

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

February 22, 1996

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

FROM: DIVISION OF COMMUNICATIONS [MOSES]
DIVISION OF CONSUMER AFFAIRS [PRUITT]
DIVISION OF LEGAL SERVICES [BARONE]

RE: DOCKET NO. 960186-TI INVESTIGATION OF MCI
TELECOMMUNICATIONS, INC. MARKETING PRACTICES

AGENDA: MARCH 5, 1996 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\960186.RCM

CASE BACKGROUND

Between January and September, 1995, the Division of Consumer Affairs received 192 complaints against MCI Telecommunications Corporation (MCI) regarding unauthorized switching (slamming) of consumers' long distance service in apparent violation of Rule 25-4.118, Florida Administrative Code. Staff met with representatives of the company and asked them to analyze each of the complaints to determine the cause(s) and how they might be resolved.

On January 18, 1996, MCI submitted an analysis of slamming complaints. See attachment A. The majority of the complaints appear to be due to marketing activities. After further discussions with staff, and in recognition of possible enforcement action, MCI filed a Motion to Consider and Accept an Offer of Settlement on February 6, 1996. See Attachment B.

Staff notes that the Commission previously accepted an offer of settlement from MCI regarding slamming complaints in Docket No. 910205-TI. In that docket the Commission conducted an investigation after receiving numerous complaints from customers. The settlement, involving a \$25,000 voluntary contribution, was approved by Order 24550, issued on May 20, 1991.

Staff recommends that MCI's settlement offer regarding recent slamming complaints be accepted as discussed in detail below.

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FPSC-RECORDS/REPORTING

ISSUE 1: Should the Commission accept MCI's offer of settlement in resolution of this investigation of unauthorized switching of consumers' long distance service?

RECOMMENDATION: Yes.

STAFF ANALYSIS: MCI filed an Offer of Settlement on February 6, 1996 with the following terms:

1. MCI will contribute to the general revenue fund of the State of Florida \$50,000 with no admission of liability or wrongdoing. This voluntary contribution of \$50,000 will be made no later than ten days following the issuance of a final order accepting the offer of settlement.

2. MCI will commit to apply the third party verification procedures in subsection 2(c) of the Commission's Interexchange Carrier Selection Rule (25-4.118, F.A.C.) to residential and small business sales resulting from customer initiated calls to MCI's inbound sales and customer service centers, notwithstanding that the third party verification requirement does not apply to customer-initiated PIC changes.

3. MCI will commit to apply the third party verification procedures in subsection 2(c) of the Commission's Interexchange Carrier Selection Rule to direct marketing and direct response residential and small business sales evidenced by an LOA, notwithstanding that the third party verification requirement does not apply when MCI has an LOA.

4. MCI commits to the continuance of its "Satisfaction Guaranteed" policy whereby MCI agrees to incur the PIC change charge to return any customer to their carrier of choice if, for any reason, the customer is not satisfied with MCI's service.

Staff concurs with MCI that implementing the procedure of third party verification of residential and small business PIC changes prior to implementing the change, should greatly reduce the slamming complaints received by the Division of Consumer Affairs. Specifically, the third party verification process should reduce the complaints in the categories of fraud, direct marketing, inbound calls, ANI errors, and miscellaneous mistakes.

Staff recommends that MCI's settlement offer be accepted. The company has cooperated with staff in analyzing the cause of these

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complaints and has taken what staff believes to be an appropriate plan of action to correct the problems. To perform third party verification of each PIC change is costly, but it appears to be the best approach to ensure that a consumer's long distance service is not changed without authorization.

Although even one slamming complaint is not considered to be an acceptable level, it is not probable that all complaints will or can be eliminated. However, staff believes the complaint level against MCI should be reduced to below that of the average level of slamming complaints received against other certificated interexchange companies.

Acceptance of this settlement offer is consistent with another recent settlement. In Docket Number 951420-TI the Commission accepted a settlement offer of \$90,000 from GECCS for 276 complaints occurring in a nine month time frame. MCI has 179 complaints that occurred over approximately the same number of months that were the direct responsibility of the company. This figure is derived by subtracting the 12 complaints in which no PIC change occurred, and the 13 complaints that were initiated from inadvertent changes made by the local exchange companies. GECCS's settlement equated to \$326 per complaint. Using the same amount per complaint would cause MCI's settlement to be \$58,000. Staff believes the settlement of \$50,000 is reasonable and should be accepted.

ISSUE 2: Should this docket be closed?

STAFF RECOMMENDATION: Yes. This docket should be closed once MCI remits the \$50,000 voluntary contribution as described in and in accordance with the terms set forth in the Offer of Settlement.

STAFF ANALYSIS: This docket should be closed once MCI remits the \$50,000 voluntary contribution as described in and in accordance with the terms set forth in the Offer of Settlement. The voluntary contribution should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

ANALYSIS OF MCI UPIC COMPLAINTS**JANUARY THRU SEPTEMBER 1995**

This is an analysis of 192 Unauthorized PIC (UPIC) change complaints lodged against MCI, and MCI's response thereto, during the period from January through September, 1995. Below are the the summary level results.

