

1           BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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6           In the Matter of the Request ) DOCKET NUMBER:  
7           for Agency Action of MCIMETRO) 96-095-02  
8           ACCESS TRANSMISSION SERVICES,)           REPORTER'S TRANSCRIPT  
9           INC. for Authority to Compete) OF PROCEEDINGS  
10           as a Telecommunications           )           Salt Lake City, Utah  
11           Corporation and to Offer           )  
12           Local Exchange for Public           )  
13           Telecommunications Services. )  
14           December 17, 1996

15

9:15 a.m.

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18           BEFORE:

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STEPHEN F. MECHAM, Chairman, Public Service

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Commission of Utah; and

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CLARK D. JONES, Commissioner, Public

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Service Commission of Utah.

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1 December 17, 1996

9:15 a.m.

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PROCEEDINGS

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5 CHAIRMAN MECHAM: Let's go on the record in  
6 Docket Number 96-095-02 entitled in the matter of the  
7 request for agency action of MCImetro Access  
8 Transmission Services, Inc. for authority to provide  
9 intrastate telecommunications services in the state  
10 of Utah. We are here to take up MCImetro's  
11 application for a certificate of convenience. Let's  
12 take appearances for the record, please.

13 MS. NODA: Laurie Noda for the Division of  
14 Public Utilities.

15 MR. EVANS: William Evans for MCImetro.

16 MR. DIXON: Thomas Dixon also for MCImetro.

17 MR. OWENS: Doug Owens for US WEST  
18 Communications, Inc. as intervenor.

19 CHAIRMAN MECHAM: Thank you. Let's see.  
20 Mr. Evans, are you handling this?

21 MR. EVANS: I think so.

22 MR. DIXON: I'm hoarse.

23 MR. EVANS: You talked him out yesterday.  
24 I guess as an initial matter, we just note that US  
25 WEST, although we're happy to see Doug Owens, we know

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1 they haven't intervened in this docket and wonder how  
2 the Commission will handle that.

3           CHAIRMAN MECHAM: Well, by statute, they  
4 are, as I recall -- I think they're automatic  
5 intervenors. I'm not sure that necessarily means  
6 they don't -- we don't have to do something on the  
7 paper. But I don't have the statute in front of me.  
8 I just remember that wherever there's an application  
9 in an incumbent's territory, they're deemed  
10 intervenors, I think.

11           MR. OWENS: It's 54-8B-2.1 Paragraph 3  
12 Subparagraph B. Each telecommunications corporation  
13 owner and certificate holder to provide public  
14 telecommunications service between the geographic  
15 area where an applicant is seeking to provide  
16 telecommunications service shall be provided notice  
17 of the application and granted automatic status as an  
18 intervenor.

19           I apologize. I think it may have been  
20 the press of other work that kept us from doing what  
21 we ordinarily do, which is to file a petition to  
22 intervene even in spite of that. I hope that hasn't  
23 caused any inconvenience to anyone. But we would ask  
24 you to take official notice of the certificate area  
25 that US WEST serves in the state of Utah and ask that

1 we have the right of an intervenor.

2 CHAIRMAN MECHAM: Well, this one time,  
3 we'll go ahead and follow the statute. All right.  
4 Mr. Evans. It's your client's application. Why  
5 don't we go ahead and -- I note that there is a  
6 stipulation to compliance with statutory factors  
7 that's been filed. I guess it was filed today with  
8 the Commission.

9 MR. EVANS: It was filed this morning. And  
10 we'd offer that in as a joint exhibit with the  
11 Division of Public Utilities.

12 CHAIRMAN MECHAM: All right. Let's do  
13 this. We will mark -- we'll mark that stipulation as  
14 Joint Exhibit 1. And it is a stipulation between  
15 MCImetro and the Division.

16 (Whereupon Joint Exhibit 1 was marked  
17 for identification.)

18 CHAIRMAN MECHAM: Sometimes the Committee  
19 appears on these. I guess that's not true in this  
20 one?

21 MR. EVANS: We had -- they said they were  
22 not participating in this stipulation.

23 CHAIRMAN MECHAM: Okay. Now, I have to  
24 admit I haven't read this stipulation. Does it cover  
25 the same areas that similar stipulations in other

7

1 cases cover?

2 MR. EVANS: I'm told it does. And maybe  
3 the Division -- it would be more appropriate for them  
4 to comment on it.

5 CHAIRMAN MECHAM: It appears to be  
6 formatted exactly the same way, along with the same  
7 sorts of exemptions from statutory provisions that  
8 are on Page 6.

9 MR. EVANS: We understand it's identical in  
10 that regard with the other stipulations that the  
11 Commission has approved for other CLECs.

