

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for submission of proposal for provision of relay service, beginning in June 1997, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

DOCKET NO. 960598-TP  
ORDER NO. PSC-00-1415-FOF-TP  
ISSUED: August 2, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, CHAIRMAN  
E. LEON JACOBS, JR.  
LILA A. JABER

BY THE COMMISSION:

**ORDER ASSESSING LIQUIDATED DAMAGES**

The Telecommunications Access System Act of 1991 (TASA), Section 427.701, et. seq., Florida Statutes, directed the Commission to establish a statewide telecommunications relay system, beginning June 1, 1992. TASA required the development of a statewide relay service that could be certified by the Federal Communications Commission (FCC) under the provisions of the Americans with Disabilities Act. MCI Telecommunications Corporation (MCI) has been Florida's relay provider since the system was established until May 31, 2000, when its contract expired. As of June 1, 2000, Sprint is the provider of relay service in the state. The contract between MCI and the Commission was based on the Commission's Request for proposals (RFP), issued in August of 1996 and was awarded to MCI in December of 1996, with service beginning June 1, 1997.

The MCI contract for relay service included a section that provided for liquidated damages for failure to perform the obligations required by the contract. That section stated, in pertinent part:

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Liquidated damages shall accrue in amounts up to the following amounts per day of violation:

(a) For failure to meet answer time, blockage rate or transmission level requirement - \$5,000.

Any liquidated damages may be paid by means of the Administrator deducting the amount of the liquidated damage from a monthly payment to the provider. Such action shall only occur upon order of the FPSC.

Calls that are blocked must receive a network blockage signal of 120 impulses per minute.

On March 30, 2000, the Commission issued Order No. PSC-00-0615-FOF-TP, assessing liquidated damages against MCI for failure to perform the obligations required by the contract for the period from June 1, 1997, through December 31, 1999. That liquidated damages assessment did not cover the period between January 1, 2000, through May 31, 2000, during which MCI also did not meet the answer time requirements outlined in the contract, as shown by MCI's monthly reports to the Commission. For the last five months of the contract, MCI failed to meet the answer time objective on 38 days. It did meet the blockage objective on all days for the period from January 1, 2000, through May 31, 2000. As a result of MCI's failure to meet the answer time requirements, the citizens of Florida did not receive the service for which the Commission contracted.

TASA requires that the hearing and speech impaired community receive telecommunications service through the Florida Relay Service (FRS) that is comparable to the quality of service that a hearing person receives. FRS is often the only means by which hearing and speech impaired citizens can communicate by telephone. They depend upon the service. MCI has not provided the quality of service that the statute, the contract, and the citizens of Florida require. Therefore, we will assess liquidated damages in the amount of \$175,000, for failure to meet the answer time requirements of the contract 38, from January 1, 2000, through May 31, 2000, at \$5,000 for each violation. We will not assess liquidated damages for failure to meet the answer time requirements on May 27, May 30, and May 31, 2000. On those days

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MCI was unable to meet the requirement because a train wreck in Louisiana cut the fiber optic cable MCI used to service its Florida relay center.

Accordingly, MCI shall pay liquidated damages in the amount of \$175,000 to Florida Telecommunications Relay Inc., within thirty (30) days of the effective date of this Order.

It is therefore,

ORDERED by the Florida Public Service Commission that MCI shall pay liquidated damages in the amount of \$175,000 to Florida Telecommunications Relay Inc., within thirty (30) days of the effective date of this Order. It is further

ORDERED that the \$175,000 amount represents liquidated damages for failure to meet the answer time requirements of MCI's contract for Relay service from January 1, 2000, through May 31, 2000. It is further

ORDERED that this docket shall remain open until MCI has paid the liquidated damages to Florida Telecommunications Relay, Inc. When the payment is made, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 2nd day of August, 2000.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

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