the terms of this order, e.g., "This revision removes resale restrictions formerly in paragraph 2(e)" and by a legislative style version identifying changes.

8. A notice of the filings authorized in this Order shall be posted at each business office of USWC in Washington, on or before the date of the filing with the Commission. The notice shall state when the filing is to become effective and advise that the filing is available for inspection at each such office. The notice shall remain posted until the Commission has acted upon the filings.

9. All motions consistent with this Order are granted. Those inconsistent with this Order are denied.

10. The Commission retains jurisdiction over all matters and the parties in this proceeding to effectuate the provisions of this Order.

DATED and effective at Olympia, Washington this 16th day of January 1998.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANNE LEVINSON, Chair

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

NOTICE TO PARTIES:

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

E

Decision No. C97-428

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 96A-329T

IN THE MATTER OF: TCG COLORADO PETITION FOR ARBITRATION PURSUANT TO § 252(b) OF THE TELECOMMUNICATIONS ACT OF 1996 TO ESTABLISH AN INTERCONNECTION AGREEMENT WITH U S WEST COMMUNICATIONS, INC.

DOCKET NO. 96A-345T

IN THE MATTER OF THE INTERCONNECTION CONTRACT NEGOTIATIONS BETWEEN AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC., AND U S WEST COMMUNICATIONS, INC., PURSUANT TO 47 U.S.C., SECTION 252.

DOCKET NO. 96A-356T

IN THE MATTER OF ICG TELECOM GROUP INC. PETITION FOR ARBITRATION PURSUANT TO SECTION 252(b) OF THE TELECOMMUNICATIONS ACT OF 1996 TO ESTABLISH CERTAIN TERMS AND CONDITIONS OF AN INTERCONNECTION AGREEMENT WITH U S WEST COMMUNICATIONS, INC.

ORDER REJECTING U S WEST COMMUNICATIONS, INC.'S SECOND FILING OF SERVICE STANDARDS AND RELATED ENFORCEMENT PROVISIONS AS NOT BEING IN COMPLIANCE AND FINDING THAT U S WEST COMMUNICATIONS, INC., HAS FAILED TO NEGOTIATE IN GOOD FAITH ON THIS ISSUE PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

Mailed Date: April 24, 1997
Adopted Date: April 22, 1997

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the second filing of service standards and related enforcement provisions made on February 7, 1997[1] by U S WEST Communications, Inc. ("USWC" or "Company"). This compliance filing by the Company is necessary pursuant to our directive in Decision Nos. C96-1186, C96-1206, and C96-1231[2] that USWC make known "**standards presently utilized by USWC in the provision of its own services . . .**" and that "**those service standards and related enforcement provisions presently applicable to the Company or relied upon by the Company shall be filed** [by USWC] with the Commission and served upon each Petitioner. . . ." On December 30, 1996, USWC made its first filing of service standards and related enforcement provisions pursuant to our Order.

2. In Decision No. C97-74, we rejected that initial filing as being non-responsive to our Order and contrary to any effort by this Commission, as arbitrator, or the competitive local exchange carriers ("CLECs") themselves to ensure that the level of service quality provided to CLECs is consistent with the

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[1] On February 18, 1997, USWC made a supplemental filing to its filing of February 7, 1997. As justification for the supplement, the Company stated that materials related to the service standards proposed by AT&T Communications of the Mountain States, Inc., and Teleport Communications Group-Colorado had been inadvertently omitted. USWC further stated that the supplement contained a listing of industry technical standards in response to the MCImetro Transmission Services, Inc., proposed standards.

[2] Collectively referred to within this Decision as our "Order."

requirements of the Telecommunications Act of 1996 ("Act"). We again ordered USWC to file all standards and benchmarks used by the Company for its services or facilities and stated that, in doing so, USWC should address the standards proposed by the CLECs in the arbitration proceedings. However, we specifically noted that our Order was not limited to a review of the CLEC proposals, rather, USWC was required to primarily address all internal standards used by the Company.

3. A response requesting rejection of the second USWC filing was filed by ICG Telecom Group, Inc. ("ICG"), on February 26, 1997. On February 26, 1997, comments and objections to the second USWC filing of service standards was jointly made by Teleport Communications Group-Colorado ("TCG") and AT&T Communications of the Mountain States, Inc. ("AT&T").

