000 access lines within the state. The Commission, having considered the record in this proceeding and the applicable law, hereby makes, adopts, and enters the following Report and Order.

By the Commission:

PROCEDURAL HISTORY

MCImetro filed its Request for Agency Action in this matter on October 15, 1996, pursuant to Utah Code Annotated §§ 54-8b-2.1 and 54-8b-2.3 and Title 63, Chapter 46b of the Utah Administrative Procedures Act. MCImetro filed written testimony, and MCImetro and the Division of Public Utilities ("DPU") jointly filed a written Stipulation to Compliance with Statutory Factors. A hearing was held on December 17, 1996.

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SUMMARY OF EVIDENCE

Michael Hydock, the Western Region Local Competition Manager for MCImetro, filed direct testimony on behalf of MCImetro. Mr. Hydock testified that MCImetro is a wholly owned subsidiary of MCI Telecommunications Corporation ("MCIT"), which is a wholly-owned subsidiary of MCI Communications Corporation ("MCIC"). MCImetro is certificated or has received regulatory authority as a competitive local exchange provider in states of California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Tennessee, Virginia, Washington and Wisconsin. MCImetro is currently providing service through Class 5 switches in Baltimore, Boston, Chicago, Detroit, Philadelphia, Pittsburgh, Seattle, New York, Hartford, Milwaukee, Cleveland, Atlanta, Portland and Orlando.

Mr. Hydock testified that MCImetro has the financial resources necessary to provide the array of local exchange services it seeks to offer in Utah. MCIT and MCIC will provide funds necessary for MCImetro's proposed services. Mr. Hydock also testified that although MCIC and British Telecommunications have proposed a merger of the two entities, MCIC will continue to meet the requirements of MCImetro once the merger is complete.

Mr. Hydock testified that MCImetro has the managerial and technical qualifications necessary to provide local exchange

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services in the state of Utah. He stated that key management officials responsible for MCImetro's activities in Utah have substantial experience in managing the provisions of telecommunication services throughout the United States and around the world. The Public Service Commissions in each state where MCImetro has obtained a certificate have reviewed and approved MCImetro's financial, technical and managerial qualifications.

Mr. Hydock testified that MCImetro plans to install high-reliability fiber rings using synchronous optical networks, digital switches and special application computers, software and databases. MCImetro will provide all of its customers with access to emergency services including 911 and E911 emergency services where available, and will cooperate with existing telecommunications companies and other affected agencies and organizations to arrange for the necessary interconnections to enable efficient completion of these calls. MCImetro's local exchange services will also provide customers the ability to access their choice of long-distance interexchange carriers. In a related proceeding before this Commission, MCImetro has requested the Commission to arbitrate a proposed interconnection agreement with U S West Communications, Inc. ("U S West") for MCImetro to interconnect with U S West and to resell U S West's local exchange services.

Mr. Hydock further testified that the granting of MCImetro's application will serve the public interest by promoting

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competition within the State of Utah and by enhancing the availability and quality of telecommunications services. The development of competition will exert downward measure on prices as competitive telecommunications efficiencies of telecommunications providers achieve greater efficiencies. It will also lead to greater selection, improved quality and wider availability of telecommunications services.

MCImetro and the DPU have stipulated that the testimony and supporting information provided by MCImetro demonstrate that MCImetro has sufficient financial, technical, and managerial resources and abilities to provide the public telecommunications services for which it has applied and that the issuance of the requested Certificate is in the public interest. They also stipulated that MCImetro will comply with the reporting requirements and should be granted the regulatory waivers, set forth in Exhibit "B" to this Report and Order.

FINDINGS OF FACT

1. MCImetro is a Delaware Corporation authorized to do business in Utah. The principal corporate office of MCImetro is at 8521 Leesburg Pike, Vienna, Virginia, 22182. The Utah office of MCImetro is located at 201 South Main Street, Suite 1800, Salt Lake City, Utah, 84145.

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2. MCImetro has requested that the Commission grant a Certificate of Public Convenience and Necessity, authorizing MCImetro to provide local exchange services and other public telecommunications services throughout the state of Utah, except within any local exchange of fewer than 5,000 access lines that is owned or controlled by an incumbent telephone corporation with fewer than 30,000 access lines within the state.
3. MCImetro has the managerial and technical qualifications necessary to provide local exchange services in the state of Utah. Key management officials responsible for MCImetro's activities in Utah have substantial experience in managing the provisions of telecommunication services throughout the United States and around the world. The Public Service Commissions in each state where MCImetro has obtained a certificate have reviewed and approved MCImetro's financial, technical and managerial qualifications.
4. MCImetro has retained the services of experienced telecommunications personnel to oversee and operate its Utah operations. MCImetro also has access to the extensive managerial and technical expertise of its parent company, MCI Telecommunications Corporation, which, through its various divisions and subsidiaries,

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- provides local exchange telecommunications services in suburban and rural areas in the states of California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Tennessee, Virginia, Washington and Wisconsin.
5. MCImetro has sufficient technical resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
  6. MCImetro has sufficient managerial resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
  7. MCImetro has a secure and sufficient source of funding for its Utah operations that will enable MCImetro to meet projected capital and operating expenses and to implement its business plans.
  8. MCImetro has sufficient financial resources and abilities to provide the public telecommunications services for which it has applied for a Certificate.
  9. MCImetro intends to offer a variety of intraexchange and interexchange switched and dedicated services.
  10. All of the intrastate services initially offered by MCImetro will be subject to competition from services

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offered by U S West and other certificated local exchange providers.

