

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Revisions to ) DOCKET NO. 941190-TL  
Rule 25-4.118, F.A.C., ) ORDER NO. PSC-95-0092-PCO-TL  
Interexchange Carrier Selection. ) ISSUED: January 17, 1995  
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Order Denying MCI Telecommunications Incorporated's  
Motion To Reschedule Hearing and Motion To Hold  
Hearing Before Full Commission

On January 9, 1995, MCI Telecommunications, Inc. (MCI) filed motions requesting that the hearing scheduled January 18, 1995 to consider proposed revisions to Rule 25-4.118, F.A.C., Interexchange Carrier Selection, be rescheduled and that the hearing take place before the full Commission, rather than a hearing officer appointed from the Division of Appeals.

In support of the motion to reschedule, MCI argues that the FCC is undertaking rulemaking on the same subject matter and that waiting for the FCC to conclude its activities in this regard will better ensure uniformity between Florida's requirements and the requirements of other states where MCI markets its products.

In support of the motion to hold the hearing before the full Commission, MCI argues that the full Commission considered the current version of Rule 25-4.118 and, "[g]iven the potential for conflict between the Florida rule and any federal rule which may be adopted, ...it is important for the Commissioners to have first-hand involvement in the rulemaking hearings." Motion, page 2. Because of the pendency of the January 18, 1995 current hearing date, MCI also seeks expedited treatment of these motions.

Considering first the FCC rulemaking, the fact of that activity at the federal level was commented on extensively at the December 6, 1994 agenda conference at which the Commission voted to propose the revisions to Rule 25-4.118, F.A.C. at issue. Since the Commission heard discussion as to the FCC's activities in this regard and nonetheless voted to go forward with rulemaking on the same subject matter, the Commission already decided at that time not to delay or preclude the instant rulemaking because of the parallel efforts of the FCC.

Considering second, whether the full Commission should conduct the rule hearing, it should be noted that, pursuant to Rule 25-22.016(5), F.A.C.,

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[t]he presiding officer shall prepare a summary of the hearing and recommendation for changes in the proposed rule to the Commission for final action. [e.s.]

Accordingly, the process itself already requires that the full Commission consider possible conflicts between the federal rulemaking and the Commission's proposed revision to its rules if the potential for those conflicts is discussed at the hearing by the participants and/or changes are suggested. Pursuant to Rule 25-22.016(5), companies affected by the rule revision will be able to make their views known at the hearing itself, in comments filed within seven days following conclusion of the hearing and, at the presiding officer's option, after distribution of a final recommended version of the rule.

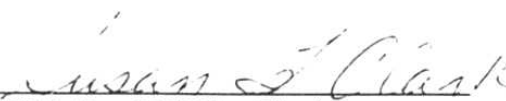
MCI's concern as to the potential of conflict with the FCC activity underlies both the motion to reschedule the hearing and the motion to have the full Commission preside. However, for the reasons stated above, it does not appear that this concern justifies the delay that would occur by granting either motion. This is particularly the case because the full Commission would be unable to schedule a hearing for this matter in the near future. It should be noted that the Commission proposed this revision to Rule 25-4.118 because of current consumer complaints that were perceived as requiring remedial action.

In view of the above, it is

ORDERED by Chairman Susan F. Clark, as Prehearing Officer that MCI Telecommunications, Inc.'s Motion to Reschedule Hearing is denied. It is further

ORDERED that MCI Telecommunications, Inc.'s Motion To Hold Hearing Before Full Commission is denied.

By ORDER of Chairman Susan F. Clark as Prehearing Officer, this 17th day of January, 1995.

  
SUSAN F. CLARK, Chairman  
and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.