4. On April 3, 1997, USWC filed a motion requesting that this Commission identify and clarify any deficiencies found in the February 7 and 18, 1997 filings of the Company in response to Decision No. C97-74. Also, USWC further requested the opportunity to immediately supplement its filings to bring them into compliance with Decision No. C97-74. As noted in the USWC motion, this action by the Company was precipitated by the determination made by this Commission at its April 2, 1997 Open Meeting to issue an order finding that USWC had failed to act in "good faith" pursuant to § 252(b)(5) of the Act relative to the

December 30, 1996 and February 7 and 18, 1997 compliance filings of service standards and related enforcement provisions.

5. Now being duly advised in the premises, we will again reject the USWC filing as not complying with the requirements within Decision Nos. C96-1186, C96-1206, and C96-1231. Pursuant to the request of USWC in its April 3, 1997 motion, we will generally outline and clarify deficiencies found in the filings of February 7 and 18, 1997. As more fully explained within this decision, at this time, we find that the responses to our informational requirements under § 252(b)(4) of the Act by USWC have constituted a failure to negotiate in good faith on the part of the Company as defined within § 252(b)(5) and § 251(c)(1) of the Act. The Company remains under order to provide the information requested.

B. **Discussion**

1. As was more fully described in Decision No. C97-74, this matter is a result of the Commission consideration of the Petitions for Arbitration filed by AT&T in Docket No. 96A-345T; by ICG in Docket No. 96A-456T; by TCG in Docket No. 96A-329T; as well as by MCImetro Transmission Services, Inc. ("MCImetro"), in Docket No. 96A-366T; and by MFS Communications Company, Inc., in Docket No. 96A-287T.[3] In our Order, we found

[3] Pursuant to the provisions of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 70, to be codified at 47 U.S.C. ("Act"), the petitions requested that we arbitrate certain unresolved issues between the Petitioners and USWC relating to the rates, terms, and conditions for interconnection, unbundling of network elements, and resale of telecommunications services.

that the inclusion of performance standards and liquidated damages provisions in interconnection agreements with USWC was necessary to advance the goals stated in the Act and in Colorado House Bill ("HB") 1335,[4] and within the scope of our role as arbitrators under the Act. We also required that those service standards[5] and related enforcement provisions presently applicable to the Company or relied upon by the Company were required to be filed with the Commission and served upon each Petitioner within 30 days of the effective date of the individual orders in the arbitration proceeding.

2. In Decision No. C97-74, we agreed with the observations of the CLECs that the information provided by USWC in its first compliance filing of service standards and related enforcement provisions:

> ". . . contains none of U S WEST's internal service quality standards. Instead, U S WEST submitted its "proposed service indicators." These indicators are verbal descriptions of certain service quality metrics and AT&T has been informed by U S WEST that even the filed metrics are not fully representative of all of U S WEST's internal metrics. Moreover, the filing does not reflect any of U S WEST's actual performance standards, intervals or benchmarks."

3. As previously noted, we rejected the filing by USWC as not being in compliance with our Order and again required the Company to file **all** standards and benchmarks which are inter-

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[4] HB 1335, § 40-15-501, *et. seq.*, C.R.S.

[5] This was to have included standards relied upon by the Company for evaluating its performance in such areas as billing and electronic data interface availability, besides the normal measurements of network performance used by USWC.

nally used by USWC for its services or facilities that could be applicable to the CLECs. As an example, which was specifically stated in Decision No. C97-74, to not limit the response of USWC, the Company was to also address the service metrics proposed by the CLECs in the arbitration proceedings.

4. By Decision No. C97-169 in Docket Nos. 96A-329T, 96A-345T, and 96A-356T, we granted an extension of time until February 7, 1996 as requested by USWC for its second filing of the requested information. On February 7, 1997, USWC made its second filing of service standards and enforcement provision, which it subsequently amended on February 18, 1997.

5. On February 26, 1997, ICG filed its Second Response to USWC's Second Filing of Service Standards. ICG contended that the re-filed material still does not comply with the ordering provisions of Decision No. C96-1206 and specifically noted that the:

> . . . purported service standards are somewhat vague and difficult to understand. Acronyms are used which are not commonly understood by persons outside of U S WEST. Codes are used with no explanations given. . . . The service standards consist in large measure of references to technical publications with no comment on what standards, if any, are contained in the referenced material.

