

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

APRIL 2, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (HAWKINS) *PHB*
DIVISION OF LEGAL SERVICES (COX) *MEW*

RE: DOCKET NO. 970161-TC - MCI TELECOMMUNICATIONS CORPORATION
- PETITION FOR EXEMPTION FROM RULE 25-24.515(9), FLORIDA
ADMINISTRATIVE CODE, AND ORDER NO. 14529, TO ALLOW
INSTALLATION OF UP TO THREE PAY TELEPHONE INSTRUMENTS PER
ACCESS LINE IN CONFINEMENT FACILITIES, BY MCI
TELECOMMUNICATIONS CORPORATION

AGENDA: 04/14/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970161.RCM

CASE BACKGROUND

MCI Telecommunications Corporation (MCI) holds pay telephone Certificate No. 3080, with an effective regulation date of July 23, 1992. MCI operates pay telephones in various confinement facilities throughout Florida.

On February 5, 1997, MCI filed a waiver petition of those rules and policies currently prohibiting MCI from installing concentrators to allow up to three instruments per access line for its payphones located in confinement facilities. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly February 19, 1997. No comments were submitted during the comment period, which ended March 30, 1997. The statutory deadline for the Commission's decision regarding this petition is May 7, 1997. The petition is more properly a petition for exemption authorized by Rule 25-24.505(3), Florida Administrative Code.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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By Order No. 14529, issued July 1, 1985, the Commission required that only one pay telephone instrument be installed per access line. Local exchange company (LEC) tariffs generally reflect this requirement and contain language requiring pay telephone providers to order a separate public telephone access line for each telephone instrument installed. In addition, the provisions of Rule 25-24.515(9), Florida Administrative Code, require each telephone instrument to be connected as provided in the LEC's access tariff.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant MCI's petition for an exemption from the provisions of Rule 25-24.515(9), Florida Administrative Code, and Order 14529 which prohibit MCI from installing up to three pay telephone instruments per access line in confinement facilities?

RECOMMENDATION: Yes, the exemption should be granted for MCI's pay telephones located in confinement facilities only and provided there is a concentration of no more than three pay telephone instruments per access line, or the equivalent thereof on T-1 facilities.

STAFF ANALYSIS: The policy of a one to one ratio of payphone instruments to access lines was established in Order No. 14529, issued July 1, 1985, which states:

We find that it is also in the public interest that we require one PATS instrument per coin access line. We reach this conclusion in the effort to avoid a payphone customer getting a busy signal when he attempts to use the payphone when an emergency arises. The probability of getting a busy signal increases when a line is shared by several PATS instruments.

LEC tariffs contain language requiring pay telephone providers to order a separate public telephone access line for each telephone instrument installed. In addition, Rule 25-24.515(9), Florida Administrative Code, states, "each telephone station must

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be connected as provided in the pay telephone access tariff offered by the local exchange company."

Confinement facilities have their own emergency response systems in place, and Rule 25-24.515(15), Florida Administrative Code, exempts payphones located in confinement facilities from the requirement to provide access to 911. For these reasons, the concern with inmates getting a busy signal when they try to reach emergency services is moot.

The Commission has already granted similar waivers to ATN, Inc., North American InTeleCom, Inc. and BellSouth Telecommunications to provide up to three to one line concentration within inmate facilities.

Staff believes that a three to one ratio of payphones to access lines, or the equivalent thereof on T-1 facilities, will allow adequate access to telephone service by the inmate population. However, if the administrators of a correctional facility are not satisfied with the level of access, we believe that MCI will be responsive to the facility as failure to do so might jeopardize its contract for pay telephone service.

Staff recommends that MCI's petition be granted.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action. A protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent MCI from using a concentration of no more than three pay telephone instruments per access line in a non-protesting LEC's territory.

STAFF ANALYSIS: This docket should be closed unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action.

Some of the Commission's recent decisions to exempt payphone providers serving confinement facilities from certain

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rules and policies have resulted in protests being filed by two rate of return regulated LECs. Staff does not believe MCI should be prohibited from using a concentration of no more than three pay telephone instruments per access line in a LEC's territory if that LEC does not protest the Commission's action. Accordingly, a protest filed by a LEC shall be applicable only to that LEC's territory and shall not prevent MCI from using a concentration of no more than three pay telephone instruments per access line, or the equivalent thereof, in a non-protesting LEC's territory.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of MCI
Telecommunications Corporation
for Exemption from Rule 25-24.515(9),
Florida Administrative Code.)
Docket No. _____)
Filed: February 5, 1997)

