

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

ARB 533

In the Matter of)	
)	
MCI WORLDCOM COMMUNICATIONS, INC. and VERIZON NORTHWEST INC.)	PUC STAFF'S COMMENTS
)	
Interconnection Agreement Submitted for Commission Approval Pursuant to Section 252(e) of the Telecommunications Act of 1996.)	

RECOMMENDATION: APPROVE AGREEMENT

On March 1, 2004, MCI Worldcom Communications, Inc. (MCI) and Verizon Northwest, Inc. (Verizon) filed an interconnection agreement with the Public Utility Commission of Oregon (Commission). The parties seek approval of the agreement under Section 252(e) of the Telecommunications Act of 1996. The Commission provided notice by posting an electronic copy of the agreement on the World Wide Web, at: <http://www.puc.state.or.us/caragmnt/>. The Commission Staff (Staff) offers these comments.

Under the Act, the Commission must approve or reject an agreement reached through voluntary negotiation within 90 days of filing. The Commission may reject an agreement only if it finds that:

- (1) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (2) the implementation of such agreement or portion thereof is not consistent with the public interest, convenience, and necessity.

Staff points out that the agreement states an effective date of November 28, 2001, and a termination date of November 27, 2003. Given the date of the filing Staff concludes that both dates are meaningless. The agreement also states that it will continue in force and effect unless and until cancelled or terminated as provided for in the Agreement. Staff is interpreting the agreement as a month-to-month agreement with no initial termination clause. The parties claim that the delay in filing the agreement is due to bankruptcy proceedings involving Rhythms Links, Inc., a company whose assets were purchased by MCI, and subsequent bankruptcy proceedings involving MCI itself.

Staff notes that an interconnection agreement or amendment thereto has no effect or force until approved by a state Commission. *See* 47 U.S.C. Sections 252 (a) and (e). Accordingly, Staff points out that the effective date of this filing will be the date the Commission signs an order approving it, and that any provision stating that the parties' agreement is effective prior to that date is not enforceable.

The initial termination date has past and has no bearing on the agreement at this time. Staff concludes that the agreement no longer has a specific termination date and may be terminated by either party upon 90 days notice as designated in Section 2.2 of the agreement.

Upon approval of this agreement, ARB 533, there will be two agreements between Verizon and MCI on file with the Commission. The previously approved agreement is docketed as ARB 422. ARB 422 does not contain all of the provisions that are included in ARB 533. It is Staff's understanding that Verizon and MCI will amend ARB 422 to match the provisions of ARB 533. Once the amendments have been completed in ARB 422, the parties will jointly terminate the ARB 533 agreement. In the meantime, Staff understands that the ARB 533 agreement applies only to MCI's operations related to assets it acquired from Rhythms Links, Inc.

Staff cautions all telecommunications carriers entering into arbitration agreements, to file them immediately if they are operating under the provisions of the agreement. Operating under an unfiled agreement may be discriminatory and could lead to disciplinary actions by the Commission.

The agreement situation for ARB 533 is unusual and unique. However, Staff concludes that the agreement itself does not appear to discriminate against telecommunications carriers who are not parties to the agreement and does not appear to be inconsistent with the public interest, convenience, and necessity. Staff recommends approval of the agreement.

Dated at Salem, this 22nd day of March, 2004

Celeste Hari
Telecommunications Analyst