12 MS. NODA: Yes, it is. The Division has  
13 reviewed it. And it has followed -- it follows  
14 fairly closely to the TCG stipulations and ELI's  
15 stipulations.

16 CHAIRMAN MECHAM: Okay. Is there an  
17 objection to the admission of the stipulation as  
18 Joint Exhibit 1 into the record?

19 MR. OWENS: As in the prior similar cases,  
20 US WEST has no objection. And I wanted to also state  
21 for the record that US WEST has no objection to the  
22 award of a certificate to MCImetro, as it has never  
23 objected to any other applicant.

24 CHAIRMAN MECHAM: Right. That is true.

25 MR. EVANS: Thank you.



1                   CHAIRMAN MECHAM: Okay. We will admit  
2 Joint Exhibit 1.

3                   (Whereupon Joint Exhibit 1 was  
4 admitted into evidence.)

5                   MR. EVANS: I guess there's one more matter  
6 of housekeeping. We filed a motion for a protective  
7 order and a proposed protective order so that we  
8 could produce maps of MCImetro's facilities in Utah  
9 to the Division. They have signed off on Exhibit 8,  
10 the protective order, and we've delivered the  
11 information and are wondering whether the Commission  
12 has entered that order --

13                   CHAIRMAN MECHAM: We haven't. So what  
14 needs to be exchanged that hasn't been?

15                   MR. EVANS: It has been exchanged. So we'd  
16 ask the Commission to enter the order, if there's no  
17 objection.

18                   CHAIRMAN MECHAM: We will issue a  
19 protective order. As Mr. Owens probably can attest,  
20 and he's not alone, there are others out there, there  
21 has been an additional review of our protective order  
22 in an effort to try to take public what can be made  
23 public and to protect those things that must need --  
24 or that must be protected. So I'll just leave it at  
25 that.

1 MR. EVANS: Okay.

2 CHAIRMAN MECHAM: And a protective order  
3 will issue in this case. And your competitively  
4 sensitive information will be protected.

5 MR. EVANS: Okay, thank you. In the  
6 meantime, the personnel from the Division who need to  
7 look at that that have signed on the dotted line on  
8 Exhibit A, we'd expect that they would comply with  
9 the terms even though it hasn't issued yet.

10 MS. NODA: I would.

11 CHAIRMAN MECHAM: I assume they know the  
12 drill.

13 MR. EVANS: It is very limited. Just  
14 relates to conduit locations.

15 CHAIRMAN MECHAM: Okay.

16 MR. EVANS: Okay. We have one witness here  
17 that is prepared to verify his testimony that's been  
18 prefiled. And to respond to cross examination.

19 CHAIRMAN MECHAM: All right. Why don't we  
20 put him on the stand.

21 MR. EVANS: If you'd like to put him on,  
22 let's do that. Michael Hydock is MCI metro's witness.

23 (Whereupon Exhibits MCI 1 and 1.1 were  
24 marked for identification.)

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MICHAEL HYDOCK,

Called as a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. EVANS:

Q Mr. Hydock, you have offered here direct testimony. This is the testimony that you filed in this proceeding?

A Yes, it is.

Q Is this testimony that's been marked MCI 1?

A Yes, it is.

Q And if I asked you the questions that are in that testimony, would your answers be the same today?

A Yes, they would.

MR. EVANS: We would offer MCI 1 in as an exhibit.

CHAIRMAN MECHAM: Is there any objection? We'll admit it.

(Whereupon Exhibit MCI 1 was admitted into evidence.)

1                   MR. EVANS: And if the Commission would  
2 like, Mr. Hydock can summarize his testimony.  
3 Otherwise, we can move on to cross.

4                   CHAIRMAN MECHAM: Why don't you just give a  
5 very succinct summary of your testimony for the  
6 record.

7                   THE WITNESS: All right. My testimony  
8 provides evidence to support the economic, technical,  
9 and managerial capabilities of MCImetro Access  
10 Transmission Services in their desire to provide  
11 local exchange service in the state of Utah. It  
12 covers the economic and financial capabilities of the  
13 corporation, the managerial and technical expertise  
14 of the employees providing services for MCImetro, and  
15 it covers some public interest requirements of  
16 providing local service in Utah.

17                   CHAIRMAN MECHAM: Is there any cross  
18 examination for Mr. Hydock?

19                   MS. NODA: I just have one question.

20

21                                   CROSS EXAMINATION

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23 BY MS. NODA:

24           Q     It concerns the chart of accounts and  
25 whether or not the company can have those to the

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1 Division within 10 days. Is that possible?