6. ICG also stated that it:

> . . . expected specific service standards as to the quality of service that U S WEST performance provides to itself . . . The format of what U S WEST provided is such that the information is of little value to ICG without more explanation.

7. ICG requested that the Commission reject this second filing and order USWC to file a document containing its own internal service performance standards and intervals in an understandable format.

8. On February 26, 1997, AT&T and TCG jointly filed their Comments and Objections to USWC's Second Set of Service Standards Filed Pursuant to Commission Order. In their comments, AT&T and TCG noted that:

> . . . U S WEST has utterly declined to provide any internal U S WEST-specific standards beyond those suggested by either AT&T, MCI, TCG or ICG . . . in several instances . . . U S WEST merely relies on a "CPUC measure" rather than providing an internally employed standard . . . U S WEST has continued to provide proposed nonspecific standards . . . In addition, to the continuing problem with its proposals, U S WEST has also failed in some cases to provide any standards. For example, U S WEST provides no internal standards or benchmarks for billing functions . . . U S WEST should provide its internal standards related to access billing outputs as its baseline from which to measure . . . [s]urely U S WEST has some internal standards or benchmarks for the provisioning, maintenance and repair of its system's elements . . . U S WEST should provide the specificity of standards that reflect differences in the various activities of provisioning and maintenance services . . . as evidence of the probable existence of additional standards, U S WEST has agreed to self report thirteen network measures to AT&T as an interexchange provider . . . U S WEST has also agreed to self-report the results of nine separate measures of directory services provided to AT&T . . . Clearly, U S WEST has internal standards that it fails to provide as a potential measure of quality.

9. AT&T and TCG urged the Commission to move forward with the rulemaking contemplated in the Order and not allow the USWC refusal to comply with the Order to delay the rulemaking.

AT&T proposes using the service quality standards it recommended in the arbitration proceeding as the basis for any rulemaking.

10. As noted in Decision No. C97-365, in our Commissioners' Weekly Meeting of March 5, 1997, we reviewed this second filing for compliance with our Order and found it to be insufficient. As recommended by AT&T and TCG, we directed Commission Staff to prepare a Notice of Proposed Rulemaking[6] based upon service quality metrics proposed by the CLECs, since the continuing delay in obtaining an adequate filing from USWC was harming our ability to implement the Act and HB 1335.

11. During our Commissioners' Weekly Meeting of April 2, 1997, we determined that an order should be issued finding that the Company had failed to respond in good faith to the requests of the Commission as an arbitrator, pursuant to the Act. In reaching this conclusion, we note that § 251(c)(1) of the Act confers on incumbent telecommunications providers such as USWC the:

> . . . duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection." (Emphasis added)

12. Referring to subsection 252(b)(5) of the Act, we note that one of the means of defining whether a party has met the requirement to negotiate in good faith is whether the party

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[6] *See* Decision No. C97-365 in Docket No. 97R-153T.

has cooperated with the State Commission in carrying out its role as an arbitrator:

> The refusal of any party to the negotiation to participate further in the negotiations, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State commission shall be considered a failure to negotiate in good faith." (Emphasis added)

13. In reference to cooperation with the State Commission, § 252(b)(4)(B) of the Act specifically states that:

> The State commission may require the petitioning party and the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived. (Emphasis added)

14. In our Order, we have requested certain information from USWC such as the service standards and enforcement provisions presently applicable to or relied upon by the Company. These were to be filed with this Commission and each Petitioner in the arbitration proceedings. The Company has made two filings in response to this request. Neither has been accepted as being in compliance (i.e., in accordance with the requirements of our Order) for the reasons more fully described in Decision No. C97-74 and this decision. We believe our Order as well as Decision No. C97-74 were clear and understandable by persons expected to comply with them. We believe and find that USWC has failed to cooperate with this Commission in its attempt to fulfill its role as an arbitrator con-

cerning this issue. Pursuant to the Act, this lack of cooperation is defined as a failure to negotiate in good faith. Therefore, we find that USWC has failed to negotiate in good faith as defined within § 252(b)(5) of the Act.

