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December 10, 1996

Ms. Blanca S. Bayó  
Director, Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket 960617-TI

Dear Ms. Bayó:

I am enclosing for filing in the above-referenced docket are the original and 15 copies of the following documents:

1. MCI's Petition on Proposed Agency Action; and
2. Response of MCI to Order to Show Cause.

By copy of this letter, copies have been provided to parties on the attached Certificate of Service.

Very truly yours,

*R.D.M.*

Richard D. Melson

ACK  \_\_\_\_\_  
 AFA \_\_\_\_\_  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
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RDM/cc  
Enclosures  
cc: Parties

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FPSC-BUREAU OF RECORDS

Response to Order  
DOCUMENT NUMBER-DATE  
13158 DEC 10 96  
FPSC-RECORDS/REPORTING

Rel PAA  
DOCUMENT NUMBER-DATE  
13157 DEC 10 96  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause )  
Proceedings for Violation of Rules )  
25-24.620, 25-24.630, 25-24.471, )  
25-24.515, and 25-24.516, Florida )  
Administrative Code )

Docket No. 960617-TI  
Filed: December 10, 1996

MCI TELECOMMUNICATIONS CORPORATION'S  
PETITION ON PROPOSED AGENCY ACTION

MCI Telecommunications Corporation ("MCI"), pursuant to Section 120.57, Florida Statutes, and Rule 25-22.036, Florida Administrative Code, hereby files its Petition on Proposed Agency Action. By this Petition, MCI protests the action proposed to be taken by Order No. PSC-96-1395-FOF-TI issued on November 20, 1996, and requests that the Commission conduct a formal proceeding pursuant to the provisions of Section 120.57, Florida Statutes, with respect to the matters addressed in said order. In support of its request, MCI states as follows:

1. MCI's full name and address are as follows:

MCI Telecommunications Corporation  
780 Johnson Ferry Road, Suite 700  
Atlanta, GA 30342

2. MCI's representatives to whom all pleadings, orders, notices and correspondence should be addressed are:

Martha McMillin  
MCI Telecommunications Corp.  
780 Johnson Ferry Road, Suite 700  
Atlanta, GA 30342

Richard D. Melson  
Hopping Green Sams & Smith  
P.O. Box 6526  
Tallahassee, FL 32314

### Background and MCI's Substantial Interests

3. MCI is an interexchange telecommunications carrier (IXC), authorized by the Commission to provide intrastate interexchange telecommunications services in Florida. The issue in this Proposed Agency Action arises out of MCI's contract with the Florida Department of Corrections ("DOCs") to provide telecommunications services at the State of Florida's correctional facilities. In order to implement the terms of its contract with DOCs, MCI filed at the Commission proposed revisions to its intrastate tariff which reflected a \$ 3.00 surcharge for intrastate calls from prison facilities, to be effective on thirty days notice. This was a \$ 2.00 increase to the then-existing surcharge of \$ 1.00. This tariff was approved and became effective February 29, 1996. MCI thereafter billed customers receiving collect calls from Florida correctional facilities the tariffed rate of the \$ 3.00 surcharge per call. MCI later filed a revision to its tariff which lowered the \$ 3.00 surcharge to \$ 1.75 effective July 11, 1996.

4. On November 20, 1996, the Commission issued its Proposed Agency Action ("PAA") Order No. PSC-96-1395-FOF-TI. The PAA would require MCI to "...refund all overcharges assessed on each collect call made from correctional facilities from February, 1996, to July, 1996, directly to those customers who paid the overcharges." (Order, page 7). The Commission's Order concludes that overcharges resulted because the surcharge MCI collected exceeds AT&T of the Southern States' intrastate rates



for operator-assisted calls, thereby exceeding the rate cap established in the Commission's rules and orders. By ordering MCI to make direct refunds to customers, MCI's substantial interests will be affected by the PAA.

5. MCI received notice of the PAA when a copy of that order was transmitted to MCI's counsel by facsimile from the Commission's Division of Records and Reporting on November 20, 1996.

6. In order to issue direct refunds to customers, MCI will be required to expend a substantial amount of time, energy and resources. MCI has offered to refund the amount at issue by reducing the current surcharge on a prospective basis for an amount of time that will allow the refund amount to flow through to the affected class of customers. Before the significant effort of a direct refund is implemented, the Commission should afford all affected parties an opportunity for a full evidentiary hearing with respect to the issue of whether performing the refund in that fashion is appropriate. Consequently, MCI protests the PAA Order and requests that the Commission hold a formal proceeding pursuant to Section 120.57, Florida Statutes, before requiring MCI to undertake the significant effort of implementing a direct refund.

#### **Known Issues**

7. MCI submits that the question of whether MCI should make a direct refund presents the following disputed issues of law and fact:

- a. Does issuing the refund by way of a direct credit on customer bills ensure that all or substantially all affected customers will be reached?
- b. Does issuing the refund by way of reducing the surcharge on a prospective basis for an amount of time that will allow the refund amount to flow through ensure that all or substantially all affected customers will be reached?
- c. What is the cost of implementing a direct refund on customer bills?
- d. What is the cost of implementing a refund on a prospective basis for an amount of time that will allow the refund amount to flow through to the affected class of customers?
- e. If the refund can be performed in a fashion which results in its reaching all or substantially all of the affected customers, is it unjust punishment for the Commission to select a refund method which is significantly more expensive and time consuming than another alternative?

MCI recognizes that additional issues are likely to be identified by the parties as this case proceeds to hearing and ultimate resolution by the Commission.

8. MCI is entitled to relief pursuant to the provisions of Rule 24-22.036, F.A.C. and Chapters 120 and 364, Florida Statutes.

WHEREFORE, MCI respectfully requests that:

1. the Florida Public Service Commission grant this Petition on Proposed Agency Action and conduct a formal proceeding pursuant to Section 120.57, Florida Statutes, on the issue of the appropriate method of implementing the refund at issue; and
2. following hearing, direct MCI to implement the refund by way of a prospective reduction in the surcharge for an amount of time which will allow the refund amount to flow through.

RESPECTFULLY SUBMITTED this 10th day of December, 1996.

HOPPING GREEN SAMS & SMITH, P.A.

By: Richard D. Melson  
Richard D. Melson  
P.O. Box 6526  
Tallahassee, FL 32314  
(904) 222-7500

and  
Martha McMillin  
MARTHA MCMILLIN  
MCI Telecommunications Corporation  
780 Johnson Ferry Road  
Atlanta, GA  
(404) 267-6375  
Counsel for MCI Telecommunications Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by hand delivery this 10th day of December, 1996.

Martha Carter Brown  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

*Rie D. Mc*

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Attorney