

Decision 87 11 064

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**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 MCI Telecommunications Corporation )  
 (U 5011 C), under Rule 15 for )  
 Approval to Offer Incidental )  
 IntraLATA Vnet Service on a )  
 Commercial Basis. )

Application 87-09-027  
(Filed September 18, 1987)

INTERIM OPINION

By this decision, the Commission authorizes MCI Telecommunications Corporation (MCI) to provide its Vnet service on a commercial intrastate interLATA basis to certain customers pending resolution of Application (A.) 87-09-027. The names of those customers were provided by MCI on a confidential basis, pursuant to Commission General Order (G.O.) 66-C.

MCI is also authorized to provide intraLATA Vnet service, but only on a limited basis to permit the specified Vnet customers access to a strictly limited set of telephone numbers which address the customers' computer data bases and internal operating systems. Certain other restrictions are also imposed, including holding out restrictions and reporting requirements. The tariff schedules authorized by this decision will be effective only until broader authority is subsequently granted, or alternatively, will remain effective for 18 months after MCI's application is effectively denied.

Background

On September 18, 1987, MCI filed A.87-09-027 in which it requests authority to offer interLATA and incidental intraLATA Vnet service on a commercial basis in California. It concurrently filed a motion for interim authority to provide its Vnet service on a commercial basis pending resolution of A.87-09-027. Responsive

filings have been made by the following parties on the dates indicated:

Pacific Bell (Pacific)--October 16 and  
November 5, 1987<sup>1</sup>  
AT&T Communications of California, Inc. (AT&T)--  
October 20, 1987  
General Telephone Company of California  
(General)--October 22, 1987  
Division of Ratepayer Advocates (DRA)--  
October 21, 1987  
Toward Utility Rate Normalization (TURN)--  
October 23, 1987

On November 3, 1987, MCI filed a reply to the responses filed as of that date. On November 20, MCI filed a reply to Pacific's late-filed protest.

MCI's Vnet service is a virtual private network service which MCI states is designed primarily to meet the interstate calling needs of large, geographically dispersed corporations. MCI has been authorized to provide this service on an intrastate basis since March 24, 1986 when a tariff for a test service called Vnet Phase .0 became effective, and on an interstate basis since September 1986 when a commercial tariff was accepted by the Federal Communications Commission (FCC). While MCI states that it does not hold out Vnet as an intraLATA service, it does not block intraLATA Vnet calls.

In this application, MCI seeks authority to offer a commercial intrastate Vnet service called Vnet Phase .6 which conforms to its interstate tariff. MCI first sought this change through an advice letter filed on June 25, 1987. We rejected the advice letter on July 29, 1987 in Resolution T-12042, because of the potential adverse effects of MCI's Vnet service on the

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<sup>1</sup> Pacific's late-filed protest was accepted by Administrative Law Judge (ALJ) ruling dated November 18, 1987.

intraLATA services of local exchange companies (LECs). At that time we stated that if MCI wants to provide Vnet service it should either file an application or adhere to the restrictions and conditions we placed on the Software Defined Network (SDN) service of AT&T in Decision (D.) 86-05-073 in A.85-05-081. We also instructed MCI to address the relationship between Vnet and the more general concerns being addressed in Investigation (I.) 86-05-036.

In A.85-05-081, AT&T requested limited authority to provide incidental intraLATA service in connection with its SDN service, a virtual private network service similar to Vnet. In D.85-10-015 and D.86-05-046, we authorized AT&T to provide SDN service to two customers on an interim basis pending resolution of AT&T's application. Those two decisions required that the customers voluntarily limit use of the service to interLATA communications, and further provided that customer payments for SDN service would be subject to refund to the extent rates subsequently approved might be lower than those in the interim tariffs and that AT&T's access charge payments to Pacific would also be subject to retroactive adjustment to reflect any increase in such charges required by subsequent order.

In D.86-05-073 we granted AT&T authority to provide its SDN service on a limited intraLATA basis to permit SDN customers access to a strictly limited set of telephone numbers which address the customers' computer data bases and internal operating systems. AT&T was required to use Far End Network (FEN) screening to block off-net intraLATA calls to 10-digit conventional numbers. We stated that a decision on whether to require permanent total blocking would be made after further experience with SDN usage patterns.

AT&T was also required, in the course of working with any customer on the design of its SDN service, to fully and effectively inform the customer as follows:

its impacts on other services, and another regarding intrastate revenues and costs from SDN services.

Concurrently with D.86-05-073, we issued I.86-05-036 in order to evaluate the potential intraLATA market for virtual private network services and to address the appropriateness of regulations such as blocking and reporting requirements. Telephone corporations were required to file responses indicating their plans for virtual private network services in California and their recommendations regarding regulatory requirements. No further action has been taken in that investigation to date.

#### MCI Application

MCI states that virtual private networks offer large multi-location customers the ability to gain the same functions and features as are available through private networks while using the public switched network of interexchange carriers (IECs). Virtual private network services enable customers to design an internal numbering plan, use identification and accounting codes useful in the management of customers' telecommunications budgets, and place certain restrictions on the calling ability of employees. Since virtual private networks use the public switched network, they enable the customer to avoid the costs of maintaining extensive private transmission facilities.

MCI believes that the authority to offer interLATA intrastate services granted in D.84-01-037 allows MCI to introduce new interLATA services without the need for a new Certificate of Public Convenience and Necessity (CPCN). Furthermore, the Commission has allowed other services in California over which incidental intraLATA traffic is carried. Accordingly, MCI requests whatever additional authority the Commission deems necessary for MCI to offer and provide its Vnet service in California. "

According to MCI, its Vnet service is specifically designed to be compatible with and enhance the existing private networks of large customers, creating in nearly all cases a hybrid

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AT&T was also required, in the course of working with any customer on the design of its SDN service, to fully and effectively inform the customer as follows:

- o That LEC facilities are to be used for all intraLATA calling except for the authorized intraLATA purposes;
- o That the use of SDN service for other intraLATA calling is unlawful;
- o That FEN screening will block off-net intraLATA calls to 10-digit conventional numbers;
- o That intraLATA calling can be routed to LECs through the programming of the customer's Private Branch Exchange (PBX) switch, or can be screened through the Network Control Point Service Management System which is part of SDN service; and
- o That AT&T stands ready to assist the customer in implementing such routing or screening.

AT&T was not, however, required to monitor the extent of intraLATA screening by its SDN customers.

In D.86-05-073 we also found that SDN service and related access services are jurisdictionally separable and that AT&T should use the points at which a call enters and exits its network as surrogates for the points of origin and termination. As a result, we required AT&T to include all SDN service rate elements in its intrastate tariff.

We allowed AT&T and its customers to obtain any type of access arrangement (switched, special, or customer-provided) that meets the customers' needs. However, we required that AT&T compensate LECs for intrastate access services according to intrastate usage if access services are purchased from the LEC.

AT&T was also required to submit monthly reports to LECs to enable them to bill AT&T properly for intrastate access services, and two semiannual reports to the Commission Advisory and Compliance Division (CACD): one regarding usage of SDN service and

its impacts on other services, and another regarding intrastate revenues and costs from SDN services.

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network through which some portion of a customer's internal communications requirements will be fulfilled through the customer's private network and the balance through Vnet.

MCI states that it is willing and able to satisfy the resolution in D.86-05-073 of issues regarding rate elements and types of access facilities for AT&T's SDN service. It submits that the only remaining questions addressed in A.85-05-081 and I.86-05-036 which are relevant to this application are whether Vnet poses a threat to LEC revenues and, if so, whether MCI should be required to block intraLATA traffic. MCI provides several reasons why, in its view, Vnet does not pose a substantial threat to the toll and access revenues of the LECs.

