

EXHIBIT C

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

MCImetro Access Transmission Services LLC,)	
MCI WorldCom Communications, Inc., and)	
Intermedia Communications LLC)	
)	Docket 04-0469
Petition for Arbitration of Interconnection Rates,)	
Terms and Conditions and Related Arrangements)	
With Illinois Bell Telephone Company d/b/a)	
SBC Illinois Pursuant to Section 252(b))	
of the Telecommunications Act of 1996)	

**STATEMENT OF MCIMETRO ACCESS TRANSMISSION
SERVICES LLC, MCI WORLDCOM COMMUNICATIONS, INC.
AND INTERMEDIA COMMUNICATIONS LLC IN SUPPORT OF
THEIR PROPOSED RESOLUTION OF CONFORMANCE DISPUTES**

I. INTRODUCTION

As stated in the *Joint Petition to Reopen Docket for Limited Purpose of Resolving Conformance Disputes* (“Joint Petition”), there are four Conformance Disputes in connection with which further direction from the Illinois Commerce Commission (“Commission”) is needed before the parties can finalize their interconnection agreement (“Agreement”), specifically: UNE 2, UNE 71, UNE 72 and Pricing 39. With respect to each of these disputed issues, MCImetro Access Transmission Services LLC, MCI WorldCom Communications, Inc., and Intermedia Communications LLC (“MCI”) request that the Commission resolve the disputes by adopting the contract language proposed by MCI. As demonstrated below, MCI’s proposals correctly implement the directives included in the Commission’s November 30, 2004 Arbitration Decision (“AD”) while the contract proposals of Illinois Bell Telephone Company d/b/a SBC Illinois (“SBC”) are fundamentally inconsistent with that decision.

MCI further requests that the Commission resolve the Conformance Disputes on the expedited basis described in the Joint Petition. Expedited resolution of these disputes is

imperative because of the recent, and entirely improper, unilateral actions of SBC, which may severely and unfairly prejudice MCI and its customers by, among other things, substantially disputing MCI's ability to provide certain telecommunications services.¹

II. CONFORMANCE DISPUTES

UNE 2

UNE 2 concerns the "change of law" process and the manner in which that process applies to "declassified" network elements. *See AD at p. 220.* The Commission resolved UNE 2 by unequivocally upholding MCI's and SBC's (the "Parties") general change of

¹ On February 10, 2005, SBC filed an Emergency Petition seeking special permission to cancel critical tariffs that obligate SBC to provide unbundled local switching, UNE-P and various other network elements on which MCI relies to provide telecommunications services to customers in SBC's service territory. *See Docket 05-0085.* SBC based its petition on the FCC's recent declassification of these elements under Section 251(c)(3) of the federal Telecommunications Act ("Act"). *See FCC's February 4, 2005 Order in In re Unbundled Access to Network Elements ("TRO Remand Order").*

The following day, SBC issued a series of Accessible Letters advising that on and after March 11, 2005, SBC will: (i) reject all requests for new, migration or relocation of unbundled local switching and UNE-P, (ii) reject all requests for new, migration or relocation of dark fiber loops, and (iii) reject certain requests for new, migration or relocation of unbundled high capacity loops or transport and requests for dark fiber transport. Additionally, SBC's Accessible Letters: (i) direct CLEC wholesale unbundled local switching/UNE-P customers to enter into unilateral, SBC-prepared contract amendments regarding unbundled local switching/UNE-P on or before March 10, 2005; (ii) present CLECs with unilaterally prepared provisions governing their ability to order unbundled high capacity loops, DS1 and DS3 unbundled dedicated transport, unbundled dark fiber loops and dark fiber unbundled dedicated transport after March 10, 2005, and (iii) direct CLECs to enter into unilateral, SBC-prepared contract amendments regarding the aforementioned elements on or before March 10, 2005. *See SBC's Accessible Letters, attached as Exhibit 1.*

SBC's planned actions are clearly improper. They contravene applicable state law, prior orders of this Commission, recent orders of the FCC and contractual obligations included in SBC's existing contract with MCI. Additionally, SBC's actions are directly contrary to the directives in the Arbitration Decision the Commission entered in this Docket. The Commission expressly ordered the Parties to reflect SBC's "continuing obligations to provide Section 251 declassified elements on an unbundled basis pursuant to Section 271 of the 1996 Act and/or PUA Section 13-801". *See AD at p. 221.* Notwithstanding this explicit directive, SBC is seeking to cancel tariffs that obligate it to provide Section 251 declassified elements under Section 13-801.

law process.² In addition, however, the Commission recognized a need for “specific and limited departures from the usual application of change of law provisions” due to the “unique circumstances surrounding the Section 251 declassification of certain network elements and the imminent potential Section 251 declassification of additional network elements”. *Id.* at p. 221. Accordingly, the Commission adopted “three specific and limited exceptions to the usual working of the change of law provision, and direct[ed] the parties to jointly produce language reflecting these exceptions.” *Id.*

The exceptions adopted by the Commission solely and exclusively concern:

- (i) elements that currently are Section 251 declassified (as a result of the FCC’s *TRO*³);
- (ii) Section 251 declassifications that may occur directly as a result of the FCC’s August 20, 2004 *Status Quo Order*⁴; and (iii) any changes in SBC’s obligations under Section 13-801 of the PUA (collectively, “Exceptions”). *Id.*⁵

The Parties’ general change of law process initially provides for informal negotiations for a period of 60 days. If the Parties are unable to agree on a contract amendment

² See AD at p. 220 (emphasis in original) (finding that “the industry habitually employs the “change of law” process and incorporates such into interconnection agreements. See e.g., *Triennial Review Order*, §§700-706. No party presented a compelling reason this pre-existing industry-wide approach cannot continue to be the case *generally* with respect to UNE issues. In reaching our conclusion, we also note that the FCC presumes these provisions can function well enough in an environment of element declassifications”).

³ *In re Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd. 16,978 (rel. Aug. 21, 2003) (“*TRO*”).

⁴ Order and Notice of Proposed Rulemaking, *In re Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 19 F.C.C. Rcd. 16,783 (rel. Aug. 20, 2004) (“*Status Quo Order*”).

⁵ The Commission directed the Parties to limit the Exceptions “directly and explicitly to the elements in question”, noting that “[t]he agreement change of law provisions will apply to all other future potential declassifications.” *Id.* at p. 222.