

State of Florida
-M-E-M-O-R-A-N-D-U-M-



Public Service Commission

ORIGINAL
FILE COPY

DATE: April 11, 1997
TO: Mr. Bill Talbott, Executive Director
FROM: Richard N. Tudor, Assistant Communications Director *RNT*
RE: Original Signed Contract with MCI for the Provision of Florida Relay Service

Attached you will find the original signed contract between the Public Service Commission and MCI Telecommunications Corporation for the provision of the Florida Relay Service beginning June 1, 1997. This contract runs through May 31, 2000 at a minimum with the option for two one-year extensions beyond that time.

Please call if you have any questions.

cc: Division of Records and Reporting (Docket 960598)
Alan Taylor
Laura King
Don McDonald
Cindy Miller
Roger Giuntoli
Charles Estes

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FPSC-RECORDS/REPORTING

AGREEMENT

This Agreement ("Agreement") is made between MCI Telecommunications Corporation (hereinafter called "MCI") and the Florida Public Service Commission (hereinafter called the "Commission" or "PSC") whereby MCI shall provide Florida Relay Services ("FRS") as more specifically set forth below.

MCI and the Commission agree as follows:

SECTION 1: Term of Agreement

The initial service term of the Agreement shall commence on June 1, 1997 and shall expire at midnight on May 31, 2000 (unless renewed as provided for immediately below), (hereafter called "Service Term"). The parties may, upon their mutual agreement, renew this Agreement for a maximum of two (2) additional consecutive one (1) year periods immediately following expiration of the initial service term. If the Commission desires to exercise its option to renew this Agreement, the Commission must notify MCI in writing by no later than June 1, 1999, for the first one (1) year renewal and if the first year renewal option is exercised, by no later than June 1, 2000, for the second one (1) year renewal. MCI must indicate its willingness to extend the contract within thirty (30) days of notification by the Commission.

The Commission shall have the right to unilaterally cancel, terminate, or suspend this Agreement, in whole or in part, by giving MCI sixty (60) days prior written notice by certified mail, return receipt requested. If a material breach of the Agreement by MCI occurs, the Commission may, by written notice to MCI, terminate this Agreement upon 24 hours written notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The provisions herein do not limit the Commission's right to remedies at law or to damages.

During the service term of the Agreement, should funds become unavailable to support the Florida Relay Service system, the Commission reserves the right to: discontinue the service for a period of time; adjust service specifications, provided that such adjustments are technically reasonable and feasible for MCI and do not substantially increase MCI's cost of providing such service, or discontinue the provision of certain services in order to reduce costs.

SECTION 2: Definitions

- a) "Administrator" refers to the non-profit corporation referenced in Part II, Chapter 427, Florida Statutes.
- b) "Agreement" includes the terms and conditions contained herein and in the following documents: Florida Public Service Commission Request For

Proposal dated August 14, 1996 (hereinafter called "RFP"), which is incorporated herein by reference and made a part hereof as if fully set forth herein and MCI's Response dated October 2, 1996, to the RFP, (hereinafter called "MCI's Response") which is incorporated herein by reference and made a part hereof as if fully set forth herein.

- c) "Parties" refers to MCI and the Commission.
- d) "Price Guide" is defined as MCI's official description of products, terms and prices for such products in the event that any federal or state regulatory authority mandates the elimination of any or all tariffs on file with the Federal Communications Commission or the State of Florida Public Service Commission.
- e) "Subcontractor" shall mean Deaf Education Advocacy Foundation, Inc. (hereinafter called "D.E.A.F.") or any other qualified subcontractor approved by both MCI and the Commission.

SECTION 3: Records

The Commission, Administrator and the State of Florida Auditor General shall have reasonable access to the records of MCI and its Subcontractor directly relating to the FRS in order to verify charges, credits and other standards of performance to be rendered pursuant to the provisions of this Agreement.