MCI states that Vnet was not designed, nor does MCI hold it out, as a replacement for local service or intraLATA private networks which might be supplied by the LEC, but that it is intended to replace interLATA private lines with a combination of the MCI interLATA switched network and special access lines provided by LECs. According to MCI, it has advised and will continue to advise its customers that intraLATA calls should be placed over LEC facilities, and further that in sizing a Vnet application for a particular customer MCI assumes that all off-net intraLATA traffic will be routed over the LECs' networks. MCI has worked and will continue to work with customers in programming their PBXs or in arranging their Centrex route guides to assure that all intraLATA traffic is passed to the LEC.

MCI provides an analysis of one month's billings for MCI's Vnet test customer to demonstrate how these measures have worked. MCI reports that at most 4.91 percent of intraLATA traffic was placed over Vnet during that month.

MCI states that it would be willing to supply the Commission with a description of its efforts to comply with the Commission's policies regarding intraLATA carriage for each Vnet customer, and to file a report with CACD describing how each

customer's PBX or other switching equipment had been programmed to route intraLATA traffic to the LEC.

MCI asserts that the steps it has taken, and will continue to take, are at least as effective as FEN screening in limiting intraLATA carriage. It concludes that there is simply no reason for the Commission to impose a blocking requirement for Vnet.

Further, MCI asserts that the FEN screening required of AT&T by D.86-05-073 is based on software uniquely contained within AT&T's 4AESS switches, that MCI cannot now block intraLATA traffic effectively, and that the development and implementation of any new blocking methods would take substantial time and entail considerable expense.

MCI contends that the originating Vnet switch is not able to identify the true point of origin or termination of a Vnet call since it does not receive information regarding the call's place of origin within the customer's private line system. In MCI's view it is not feasible to redesign customer networks to provide that information to MCI.

MCI objects to intraLATA blocking using the points at which a call enters and leaves its network (which MCI calls "customer nodes") as proxies for the call's originating and terminating points, as is required of AT&T. It states that customers' existing private networks often straddle LATA or state boundaries and that, as a result, such blocking would block legitimate interLATA and interstate traffic. Further, MCI states that Vnet does not now have the capability of node-to-node intraLATA blocking and that development of such blocking capability would entail substantial expenditures for software development and take at least two years.

MCI Motion for Interim Authority

In its motion for interim authority to provide its Vnet service on a commercial basis pending resolution of A.87-09-027, MCI seeks approval to provide Vnet service to certain customers on an interim basis. MCI provided the names of those customers on a confidential basis pursuant to G.O. 66-C, and states that it would supply this information to any party after execution of an appropriate proprietary agreement.

MCI submits that a grant of its motion would be consistent with Commission action in D.85-10-015 and D.86-05-045, which granted AT&T interim authority to provide SDN service to two customers. Since MCI has committed to abide by holding out restrictions and to implement certain measures with its customers to address the Commission's concerns regarding intraLATA carriage, MCI concludes that allowance of MCI's motion would not compromise the Commission's consideration of A.87-09-027. It also asserts that the granting of interim authority is further warranted because no decision has issued in I.86-05-036 and that consideration of issues raised in that investigation in a separate application such as this may delay a decision on those issues further.

MCI states that it is at a distinct disadvantage in offering its Vnet service in California because its currently effective intrastate tariff contains rates and charges which are different from and less attractive than the rates in MCI's interstate tariff. Unless MCI is permitted to offer Vnet on an intrastate basis at rates consistent with its existing interstate pricing structure, Vnet will appear less attractive to customers than other services. It asserts that there is no reason to perpetuate that competitive imbalance.

MCI provides a pro forma tariff through which it proposes to provide Vnet service on an interim basis. This tariff contains rates identical to rates which took effect for interstate Vnet service on September 1, 1987. MCI states that this tariff

specifically provides that the service will be available on an interLATA basis only, and that it has no objection to including language providing that customers take all reasonable steps to assure that Vnet is not used to make intraLATA calls pending a final decision in A.87-09-027.

Pacific Response to MCI Motion

On October 16, 1987, Pacific filed a response to MCI's motion for interim authority to provide Vnet on a commercial basis. In this response, Pacific states that MCI and Pacific have met and discussed MCI's Vnet service, reaching agreement on some issues which alleviate some of Pacific's concerns with MCI's request for interim authority. According to Pacific, the two parties have agreed to the following:

1. MCI will advise Pacific of customers in California to which MCI supplies Vnet service, subject to an appropriate proprietary agreement;
2. MCI will work with Pacific in assisting Vnet customers in routing intraLATA traffic to Pacific;
3. MCI will inform its Vnet customers that Vnet service is not offered for intraLATA calls, and that an arrangement which results in intraLATA traffic passing over the facilities of Pacific complies with state law; and
4. MCI has offered in its application to provide periodic reports to the Commission on incidental intraLATA traffic using Vnet service and MCI will provide Pacific copies of these reports subject to an appropriate proprietary agreement.

While Pacific has found meeting with MCI fruitful and hopes that further cooperative meetings can be conducted, complete agreement on all issues has not occurred and the above conditions have not allayed all of Pacific's concerns regarding MCI's request for interim authority.

Pacific asserts that the Commission's grant of interim authority to MCI should comport with the conditions the Commission has applied to AT&T's SDN service, and discusses two relevant aspects of the Commission's SDN decision.

First, Pacific asserts that the SDN blocking requirement should not be ignored by the Commission in evaluating MCI's request for interim authority. Pacific states that the issue of fact regarding MCI's claim that it does not have the technical capability of providing FEN screening or blocking must be tested through the hearing process if Pacific and MCI are unable to reach agreement on procedures that ensure the directing of intraLATA traffic to Pacific. As an alternative to blocking, Pacific suggests that any grant of interim authority be contingent on MCI's agreement both to work with Pacific in assuring that Vnet customers route intraLATA traffic to Pacific and to size Vnet customers' networks such that intraLATA traffic is directed to Pacific. Pacific views these restrictions as a reasonable interim alternative to the blocking requirement imposed on AT&T's SDN service, based on its current understanding of MCI's plans for Vnet.

Second, Pacific recommends that MCI's request to offer Vnet on an incidental intraLATA basis be denied. Pacific states that the Commission denied incidental intraLATA authority for SDN. In Pacific's view it is contradictory for MCI to represent that it will adhere to holding out restrictions and yet at the same time request authority to "offer" incidental intraLATA Vnet service. Pacific submits that any grant of interim authority to MCI must be limited strictly to the offering of interLATA Vnet service and specifically prohibit the offering of intraLATA Vnet service on an incidental basis.

Finally, Pacific asserts that any grant of interim authority for Vnet should be conditioned on the holding out

restrictions and customer-specific reporting requirements which MCI has volunteered to provide.

Pacific agrees that interim authority for Vnet can be granted subject to the measures and conditions Pacific has laid out in its response. Pacific states in its response, however, that it intends to meet further with MCI to resolve outstanding differences over this service and reserves its rights to raise issues of continuing concern in a later protest.

#### Pacific Protest to MCI Application

Pacific's late-filed protest to MCI's application was docketed on November 5, 1987. In this protest, Pacific states that all of its concerns have not been allayed and that MCI's ability or inability to block intraLATA Vnet calls must be examined through the hearing process. Pacific questions whether development of a screening technique would be as expensive or time-consuming as MCI contends. It also asserts that MCI's arguments against the use of the points of entry into and exit from the network for blocking purposes are similar to AT&T's position in A.85-05-081, and points out that the Commission required AT&T to perform FEN screening on that basis.

