



PUBLIC NOTICE

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COMMON CARRIER BUREAU SETS PLEADING SCHEDULE IN SHOW CAUSE PROCEEDING

On March 3, 1995, the Commission issued an Order to Show Cause ("Order") directed at Southwestern Bell Telephone ("Southwestern"), deriving from a federal-state joint audit of affiliate transactions between Southwestern and various nonregulated affiliates.¹ The Order directed Southwestern to file its response, which the company did on May 2, 1995. Meanwhile, on May 1, 1995, MCI Telecommunications Corporation ("MCI") filed a letter with the Commission announcing its intention to intervene in the Show Cause proceeding.² The Bureau will allow MCI and other interested persons to participate in the Show Cause proceeding, subject to certain limitations.

Notwithstanding that Show Cause proceedings may include enforcement matters, the Bureau has, in the past, permitted other persons to participate pursuant to 47 C.F.R. § 1.41. For example, in a 1991 decision, the Bureau permitted Allnet Communications Services, Inc. ("Allnet") to "intervene" in the Show Cause aspects of investigations relating to Common Line adjustments reported to National Exchange Carriers Association by certain local exchange carriers. In that case, the Bureau found that Allnet, as a customer of the local exchange carriers, had an interest in the investigations and "[its] participation may assist the Commission in resolving the issues in question."³ The Bureau, however, excluded Allnet from the forfeiture aspects of those proceedings.⁴ After Allnet filed comments, the Commission resolved the investigations by entering into consent decrees with the carriers.⁵

¹ See Southwestern Bell Telephone Company, Order to Show Cause, FCC 95-31 (released March 3, 1995).

² Letter from Christopher Bennett, MCI Telecommunications Corporation, to William Caton, Acting Secretary, Federal Communications Commission, May 1, 1995.

³ New England Telephone and Telegraph Company, et al., Memorandum Opinion and Order, 6 FCC Rcd 1586, 1587 (1991).

⁴ Id.

⁵ See, e.g., Southwestern Bell Telephone Co., Consent Decree Order, 7 FCC Rcd 7692 (1992).

For the same reasons that persuaded the Bureau to allow Allnet's participation in those earlier proceedings, the Bureau will allow MCI, and all other customers of Southwestern, to file comments in the Show Cause proceeding. Such participation is limited to the Show Cause proceeding and will not be extended to include participation in any subsequent forfeiture or other penalty proceedings. Because of the broad policy and ratemaking issues involved in these proceedings, for purposes of these proceedings, our non-restricted "permit but disclose" *ex parte* rules will apply.⁶ These rules generally allow *ex parte* presentations in non-restricted proceedings subject to a public disclosure requirement. Responses to Commission and staff inquiries that are designed to clarify or adduce evidence, or to resolve issues, are considered exempt *ex parte* presentations pursuant to 47 C.F.R. § 1.1204(b)(7), provided that any new information is disclosed pursuant to the Note to that section and section 1.1206(a). In this regard, we note that the Bureau may request settlement discussions; in the absence of any new information, no disclosure would be required.⁷

All comments shall be filed no later than August 1, 1995. Reply comments shall be filed no later than September 1, 1995. Comments should reference file number AAD 95-32. Two copies of each pleading should be sent to Thomas J. Beers, Attorney Adviser, FCC, Common Carrier Bureau, 2000 L Street, N.W., Suite 257, Washington, D.C. 20554, and one copy of each pleading to the International Transcription Service (ITS), 2100 M Street N.W., Suite 140, Washington, D.C. 20037. Copies are available for public inspection in the Accounting and Audits Division public reference room 2000 L Street N.W., Room 812, Washington, D.C. Copies are available from ITS.

For further information, contact Thomas J. Beers at (202) 418-0872.

By the Chief, Common Carrier Bureau

⁶ See 47 C.F.R. §§1.1200(a) and 1.1206.

⁷ See New York Telephone Co., 6 FCC Rcd 3303 (1991), aff'd sub nom. New York State Dept. of Law v. FCC, 984 F.2d 1209 (D.C. Cir. 1993).