

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 960617-TI
proceedings against MCI) ORDER NO. PSC-97-0088-AS-TI
telecommunications Corporation) ISSUED: JANUARY 27, 1997
for violation of Rule 25-24.630,)
F.A.C.)
_____)

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

FINAL ORDER ACCEPTING PROPOSED SETTLEMENT

BY THE COMMISSION:

MCI Telecommunications, Corp. (MCI) is the current Department of Corrections (DOC) contract carrier for collect calls from penal institutions. On February 29, 1996, MCI began billing a \$3.00 surcharge for intrastate collect calls from prison facilities, which was a \$2.00 increase over its previous rates.

Our staff and DOC began receiving complaints from consumers who had been billed for the collect calls from Florida inmates. Staff's investigation revealed that MCI was billing in excess of the rate cap for operator assisted calls as provided in Rule 25-24.630, Florida Administrative Code.

On November 20, 1996, we issued Order No. PSC-96-1395-FOF-TI requiring MCI to implement direct refunds, with interest, to those customers who were overcharged between February and July, 1996, and to show cause why it should not be fined or have its certificate revoked for failure to comply with Rule 25-24.630, Florida Administrative Code.

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On December 9, 1996, the company filed a proposed settlement offer. The settlement offer submitted by MCI, Attachment A, can be summarized as follows:

- 1) MCI will refund directly to overcharged consumers, the difference of \$2.00 per call, plus interest, for calls made between February 29, 1996 and March 15, 1996;
- 2) MCI will refund directly to overcharged consumers, the difference of \$1.25 per call, plus interest, for calls made between March 16, 1996 and July 10, 1996;
- 3) MCI anticipates it can complete the refund process between the end of January and May, 1997, via the local exchange companies;
- 4) MCI acknowledges its responsibility to ensure that its future tariff filings comply with Commission rules and policy;
- 5) MCI will contribute \$10,000 to the State General Revenue Fund within 10 days following issuance of a final order accepting its settlement offer;
- 6) MCI does not admit violation of any order, statute, or rule.

We believe the settlement proposed by MCI adequately responds to our intent that refunds of the overcharges be made directly to those customers who were overcharged. Any remaining monies, including interest, due to unidentified customers, shall be identified and handled in accordance with Rule 25-4.114 (8), Florida Administrative Code. This rule requires that with the last report, MCI shall suggest a method of disposing of any unclaimed amounts.

We therefore accept MCI's proposed settlement offer as resolution of the our Order to Show Cause (PSC-96-1395-FOF-TI) and the apparent violations of Rule 25-24.630, Florida Administrative Code.

This docket shall remain open pending completion of the refund, remittance of the \$10,000 settlement, and disposition of any remaining monies, including interest, that cannot be refunded to consumers. The \$10,000 settlement shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes.

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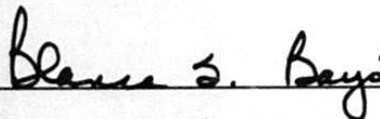
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement proposed by MCI referenced in this Order and described herein is hereby approved. It is further

ORDERED that this docket shall remain open pending completion of the refund, remittance of the \$10,000 settlement, and disposition of any remaining monies, including interest, that cannot be refunded to consumers. It is further

ORDERED that the \$10,000 settlement shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes.

By ORDER of the Florida Public Service Commission, this 27th day of January, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of

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Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

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Attachment A
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OF COUNSEL
W. ROBERT FOXES

December 9, 1996

Ms. Blanca S. Bayó
Director, Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket 960617-TI

Dear Ms. Bayó:

I am enclosing for filing in the above-referenced docket the original and 15 copies of MCI's Second Motion to File Substitute Offer of Settlement.

If you should have any questions, please do not hesitate to call me. Thank you for your attention to this matter.

Very truly yours,



Richard D. Melson

RDM/cc
Enclosures
cc: Martha Carter Brown
Alan Taylor
Rick Moses

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 960617-TI
proceedings against MCI)
Telecommunications Corporation) FILED: DECEMBER 9, 1996
for violation of Rule 25-24.630,)
F.A.C.)