Pacific reiterates that the Commission might wish to consider the imposition of alternative safeguards such as limits to the sizing of Vnet facilities or a requirement that MCI monitor the extent of intraLATA screening by particular Vnet customers, if the Commission concludes after hearing that blocking is objectionable.

Pacific submits that MCI should be required to abide by the same conditions on use of LEC access services as AT&T must follow in providing its SDN service, i.e., that access services purchased from LECs should be jurisdictionally separated on the basis of the amount of interstate versus intrastate Vnet calls.

Pacific concludes that it intends to continue meeting with MCI to try to establish a method whereby Pacific provides the intraLATA services and MCI provides interLATA services. If

adequate agreement is reached, Pacific believes that the scope of hearings may be substantially reduced.

Protest of General to MCI Application

General is strongly opposed to MCI's application. It states that MCI's application does not attempt to disguise its flagrant disregard of the Commission policy against intraLATA competition nor does it present any compelling reason why the requested service would benefit California telephone subscribers or the public.

General states that MCI's proposal to offer Vnet without intraLATA blocking would fly squarely in the face of the pronouncement against intraLATA competition in D.84-06-113 which was reaffirmed in D.86-05-073 requiring blocking of intraLATA SDN calls by AT&T.

Although MCI claims its intraLATA Vnet service will be "incidental," General is convinced that its implications and ramifications will be everything but incidental. In General's view, if increasing numbers of IECs were allowed to provide "incidental" intraLATA services, overall intraLATA competition would quickly change from "incidental" to "substantial" and the Commission's stated policy against intraLATA competition would be supplanted by de facto competition already in place. It concludes that the Commission should not expand IECs' offering of such services on an interim or permanent basis until it can be determined that effective blocking is possible and is in place.

Should the Commission determine that MCI or any other IEC should be granted expansion into the intraLATA marketplace, General contends that the granted authority must include the same restrictions imposed on AT&T's SDN service, most notably the blocking of intraLATA calls. In General's view, there is no rational reason for treating MCI differently with regard to the blocking of intraLATA calls.

MCI's contention that it does not have the technical capability to provide intraLATA blocking does not persuade General, which states that AT&T made similar arguments when it requested SDN service. Further, MCI has been on notice at least since D.84-06-113 that there is a Commission policy against intraLATA competition and since D.86-05-073 that intraLATA blocking is required for AT&T's SDN service. General concludes that there is no excuse offered for MCI's failure to build an intraLATA blocking feature into the development of its Vnet service offering.

AT&T Response to MCI Motion

AT&T supports MCI's motion for interim authority. It points out that the Commission has been considering for over a year the extent to which IECs can offer virtual private network services on an intraLATA basis, and states that it would be unjust and counterproductive to deny MCI an opportunity to provide Vnet service on an interim basis. It concludes that the Commission's interest in realizing effective competition in California can best be met by permitting MCI to offer Vnet on an interim basis, subject to MCI's holding out that the service should not be employed for intraLATA communications, while the Commission investigates whether this or any other restriction should be required of a permanent Vnet offering.

DRA Response to MCI Application and Motion

DRA submits that the issues raised in MCI's application are analogous to those addressed in I.86-05-036, and that the two matters should be consolidated. It states that to consider the MCI application separately would create a duplicate record and unduly burden the parties already participating in the investigation by requiring them to duplicate their efforts. DRA does not oppose the motion for interim authority since this same procedure was utilized for AT&T's SDN service.



TURN Protest to MCI Application

TURN requests that A.87-09-027 be denied, or that hearings be held to address issues critical to the Commission's determination. TURN states that it would welcome consolidation with I.86-05-036, as recommended by DRA, if expedited hearings were ordered. TURN requests that MCI's motion to provide Vnet on an interim basis be denied because it believes the probable intraLATA leakage would be too great to tolerate even on a short term basis.

TURN argues that, since no one has stepped forward in the 3-1/2 years since D.84-06-113 with a viable alternative to the LEC intraLATA monopoly that would protect universal service and basic exchange rates, the Commission should continue to guard carefully the LEC monopoly reaffirmed in that decision. In TURN's view, there is no assurance that Vnet intraLATA traffic would be only incidental, and this open door presents a potentially serious threat to the LEC monopoly.

TURN asserts that, once a customer's Vnet design is complete, the customer, not MCI, will program the customer's route guides contained in its PBX or Centrex system. It is TURN's understanding that MCI does not propose any monitoring of intraLATA traffic carried over the customer's Vnet system once the system is on line. TURN concludes that there is nothing to prevent the customer from using Vnet for its intraLATA traffic.

TURN is also concerned that the informal warnings which MCI has agreed to provide may actually enlighten some of the large sophisticated commercial customers that using Vnet for intraLATA calling may be more economical than using the LECs, and goes further to assert that these written warnings and apparently ongoing discussions with the customers on this topic may violate the holding out restrictions established in D.84-06-113.

TURN believes that extending treatment equal to that granted AT&T's SDN service is not reasonable, for two reasons.

First, TURN questions the wisdom of D.86-05-073 in light of what it asserts has been extensive use of SDN for intraLATA calling. It asserts that reports filed with CACD show that roughly 15 to 20 percent of all SDN intrastate messages and minutes of use in Pacific's territory for the first six months of 1987 were intraLATA, and that the intraLATA percentage was over 35 percent for General during the same time period. In TURN's view, these percentages far exceed the incidental intraLATA traffic envisioned by either D.84-06-113 or D.86-05-073 and perhaps warrant a ban on virtual private networks altogether until IECs develop total blocking capabilities.

Second, TURN concludes that even presuming the SDN decision was correct, use of AT&T's SDN service to complete intraLATA calls looks significantly less attractive than does use of MCI's Vnet service. TURN asserts that while SDN intraLATA calls are more economical than LEC intraLATA calls beyond an approximate 30 to 40 mile radius, Vnet intraLATA calls are more economical beyond an approximate 17 mile radius, providing a greater incentive for Vnet customers to use Vnet to complete intraLATA calls.

In TURN's view, the Commission should have reservations about the reliability of MCI's review of one month's worth of data for one customer as support for its claim that Vnet intraLATA traffic would be minimal. TURN strongly favors hearings, in which MCI should be required to substantiate its claim using a meaningful customer sample.

Acknowledging that denying or delaying MCI's application would impose a competitive disadvantage on MCI, TURN nevertheless asserts that to place MCI on par with AT&T in this area would only compound a potentially serious problem. It asserts that MCI has been on notice since D.84-06-113 that intraLATA competition is impermissible, and that D.86-06-113 should have provided ample warning to develop some type of blocking capability. TURN asserts

In MCI's view, General also fails to consider the possibility that there may be other means available besides blocking which might accomplish the substantive goals of the Commission's policies to allow only limited intraLATA competition. MCI further contends that the Commission ordered AT&T to employ FEN screening based on evidence that that technology was in existence and would require no capital investment.

MCI opposes DRA's recommendation that A.87-09-027 be consolidated with I.86-05-073. MCI is concerned that consolidation might delay a Commission decision regarding Vnet. It also notes that case-by-case adjudication may be a more appropriate vehicle for the consideration of different carriers' virtual private network services, since there may be meaningful differences in different carriers' services.