15. We agree with the observations and conclusions contained in the Responses to the USWC filing regarding whether the Company was in compliance with our Order. In response to the USWC Motion for Clarification of April 3, 1997, we will generally discuss some of the more apparent deficiencies of the second USWC filing.[7]

16. First, we note that the February 7 and 18, 1997 filings are deemed to be confidential by USWC. In our Order, we specifically noted that such standards were to be made "publicly available." A filing in this nature, without good cause shown, is a hindrance to the CLECs in disseminating this information to their own operational and management personnel who must interface with USWC as well as to the ability of this Commission to use such material in any proposed rulemaking. In review of the material submitted by USWC as confidential information, we do not understand the reason for the Company's claim of confidentiality. In fact, the most frequently cited source for a service standard within the confidential material is a "CPUC measurement." If

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[7] We have no intention of engaging in a game of "hide-and-seek" with the Company in regards to guessing what are the specific internal standards before the Company responds affirmatively. As stated *supra*, our Order is clear and compliance is lawfully required by the Company.

this designation is meant to refer to the current rules of this Commission, we note that such material is readily available to the public.

17. Next we note in relation to the reference to "CPUC measurements", that such references are unspecified as to exactly what rule (we assume) is being cited. As for the current rules of this Commission regarding telecommunications service quality, found at 4 *Code of Colorado Regulations* ("CCR") 723-2, we cannot find any reference within the material submitted by USWC which accurately portrays the standards within 4 CCR 723-2 for what we assume to be the performance metric being measured. Since the information supplied by USWC is supposed to inform the CLECs of its internal measurements, inaccurate references to "CPUC measurements" merely confuses rather than clarifies the issue.

18. Another problem with the references to "CPUC measurements" in the USWC filing is that such cites are not inclusive of all objective measurements contained within the current Commission rules. Left unsaid by USWC is whether it follows or even measures such metrics within its system. (*See*, for example, Rules 4 CCR 723-2-16.1.3 and 21.1.1.) This observation is similar to the complaint found on pages 3-4 of the AT&T and TCG comments. Quite simply, it is unclear from this filing whether USWC actually employs the "CPUC measurement" as its own internal standard.

19. In regards to the number of independent internal service measurements listed within the USWC response for the areas of service installation, provisioning, and maintenance, it appears that the Company is stating that it has only six internal measurements of the quality of the service(s) which it provides to customers. Essentially, these comprise a measurement of: (1) the expected time delay in service installation (cumulative percent installed during the specified time interval for residential and business services and cumulative percent of met commitment dates for designed services); (2) the expected number of commitments met for repair of service (cumulative percentage of met commitment dates for designed and non-designed services); (3) the expected average repair interval (this expected time to repair criteria is apparently only for DS0/DS1 circuits; it is unclear within the response as to whether this is a subset of the designed/non-designed nomenclature employed by USWC); (4) the percentage of installation caused trouble reports (total percentage of recent installations reporting trouble for either designed or non-designed orders); (5) the percentage of repeated trouble reports (total percentage of trouble reports on which a prior trouble report ticket was written within a certain time period for either designed or non-designed dispatched trouble tickets); and (6) the number of defects per million calls (references as to what is a defect and how it is measured are unclear from the USWC supplied information). On first impression, these

appear to be a very sparse set of quality measurements to be used by the various responsible management levels for a company that has an investment base in this state in the billions of dollars and serves millions of access lines.

20. However, even from the response of USWC it appears that more measurements may be internally employed than those stated.[8] For instance, within its February 18, 1997 submittal, USWC notes within a short narrative entitled "U S WEST Communications Response to AT&T Interconnect/Unbundled Elements/Combinations" that it has the ability to measure switching on an aggregate level as well as a feature group level. Perhaps this is a reference to the Network Switch Performance Measurement Plans that have been routinely employed in the past by the Bell Operating Companies. Nonetheless, no information about measurement of switching performance was provided by USWC, although switching is an unbundled element that USWC must provide to CLECs on a standalone basis under the Act.

21. In this same vein, there does not appear to be any reference to repair or installation standards for basic exchange services in the USWC response. Primarily, this concern has historically focused on the loop which USWC must also offer as an unbundled element to CLECs.[9] The issue of USWC installation and

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[8] We note that the USWC response is silent regarding the specific performance measurements contained in the Alternative Form of Regulation Plan currently in effect for the Company.