SOURCE OF PIC CHANGE/SALE	NO. OF COMPLAINTS
1. No PIC change occurred	12
2. PIC change initiated by Local Exchange Company	13
3. PIC change initiated by another IXC/Reseller	4
4. Billing Dispute	11
5. Fraud	2
6. Outbound Telemarketing/Third Party Verification	26
7. Direct Marketing/Letter of Authorization obtained	56
8. Inbound Call/Sale initiated by Customer Call to MCI	30
9. Multiline Business Account/ANI included in Error	14
10. Duplicate Check Systems Error	15
11. Mistakes/Errors	9
TOTAL	192

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February 6, 1996



Mr. Rick Moses
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: MCI's Motion to Consider and Accept Offer of Settlement

Dear Rick:

Enclosed at Mickey Henry's request is MCI Telecommunication Corporation's Motion to Consider and Accept Offer of Settlement relating to the UPIC complaints lodged against MCI during 1995.

If you have any questions regarding this motion, please call Mickey directly at (404) 843-6373.

Very truly yours,
Richard D. Melson
Richard D. Melson

RDM/mee
Enclosure

cc: Mickey Henry

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation of the Marketing)
 Practices of MCI Telecommunications)
Corporation)

Docket No.

Dated: February 6, 1996

**MOTION TO CONSIDER AND
 ACCEPT OFFER OF SETTLEMENT**

MCI Telecommunications Corporation ("MCI") respectfully moves that the Florida Public Service Commission ("Commission") consider and accept the attached Offer of Settlement. In support of this Motion, MCI states as follows:

1. As a result of ongoing discussions with the Staff of the Consumer and Communications Divisions ("Staff") of the Commission concerning the level of unauthorized PIC change (UPIC) complaints lodged against MCI, MCI became aware of possible enforcement action against MCI for alleged violations of Rule 25-4.118, Florida Administrative Code (hereinafter the "Interexchange Carrier Selection Rule").

2. Over the past several years, MCI has worked closely and continuously with the Staff to monitor UPIC complaints lodged against MCI and to review the marketing practices which caused those complaints. Where trends of UPIC complaints have become apparent from specific marketing practices, MCI management has taken aggressive remedial action.

3. For each UPIC complaint lodged against MCI with the Commission, MCI has provided a complete response which explained the genesis of the installation of the complainant's account and provided evidence of the validity of the sale, such as a Letter of

Authorization (LOA) or the social security number or date of birth obtained by the third party verification firm pursuant to the Interexchange Carrier Selection Rule.

4. MCI has also worked with Staff when order entry and other systems errors have occurred which had the potential or actual effect of changing a customer's PIC without their authorization.

5. MCI has also maintained a "Satisfaction Guarantee" policy under which MCI has committed to pay the PIC change charge for any customer to be switched to another carrier if, for any reason, the customer is not satisfied with MCI's services.

6. Notwithstanding the number of UPIC complaints lodged against MCI during the calendar year 1995, an analysis of those complaints demonstrates that MCI did not engage in the intentional changing of a customer's PIC without their authorization or in the intentional violation of the Commission's Interexchange Carrier Selection Rule.

7. While MCI expressly denies any intentional wrongdoing, in order to avoid the time and expense of any potential enforcement action against MCI for a violation of the Commission's Interexchange Carrier Selection Rule on the basis of UPIC complaints lodged against MCI during the calendar year 1995, MCI submits the following offer of settlement.

(a) MCI will make a contribution to the general revenue fund of the State of Florida of \$50,000.00 with no admission of liability or wrongdoing. This voluntary contribution of \$50,000.00 will be made no later than ten days following the issuance of a final order accepting the offer of settlement.

(b) MCI will commit to apply the third party verification procedures in subsection 2(c) of the Commission's Interexchange Carrier Selection Rule to residential and

small business sales resulting from customer initiated calls to MCI's "inbound" sales and customer service centers, notwithstanding that the third party verification requirement does not apply to customer-initiated PIC changes.

(c) MCI will commit to apply the third party verification procedures in subsection 2(c) of the Commission's Interexchange Carrier Selection Rule to direct marketing and direct response residential and small business sales evidenced by an LOA, notwithstanding that the third party verification requirement does not apply when MCI has an LOA.

(d) MCI commits to the continuance of its "Satisfaction Guaranteed" policy whereby MCI agrees to incur the PIC change charge to return any customer to their carrier of choice if, for any reason, the customer is not satisfied with MCI's service.

8. MCI does not, by this Offer of Settlement or otherwise, admit any violation of any statute, Commission Rule or any other rule or regulation, or any facts which might form the basis of a cause of action against MCI. By making this Offer of Settlement, MCI does not waive any of its legal rights in the event the Commission does not accept this Offer of Settlement, including the right to contest any assertions of law or fact. If this Offer of Settlement is accepted by the Commission, it shall be attached to the final Order accepting the settlement and closing this matter.

Dated this 6th day of February, 1996.

MCI TELECOMMUNICATIONS CORPORATION

Michael J. Henry RBN

Michael J. Henry, Senior Counsel