MCI states that TURN ignores the fact that in D.84-06-113 the Commission clearly stated that the ban on intraLATA competition was intended to be a temporary policy and that competition should be permitted immediately in certain areas such as high speed data transmission. MCI also asserts that the Commission has permitted provision of incidental intraLATA service in several subsequent matters in which blocking was not technologically feasible or would render the interexchange service unmarketable, citing as examples the SDN decision and Commission Resolution No. T-12018 approving MCI's 800 service.

MCI contends that whatever levels of intraLATA traffic might be carried over AT&T's SDN service are irrelevant to the Commission's consideration of this application and to its judging the merits of MCI's proposal.

In MCI's view, TURN's position that denial of MCI's application until blocking capability is developed would impose only a minimal competitive disadvantage on MCI ignores the fact that AT&T would develop and solidify a monopoly on this type of service in California in the meantime. It asserts that by the time

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In TURN's view, the Commission should have reservations about the reliability of MCI's review of one month's worth of data for one customer as support for its claim that Vnet intraLATA traffic would be minimal. TURN strongly favors hearings, in which MCI should be required to substantiate its claim using a meaningful customer sample.

Acknowledging that denying or delaying MCI's application would impose a competitive disadvantage on MCI, TURN nevertheless asserts that to place MCI on par with AT&T in this area would only compound a potentially serious problem. It asserts that MCI has been on notice since D.84-06-113 that intraLATA competition is impermissible, and that D.86-06-113 should have provided ample warning to develop some type of blocking capability. TURN asserts

that the burden falls upon MCI to prove that the intraLATA intrusion is truly incidental.

TURN further asserts that MCI's relative disadvantage would be minimal. It asserts that the technology behind Vnet will be viable for the foreseeable future, giving MCI sufficient time and incentive to develop essentially total blocking capability within the next couple of years. It concludes that the harm imposed on MCI from denial of this application or conducting hearing on this matter appears to be relatively minor when compared with the potentially large invasion of the intraLATA market.

MCI Reply

MCI replied to all responses.

MCI concurs with Pacific that they are in substantial agreement regarding the terms and conditions which should govern the interim provision of Vnet service. MCI contends that differences regarding authorization for incidental intraLATA service arise from Pacific's unduly narrow and erroneous view of the Commission's actions in the SDN proceeding. MCI points out that the Commission permitted AT&T to offer and provide its service on an intraLATA basis for certain specific purposes. Further, AT&T can provide on-net intraLATA service, since the imposed FEN screening does not block on-net intraLATA traffic.

MCI asserts that General has a lack of understanding both of MCI's application and of applicable Commission precedent. MCI states that the SDN decision does not bar intraLATA competition, since FEN screening does not block intraLATA on-net traffic and AT&T has intraLATA authority for certain specific purposes. MCI concludes that to the extent that approval of MCI's application would result in MCI's carrying on-net intraLATA traffic or traffic for the same purposes authorized in the SDN proceeding, MCI's application is fully consistent with the Commission's decision in that case.

In MCI's view, General also fails to consider the possibility that there may be other means available besides blocking which might accomplish the substantive goals of the Commission's policies to allow only limited intraLATA competition. MCI further contends that the Commission ordered AT&T to employ FEN screening based on evidence that that technology was in existence and would require no capital investment.

MCI opposes DRA's recommendation that A.87-09-027 be consolidated with I.86-05-073. MCI is concerned that consolidation might delay a Commission decision regarding Vnet. It also notes that case-by-case adjudication may be a more appropriate vehicle for the consideration of different carriers' virtual private network services, since there may be meaningful differences in different carriers' services.

MCI states that TURN ignores the fact that in D.84-06-113 the Commission clearly stated that the ban on intraLATA competition was intended to be a temporary policy and that competition should be permitted immediately in certain areas such as high speed data transmission. MCI also asserts that the Commission has permitted provision of incidental intraLATA service in several subsequent matters in which blocking was not technologically feasible or would render the interexchange service unmarketable, citing as examples the SDN decision and Commission Resolution No. T-12018 approving MCI's 800 service.

MCI contends that whatever levels of intraLATA traffic might be carried over AT&T's SDN service are irrelevant to the Commission's consideration of this application and to its judging the merits of MCI's proposal.

In MCI's view, TURN's position that denial of MCI's application until blocking capability is developed would impose only a minimal competitive disadvantage on MCI ignores the fact that AT&T would develop and solidify a monopoly on this type of service in California in the meantime. It asserts that by the time

the hearings which TURN apparently wants to hold are over, AT&T's position will be fully entrenched.

MCI also takes exception to TURN's comparison of Vnet and intraLATA toll rates. It contends that TURN's calculations are erroneous because they compare Vnet transport rates only to intraLATA toll rates, ignoring the cost of Vnet access, which is paid by the customer, as well as other fixed charges in the Vnet tariff. MCI concludes that TURN's comparison overstates the extent to which a customer might find Vnet more attractive than intraLATA toll services.

#### Discussion

We will address only MCI's motion for interim authority at this time. None of the contended issues of fact are such that they prevent consideration of this motion without hearings. We note that the issue of whether intraLATA competition should be authorized for virtual private network services will be addressed in early 1988 in the investigation into local exchange regulation which we institute today. Since the outcome of that investigation has a direct bearing on both A.87-09-027 and I.86-05-036, we will defer further action in these two proceedings until after Phase I of the local exchange investigation is completed, so that these two proceedings may be completed in a manner consistent with our findings in that investigation.

MCI has proffered a number of restrictions on its Vnet service as alternatives to blocking of intraLATA calls, which it contends would be unneeded, expensive, and ineffective. Pacific generally agrees with MCI's approach, at least on an interim basis, but would add certain other restrictions. On the other hand, General and TURN are not convinced that such arrangements would be adequate to limit intraLATA Vnet usage to an acceptable level.

While recognizing the concerns expressed by General and TURN, we do not believe they are sufficient to deny interim authority for commercial Vnet operations. It appears that



restrictions can be crafted in a manner that will greatly restrict intraLATA use of the service while this proceeding is pending. Other than its present lack of FEN screening capability, MCI's Vnet service appears to be substantively similar to AT&T's SDN operations. We conclude that policies developed for SDN other than FEN screening should similarly be applied to Vnet, at least on an interim basis.

With the limitations adopted in this decision, we find that granting interim authority for commercial Vnet service will meet the immediate needs of MCI and its customers, and will not compromise or affect our ongoing consideration of MCI's broader application. Because of the network efficiencies and desirable customer options inherent in MCI's Vnet service, we conclude that the public interest will be served by permitting MCI to provide commercial Vnet service on an interim basis.

No respondent has raised concerns about the rate structure which MCI proposes for its intrastate Vnet service. According to MCI, the pro forma tariff it has provided contains rates identical to its interstate Vnet rates. Because intrastate rate structure was an issue in our consideration of AT&T's SDN proposal, we made customer payments resulting from the interim authority granted in D.85-10-015 and D.86-05-046 subject to refund. Absent objection, we find reasonable the proposed intrastate Vnet rate structure. Hence, there is no need to impose a subject-to-refund provision.

Another issue in AT&T's SDN application was the jurisdictional nature of the calls and related access services. In D.86-05-073 we found that interstate and intrastate SDN services and related access services are jurisdictionally separable and should be billed separately, based on the points at which calls enter and exit AT&T's network. For purposes of blocking, MCI opposes use of the points at which a call enters and leaves its network as proxies for the call's originating and terminating

points for purposes of blocking. However, it does not discuss the manner in which it bills customers and obtains access services for interstate and intrastate Vnet services. We see no reason to differentiate between SDN and Vnet in this respect. We note also that MCI states that it is willing and able to satisfy Commission resolution of access facilities issues in D.86-05-073. We conclude that billings for any access services obtained from the LECs should be allocated between interstate and intrastate tariffs based on relative use, measured based on points of entry and exit of the calls.