11. The issuance of a Certificate to MCImetro to offer the public telecommunications services MCImetro seeks to provide is in the public interest. MCImetro's service offerings will provide customers with a wider range of choices in meeting their telecommunications needs and will support the development of competition which will exert downward pressure on rates for services subject to competition and which will lead to better quality and wider availability of such services. The general welfare and economy of the state will be enhanced by the increased competition that will result from MCImetro's entry into the intrastate telecommunications market.
12. The issuance of a Certificate to MCImetro to provide the public telecommunications services MCImetro seeks to provide is in the public interest.
13. MCImetro and the DPU entered into a Stipulation with respect to the reports to be made by MCImetro to the Commission and the DPU. The substance of the Stipulation is included in Exhibit "B" to this Report and Order and is incorporated by reference.

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14. The reporting requirements in Exhibit "B" are in the public interest and should be binding on MCImetro until modified by the Commission.
15. MCImetro has applied for exemptions from the requirements of various of the provisions of the Utah Code and the Commission's Rules and Regulations. MCImetro and the DPU entered into a Stipulation with respect to exemptions from the requirements of the Utah Code and the Commission's Rules and Regulations. The substance of the Stipulation is included in Exhibit "B".
16. The grant of exemptions from the provisions of the Utah Code and the Commission's Rules and Regulations, as set forth in Exhibit "B", is in the public interest.

CONCLUSIONS OF LAW

1. MCImetro meets each of the statutory requirements (Utah Code §§ 54-8b-2.1, et seq.) for issuance of a Certificate as a telecommunications corporation.
2. MCImetro meets each of the statutory requirements (Utah Code §§ 54-8B-2.1, et seq.) for authorization to provide the public telecommunications services for which it seeks a Certificate.
3. The issuance of a Certificate to MCImetro to provide the public telecommunications services for which it has



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applied is in accord with the legislative policy declarations set forth in Utah Code § 54-8b-1.1.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- A. The Commission hereby grants to MCImetro the Certificate that is attached hereto as Exhibit "A" and by this reference made a part of this Report and Order.
- B. MCImetro shall provide reports to the Commission and to the DPU, as set forth in Exhibit "B" and by this reference made a part of this Report and Order.
- C. MCImetro is made exempt from certain provisions of the Utah Code and the Commission's Rules and Regulations, as set forth in Exhibit "B".
- D. MCImetro is hereby granted the right to interconnect with the essential facilities of U S West and to purchase essential services from U S West on a nondiscriminatory and reasonably unbundled basis consistent with the statute.
- E. MCImetro is hereby granted the right to price its services by means of a price list or competitive contract consistent with the statute.
- F. Subject to the provisions of this Report and Order and the attached Certificate, MCImetro is hereby authorized

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to undertake such additional activities as are necessary  
or incidental to bring into operation its services.

DATED at Salt Lake City, Utah, this 29th day of January,

1997.

/s/ Stephen E. Meham, Chairman

(SEAL)

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

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EXHIBIT "A"

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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CERTIFICATE

ISSUED: January 29, 1997

By the Commission:

The Public Service Commission of Utah, pursuant to Utah Code Ann. §§ 54-8b-2.1, et seq., hereby issues a Certificate of Public Convenience and Necessity authorizing MCImetro Access Transmission Services, Inc. ("MCImetro") to provide local exchange services and other public telecommunications services anywhere within the State of Utah, as described in Exhibits which shall be filed by MCImetro and which shall be effective ten (10) days after filing, except within any local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent telephone company with fewer than 30,000 access lines within the State. The Exhibits shall define the service territory in the State and shall specify the public telecommunications services offered.

MCImetro shall file a revised Exhibit at such time as MCImetro intends to expand or otherwise change the public

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telecommunications services it offers or the geographic area in which it offers a public telecommunications service within the State.

U S West Communications, Inc., the Division of Public Utilities, or the Committee of Consumer Services may file a Request for Agency Action that seeks to expand or contract the definition of MCImetro's service territory as specified in any Exhibit filed in accordance with this Certificate. The mere filing of a challenge to the Exhibit shall not suspend its effectiveness. No suspension or change of an Exhibit can occur without a hearing. No hearing shall be required if a challenge to the Exhibit is not filed. The Commission shall after notice and hearing have the right, jurisdiction and power to require MCImetro to refile the Exhibit in accordance with the Commission's decision on the proper definition of MCImetro's service territory.

DATED at Salt Lake City, Utah, this 29th day of January, 1997.