[9] This obvious omission was also noted on page 6 of the AT&T and TCG comments.

repair standards for loop facilities was before this Commission as recently as 1993 in Docket No. 92F-289T. We would also note the current Commission service quality rules address this issue in a limited form.[10] However, the response of USWC is silent on this issue of significant importance, although such standards have been routinely employed by the Bell Operating Companies in the past.

22. In a review of standards related to the loop, we also note that the current USWC tariff for the unbundled loop facility references an internal USWC technical publication as the sole source for specifications related to this network element.[11] However, this standards publication was not even listed in the attachment of standards publications to the USWC supplemental filing of February 18, 1997.[12]

23. Another obvious example of an omission within the response of USWC is noted on pages 9 and 10 of the portion of the February 7, 1997 response entitled "DMOQ OSS Analysis Colorado". On those pages are comments relating to certain billing performance metrics proposed by AT&T. The comments state that such

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[10] *See* Rule 4 CCR 723-2-18.

[11] *See* original sheet 35 in section 16 of the USWC Access Service Tariff, Colorado P.U.C. No. 16.

[12] The purpose of the review by Commission Staff referenced in the USWC Motion for Clarification of April 3, 1997 was to attempt to ascertain in what industry technical standards publication listed by USWC in its supplemental filing would the installation standards for the type of loop facility listed in the current access tariff be found. Contrary to the assertion of USWC it would not be proper for Staff to informally advise USWC of what the Commission "needs". Our Order and Decision No. C97-74 clearly and formally inform the Company of the necessary informational requirements.

metrics are not measured today for local service. This response brings into question whether certain billing performance metrics are measured by USWC for services other than local service (e.g., access services). Our Order did not limit the USWC response to just the current local services of USWC. If performance metrics are used for any USWC service or facilities, the response of the Company should include them. We note that performance metrics for billing purposes may very well be important to CLECs, just as they apparently are to interexchange carriers ("IXCs").

24. This question as to whether USWC is unilaterally limiting its response to current performance metrics for its existing local services further highlights the comments of AT&T and TCG that certain performance metrics are reported to IXCs.[13] In terms of performance metrics for directory assistance, the AT&T DMOQs DA1 through DA5 as contained in Exhibit 15 in the arbitration proceeding are remarkably similar to the descriptions of performance metrics contained within footnote 6 of the AT&T and TCG comments. However, within the February 18, 1997 supplemental filing, pages 5 and 6, there is no specific indication as to whether these are USWC measurements, even if for interexchange access service purposes. Furthermore, USWC appears, in column 3 on these same pages, to be unilaterally stating that such measures will not be offered to CLECs, even though they

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[13] *See* footnote 5 on page 8 and footnote 6 on page 9 of the AT&T and TCG Comments of February 26, 1997 on the second compliance filing of USWC.

apparently are currently used and provided to IXCs. In addition, there is silence from USWC as to whether there are any enforcement standards or provisions with measures such as those referenced in the footnotes in the AT&T and TCG comments.

25. In its supplemental filing of February 18, 1997, USWC included a listing of technical standards publications in response to the MCI proposed standards publications. However, as tabulated by USWC, it is unclear as to whether USWC subscribes in total to the standards contained in such publications or merely offers them in response to the MCI proposal. It is also unclear as to what services and/or facilities or network elements such standards are meant to apply.

26. We note that some technical standard publications are currently referenced in the Access Tariff of USWC as applying to particular services listed in those tariffs.[14] Comparing the technical standard publications that are referenced by publication number on sheets 28-30.1 of the current Access tariff to the listing of USWC technical standard publications contained in the supplemental filing, finds an obvious matching for only 5 of the 16 standards publications listed in the tariff. Again, it is not clear from the USWC response whether the listing of technical publications by USWC may only be in response to those brought forth in the MCI proposal rather than those employed by USWC.

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[14] See first revised sheets 28-30 and original sheets 30.1-32 in section 1 of the USWC Access Service Tariff, Colorado P.U.C. No. 16.

27. Finally, we briefly note that the measures of system availability for the various operational support systems shown on pages 1, 2, 4, and 5 of the portion of the February response entitled "DMOQ OSS Analysis Colorado" appear to be proposed measurements for the gateway access of the CLECs rather than separately stating any internal metrics used to assess the current performance of the various operational support systems. In this regard, it is also unclear as to whether the inclusion of "slow response time" in the performance measurement is dependent on these interfaces being enhanced with time stamping as noted in the USWC comments.