MCI has no objection to including language in its tariff requiring that customers take all reasonable steps to assure that Vnet is not used to make unauthorized intraLATA calls pending resolution of its application. We will require that this be done.

Two other tariff language additions should be made to reflect restrictions imposed on AT&T's interim SDN authority, which we find are reasonable to apply likewise to Vnet. The tariff should reflect that its terms are available only to the list of customers which MCI provided pursuant to G.O. 66-C, and that the schedules shall specifically apply only pending the effectiveness of tariff schedules offering Vnet service on a broader basis pursuant to a subsequent Commission order, except that if a subsequent Commission order substantially denies MCI's request to provide intrastate Vnet service, the tariff schedules authorized by the present order shall remain in effect for 18 months from the date of that subsequent order.

Pacific's arguments against authorization for MCI to offer incidental intraLATA service are well taken. While we understand that incidental intraLATA traffic may be completed, the current unlawful status of most such traffic should be maintained. This is consistent with treatment of MCI's 800 service. The conditions which we have attached to granting interim authority for Vnet are intended to preclude incidental intraLATA use. We do

not, by this order, grant MCI authority to "offer" incidental intraLATA Vnet service. Authorization of intraLATA Vnet service should be restricted, as for AT&T's SDN service, to a strictly limited set of telephone numbers which address customers' computer data bases and internal operating systems.

Pacific suggests that MCI should be required to size Vnet customers' networks such that intraLATA traffic is directed to the LEC. We note MCI's assertion that it assumes all off-net intraLATA traffic is routed to the LECs in designing a Vnet application, and its agreement to work with customers in programming their switches to achieve this end. However, we have problems understanding the extent to which network sizing would be effective in directing intraLATA traffic to the LEC. It is our understanding that during peak usage periods calls in excess of network capabilities would be blocked or routed elsewhere regardless of whether they are intraLATA or interLATA. Further, during periods when usage does not approach network capacity all calls not diverted by switches programmed otherwise will be completed. The key factor appears to be how the switch is programmed rather than network size.

We are reluctant, absent further information, to apply network sizing restrictions such as Pacific proposes at this time. Pacific may bring forth further information and/or more explicit proposals if it wishes to do so during consideration of MCI's broader application.

MCI has agreed to work with Pacific in assisting Vnet customers in routing intraLATA traffic to Pacific. We conclude that such cooperation is reasonable and should be extended to other LECs in whose service territories Vnet is provided.

Consistent with holding out restrictions in place for AT&T's SDN service and the agreements which MCI has reached with Pacific, MCI should fully and effectively inform its Vnet customers as follows:

- o That LEC facilities are to be used for all intraLATA calling except for the authorized intraLATA purposes;
- o That use of the Vnet service for other intraLATA calling is unlawful;
- o That the Vnet tariff requires that customers take all reasonable steps to ensure that Vnet is not used to make unauthorized intraLATA calls pending a final decision in A.87-09-027;
- o That intraLATA calling should be routed to LECs as appropriate through the programming of the customer's PBX switch or arranging of Centrex route guides; and
- o That MCI and/or the LEC will work with the customer in implementing appropriate routing.

To allow tracking of Vnet activity, MCI should provide certain information to CACD and the LECs, including the following:

- o MCI will advise Pacific and other LECs of customers in California to which MCI supplies Vnet service, subject to appropriate proprietary agreements.
- o MCI will provide monthly reports to the LECs within whose service territories Vnet service is provided, furnishing the recorded Vnet usage originating and terminating within that service area, the applicable intrastate/interstate breakdown, and if available a breakdown of the recorded usage between that portion which uses LEC access facilities and that which does not.
- o MCI will provide reports to CACD describing how each customer's PBX or other switching equipment has been programmed to route intraLATA traffic to the LEC, as well as other MCI efforts to comply with our restrictions on intraLATA Vnet use, with the first report covering existing Vnet installations due January 25, 1988 and with

further reports on new customers due 30 days after each installation of Vnet service. These reports should be updated semi-annually and made available to LECs, subject to appropriate proprietary agreements.

MCI shall further maintain records adequate to identify customer intraLATA Vnet usage, based on the points at which calls enter and exit the MCI system. Provision of such data to allow examination during consideration of MCI's broader application will be addressed as appropriate by the assigned ALJ.

With the restrictions and reporting requirements adopted in this interim opinion, MCI's motion for interim authority to provide Vnet service on a commercial basis should be granted.

Findings of Fact

1. Interim provision of intrastate Vnet service on a commercial basis to the customers specified by MCI in its motion will meet those customers' needs.
2. Interim provision of intrastate Vnet service on a commercial basis to the specified customers will not compromise or affect the Commission's ongoing consideration of MCI's broader application for authority to provide Vnet service on a commercial basis within California.
3. The public interest will be served by permitting MCI to provide commercial Vnet service to the specified customers on an interim basis.
4. No respondent raised concerns about the rate structure which MCI proposes for its commercial intrastate Vnet services.
5. MCI states that the pro forma tariff it has provided contains rates identical to its interstate Vnet rates.
6. The proposed intrastate Vnet rates are reasonable.
7. In D.86-05-073 we found that interstate and intrastate SDN services and related access services should be billed separately, based on the points at which calls enter and exit AT&T's network. MCI's Vnet service should be treated similarly.

8. MCI states that it has worked and will continue to work with customers in programming their PBXs or in arranging their Centrex guides to assure that all intraLATA traffic is passed to the LEC. MCI has also agreed to work with Pacific in assisting Vnet customers in routing intraLATA traffic to Pacific.

9. MCI is willing to include language in its tariff providing Vnet service on an interim basis which requires that customers take all reasonable steps to assure that Vnet is not used to make intraLATA calls pending a final decision in A.87-09-027.

10. In D.85-10-015 and D.86-05-046 we found that it was reasonable to permit the customers receiving interim SDN service to retain that service for up to 18 months from the date of any Commission order substantially disallowing AT&T's application, in order for the customers to secure alternate service arrangements. MCI's Vnet service should be treated similarly.

11. It would be premature to impose Pacific's proposed conditions regarding the sizing of Vnet systems absent further information.

12. Authorization to MCI to offer Vnet on an otherwise unrestricted incidental intraLATA basis would provide a broader intraLATA authorization than that granted AT&T in D.86-05-073.

13. It is reasonable to restrict MCI's authorization to offer intraLATA Vnet service to a strictly limited set of telephone numbers which address customers' computer data bases and internal operating systems.

14. Reasonable holding out restrictions can permit intraLATA use of Vnet service for the purposes indicated in Finding of Fact 13, while limiting other intraLATA usage to acceptable levels on an interim basis.

#### Conclusions of Law

1. IntraLATA Vnet service should be authorized on an interim basis only to permit access to a strictly limited set of telephone

numbers which address the customers' computer data bases and internal operating systems.

2. MCI should be authorized to file its pro forma tariff schedules for the interim provision of intrastate interLATA and limited intraLATA Vnet service on a commercial basis to the specified customers, subject to the modifications set forth in the Discussion section of this interim opinion.

3. MCI should be required to bill intrastate and interstate Vnet services separately, based on the points at which calls enter and exit the system. Access services from the LECs should also be obtained in this manner.

4. MCI should be required to abide by the holding out restrictions set forth in the Discussion section of this interim opinion.

5. MCI should continue to work with customers in programming their PBXs or in arranging their Centrex guides to assure that all intraLATA traffic is passed to the LEC, and should work with the LECs in providing such assistance.

