

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of Rule 25-24.515(5) and (15), F.A.C., regarding the termination of telephone calls after ten minutes in confinement facilities, by MCI Telecommunications Corporation.

DOCKET NO. 971113-TC
ORDER NO. PSC-97-1403-FOF-TC
ISSUED: November 10, 1997

The following Commissioners participated in the disposition of this matter:

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

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

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.

Case Background

On August 26, 1997, MCI Telecommunications Corporation (MCI), filed a petition for a waiver from Commission rules that prevent it from terminating calls placed from pay telephones located in Florida confinement institutions in less than 15 minutes, Rules 25-24.515(5), and (15), Florida Administrative Code. MCI seeks the waiver so that it can terminate those calls after 10 minutes of conversation.

11538-97

The Notice of Request for Exemption was submitted to the Secretary of State on September 17, 1997, for publication in the Florida Administrative Weekly pursuant to Section 120.542, Florida Statutes. No comments were submitted during the comment period, which ended October 10, 1997.

MCI holds pay telephone certificate no. 3080, with an effective regulation date of July 23, 1992. MCI currently provides pay telephone service to approximately 25 correctional facilities and 5 work camps for the Florida Department of Corrections in various locations throughout Florida.

Decision

Rules 25-24.515(5) and (15), Florida Administrative Code, specifically require notice at all pay stations that terminate conversations after 15 minutes. In view of the fact that the rule requires notice for termination at 15 minutes, but does not provide for termination of calls in less than 15 minutes, MCI believes this rule may prohibit it from terminating calls placed by inmates in confinement facilities in less than 15 minutes. Thus, MCI has requested this waiver to allow it to terminate calls after ten minutes. MCI agrees that it will comply with the audible and written disconnect notification requirements of Rule 25-24.515(5), Florida Administrative Code.

MCI is seeking this waiver because the Department of Corrections wants the ability to limit calls from confinement facilities to ten minutes during certain periods and under certain circumstances. MCI asserts that limiting calls to no longer than ten minutes could prove helpful for corrections officials in maintaining order when the inmates' demand for telephone use is high. MCI asserts that it and the Department of Corrections may suffer substantial hardship if it is not allowed to terminate inmate calls after ten minutes. Absent a waiver, Corrections officials will be unnecessarily hindered from conducting their official duties.

Upon consideration, it is appropriate to grant MCI's petition for exemption from Rules 25-24.515(5) and (15), Florida Administrative Code. MCI's petition meets the specifications set forth in 120.542(5), Florida Statutes. The Commission is persuaded that the continued application Rules 25-24.515(5) and (15), Florida Administrative Code imposes a substantial hardship on the

ORDER NO. PSC-97-1403-FOF-TC
DOCKET NO. 971113-TC
PAGE 3

Department of Corrections. MCI has also demonstrated that granting these exemptions will not impede the continued provision of pay telephone services to confinement facilities, as intended by the underlying statute, Chapter 364.345, Florida Statutes.

The Commission remains mindful of the possibility that termination of telephone calls after ten minutes could result in multiple surcharges being applied to the called party. Therefore, Commission Staff is directed to monitor calls from facilities served by MCI to ensure that MCI is not billing any called party two or more operator surcharges when an inmate makes successive calls to the same telephone number.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that MCI Telecommunications Corporation's request for exemption from Rules 25-24.515(5) and (15), Florida Administrative Code, so that it may terminate telephone calls after ten minutes in confinement facilities, is hereby approved. It is further

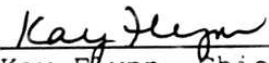
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, 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.

ORDER NO. PSC-97-1403-FOF-TC
DOCKET NO. 971113-TC
PAGE 4

By ORDER of the Florida Public Service Commission, this 10th
day of November, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting


By: Kay Flynn, Chief
Bureau of Records

(S E A L)

JRB

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 December 1, 1997.

ORDER NO. PSC-97-1403-FOF-TC
DOCKET NO. 971113-TC
PAGE 5

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.