/s/ Stephen F. Meham, Chairman

(SEAL)

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

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**EXHIBIT "B"**

**Competitive Local Exchange Carrier  
Regulatory Reporting**

MCImetro Access Transmission Services, Inc. ("MCImetro"), as a Competitive Local Exchange Carrier ("CLEC"), shall be required to report periodically to the Utah Public Service Commission ("Commission") and the Division of Public Utilities ("DPU") certain financial and operation information. The scope and nature of the information subject to such reporting, obligation to serve, and other regulatory requirements may be modified over time, as issues needing resolution arise and as competition increases in the Utah telecommunications market. MCImetro initially shall report the following information on an annual basis, should be granted statutory and regulatory waivers, and subject to service obligations as specified below:

**I. Annual Report**

MCImetro shall file an Annual Report, which shall be subject to a Protective Order issued by the Commission, on or before March 31 of each year, unless MCImetro requests and obtains an extension. The Annual Report shall contain the following:

- A. Annual Revenues from operations attributable to the State of Utah by major services categories. Such information would be provided on a "total Utah" and "Utah intrastate" basis. Total Utah will consist

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of the total of interstate and intrastate revenues. Utah Intrastate will reflect only revenues derived from intrastate tariffs, price lists, or contracts. Both Total Utah and Utah Intrastate revenues shall be reported according to at least the following classes of services: (1) private line and special access, (2) business local exchange, (3) residential local exchange, (4) measured interexchange, and (5) vertical services. Business local exchange, residential local exchange, and vertical services revenue will be reported by geographic area, to the extent feasible.

- B. Annual Expenses and Estimated Taxes attributed to operations in the State of Utah.
- C. Year End Balances by Account for Property, Plant, Equipment, Annual Depreciation, and Accumulated Depreciation for telecommunications investment in Utah. The Actual Depreciation Rates which were applied in developing the annual and accumulated depreciation figures shall also be shown.
- D. Financial Statements maintained in accordance with generally accepted accounting principles in the ordinary course of business. These financial statements shall at a minimum include an income

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statement, balance sheet, and statement of cash flows.

- E. List of Services offered to customers and the geographic areas in which those services are offered. This list shall be current and shall be updated whenever a new service is offered or a new area is served.
  - F. Number of Access Lines in Service by geographic area, segregated between business and residential customers.
  - G. Number of Messages and Minutes of Services for measured services billed to end users.
  - H. List of Officers and Responsible Contract Personnel updated annually.
  - I. Chart of Accounts. In addition to the foregoing, MCImetro will provide its chart of accounts as existing and updated (no less than annually). MCImetro will also work with the Division in good faith to develop a method of estimating intrastate expenses and investments.
- II. **Applicable Statutory Provisions and Exemptions from Statutes and Waiver of Regulations**
- As a CLEC, MCImetro should be exempted from the following statutory provisions and regulations:

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A. Exemptions From Title 54

54-3-8, 54-3-19	Prohibitions of discrimination
54-7-12	Rate increases or decreases
54-4-21	Establishment of property values
54-4-24	Depreciation rates
54-4-26	Approval of expenditures

B. Waivers of Regulations

R746-340-2(D)	Uniform System of Accounts (47 CFR 32)
R746-340-2(E)(1)	Tariff filings required
R746-340-2(E)(2)	Exchange Maps
R746-341	Lifeline <sup>1</sup>
R746-344	Rate case filing requirements
R746-401	Reporting of construction, acquisition, and disposition of assets
R746-405	Tariff formats
R746-600	Accounting for post-retirement benefits

## III. Obligations with Respect to Provision of Services

MCImetro agrees to provide resale services within the Utah service areas of U S West. In addition, should MCImetro commence providing its own facilities-based

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<sup>1</sup> This regulation would be waived only until the Commission establishes Lifeline rules that may include MCImetro or until MCImetro begins to provide residential local exchange service.



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telecommunications services, it agrees to provide service within specified geographic areas upon reasonable request and subject to the following conditions:

- A. MCImetro's obligation to furnish service to customers is dependent on the availability of suitable facilities on its network at company designated locations. MCImetro will provide a network route map identifying such locations initially and as MCImetro expands its service. The network route map will be updated no less frequently than annually.
- B. MCImetro will only be responsible for the installation, operation, and maintenance of services that it provides.
- C. MCImetro will furnish service if it is able to obtain, retain and maintain suitable access rights and facilities, without unreasonable expense, and to provide for the installation of those facilities required incident to the furnishing and maintenance of that service.
- D. At its option, MCImetro may require payment of construction or line extension charges by the customer ordering telephone service. Such charges

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- will be in addition to the normal rates and charges applicable to the service being provided.
- E. Where potential customers are so located that it is necessary or desirable to use private and/or government right-of way to furnish service, such potential customers may be required, at MCImetro's option, to provide or pay the cost of providing such right-of-way in addition to any other charges.
- F. All construction of facilities will be undertaken at the discretion of MCImetro, consistent with budgetary responsibilities and consideration for the impact on MCImetro's other customers and contractual responsibilities.

**IV. Modification**

It is anticipated that to the extent such requirements impact competitive entry or impact effective competition that they will be subject to the rulemaking requirements of Utah Code Ann. § 54-8b-2.2. The provisions set forth herein shall be superseded by any such rule adopted by the Commission.