6. MCI should be required to maintain appropriate records and file appropriate reports to allow monitoring of the implementation and customer use of the Vnet service.

7. Subject to the foregoing conclusions of law, MCI's motion of September 18, 1987 should be granted.

8. In order to meet the customers' immediate need, the following order should be effective today.

INTERIM ORDER

IT IS ORDERED that:

1. On or after the effective date of this order, MCI Telecommunications (MCI) may make an advice letter filing under the terms of General Order 96-A to implement the provision of commercial Vnet service on an interim basis to the customers

listed in Exhibit A attached to its motion for interim authority filed September 18, 1987. The filed tariffs shall contain the terms specified in the tariff schedules attached to that motion, except that the tariff schedules shall specifically provide as follows:

- a. That they apply only for service provided to the specified customers.
- b. That they apply only pending the effectiveness of MCI tariff schedules offering Vnet service on a broader basis pursuant to a subsequent Commission order, except that if a subsequent Commission order substantially denies A.87-09-027, the tariff schedules authorized by the present order shall remain in effect for 18 months from the date of that subsequent order.
- c. That Vnet service may lawfully be used for intraLATA communications solely for the purpose of permitting a Vnet customer access to a strictly limited set of telephone numbers which address a customer's computer data bases and internal operating systems.
- d. That the use of Vnet service for other intraLATA communications is unlawful, and that MCI does not offer Vnet service for such use.
- e. That a customer must take all reasonable steps to assure that its Vnet service is not used by any person for purposes of unauthorized intraLATA communications, pending a subsequent Commission order authorizing broader offering of Vnet service.
- f. That intraLATA calling should be routed to local exchange carriers as appropriate, for example, through the programming of the customer's PBX switch or arranging of Centrex route guides.
- g. That MCI and/or the local exchange carrier (LEC) will work with the customer in



implementing appropriate routing of  
intraLATA traffic.

The effective date of these tariff schedules shall be no sooner than 5 days after the date of filing.

2. Access services from the LECs shall be obtained separately for intrastate and interstate Vnet services, with the separation based on the points at which calls enter and leave MCI's system.

3. MCI shall fully and effectively inform its Vnet customers as follows:

- a. That LEC facilities are to be used for all intraLATA calling except for the authorized intraLATA purposes;
- b. That use of the Vnet service for other intraLATA calling is unlawful;
- c. That the Vnet tariff requires that customers take all reasonable steps to ensure that Vnet is not used to make unauthorized intraLATA calls pending a final decision in A.87-09-027;
- d. That intraLATA calling should be routed to LECs as appropriate through the programming of the customer's PBX switch or arranging of Centrex route guides; and
- e. That MCI and/or the LEC will work with the customer in implementing appropriate routing.

4. MCI shall provide the following information to the Commission Advisory and Compliance Division (CACD) and the LECs:

- a. MCI shall advise the LECs of customers in California to which MCI supplies Vnet service, subject to appropriate proprietary agreements.
- b. MCI shall provide monthly reports to the LECs within whose service territories Vnet service is provided, furnishing the recorded Vnet usage originating and terminating within that service area, the

applicable intrastate/interstate breakdown, and if available a breakdown of the recorded usage between that portion which uses LEC access facilities and that which does not.

- c. MCI shall provide reports to CACD describing how each customer's PBX or other switching equipment has been programmed to route intraLATA traffic to the LEC, as well as other MCI efforts to comply with our restrictions on intraLATA Vnet use, with the first report covering existing Vnet installations due January 25, 1988 and with further reports on new customers due 30 days after each installation of Vnet service. These reports should be updated semi-annually and made available to LECs, subject to appropriate proprietary agreements.

5. MCI shall further maintain records adequate to identify customer intraLATA Vnet usage, based on the points at which calls enter and exit the MCI system.


6. To the extent not otherwise granted by this order, MCI's motion of September 18, 1987 is denied.

This order is effective today.

Dated November 25, 1987, at San Francisco, California.

STANLEY W. HULETT  
President  
DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
JOHN B. OGANIAN  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Victor Weissor, Executive Director

time we stated that if MCI wants to provide Vnet service it should either file an application or adhere to the restrictions and conditions we placed on the Software Defined Network (SDN) service of AT&T in Decision (D.) 86-05-073 in A.85-05-081. We also instructed MCI to address the relationship between Vnet and the more general concerns being addressed in Investigation (I.) 86-05-036.

In A.85-05-081, AT&T requested limited authority to provide incidental intraLATA service in connection with its SDN service, a virtual private network service similar to Vnet. In D.85-10-015 and D.86-05-046, we authorized AT&T to provide SDN service to two customers on an interim basis pending resolution of AT&T's application. Those two decisions required that the customers voluntarily limit use of the service to interLATA communications, and further provided that customer payments for SDN service would be subject to refund to the extent rates subsequently approved might be lower than those in the interim tariffs and that AT&T's access charge payments to Pacific would also be subject to retroactive adjustment to reflect any increase in such charges required by subsequent order.

In D.86-05-073 we granted AT&T authority to provide its SDN service on a limited intraLATA basis to permit SDN customers access to a strictly limited set of telephone numbers which address the customers' computer data bases and internal operating systems. AT&T was required to use Far End Network (FEN) screening to block off-net intraLATA calls to 10-digit conventional numbers. We stated that a decision on whether to require permanent total blocking would be made after further experience with SDN usage patterns.

AT&T was also required, in the course of working with any customer on the design of its SDN service, to fully and effectively inform the customer as follows:

- o That LEC facilities are to be used for all intraLATA calling except for the authorized intraLATA purposes;
- o That the use of SDN service for other intraLATA calling is unlawful;
- o That FEN screening will block off-net intraLATA calls to 10-digit conventional numbers;
- o That intraLATA calling can be routed to LECs through the programming of the customer's Private Branch Exchange (PBX) switch, or can be screened through the Network Control Point Service Management System which is part of SDN service; and
- o That AT&T stands ready to assist the customer in implementing such routing or screening.

AT&T was not, however, required to monitor the extent of intraLATA screening by its SDN customers.

In D.86-05-073 we also found that SDN service and related access services are jurisdictionally separable and that AT&T should use the points at which a call enters and exits its network as surrogates for the points of origin and termination. As a result, we required AT&T to include all SDN service rate elements in its intrastate tariff.

We allowed AT&T and its customers to obtain any type of access arrangement (switched, special, or customer-provided) that meets the customers' needs. However, we required that AT&T compensate LECs for intrastate access services according to intrastate usage if access services are purchased from the LEC.

AT&T was also required to submit monthly reports to LECs to enable them to bill AT&T properly for intrastate access services, and two semiannual reports to the Commission Advisory and Compliance Division (CACD): one regarding usage of SDN service and

that the burden falls upon MCI to prove that the intraLATA intrusion is truly incidental.

TURN further asserts that MCI's relative disadvantage would be minimal. It asserts that the technology behind Vnet will be viable for the foreseeable future, giving MCI sufficient time and incentive to develop essentially total blocking capability within the next couple of years. It concludes that the harm imposed on MCI from denial of this application or conducting hearing on this matter appears to be relatively minor when compared with the potentially large invasion of the intraLATA market.

MCI Reply

MCI replied to all responses.

MCI concurs with Pacific that they are in substantial agreement regarding the terms and conditions which should govern the interim provision of Vnet service. MCI contends that differences regarding authorization for incidental intraLATA service arise from Pacific's unduly narrow and erroneous view of the Commission's actions in the SDN proceeding. MCI points out that the Commission permitted AT&T to offer and provide its service on an intraLATA basis for certain specific purposes. Further, AT&T can provide on-net intraLATA service, since the imposed FEN screening does not block on-net intraLATA traffic.

