

ARKANSAS PUBLIC SERVICE COMMISSION MAR 3 11 21 AM '04

FILED

IN THE MATTER OF THE IMPLEMENTATION)
OF THE IMPAIRMENT REVIEW MANDATED) DOCKET NO. 03-171-U
BY THE FEDERAL COMMUNICATIONS)
COMMISSION IN ITS TRIENNIAL UNE REVIEW)

MCI'S RESPONSE TO SBC ARKANSAS' SUGGESTED FURTHER PROCEDURES FOR MULTI-STATE BATCH HOT CUT COLLABORATIVE RESULTS

MCImetro Access Transmission Services, LLC, and Brooks Fiber Communications of Arkansas, Inc. (collectively "MCI"),¹ respond to SBC Arkansas's Status Report on Multi-State Batch Hot Cut Collaborative Results and Suggested Further Procedures filed with the Arkansas Public Service Commission (Commission) on February 26, 2004, and in support show as follow:

I. Brief Background

1. This Commission had determined in its Order No. 3 to "adopt for Arkansas the batch hot cut process to be developed in Texas" and had directed interested parties to participate in the batch hot cut collaborative directed by the Public Utility Commission of Texas (PUCT). Via its status report, SBC Arkansas (SBC) advises the Commission that the Texas collaborative has

¹ MCI is aware that the United States Court of Appeals for the District of Columbia Circuit issued a ruling today, March 2, 2004, that may require abatement of the instant proceeding so that the parties can assess its impact. MCI nonetheless makes this filing to inform the Commission of its position regarding the batch hot cut process.



terminated, that no agreement was reached on the issues, and that the PUCT has converted the collaborative into a contested proceeding.²

2. SBC, therefore, requests the Commission's guidance, asking whether the Commission will:

- (a) defer addressing this issue until the results of the PUCT contested case are released; or
- (b) address the issue in the instant case. If the Commission decides to preside over its own batch hot cut case, SBC recommends the following procedural schedule: ILEC Direct Testimony: Wednesday, April 7, 2004; All Other Parties Reply Testimony: Monday, April 26, 2004; ILEC Rebuttal Testimony: Monday, May 10, 2004; and Evidentiary Hearing: Beginning Tuesday, May 18, 2004.³

II. MCI's Position

3. MCI urges that the Commission defer the batch hot cut issue until resolved by the PUCT and further recommends that the Commission "adopt for Arkansas the batch hot cut process to be developed in Texas" as a result of the PUCT's contested proceeding. Adopting the Texas process will provide consistency across SBC's southwestern region and further provides for efficiency of the parties' resources. Deferring the issue is

² Docket No. 29715, *Proceeding to Determine Mass Market Hot Cut Process for State Implementation of the Federal Communications Commission's Triennial Review*.

³ SBC Arkansas's Status Report on Multi-State Batch Hot Cut Collaborative Results and Suggested Further Procedures at ¶ 11.

consistent with SBC's position that the Arkansas proceeding would address the same matters raised – and decided – in Texas: “The disputed issues for Arkansas are likely to be the same issues raised by the CLECs in Texas. Likewise, SBC Arkansas's responses to these disputed issues will likely be the same as SBC's response in Texas.”⁴ MCI, moreover, agrees with SBC's assessment that the issues in Arkansas are unlikely to differ from those in Texas.

4. If the Commission decides, however, that Arkansas should conduct its own proceeding, MCI proposes an alternate procedural schedule that avoids conflict with scheduled Triennial Review Order (TRO) proceedings in Kansas and Oklahoma. Kansas' loop and transport hearing begins on May 10, 2004, while Oklahoma has set its loop and transport hearing for May 17-20. Using SBC's proposed dates, MCI has added one month to the testimony and hearing dates as follows:

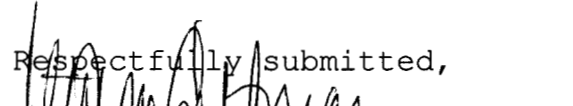
- ILEC Direct Testimony: Wednesday, May 5, 2004;
- All Other Parties Reply Testimony: Monday, May 24, 2004;
- ILEC Rebuttal Testimony: Monday, June 7, 2004; and
- Evidentiary Hearing: Beginning Tuesday, June 15, 2004.

⁴ *Id.*

These dates permit those CLEC parties that are involved in multiple state cases⁵ to prepare adequately for the Arkansas hearing.

MCI appreciates the Commission's consideration and adoption of MCI positions herein. MCI urges the Commission (1) defer the batch hot cut issue until the Public Utility Commission of Texas concludes its batch hot cut proceeding and (2) adopt the Texas batch hot cut process determined by the contested case in Texas. Alternatively, if the Commission decides to address the batch hot cut process in an Arkansas-specific proceeding, MCI requests use of the schedule proposed above to avoid conflict with TRO cases in Kansas and Oklahoma.

Respectfully submitted,



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⁵ Counsel for MCI in Arkansas is an active participant in the Kansas proceeding, Docket No. 03-GIMT-1063-GIT, In the Matter of a General Investigation to Implement the State Mandates of the Federal Communications Commission's Triennial Review Order.

CERTIFICATE OF SERVICE

I, Stephen K. Cuffman, hereby certify a copy of the foregoing was served upon all parties of record by First Class Mail, postage prepaid this 31st day of March, 2004.



Stephen K. Cuffman