28. The preceding discussion of the more obvious deficiencies in the USWC filing was not and should not be construed as being all inconclusive. In essence, the second filing by USWC, although an improvement to the first filing, suffers the same significant problem as the first filing in that it focuses more on advocacy of proposed performance standards to be used in monitoring of USWC by the CLECs rather than reporting all performance standards relied upon internally by the various management levels of the Company for all services provided by the Company. As such, the filing continues to be non-responsive to our Order.

II. ORDER

A. The Commission Orders That:

1. U S WEST Communications, Inc.'s Compliance Filing of Service Standards and Related Enforcement Provisions, made on February 7, 1997, and the Supplemental Filing of Service Standards, made on February 18, 1997, are rejected for the reasons stated in this Decision.

2. U S WEST Communications, Inc.'s compliance filings in response to Decision Nos. C97-74, C96-1186, C96-1206, and C96-1231 constitute a failure to negotiate in good faith as required under § 251(c)(1) and defined under § 251(b)(5) of the Telecommunications Act of 1996.

3. The Motion for Clarification of U S WEST Communications, Inc., is granted to the extent discussed within this Decision.

4. U S WEST Communications, Inc., remains under order to file its internal service standards and related enforcement provisions as described in this Decision and in Decision Nos. C97-74, C96-1186, C96-1206, and C96-1231.

5. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING April 22, 1997.

(SEAL)

ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT J. HIX

R. BRENT ALDERFER

Commissioners

COMMISSIONER VINCENT MAJKOWSKI
ABSENT, BUT CONCURRING.

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STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE:	DOCKET NO. AIA-96-2 (ARB-96-2)
MCI METRO ACCESS TRANSMISSION SERVICES, INC., and U S WEST COMMUNICATIONS, INC.	

ORDER FINDING CONTINUING VIOLATION AND LEVYING CIVIL PENALTIES

(Issued April 4, 1997)

On March 5, 1997, MCI Metro Access Transmission Services, Inc. (MCI), filed a motion to compel U S West Communications, Inc. (U S West), to comply with the implementation schedule approved by the Utilities Board (Board) in Docket No. AIA-96-2. Specifically, MCI stated that U S West had failed to comply with paragraphs 1 and 2 of the "STANDARDS OF SERVICE" section of attachment 13 of the interconnection agreement. The language of paragraphs 1 and 2 follows:

> 1. Within 30 days of the Effective Date, the ILEC [U S West] will provide its current training material, business processes and procedures documents and material relating to those services, elements, and support functions addressed in the Agreement.
>
> 2. Within 30 days of the Effective Date, the ILEC will provide its current written objective measures of customer service quality to the CLEC [MCI].

The 30-day deadline established by these provisions in the implementation schedule expired on February 13, 1997. MCI stated U S West has not sought a stay of the requirement to produce this information. MCI alleged in its pleading that U S West willfully, without explanation or legal justification, refused to comply with requirements 1 and 2 of attachment 13.

The Board issued an "Order to Show Cause and Giving Notice" on March 13, 1997. The Board stated, based upon the allegations in the MCI motion, U S West was notified by the order it had violated the Board's order of January 10, 1997, by failing to provide the specified information. The Board, in compliance with the requirements of its civil penalties authorization, IOWA CODE § 476.51 (1997), allowed U S West until March 21, 1997, to comply with the Board's orders or respond to the motions to compel. U S West was notified in the order that violations of the Board's orders after March 21, 1997, would be subject to civil penalties. A show cause hearing was scheduled in the order.

On March 24, 1997, U S West filed with the Board a letter from its attorney, David S. Sather, to MCI's attorneys, Karen L. Clauson and Philip E. Stoffregen. In that letter, Mr. Sather addressed the specific subject matter of MCI's motion to compel only in one paragraph as follows:

> Regarding standards of service, business processes and procedures and material relating to those services, U S WEST has provided to MCIMetro a large volume of such material. Some of the material that has not been provided requires the cooperation of MCIMetro and U S WEST in developing. Teams from the two companies are meeting to