MCI asserts that General has a lack of understanding both of MCI's application and of applicable Commission precedent. MCI states that the SDN decision does not bar intraLATA competition, since FEN screening does not block intraLATA on-net traffic and that AT&T has intraLATA authority for certain specific purposes. MCI concludes that to the extent that approval of MCI's application would result in MCI's carrying on-net intraLATA traffic or traffic for the same purposes authorized in the SDN proceeding, MCI's application is fully consistent with the Commission's decision in that case.

the hearings which TURN apparently wants to hold are over, AT&T's position will be fully entrenched.

MCI also takes exception to TURN's comparison of Vnet and intraLATA toll rates. It contends that TURN's calculations are erroneous because they compare Vnet transport rates only to intraLATA toll rates, ignoring the cost of Vnet access, which is paid by the customer, as well as other fixed charges in the Vnet tariff. MCI concludes that TURN's comparison overstates the extent to which a customer might find Vnet more attractive than intraLATA toll services.

#### Discussion

We will address only MCI's motion for interim authority at this time. None of the contended issues of fact are such that they prevent consideration of this motion without hearings. A joint prehearing conference in A.87-09-027 and I.86-05-036 will be held shortly at which time consolidation of the two matters and procedural treatment of remaining issues will be considered.

MCI has proffered a number of restrictions on its Vnet service as alternatives to blocking of intraLATA calls, which it contends would be unneeded, expensive, and ineffective. Pacific generally agrees with MCI's approach, at least on an interim basis, but would add certain other restrictions. On the other hand, General and TURN are not convinced that such arrangements would be adequate to limit intraLATA Vnet usage to an acceptable level.

We see little merit in denying interim authority for commercial Vnet operations because of the concerns expressed by General and TURN. It appears that restrictions can be crafted in a manner that will greatly restrict intraLATA use of the service while this proceeding is pending. Other than its present lack of FEN screening capability, MCI's Vnet service appears to be substantively similar to AT&T's SDN operations. We conclude that policies developed for SDN other than FEN screening should similarly be applied to Vnet, at least on an interim basis.

With the limitations adopted in this decision, we find that granting interim authority for commercial Vnet service will meet the immediate needs of MCI and its customers, and will not compromise or affect our ongoing consideration of MCI's broader application. Because of the network efficiencies and desirable customer options inherent in MCI's Vnet service, we conclude that the public interest will be served by permitting MCI to provide commercial Vnet service on an interim basis.

No respondent has raised concerns about the rate structure which MCI proposes for its intrastate Vnet service. According to MCI, the pro forma tariff it has provided contains rates identical to its interstate Vnet rates. Because intrastate rate structure was an issue in our consideration of AT&T's SDN proposal, we made customer payments resulting from the interim authority granted in D.85-10-015 and D.86-05-046 subject to refund. Absent objection, we find reasonable the proposed intrastate Vnet rate structure. Hence, there is no need to impose a subject-to-refund provision.

Another issue in AT&T's SDN application was the jurisdictional nature of the calls and related access services. In D.86-05-073 we found that interstate and intrastate SDN services and related access services are jurisdictionally separable and should be billed separately, based on the points at which calls enter and exit AT&T's network. For purposes of blocking, MCI opposes use of the points at which a call enters and leaves its network as proxies for the call's originating and terminating points for purposes of blocking. However, it does not discuss the manner in which it bills customers and obtains access services for interstate and intrastate Vnet services. We see no reason to differentiate between SDN and Vnet in this respect. We note also that MCI states that it is willing and able to satisfy Commission resolution of access facilities issues in D.86-05-073. We conclude that billings for any access services obtained from the LECs should

be allocated between interstate and intrastate tariffs based on relative use, measured based on points of entry and exit of the calls.

MCI has no objection to including language in its tariff requiring that customers take all reasonable steps to assure that Vnet is not used to make unauthorized intraLATA calls pending resolution of its application. We will require that this be done.

Two other tariff language additions should be made to reflect restrictions imposed on AT&T's interim SDN authority, which we find are reasonable to apply likewise to Vnet. The tariff should reflect that its terms are available only to the list of customers which MCI provided pursuant to G.O. 66-C, and that the schedules shall specifically apply only pending the effectiveness of tariff schedules offering Vnet service on a broader basis pursuant to a subsequent Commission order, except that if a subsequent Commission order substantially denies MCI's request to provide intrastate Vnet service, the tariff schedules authorized by the present order shall remain in effect for 18 months from the date of that subsequent order.

Pacific's arguments against authorization for MCI to offer incidental intraLATA service are well taken. While we understand that incidental intraLATA traffic may be completed, the current unlawful status of most such traffic should be maintained. This is consistent with treatment of MCI's 800 service. Authorization of intraLATA Vnet service should be restricted, as for AT&T's SDN service, to a strictly limited set of telephone numbers which address customers' computer data bases and internal operating systems.

Pacific suggests that MCI should be required to size Vnet customers' networks such that intraLATA traffic is directed to the LEC. We note MCI's assertion that it assumes all off-net intraLATA traffic is routed to the LECs in designing a Vnet application, and its agreement to work with customers in programming their switches



to achieve this end. However, we have problems understanding the extent to which network sizing would be effective in directing intraLATA traffic to the LEC. It is our understanding that during peak usage periods calls in excess of network capabilities would be blocked or routed elsewhere regardless of whether they are intraLATA or interLATA. Further, during periods when usage does not approach network capacity all calls not diverted by switches programmed otherwise will be completed. The key factor appears to be how the switch is programmed rather than network size.

We are reluctant, absent further information, to apply network sizing restrictions such as Pacific proposes at this time. Pacific may bring forth further information and/or more explicit proposals if it wishes to do so during consideration of MCI's broader application.

MCI has agreed to work with Pacific in assisting Vnet customers in routing intraLATA traffic to Pacific. We conclude that such cooperation is reasonable and should be extended to other LECs in whose service territories Vnet is provided.

Consistent with holding out restrictions in place for AT&T's SDN service and the agreements which MCI has reached with Pacific, MCI should fully and effectively inform its Vnet customers as follows:

- o That LEC facilities are to be used for all intraLATA calling except for the authorized intraLATA purposes;
- o That use of the Vnet service for other intraLATA calling is unlawful;
- o That the Vnet tariff requires that customers take all reasonable steps to ensure that Vnet is not used to make unauthorized intraLATA calls pending a final decision in A.87-09-027;
- o That intraLATA calling should be routed to LECs as appropriate through the programming of the customer's PBX switch or arranging of Centrex route guides; and

- o That MCI and/or the LEC will work with the customer in implementing appropriate routing.

To allow tracking of Vnet activity, MCI should provide certain information to CACD and the LECs, including the following:

- o MCI will advise Pacific and other LECs of customers in California to which MCI supplies Vnet service, subject to appropriate proprietary agreements.
- o MCI will provide monthly reports to the LECs within whose service territories Vnet service is provided, furnishing the recorded Vnet usage originating and terminating within that service area, the applicable intrastate/interstate breakdown, and if available a breakdown of the recorded usage between that portion which uses LEC access facilities and that which does not.
- o MCI will provide reports to CACD describing how each customer's PBX or other switching equipment has been programmed to route intraLATA traffic to the LEC, as well as other MCI efforts to comply with our restrictions on intraLATA Vnet use, with the first report covering existing Vnet installations due January 25, 1988 and with further reports on new customers due 30 days after each installation of Vnet service. These reports should be made available to LECs, subject to appropriate proprietary agreements.