MCI'S PETITION FOR EXEMPTION

MCI Telecommunications Corporation ("MCI"), pursuant to Rule 25-24.505(3), Florida Administrative Code, hereby petitions the Florida Public Service Commission ("Commission") for an exemption from the provisions of Rule 25-24.515(9) to permit the use of line concentration of up to a maximum three instruments to one line, or the equivalent thereof on T-1 facilities, at its pay telephones located in confinement facilities. In support of this Petition, MCI states:

BACKGROUND

1. MCI's full name and business address for its Florida operations is:

MCI Telecommunications Corporation
780 Johnson Ferry Road, Suite 700
Atlanta, GA 30342

2. The names and addresses of the representatives of MCI to receive notices, pleadings and other materials in this docket are:

Richard D. Nelson
Hopping Green Sams & Smith, P.A.
P.O. Box 6526
Tallahassee, FL 32314

Martha McMillin
MCI Telecommunications Corp.
780 Johnson Ferry Road, Ste. 700
Atlanta, GA 30342

3. MCI currently holds a pay telephone certificate from the Commission. MCI provides pay telephone service at numerous locations throughout the state of Florida, including pay telephone service in confinement facilities.

4. Pursuant to Rule 25-24.505(3), MCI is seeking an exemption from Rule 25-24.515(9) to permit it to utilize line concentration up to a maximum of three instruments to one line, or the equivalent thereof on T-1 facilities, at its pay telephones located in confinement facilities.

FACTS AND POLICY SUPPORTING EXEMPTION

5. Rule 25-24.515(9) provides that each telephone station must be connected as provided in the pay telephone access tariff offered by the local exchange company. These local exchange company tariffs are generally consistent with Order 14529, issued July 1, 1985, in which the Commission required that only one pay telephone instrument be installed per access line. The policy basis underlying this requirement was the Commission's concern that a payphone customer not get a busy signal when using the payphone in an emergency situation.

6. Confinement facilities present a unique situation. Such facilities have their own emergency response systems in place and Rule 25-24.515(15) exempts pay stations located in confinement facilities from the requirement to provide access to 911. For these reasons, the concern with inmates getting a busy signal when they try to reach emergency services is moot.

7. MCI uses advanced technology to provide pay telephone service in confinement facilities. This includes the use of an Automated Call Processor which is capable, for example, of screening inmate calls against an approved list of telephone numbers to ensure that the inmate's use of the telephone complies with the correctional facility's policies. This technology provides reliable call completion, without allowing inmates access to the public telephone network, thus reducing harassment and fraud.

8. The Automated Call Processor is capable of allowing concentration of more than one station to each access line or, when using T-1 facilities, each access line equivalent. By allowing any station to make use of any available access line or voice grade access channel on a first-come, first-served basis, the statistical probability of blocking is reduced, and MCI can engineer the facilities to use up to 3:1 concentration while maintaining a P.01 or better grade of service.

9. Using concentration in this manner would enable MCI to provide service more cost-effectively and to deploy a larger number of instruments per access line, improving overall access to telephone service for inmates.

10. MCI desires to employ line concentration for its pay telephones only in confinement facilities, and will not use concentration in other pay telephone applications. Rule 25-24.515(15) recognizes that regulatory requirements need to take into account the unique conditions and needs of confinement

facilities. MCI believes that no adverse service effects will be observed at confinement facilities as a result of line concentration.

11. The requested exemption is consistent with the legislative intent to avoid "unnecessary regulatory constraints" and to eliminate rules that "delay or impair the transition to competition." Sections 364.01(4)(e),(f), Florida Statutes (1995).

12. The exemption is also consistent with the exemptions granted to ATN, Inc. (Docket No. 960805-TC), InVision Telecom, Inc. (Docket No. 961289-TC), Global Tel*Link Corporation (Docket No. 961292-TC), North American InTeleCom, Inc. (Docket No. 961363-TC).

13. By requesting this exemption, MCI seeks authority to use up to 3:1 concentration of pay stations in confinement facilities to pay station access lines or their equivalents. In particular, MCI seeks the ability to use pay phone access lines and/or T-1 access facilities in any proportion it elects, so long as the maximum concentration does not exceed three pay stations per equivalent voice grade channel.

WHEREFORE, MCI respectfully requests that it be granted an exemption from Rule 25-24.515(9) to permit it, in confinement facilities, to use up to a 3:1 concentration of pay stations to access lines, over any combination of pay phone access lines and/or equivalent voice grade channels on T-1 facilities.

RESPECTFULLY SUBMITTED this 5th day of February, 1997.

HOPPING GREEN SAMS & SMITH, P.A.

By: Richard D. Nelson
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and

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ATTORNEYS FOR MCI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail this 5th day of February, 1997.

Martha Carter Brown
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Pie D. M.

Attorney