2 A Yes, that's possible. We understand our  
3 response to the first data request was somewhat  
4 limited. And we've been discussing that with your  
5 staff, and we would be prepared in 10 days to file a  
6 more extensive response.

7 MS. NODA: Thank you.

8 CHAIRMAN MECHAM: Mr. Owens?

9

10 CROSS EXAMINATION

11

12 BY MR. OWENS:

13 Q Good morning, Mr. Hydock. I'm Doug Owens  
14 for US WEST. Your testimony talks about the pending  
15 acquisition or merger, however you want to  
16 characterize it, between British Telecom and MCI. I  
17 just want a few details, if I could. As I understand  
18 it, British Telecom will be, in effect, acquiring  
19 MCI? Is that right?

20 A It could be categorized as that, yes.

21 Q Okay. After the transaction's completed,  
22 MCI metro will continue as a separate corporation?

23 A That is correct. At that point, as far as  
24 I understand, Metro will be a subsidiary of MCI  
25 Telecommunications, and MCI Telecommunications will

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1 be a subsidiary of the new joint venture concert.

2 Q And would it be fair to say, then, that  
3 managerial policy will essentially be set by the new  
4 concert joint venture?

5 A There will be a incorporation of the  
6 concert venture integrated. And there will be  
7 headquarters in both Washington, D.C. and London,  
8 England of the venture. Primarily, responsibilities  
9 for domestic North American operations will be held  
10 out of the Washington, D.C. office. So essentially,  
11 the current officers and policies of MCI will  
12 continue within the North American region.

13 Q Now, British Telecom would it be fair to  
14 say is the incumbent local exchange and long distance  
15 provider in the United Kingdom?

16 A I believe that's true, yes.

17 Q And would it also be fair to say that the  
18 conditions surrounding competitive entry are  
19 different in the United Kingdom than they are here?

20 A I'm not an expert at that, and I would  
21 hesitate to characterize whether entry is more open  
22 in one place or another. But as I understand, the  
23 regulatory approval of the merger will be dependent  
24 upon the Department of Justice and FCC's viewpoint as  
25 to the openness of the United Kingdom market.

14

1 MR. OWENS: Okay. That's all. Thank you.

2 CHAIRMAN MECHAM: Thank you. Mr. Hydock,  
3 how swiftly, if you know or can tell me, will  
4 MCImetro be prepared to be operational in the state  
5 of Utah?

6 THE WITNESS: Mr. Chairman, Commissioner  
7 Jones, we anticipate the beginning of construction of  
8 fiberoptic facilities during the 1997 calendar year  
9 with a hope of also providing a Class 5 local  
10 exchange switch towards the end of 1997.

11 I think a fair estimate of when we would  
12 start to provide resale unbundled facilities and  
13 facilities based entry would be probably at the  
14 beginning of 1998. And that would be subject to the  
15 results of the arbitration hearings, both in the  
16 current phase and in the costing phase that's coming  
17 up. As well as any other economic aspects of the  
18 state that may come into play.

19 CHAIRMAN MECHAM: What about the plans for  
20 residential service? Are there any?

21 THE WITNESS: Right now, we're trialing  
22 resale for residential service in both Connecticut  
23 and California. We're basically attempting to gain  
24 experience in the operational support systems that  
25 are required to make purchase orders from the

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1 incumbent LEC, transfer those customers over to our  
2 accounts, do the billing for those customers. And  
3 basically try to gain expertise so that we can roll  
4 out more extensively during the 1997 time frame.

5                   So residential is in our plan. It's a  
6 target -- it's a market that we have an internal  
7 business unit called mass markets that derived its  
8 revenue from residential sources. And they have a  
9 business plan in place to attack the residential  
10 market.

11                   CHAIRMAN MECHAM: It's been -- sorry.  
12 Commissioner White?

13                   THE WITNESS: I'm sorry. Looking further  
14 down the road, as we build out facilities, we would  
15 be able to provide more of a facilities based option  
16 for the residential market. But that will come in  
17 time as we fill up our network and build out the  
18 feeder loops to service those outlying areas from the  
19 downtown area.

20                   CHAIRMAN MECHAM: That's been a while since  
21 I've looked at the federal statute on this specific  
22 point. But my recollection is that there's a  
23 prohibition against joint marketing of intra and  
24 interstate services until the Bell Operating  
25 Companies have an opportunity to get into the

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1 interstate -- you know, or interLATA market. But  
2 does that prevent MCI -- I'm not exactly sure on --  
3 how joint marketing is defined. You can offer those  
4 two services?

5 THE WITNESS: That's correct. Our reading  
6 of the act allows us to provide local service through  
7 MCImetro and to provide resale and facilities based  
8 service. The question that is not clear from the act  
9 is how much interrelatedness there's allowed between  
10 our long distance entity and the local entity. But  
11 it does not prevent the local entity from providing  
12 that resold service.

