

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Southwestern Bell Telephone Company)
Petition for Forbearance from)
Application of Section 272 of the)
Communications Act of 1934, as Amended,)
to Previously Authorized)
Telecommunications Relay Services)

CC Docket No. 96-149

COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION
ON PETITION FOR FORBEARANCE

Pursuant to the Public Notice released in this docket on June 10, 1997,¹ MCI Telecommunications Corporation (MCI), by its undersigned attorneys, submits these comments on the petition filed in this docket by Southwestern Bell Telephone Company (SWBT) for forbearance from the application of Section 272 of the Communications Act to its Telecommunications Relay Services (TRS) in Kansas.² Although MCI has no objection to this particular request for forbearance, given the unique nature of TRS arrangements, that should not be viewed as a change in MCI's position that, generally, application of nondiscrimination safeguards equivalent to the nondiscrimination requirements of Section 272(c)(1) and (e) to the Bell Operating Companies' (BOCs') interLATA services is necessary for the protection of

¹ Pleading Cycle Established for Comments on SWBT Petition for Forbearance from Application of Section 272 of the Act to Previously Authorized Services, CC Docket No. 96-149, DA 97-1214 (released June 10, 1997).

² Comments, and Petition for Forbearance, of Southwestern Bell Telephone Company (filed June 4, 1997).

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competition and the public interest and should not be forborne.

As SWBT acknowledges in its Petition for Forbearance filed under Section 10 of the Communications Act, 47 U.S.C. § 160, previously authorized interLATA information services, such as its TRS, are subject to the separation and nondiscrimination requirements of Section 272. Section 10 requires the Commission to forbear from applying any provision of the Act if it determines that: enforcement of such provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in conjunction with a carrier or service are just and reasonable and not unreasonably discriminatory; enforcement of such provision is not necessary for the protection of consumers; and forbearance is consistent with the public interest. 47 U.S.C. § 160(a).

SWBT asserts that provision of its TRS on an unseparated basis has already been found to be in the public interest and otherwise meets the criteria of Section 10. It argues that application of the Section 272 separation requirements to these services will be disruptive and will increase the cost of providing them, to the detriment of consumers.

As a preliminary matter, MCI should note that, generally, it is extremely doubtful that forbearance from the nondiscrimination provisions of Section 272, or, for that matter, any nondiscrimination requirements, is appropriate for a dominant carrier's interLATA services. As pointed out above, one of the requirements for the granting of a request for forbearance from

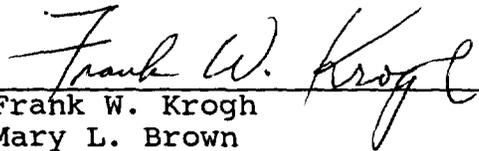
the application of a provision of the Communications Act is that "enforcement of such ... provision is not necessary to ensure that ... practices ... by [a] ... carrier ... are not unjustly or unreasonably discriminatory." 47 U.S.C. § 160(a)(1). Since the marketplace usually cannot be relied upon to prevent unjust or unreasonable discrimination by a dominant carrier controlling the local exchange network, it is almost inconceivable that there would ever be a situation in which enforcement of a nondiscrimination requirement would not be "necessary to ensure that" a BOC's practices "are not unjustly or unreasonably discriminatory." Because of this inherent contradiction in granting forbearance from the application of any nondiscrimination requirements to a BOC, it is rare that a BOC petition for forbearance from the nondiscrimination requirements of Section 272(c)(1) and (e) could legally be granted.

Because of the unique structure of the TRS market, however, this appears to be one of those rare instances. MCI has not identified any competitive interests that would be compromised by forbearance from the application of the nondiscrimination requirements of Section 272(c) and (e) to SWBT's TRS in Kansas. Since the application of those requirements is not necessary to protect competition in these circumstances, there is no reason not to grant SWBT's request as to the application of all of the separation and nondiscrimination requirements of Section 272 to such services. Future forbearance petitions, however, should be assessed on the basis of their

particular circumstances and the competitive interests affected by forbearance from the application of Section 272's nondiscrimination requirements.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

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Dated: July 10, 1997

CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that the foregoing "COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION" was served this 10th day of July, 1997, by hand delivery or first-class mail, postage prepaid, upon each of the following persons:

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