SECTION 4: Invoices

The invoices provided by MCI for the FRS shall specify to whom payment shall be made and the address to which such remittance shall be mailed. If the Administrator disputes any portion of a monthly invoice, the Administrator may withhold the disputed amount from the payment otherwise due for such month provided administrator pays the balance of such invoice when due and provides to MCI with such payment a detailed explanation of the reasons for, and manner of calculations of, disputed amounts. MCI will promptly address the claim with the Administrator and attempt to resolve it within thirty (30) days. If the Administrator and MCI cannot resolve the issue within thirty (30) days of the due date of the bill, MCI shall so advise the Commission. If the Administrator has withheld payment and the Commission determines that such amount is due to MCI, the Administrator shall pay such disputed amount. If MCI overbills the Administrator on any monthly invoice and the Administrator pays such overage, MCI shall issue a credit in the amount of the overage. Interest shall be calculated from the date such payment is received by MCI ("Payment Date"), until the date such credit is issued; provided, that interest will not be due on any amount for which the Payment Date was more than one (1) year prior to the initial claim by the Commission of overpayment.

SECTION 5: Contract Managers

The Contract Manager for this Agreement on behalf of the Commission is the person serving as the Director of the Commission's Division of Communications or such individual's designee. As of the date of this Agreement, the Contract Manager is:

Richard N. Tudor
Assistant Director, Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Telephone number (904) 413-6516
Facsimile number (904) 413-6517

The Contract Manager for this Agreement on behalf of MCI is:

Mr. Bryan Carrell
MCI Telecommunications
Building 400
325 John Knox Road
Atrium Building, Suite 105
Tallahassee, FL 32303

Telephone number (904) 297-2125
Facsimile number (904) 422-3916

All communication regarding this Agreement should be made between the Contract Managers when feasible and reasonable. Any notice required or permitted to be given or made in the Agreement shall be served upon the Contract Manager at the above addresses. Changes in the person serving as Contract Manager will be made in writing.

SECTION 6: Insurance Coverage

MCI shall provide coverage for itself and all of its employees used in connection with performance of services under this Agreement and ensure that all subcontractors shall be similarly covered. Such policies shall be issued by a financially sound carrier(s). Such insurance shall hold the PSC harmless from all claims of bodily injury, including death, and from all claims of property damage, including loss of use, which arise as a result of this agreement, by MCI, its employees, agents or subcontractors and their employees. The parties' liability shall be limited as set forth in Section 427.707, Florida Statutes, and to the extent permitted by applicable law, neither party shall be liable to the other for any indirect, incidental, or consequential damages sustained under this Agreement. However, liquidated damages will still be applicable.

This insurance will include Workmen's Compensation as required by law and comprehensive general liability and bodily injury insurance in amounts that are commercially reasonable under the given circumstances.

SECTION 7: Assignment

Neither party may assign this Agreement or any rights hereunder, without the prior written consent of the other party, which consent shall not be unreasonably withheld, except that MCI may assign this Agreement, to the extent permitted by applicable law, to any parent, subsidiary or purchaser of all or substantially all its assets. Any assignee shall be required to comply with all the terms and conditions of this Agreement.

SECTION 8: Three Way Calling

In the event that the originating or terminating party to a relay call conferences a third party onto the call using local telephone company provided capability or customer premises equipment three way calling capability, MCI shall relay such call at no additional charge to the Commission, Administrator, or the users of this service.

SECTION 9: Last Number Redial

MCI shall work in good faith to provide the capability for retaining the last number dialed from a caller's line in order to redial that number in the event a subsequent call is placed from the same line ("Last Number Redial" or "LNR"). In the event that MCI provides this feature, MCI shall not charge the Commission, Administrator or the users for this service. The Commission acknowledges that the LNR feature has not been fully tested and that MCI will be testing and evaluating this service. As a result of the foregoing, the Commission waives any and all claims that it may have against MCI arising out of the performance or nonperformance of the LNR.

