

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for exemption ) DOCKET NO. 970161-TC  
from Rule 25-24.515(9), F.A.C., ) ORDER NO. PSC-97-0517-FOF-TC  
by MCI Telecommunications ) ISSUED: May 6, 1997  
Corporation. )  
\_\_\_\_\_ )

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

NOTICE OF PROPOSED AGENCY ACTION ORDER  
GRANTING PETITION FOR WAIVER OF RULES AND ORDERS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

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

On February 5, 1997, MCI filed a petition for waiver of those rules and policies currently prohibiting MCI from installing concentrators to allow up to three instruments per access line for its payphones, or the equivalent thereof on T-1 facilities, 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 to the comment period, which ended March 30, 1997. The petition is more properly a petition for exemption authorized by Rule 25-24.505(3), Florida Administrative Code.

By Order No. 14529, issued July 1, 1985, we required that only one pay telephone instrument be installed per access line. Local exchange company (LEC) tariffs generally reflect this requirement

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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. Order No. 14529 states in relevant part:

"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."

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.

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

Finally, we have granted a similar waiver permitting ATN, Inc., North American InTeleCom, Inc., and BellSouth Telecommunications, Inc. to provide up to three to one line concentration within inmate facilities.

For these reasons, we find it appropriate to grant MCI's petition for an exemption from the provisions of Rule 25-24.515(9), Florida Administrative Code, and Order No. 14529, which prohibit MCI from installing up to three pay telephone instruments per access line, or the equivalent thereof on T-1 facilities, in confinement facilities. Upon expiration of the protest period, this docket shall be closed unless a person whose substantial interests are affected files a timely protest. 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

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pay telephone instruments per access line in a non-protesting LEC's territory.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that MCI Telecommunications Corporation's petition for an exemption from the provisions of Rule 25-24.515(9), Florida Administrative Code, and Order No. 14529 is hereby granted as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed. A protest timely filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent this Order from becoming final with respect to the territories of local exchange companies that do not protest.

By ORDER of the Florida Public Service Commission, this 6th day of May, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 27, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date 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.