SECOND MOTION TO FILE SUBSTITUTE OFFER OF SETTLEMENT

MCI Telecommunications Corporation ("MCI") hereby files a substitute Offer of Settlement in place of the previous Substitute Offer of Settlement filed in this docket on September 12, 1996 and moves that the Florida Public Service Commission ("Commission") consider and accept the below-described Offer of Settlement. The issues in this docket arise out of MCI's contract with the Florida Department of Corrections ("DOCs") to provide telecommunications services at the State of Florida's correctional facilities.

In its Proposed Agency Action Order Requiring Direct Refund and Order to Show Cause, Order No. PSC-96-1395-FOF-TI, issued November 20, 1996 ("Order"), the Commission ordered MCI to:

refund all overcharges assessed on each collect call made from correctional facilities from February, 1996, to July, 1996, directly to those customers that paid the overcharges,

Order, page 7, and to

show cause, in writing, why its certificate should not be canceled or why fines allowed by Section 364.285, Florida Statutes, should not be imposed for violations of Rule 25-24.630, Florida Administrative Code.

Order, page 8.

The facts in support of this Motion are set forth below. While MCI denies any wrongdoing, in order to avoid the time and expense of the Proposed Agency Action proceeding and the show cause proceeding against MCI, as well as to expeditiously resolve this matter to the mutual satisfaction of the Commission, DOCs, and MCI and to set a "clean slate" for future

dealings, MCI submits the following Motion to File Substitute Offer of Settlement as a resolution of the Order.

1. The telephone service MCI provides DOCs is known as "Maximum Security." It was developed specifically to help governmental corrections facilities deal with abuse of telephone service, which costs the public millions of dollars a year. Abuse arises in a number of ways, from call forwarding schemes to credit card abuse, subscription improprieties, and harassing phone calls to victims, witnesses, judges, etc. Maximum Security alleviates these problems by offering a collect calling service based on a value-added program providing an extensive, flexible set of tools for the prison administrator, all designed on a customized, site-by-site basis.

2. The contract between MCI and DOCs is a six page document which incorporates by reference the original Invitation to Bid ("ITB") and the MCI response to the ITB ("Response"). The contract is silent on the issue of the rate/surcharge which may be billed for calls. The ITB provides in Section 4.2 (Allowable Rates) that :

At all times the rates charged by the contractor to the called party shall not exceed the dominant carrier (AT&T) rates for the same call - distance, length of call, time of day, and day of week. These maximum allowable rates shall reflect the AT&T interLATA and interstate rates in effect at the time of the call. It shall be the responsibility of the contractor to remain current on allowable rates; the Department will not provide rates to the contractor. There shall be no add-ons, such as service charges or surcharges, which are not in the approved AT&T tariff.

Thus, since AT&T does not have a prison collect tariff at the intrastate level, it was MCI's belief that it could apply rates and charges up to those in the AT&T interstate prison collect tariff, including up to a \$3.00 surcharge, since that is contained in the AT&T tariff.

3. In order to implement the terms of the contract with DOCs, on January 29, 1996, MCI filed at the Commission proposed revisions to its intrastate tariff which reflected a \$3.00 surcharge for intrastate calls from prison facilities, to be effective on thirty days notice. This was a \$2.00 increase to the then-existing surcharge of \$1.00. This tariff was approved and became effective February 29, 1996. MCI thereafter billed customers receiving collect calls from Florida correctional facilities the tariffed rate of the \$3.00 surcharge per call.

4. MCI understands the Commission's conclusion, in its Order, that under its previous Orders and Rule 25-24.630(1)(a), Florida Administrative Code, operator services providers can

charge no more than the Commission-approved rate at the time the rules were adopted, which is regarded as the AT&T intrastate tariffed rate. During the period at issue in this case, first, from February 29, 1996 through March 15, 1996, the AT&T intrastate operator services tariff contained a surcharge of \$1.00, and second, from the remaining period from March 16, 1996 through July 10, 1996, the AT&T intrastate operator services tariff contained a surcharge of \$1.75.

