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April 21, 1997

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

Re: Dockets 970281-TL, 970172-TL, 970173-TL

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI Telecommunications Corporation are the original and 15 copies of MCI's Petition for Agency Action in the above dockets.

By copy of this letter this document has been provided to the parties on the attached service list.

Very truly yours,

Richard D. Melson

Richard D. Melson

- ACK
- AFA 3
- APP RDM/cc
- Enclosures
- CAF ee: Service List
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 OFFICE OF RECORDS

DOCUMENT NUMBER-DATE
 04032 APR 21 1997
 FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Establishment of
intrastate implementation
requirements governing federally
mandated deregulation of local
exchange company payphones)

Docket No. 970281-TL

In re: Petition by MCI
Telecommunications Corporation
for an order requiring BellSouth
Telecommunications, Inc. to
remove its deregulated payphone
investment and associated
expenses from its intrastate
operations and reduce the
Carrier Common Line Rate Element
of its intrastate switched access
charges)

Docket No. 970172-TP

In re: Petition by MCI
Telecommunications Corporation
for an order requiring GTE
Florida, Incorporated to
remove its deregulated payphone
investment and associated
expenses from its intrastate
operations and reduce the
Carrier Common Line Rate Element
of its intrastate switched access
charges)

Docket No. 970173-TP

MCI'S PETITION ON PROPOSED AGENCY ACTION

MCI Telecommunications Corporation (MCI) hereby files its Petition on Proposed Agency Action to protest Order No. PSC-97-0358-FOF-TP and to request a hearing on the matters covered by that order. This protest is filed in each of the three dockets covered by that order and is filed as to BellSouth Telecommunications, Inc. (BellSouth) and GTE Florida Incorporated (GTEFL). As grounds for its protest and request for hearing, MCI states:

DOCUMENT NUMBER-DATE

04032 APR 21 1997

FPSC-RECORDS/REPORTING

1. MCI is a party to each of these dockets. MCI filed its petitions (Petitions) in Docket Nos. 970172-TP and 970173-TP on February 7, 1997 and was granted intervention in Docket No. 970281-TL by Order No. 97-0401-FOF-TL issued on April 11, 1997.

2. On March 31, 1997, the Florida Public Service Commission (Commission) issued its Notice of Proposed Agency Action (PAA Order) regarding the implementation of the deregulation of local exchange company payphones pursuant to the Telecommunications Act of 1996, the FCC's Report and Order CC 96-388 in CC Docket No. 96-128, and the FCC's Order on Reconsideration CC 96-439.

3. In its PAA Order, the Commission denied MCI's Petitions which had requested that the Commission conduct a proceeding to (a) determine the amount of the intrastate payphone subsidy for BellSouth and GTEFL, and (b) reduce the intrastate carrier common line charge for each carrier by the amount of the subsidy found.

4. The Commission's Proposed Agency Action required that the local exchange companies, including BellSouth and GTEFL, file with the Commission, on March 31, 1997, a calculation of the amount of intrastate payphone subsidy and the amount of tariffed rate reductions necessary to eliminate any intrastate subsidy.

5. On page 6 of the PAA Order, the Commission indicated:

We will not specify particular services or elements where LECs may make rate reductions. The LEC should have discretion regarding which tariff elements are reduced and need only demonstrate via a price out that the revenue reduction eliminates the subsidy.

6. This proposed action by the Commission is at odds with the requirements of the Telecommunications Act of 1996 as

implemented by the FCC. By leaving the LECs free to apply rate reductions to rate elements other than the Carrier Common Line (CCL) charge, the PAA Order has the effect of denying MCI the opportunity to be heard on the disposition of the intrastate payphone subsidy as requested in MCI's Petitions.

7. Paragraph 186 of the FCC Order 96-388 in CC Docket No. 96-128 specifically requires that the Commission "must determine the intrastate rate elements that must be removed to eliminate any intrastate subsidies." By its PAA order, the Commission has abdicated its responsibility to determine the rate elements that must be removed. Instead the Commission has granted the local exchange carriers the authority to identify the rate elements to be reduced, in violation of the FCC Order.

8. Subsequent to the date of the PAA Order, BellSouth has filed its calculation that the required rate reduction is \$6.5 million and has filed tariffs to apply the reduction to its business rotary line rates. GTEFL has made no reduction.

9. The Commission's PAA Order, which provides that in the event of a protest the tariffs filed by the LECs should remain in effect with revenues held subject to refund, is insufficient to protect MCI's interest in the disposition of the required rate reductions. Since BellSouth is making a rate reduction, there are no revenues to be held subject to refund. The only way to protect the interests of MCI, or any other party who wishes to challenge to manner in which the reductions are implemented, is to suspend the effectiveness of BellSouth's tariff, and to require BellSouth to hold the appropriate amount of revenues subject to disposition by further order of the Commission.

10. MCI has identified the following issues of fact, law and policy which appear to be in dispute. MCI reserves the right to identify additional issues through the Commission's normal prehearing procedures:

(a) Is the Commission required to determine the specific rate elements which must be reduced to eliminate the intrastate pay telephone subsidy? MCI submits that the answer to this question is "yes."

(b) What is the amount by which BellSouth must reduce its rates to eliminate the intrastate pay telephone subsidy? MCI does not have a position on this issue pending the completion of discovery.

(c) What is the amount by which GTEFL must reduce its rates to eliminate the intrastate pay telephone subsidy? MCI does not have a position on this issue pending the completion of discovery.

(d) What is the appropriate rate element or elements to be reduced to eliminate the intrastate pay telephone subsidy? BellSouth and GTEFL should be required to reduce intrastate switched access charges, specifically the intrastate CCL, to eliminate the pay telephone subsidy.

11. The statutes, rules and orders entitling MCI to relief are Chapters 120 and 364, Florida Statutes, the Telecommunications Act of 1996, and FCC Orders 96-388 and 96-439.

12. MCI is protesting the denial of its Petitions, in addition to the Commission's decision in Docket No. 970281-TL, in order to ensure that it has not waived any right to the relief requested in its Petitions and to ensure that BellSouth and GTEFL

can be required to respond to MCI's pending discovery in those dockets.

WHEREFORE, MCI files this Petition on Proposed Agency Action and requests that a hearing be scheduled:

(a) to determine the amount of rate reductions required to eliminate the intrastate pay telephone subsidy for BellSouth and GTEFL; and

(b) to determine the specific rate elements to which such reductions should be applied.

In addition, MCI requests that the Commission suspend the tariff filed by BellSouth to implement its estimate of the required rate reduction and require BellSouth to hold the amount of such reductions subject to disposition by further order of the Commission.

RESPECTFULLY SUBMITTED this 21st day of April, 1997.

HOPPING GREEN SAMS & SMITH, P.A.

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and

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail this 21st day of April, 1997.

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