MCI shall further maintain records adequate to identify customer intraLATA Vnet usage, based on the points at which calls enter and exit the MCI system. Provision of such data to allow examination during consideration of MCI's broader application will be addressed as appropriate by the assigned ALJ.

With the restrictions and reporting requirements adopted in this interim opinion, MCI's motion for interim authority to provide Vnet service on a commercial basis should be granted.

Findings of Fact

1. Interim provision of intrastate Vnet service on a commercial basis to the customers specified by MCI in its motion will meet those customers' needs.

2. Interim provision of intrastate Vnet service on a commercial basis to the specified customers will not compromise or affect the Commission's ongoing consideration of MCI's broader application for authority to provide Vnet service on a commercial basis within California.

3. The public interest will be served by permitting MCI to provide commercial Vnet service to the specified customers on an interim basis.

4. No respondent raised concerns about the rate structure which MCI proposes for its commercial intrastate Vnet services.

5. MCI states that the pro forma tariff it has provided contains rates identical to its interstate Vnet rates.

6. The proposed intrastate Vnet rates are reasonable.

7. In D.86-05-073 we found that interstate and intrastate SDN services and related access services should be billed separately, based on the points at which calls enter and exit AT&T's network. MCI's Vnet service should be treated similarly.

8. MCI states that it has worked and will continue to work with customers in programming their PBXs or in arranging their Centrex guides to assure that all intraLATA traffic is passed to the LEC. MCI has also agreed to work with Pacific in assisting Vnet customers in routing intraLATA traffic to Pacific.

9. MCI is willing to include language in its tariff providing Vnet service on an interim basis which requires that customers take all reasonable steps to assure that Vnet is not used to make intraLATA calls pending a final decision in A.87-09-027.

10. In D.85-10-015 and D.86-05-046 we found that it was reasonable to permit the customers receiving interim SDN service to retain that service for up to 18 months from the date of any

Commission order substantially disallowing AT&T's application, in order for the customers to secure alternate service arrangements. MCI's Vnet service should be treated similarly.

11. It would be premature to impose Pacific's proposed conditions regarding the sizing of Vnet systems absent further information.

12. Authorization to MCI to offer Vnet on an otherwise unrestricted incidental intraLATA basis would provide a broader intraLATA authorization than that granted AT&T in D.86-05-073.

13. It is reasonable to restrict MCI's authorization to offer intraLATA Vnet service to a strictly limited set of telephone numbers which address customers' computer data bases and internal operating systems.

14. Reasonable holding out restrictions can permit intraLATA use of Vnet service for the purposes indicated in Finding of Fact 13, while limiting other intraLATA usage to acceptable levels on an interim basis.

#### Conclusions of Law

1. IntraLATA Vnet service should be authorized on an interim basis only to permit access to a strictly limited set of telephone numbers which address the customers' computer data bases and internal operating systems.

2. MCI should be authorized to file its pro forma tariff schedules for the interim provision of intrastate interLATA and limited intraLATA Vnet service on a commercial basis to the specified customers, subject to the modifications set forth in the Discussion section of this interim opinion.

3. MCI should be required to bill intrastate and interstate Vnet services separately, based on the points at which calls enter and exit the system. Access services from the LECs should also be obtained in this manner.

4. MCI should be required to abide by the holding out restrictions set forth in the Discussion section of this interim opinion.

5. MCI should continue to work with customers in programming their PBXs or in arranging their Centrex guides to assure that all intraLATA traffic is passed to the LEC, and should work with the LECs in providing such assistance.

6. MCI should be required to maintain appropriate records and file appropriate reports to allow monitoring of the implementation and customer use of the Vnet service.

7. Subject to the foregoing conclusions of law, MCI's motion of September 18, 1987 should be granted.

8. In order to meet the customers' immediate need, the following order should be effective today.

INTERIM ORDER

IT IS ORDERED that:

1. At least five days after the effective date of this order, MCI Telecommunications (MCI) may make an advice letter filing under the terms of General Order 96-A to implement the provision of commercial Vnet service on an interim basis to the customers listed in Exhibit A attached to its motion for interim authority filed September 18, 1987. The filed tariffs shall contain the terms specified in the tariff schedules attached to that motion, except that the tariff schedules shall specifically provide as follows:

- a. That they apply only for service provided to the specified customers.
- b. That they apply only pending the effectiveness of MCI tariff schedules offering Vnet service on a broader basis pursuant to a subsequent Commission order, except that if a subsequent Commission order substantially denies A.87-09-027, the

tariff schedules authorized by the present order shall remain in effect for 18 months from the date of that subsequent order.

- c. That Vnet service may lawfully be used for intraLATA communications solely for the purpose of permitting a Vnet customer access to a strictly limited set of telephone numbers which address a customer's computer data bases and internal operating systems.
- d. That the use of Vnet service for other intraLATA communications is unlawful, and that MCI does not offer Vnet service for such use.
- e. That a customer must take all reasonable steps to assure that its Vnet service is not used by any person for purposes of unauthorized intraLATA communications, pending a subsequent Commission order authorizing broader offering of Vnet service.
- f. That intraLATA calling should be routed to local exchange carriers as appropriate, for example, through the programming of the customer's PBX switch or arranging of Centrex route guides.
- g. That MCI and/or the local exchange carrier (LEC) will work with the customer in implementing appropriate routing of intraLATA traffic.

The effective date of these tariff schedules shall be no sooner than 5 days after the date of filing.

2. Access services from the LECs shall be obtained separately for intrastate and interstate Vnet services, with the separation based on the points at which calls enter and leave MCI's system.

3. MCI shall fully and effectively inform its Vnet customers as follows:

- a. That LEC facilities are to be used for all intraLATA calling except for the authorized intraLATA purposes;
  - b. That use of the Vnet service for other intraLATA calling is unlawful;
  - c. That the Vnet tariff requires that customers take all reasonable steps to ensure that Vnet is not used to make unauthorized intraLATA calls pending a final decision in A.87-09-027;
  - d. That intraLATA calling should be routed to LECs as appropriate through the programming of the customer's PBX switch or arranging of Centrex route guides; and
  - e. That MCI and/or the LEC will work with the customer in implementing appropriate routing.
4. MCI shall provide the following information to the Commission Advisory and Compliance Division (CACD) and the LECs:
- a. MCI shall advise the LECs of customers in California to which MCI supplies Vnet service, subject to appropriate proprietary agreements.
  - b. MCI shall provide monthly reports to the LECs within whose service territories Vnet service is provided, furnishing the recorded Vnet usage originating and terminating within that service area, the applicable intrastate/interstate breakdown, and if available a breakdown of the recorded usage between that portion which uses LEC access facilities and that which does not.
  - c. MCI shall provide reports to CACD describing how each customer's PBX or other switching equipment has been programmed to route intraLATA traffic to the LEC, as well as other MCI efforts to comply with our restrictions on intraLATA Vnet use, with the first report covering existing Vnet installations due January 25, 1988 and with further reports on new customers due 30

days after each installation of Vnet service. These reports should be made available to LECs, subject to appropriate proprietary agreements.

5. MCI shall further maintain records adequate to identify customer intraLATA Vnet usage, based on the points at which calls enter and exit the MCI system.

6. To the extent not otherwise granted by this order, MCI's motion of September 18, 1987 is denied.

This order is effective today.

Dated NOV 25 1987 at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL

FREDERICK R. DUDA

G. MITCHELL WILK

JOHN B. OHANIAN

Commissioners