SECTION 10: Access to 900 Services

MCI is in the process of developing software to permit TRS users to call 900 numbers and to restrict access to 900 numbers. At such time that the software is operational, MCI will implement a relay access number for such calls and require that TDD users call that number to complete relay calls to 900 service numbers. The software will only provide access to 900 service numbers provided by transport carriers ("Transport Carriers") connected to the Miami, Florida access tandem, which as of the effective date of this Agreement are the following: AT&T, Sprint, LDDS, United, Wiltel/CCLD/Amerinet, LCI, and MCI. Such Transport Carriers are subject to change. MCI will transmit the

caller's ANI to the 900 Transport Carriers, where possible, in order for such Transport Carriers to directly bill the call. Before connecting the callers to the 900 Transport Carriers, MCI will inform callers that time sensitive charges usually apply to each such call and provide an opportunity for the caller to hang up without charge. MCI's charge for such call will be limited to the relay charge billed to the Administrator and any applicable charges for the 900 call billed to the end user in the event that MCI is the 900 service provider.

SECTION 11: Caller ID

MCI shall provide a TRS caller's telephone number to a TRS recipient, upon request, through a verbal statement by the MCI's communication assistant relaying the call, unless the TRS caller requests that such number not be provided.

SECTION 12: End user Billing For Intrastate Calls

MCI will apply a discount of 50% to its normal toll for all intrastate toll relay calls. An additional 10% discount will apply to intrastate toll calls to or from multiple sensory disabled users (i.e., hearing and visually disabled or speech and visually disabled users).

MCI will provide billing details to local telephone companies that wish to bill intraLATA relay calls to their subscribers under the local exchange carrier's rates. MCI will not bill subscribers for these calls. In the case where a local company does not choose to receive relay call billing information, MCI's billing system will recognize local and non-optional extended area service within Florida as reflected in the local calling area tables. MCI will charge the caller no more than the caller's local exchange carrier would charge for the same call.

SECTION 13: End User Selection of Carrier

MCI will hand off Carrier of Choice calls to participating interexchange carriers in Miami through BellSouth's access tandem. MCI will process carrier of choice calls to non-participating IXC's via the non-participating carrier's 800/888 number or other forms of access. The TRS system will provide the caller's billing details to the Carrier of Choice for billing the caller directly.

SECTION 14: Report of Town Meetings and Survey and Evaluations

MCI will include in its monthly reports to the PSC information on any town meetings, surveys or evaluations made concerning the relay service.

SECTION 15: Report of Forecasted Service Usage

By March 1 of each year, MCI will provide to the Administrator and the PSC a projection of the monthly usage for each month of the fiscal year beginning July 1 of the same year.

SECTION 16 Minimum Ca Qualifications/Testing

MCI shall test Communication Assistants applicants for proficiency as set forth in MCI's Response to the RFP, except that MCI may substitute a comparable testing provider for those set forth in MCI's Response subject to the approval of the Commission's contract manager, which approval shall not be unreasonably withheld.

SECTION 17: Governing Law

MCI in conducting its business in the manner set forth herein, is subject to the Communications Act of 1934, as amended, and as interpreted by the Federal Communications Commission. MCI will provide the services required under this Agreement pursuant to its applicable tariffs which are incorporated herein by reference and made part hereof ("Tariff").

If before the end of the term of this Agreement, MCI voluntarily or involuntarily as a result of government or judicial action cancels in whole or in part any Tariff on file with the Federal Communications Commission, where the affected provisions prior to such cancellation applied to any service(s) MCI provides under this Agreement, then effective on such cancellation and for the remainder of the term this Agreement shall consist of the following, in order of precedence from (a) through (c):

- (a) MCI Tariff provisions that remain in effect ("Effective Tariffs"), as MCI may amend them from time to time in accordance with the law; and
- (b) Specific provisions contained in this Agreement that expressly apply in lieu of, or that apply in addition to, provisions contained in effective Tariffs and/or in MCI's standard Guide to Services and Pricing ("Price Guide"); and
- (c) Provisions contained in the Price Guide to the extent that (a) and (b) above are not applicable. MCI may amend the Price Guide from time to time and will maintain the Price Guide open for public inspection at one or more offices during normal business hours. Immediately prior to the cancellation of any Tariff provisions applicable to services(s) provided under this RFP or the resulting Agreement MCI shall incorporate such provisions into the Price Guide (and if MCI fails to incorporate any such provisions they shall be deemed incorporated into the RFP or resulting Agreement as if MCI has so incorporated them in the Price Guide).