5. MCI submits the following as a resolution of this issue:

- (a) Although MCI has at all times believed its \$3.00 surcharge to be appropriate; had a tariff for the \$3.00 surcharge which was approved by the Commission after public notice; and has at all times been charging its tariffed rates, as it is required to do, MCI will refund the difference between the \$3.00 surcharge and the AT&T rate for collect calls with an inmate control system, the latter being a rate of a \$1.00 surcharge per call between February 29, 1996 through March 15, 1996 and thereafter a rate of a \$1.75 surcharge from March 16, 1996 through July 10, 1996. Thus, the refund for February 29, 1996 through March 16, 1996 charges will be \$2.00 per call and the refund from March 16, 1996 to July 10, 1996 will be \$1.25 per call. This refund is based upon and includes DOC's agreement to refund its share of the increased surcharge. This agreement is set forth in the letter dated June 4, 1996, a copy of which is attached hereto as Exhibit A.
- (b) The refund will be issued directly upon each customer's bill. MCI commits to use its best efforts to expeditiously process and issue this refund. At this time, MCI's best estimate is that it should be able to provide the information about the refunds to the local exchange companies by the end of January 1997 and that the local exchange companies would then process the specified refunds during their February billing cycle. Given the nature of this refund, it is anticipated that a certain number of the refunds will be returned by the local exchange companies as "unbillable refunds", meaning the customer is no longer at the telephone number which accepted the collect call in question. It is anticipated that these "unbillable refunds" should cycle through and be identified by the local exchange companies by May 1997. MCI will maintain records to keep track of and identify such "unbillable refunds" returned by the local exchange companies pursuant to Rule 25-4.114.
- (c) As required by Rule 25-4.114, this refund will include interest.

- (d) MCI acknowledges its responsibility to ensure that its tariff filings comply with Commission rules and policy and commits to ensuring this responsibility in the future. As the Commission order notes, if there is an uncertainty about what rates may be lawfully filed in tariffs, an inquiry should be made of the Commission.
- (e) MCI will make a contribution to the general revenue fund of the State of Florida in the amount of Ten Thousand and no/100 (\$10,000.00) Dollars, with no admission of liability or wrongdoing. This voluntary contribution of \$10,000 will be made no later than ten days following the issuance of a Final Order accepting this Offer of Settlement.
- (f) MCI does not, by this Offer of Settlement or otherwise, admit any violation of any order, statute, Commission Rule or any other rule or regulation, or any facts which might form the basis of a cause of action against MCI. By making this Offer of Settlement, MCI does not waive any of its legal rights in the event the Commission does not accept this Offer of Settlement, including the right to contest any assertions of law or fact. If this Offer of Settlement is accepted by the Commission, it shall be attached to the final Order accepting the settlement and closing this matter.

Dated this ninth day of December, 1996.

Martha McMillin
MCI Telecommunications Corporation
780 Johnson Ferry Road, Suite 700
Atlanta, GA 30342
(404) 267-6375

Martha McMillin

Counsel for MCI Telecommunications



**FLORIDA
DEPARTMENT of
CORRECTIONS**

Attachment A
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Governor
LAWTON CHILES
Secretary
HARRY K. SINGLETARY, JR.

An Affirmative Action/Equal Opportunity Employer

2601 Blair Stone Road • Tallahassee, FL 32399-2900

June 4, 1996

Mr. Ross Preston
National Account Marketing Manager
Southern Region
325 John Knox Road
Tallahassee, Florida 32303

Dear Mr. Preston:

Re: Refunds to Customers per the Public Service Commission Request

As we indicated, the Department of Corrections wishes to refund its share of the excess charges collected from MCI customers as a result of the tariff filed February 29, 1996. Our preferred method of refund is for MCI to deduct a portion of our commission for the next 90 days constituting the amount we must refund, with MCI paying the total refunds directly to the customers. A period of other than 90 days will be acceptable if necessary and justified. Prior to initiating the deduction from our commission, please provide us with an explanation of how the amount will be calculated and tracked with the commission payments.

Should you have any questions, please call Tom Brooks, communications engineer, at (904) 488-2810. Thank you.

Sincerely,

James N. Biddy
Deputy Director
Office of Management & Budget

JNB/TGBJ/dam
cc: Lynn Griffin, Accounting Services Administrator, Bureau of Finance and Accounting
Tom Brooks, Utility Systems/Communications Engineer, Bureau of General Services