13 We may not be able to, for example,  
14 render a single bill to customers, or we may not be  
15 able to allow our long distance marketing arm to also  
16 market long distance -- local services. Those may be  
17 the exclusions. But the local sales force can still  
18 go out, sell local, whether it be resold service or  
19 facilities based service.

20 CHAIRMAN MECHAM: Okay.

21 COMMISSIONER JONES: You've already  
22 answered my questions.

23 CHAIRMAN MECHAM: Mr. Evans?

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REDIRECT EXAMINATION

BY MR. EVANS:

Q Mr. Hydock, what's your present position with MCImetro Access Transmission?

A I hold the position of local competition policy manager for MCImetro.

Q Is the biography -- does the biography attached to your testimony indicate your credentials?

A Yes, it does.

MR. EVANS: We'd move also for admission of MCI 1.1 that's attached to Mr. Hydock's testimony.

CHAIRMAN MECHAM: All right. Is there any objection to that? We'll admit that as well.

(Whereupon Exhibit MCI 1.1 was admitted into evidence.)

CHAIRMAN MECHAM: Is there anyone here to oppose the petition of MCImetro? It appears not, just looking at the faces I recognize. All right. Let's go off the record just a moment. Thank you, Mr. Hydock.

THE WITNESS: Thank you.

(Whereupon a discussion was held off the record.)

CHAIRMAN MECHAM: Let's go back on the

1 record. Given all that we understand, including the  
2 representation by the Division that this is a matter  
3 in the public interest, granting the application is  
4 something that would result in betterment of the  
5 public interest, we're going to go ahead and grant  
6 the application and ask you, Mr. Evans, to go ahead  
7 and draft a proposed order and a certificate  
8 patterned after those that we've issued already in  
9 this state.

10 MR. EVANS: Okay.

11 CHAIRMAN MECHAM: All right. Mr. Owens?

12 MR. OWENS: I just have one request, Mr.  
13 Chairman.

14 CHAIRMAN MECHAM: Did you want to do that?

15 MR. OWENS: No, sir. It's my understanding  
16 that it's been sort of evolved as a custom that with  
17 regard to the stipulation that you would take  
18 administrative notice of the evidence that was  
19 offered in an earlier certification case, I think the  
20 Electric Lightwave case, and the cross examination of  
21 that evidence by Dr. Huttzell. And so we would ask  
22 that you make that part of this record as well.

23 CHAIRMAN MECHAM: Okay. We've done that,  
24 and we haven't done that. I don't see any harm in  
25 it. Does anybody object if we were to take

19

1 administrative notice of Dr. Huttshell's testimony?

2 MR. EVANS: We have no objection.

3 CHAIRMAN MECHAM: I'm pretty sure it was  
4 Electric Lightwave. And there was probably one other  
5 case, frankly, but we'll focus on the Electric  
6 Lightwave case. Both the prefiled, the direct and  
7 the cross examination testimony.

8 MR. EVANS: No objection.

9 CHAIRMAN MECHAM: It really, as I recall,  
10 is a matter of the issue of discrimination and the  
11 exemptions from the statutory provisions that are  
12 found on Page 6 of the stipulation. And, in fact, I  
13 think it was whatever our last certificate case was,  
14 we concluded that those exemptions sort of covered  
15 the waterfront. But in any event, we'll take  
16 administrative notice of it. Is there anything else  
17 that we need to do this morning? That has anything  
18 to do with this case?

19 MR. GINSBERG: No.

20 CHAIRMAN MECHAM: All right, then. We'll  
21 adjourn. Thank you.

22 (Whereupon the proceedings were  
23 adjourned at 9:35 a.m.)

24  
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1 STATE OF UTAH )  
 ) SS.  
2 COUNTY OF SALT LAKE )

3  
4 I, MARY D. QUINN, Certified Shorthand Reporter,  
5 Registered Professional Reporter and Notary Public  
6 in and for the State of Utah do hereby certify:

7 That the foregoing transcript pages were  
8 stenographically reported by me at the time and  
9 place hereinbefore set forth;

10 That the same was thereafter reduced to  
11 typewritten form;

12 And that the foregoing is a true and correct  
13 transcript of those proceedings.

14 I FURTHER SWEAR that I have no interest in these  
15 proceedings, financial or otherwise, and am not  
16 related to any party in this action by blood or  
17 marriage.

18 DATED this \_\_\_\_\_ day of \_\_\_\_\_,  
19 19\_\_\_\_\_.  
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\_\_\_\_\_  
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