In all events, the applicable rates and rate schedules shall continue to be subject to any discounts, waivers, credits, or restrictions on rate changes that may be contained in this Agreement. Where rate adjustments would have been made by referencing any canceled tariff rate or rate schedule, these adjustments shall instead be made by reference to the Price Guide. To the extent that any adjustment to tariffed rates and rate schedules is permitted under this Agreement, such adjustment may be made by MCI to its Price Guide.

SECTION 18: Transition To New Provider

At the end of the service term of this Agreement including any renewals thereof, MCI will reasonably assist in the transfer of the FRS to the new Provider when same is selected by the Commission.

Furthermore, MCI will use reasonable efforts to ensure the following:

1. Efforts will be made to accomplish the transfer of service by means of 800/900 number portability so that an 800 or 900 number change for FRS is not needed. If an 800 or 900 number change for FRS is necessary, intercept referral service to the new Provider will be made available by MCI as of the date of the transfer and continuing for a period of three (3) consecutive months thereafter.
2. MCI will designate a person to coordinate the transfer and communicate with the Commission and the incoming Provider concerning the transfer.
3. Complaints in process on the effective date of the transfer of service to the new Provider should be responded to by MCI within fifteen (15) days of such effective date.
4. If there are any other published administrative lines, service will be maintained for a period of sixty (60) days after date of transfer of service to the new Provider, and callers will be referred to the new Provider during such period.

SECTION 19: Order of Precedence

In the event of an inconsistency between provisions of this Agreement, the RFP and MCI's response, the inconsistency shall be resolved by giving precedence in the following order:

1. The terms and conditions contained in this document.

2. MCI's Response.
3. The Request for Proposal.

SECTION 20: Headings

The title of this Agreement and the Section headings used herein are for the convenience of reference only, and shall not be construed as part of this Agreement nor as an indication of the Section meaning or intent, or of the meaning or intent of this Agreement.

SECTION 21: Examination and Entirety

This Agreement shall become binding when executed by both parties. This Agreement, as defined in Section 2 (b) hereof, constitutes the complete understanding and agreement of the parties with respect to the subject matter thereof and supersedes all prior, or contemporaneous agreements, understandings or offers whether written or oral. This Agreement may not be changed or modified except by a formal amendment hereto executed by the authorized representatives of both MCI and the Commission.

SECTION 22: Implementation Plan

MCI will endeavor to meet the following schedule for implementation of FRS.

- a) Prepare new report format and review with PSC staff - 05/01/97.
- b) Review three-way calling procedures with PSC on 5/01/97, and implement three way calling service no later than 6/01/97.
- c) Review Caller ID procedures with PSC on 5/01/97, and implement Caller ID service no later than 6/01/97.
- d) Review time schedule for Last Number Redial issues with PSC staff 6/01/97.
- e) Review time schedule for 900 call issues with PSC staff on 5/01/97.
- f) Implement procedures to allow end user selection of IXC accessible by 800/888 or other access code dialing and review with PSC staff - 06/01/97.
- g) Review 800 access procedures for ASCII calls with PSC on 5/01/97, and implement no later than 6/01/97.
- h) Implement procedures necessary to allow use of enhanced speed and interrupt capability features of TTYs - 06/01/97.

The above-referenced dates are subject to change in MCI's sole discretion except that all steps must be completed by June 1, 1997 unless specifically approved for a later date by the Commission's contract manager.

SECTION 23: Waiver of Rights

The waiver of one party of any breach of this Agreement by the other party shall not be deemed to be a waiver of any succeeding breach.

SECTION 24: Interpretation

The parties agree that this Agreement shall be interpreted without application of any rules of construction which require a stricter interpretation against the drafter of the document.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the latter date written below ("effective date").

MCI TELECOMMUNICATIONS CORPORATION

By: Edward W. Smith

Title: Executive Director/Controller Finance

Date: 4/8/97

FLORIDA PUBLIC SERVICE COMMISSION

By: William D. Talbott

Title: Executive Director

Date: April 3, 1997