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DISPATCH

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
International Settlement Rates) IB Docket No. 96-261

Order

Adopted: March 27, 1998

Released: March 30, 1998

By the Commission:

1. On August 7, 1997, the Commission adopted a *Report and Order*¹ in the above-captioned proceeding, in which it established benchmarks for the international settlement rates that U.S. carriers pay foreign carriers to terminate international traffic originating in the United States. In the *Benchmarks Order*, the Commission also adopted conditions related to these benchmarks for certain types of Section 214 authorizations.² These conditions address potential distortions in the U.S. market for international message telephone service (IMTS) created by above-cost settlement rates. One of these conditions requires that, before a U.S.-licensed carrier may provide international facilities-based switched or private line service from the United States to an affiliated foreign market,³ the foreign affiliate of the U.S.-licensed carrier must offer U.S. international carriers a settlement rate for the affiliated market that is at or below the relevant benchmark adopted in the *Benchmarks Order*.

2. The Commission required that existing Section 214 authorization holders (*i.e.*, those that were authorized to provide service prior to the January 1, 1998 effective date of the *Benchmarks Order*) comply with this condition by having their foreign affiliates negotiate with U.S. international carriers a settlement rate for affiliated routes that complies with the appropriate benchmark and is in effect within ninety days of the January 1, 1998 effective date of the *Benchmarks Order*. Existing

¹ International Settlement Rates, IB Docket No. 96-261, *Report and Order*, FCC 97-280 (rel. Aug. 18, 1997), *recon. pending, appeal filed, Cable & Wireless et al. v. FCC*, No. 97-1612 (D.C. Cir. filed Sept. 26, 1997) (*Benchmarks Order*).

² Section 214 of the Communications Act of 1934, 47 U.S.C. § 214, requires carriers to obtain authorization from the Commission to construct, acquire or operate, or engage in transmission over any lines.

³ The Commission's rules provide, *inter alia*, that a U.S.-licensed carrier is considered to be affiliated with a foreign carrier when a foreign carrier owns a greater than twenty-five percent interest in, or controls, the U.S.-licensed carrier or the U.S.-licensed carrier owns a greater than twenty-five percent interest in, or controls, a foreign carrier. See 47 C.F.R. § 63.18(h)(1)(i).

Section 214 authorization holders that do not comply with the benchmark condition by this deadline will be required to cease providing facilities-based or private line service on the affiliated route.

3. MCI Telecommunications Corporation (MCI) filed a Petition for Clarification or Reconsideration of the *R&O* in which it requested the Commission to reconsider its requirement that existing Section 214 authorization holders comply with this benchmark condition. In its Petition, MCI proposes that the Commission require existing Section 214 authorization holders to comply with the benchmark condition only where the traffic on the affiliated route between the Section 214 holder and its foreign affiliate is greater than 25 percent of the total inbound or outbound traffic on the route and where the carrier or its foreign affiliate controls bottleneck services or facilities on either the U.S. or foreign end of the route.⁴ In its Reply, MCI argues that its proposal should apply to both existing and future Section 214 authorization holders.⁵

4. The Commission is still considering the merits of MCI's Petition. In the meantime, we are concerned that, should the Commission ultimately decide to modify the benchmark condition as it applies to existing Section 214 authorization holders, some carriers may unnecessarily have had to cease providing service or find alternative means of providing service on an affiliated route. This could result in disruption of existing contractual arrangements and cause confusion among customers of existing Section 214 authorization holders. Therefore, on our own motion, and in the public interest, we are issuing a temporary stay of the effectiveness of the benchmark condition as it applies to Section 214 certificate holders that were authorized to provide service prior to January 1, 1998.⁶ By this action, we will not require compliance with the benchmark condition by these carriers until the Commission acts on MCI's pending petition.

5. Accordingly, IT IS HEREBY ORDERED, pursuant to Sections 1 and 4(i) of the Communications Act, 47 U.S.C. §§ 151 and 154(i), that effectiveness of the benchmark condition as it applies to Section 214 authorization holders that were authorized to provide service prior to January 1, 1998 IS STAYED pending Commission action on MCI's Petition for Clarification or Reconsideration filed in this proceeding.

⁴ MCI Petition for Clarification or Reconsideration, IB Docket No. 96-261 (Sept. 29, 1997) at 3.

⁵ MCI Reply, IB Docket No. 96-261 (Nov. 6, 1997) at 3.

⁶ The Commission has on a number of occasions temporarily stayed the effectiveness of an order pending resolution of particular issues. *See, e.g.*, Rules and Policies Regarding Calling Number Identification Service -- Caller ID, *Order*, 10 FCC Rcd 13819 (1995); Policies and Rules Concerning Unauthorized Charges of Consumers' Long Distance Carriers, *Order*, 11 FCC Rcd 856 (1995); Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, *Order*, 10 FCC Rcd 4146 (1995); Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Order*, 11 FCC Rcd 8721 (Wireless Telecom. Bur., 1996).

6. IT IS FURTHER ORDERED that this order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary