

Talbott *4mms for LDT*
Vandiver *DS for PV*

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED

MEMORANDUM

JULY 24, 1997

JUL 24 1997
12:45
FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)
FROM: DIVISION OF LEGAL SERVICES (BROWN) *MCB*
DIVISION OF COMMUNICATIONS (MOSES) *wmk*
RE: DOCKET NO. 960617-TI - MCI TELECOMMUNICATIONS CORPORATION
- INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF
RULE 25-24.630, FLORIDA ADMINISTRATIVE CODE
AGENDA: AUGUST 5, 1997 - REGULAR AGENDA - ISSUE 3 PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: NONE
SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\960617TI.RCM

CASE BACKGROUND

MCI Telecommunications Corporation (MCI or the company) is one of the current Department of Corrections' (DOC) contract carriers for collect calls from penal institutions. On February 29, 1996, MCI began billing a \$3.00 surcharge for intrastate collect calls from prison facilities. This was a \$2.00 per call overcharge on calls made between February 29 and March 15, 1996, and a \$1.25 per call overcharge on calls made between March 16 and July 10, 1996. Intrastate operator assisted calls are capped at AT&T's time of day rates. The difference in the per call overcharge is due to the fact that AT&T increased its surcharge from \$1.00 to \$1.75 on March 16, 1996. The overcharging is a violation of Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements.

Order No. PSC-96-1395-FOF-TI, issued November 20, 1996, ordered MCI to implement direct refunds, with interest, to those customers who were overcharged between February and July 1996, and to show cause why it should not be fined or have its certificate revoked for failure to comply with Commission Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements.

DOCUMENT NUMBER-DATE

07459 JUL 24 97

FPSC-RECORDS/REPORTING

DOCKET NO. 960617-TI
DATE: JULY 24, 1997

Order No. PSC-97-0088-AS-TI, issued January 27, 1997, accepted MCI's proposed settlement in lieu of proceeding with the show cause.

MCI paid the \$10,000 settlement on January 30, 1997. Pursuant to Rule 25-4.114, Florida Administrative Code, Refunds, MCI filed its final report on the status of the refunds on June 13, 1997. (Attachment A) Staff's recommendation dealing with the remaining unrefundable amount, plus all of the interest, is outlined below.

DOCKET NO. 960617-TI
DATE: JULY 24, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept MCI's suggestion that the unrefundable monies in the amount of \$227,034.67 be placed in the Inmate Welfare Trust Fund?

RECOMMENDATION: No. Staff recommends that the unrefundable monies in the amount of \$177,034.67 be paid to the Commission to be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund within 30 days from the date of the Commission Order. An amount of \$50,000 should be withheld for 90 days to issue any refunds, plus interest, from consumers inquiring why they did not receive their portion of the refund. After the 90 days, the remaining balance of the \$50,000, if any, should be paid to the Commission to be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund within one week. Staff also recommends that a report be filed with staff every 30 days from the date of the Commission Order on the status of the outstanding complaints until all complaints are resolved. (Moses)

STAFF ANALYSIS: At the October 29, 1997, Agenda Conference, several representatives of nonprofit organizations spoke and requested that any remaining monies go to their respective organizations. While each organization may be worthwhile and use the funds beneficially, staff believes the unrefundable monies should go the General Revenue Fund for three reasons. First, staff does not believe it is appropriate for the Commission to review and rate nonprofit organizations to determine which is the most worthy. Second, the Commission would have no regulatory oversight over the nonprofit organizations to insure that the monies are used in an appropriate manner. Third, in the majority of overcharging cases, the Commission has ordered companies to forward any remaining monies to the Commission for deposit in the General Revenue Fund, which benefits all Floridians.

The Commission has ordered the remaining monies to go to another source, the Inmate Welfare Trust Fund overseen by the Department of Corrections (DOC) in only one case. In that case (Docket No. 910666-TI), the Commission investigated the billing practices of International Telecharge, Inc. (ITI) and Peoples Telephone Company. The Commission found that ITI and Peoples were overcharging consumers. Order No. PSC-92-0728-AS-TI, issued July 28, 1992, included the condition that the companies were to remit the amount of money that could not be refunded directly to consumers to DOC for deposit in its Inmate Welfare Fund. No explanation was provided either in the staff's recommendation or the Commission's Order explaining why the Commission determined

DOCKET NO. 960617-TI
DATE: JULY 24, 1997

that the monies should go to the Inmate Welfare Fund instead of the General Revenue Fund. Since DOC receives commissions on each completed inmate collect call, it appears to staff that DOC would receive excessive compensation if the monies are forwarded for deposit in the Inmate Welfare Trust Fund. Also, in this case, many families have expressed opposition to the suggestion that the Inmate Welfare Trust Fund receive the money. Therefore, staff recommends that the unrefundable monies in the amount of \$177,034.67 be paid to the Commission within 30 days from the date of the Commission Order and forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund.

MCI's June 13, 1997, final report (Attachment A), stated that \$227,034.67 could not be credited to customer billings by the local exchange companies (LEC) for one reason or another. Staff has been and continues receiving complaints from consumers who have advised that they accepted collect calls from inmates and did not receive a refund from MCI. As of July 17, 1997, staff has approximately 20 consumer complaints outstanding. Normally, complaints can be resolved in about 15 days. However, in this case, if the customer does not provide staff a copy of their bills from over a year ago, MCI must contact the customer's LEC for the copy, then compute and issue a credit for the refund. Therefore, these complaints take longer to complete.

Because staff has outstanding complaints and may receive others, staff recommends that \$50,000 be set aside for refunds to any customer who complains that they did not receive their portion of the refund, plus interest. Staff recommends that one week after the 90 days has passed (90 days from the date the Commission Order is issued), MCI should pay the Commission the remaining balance, if any, which will be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund.

DOCKET NO. 960617-TI
DATE: JULY 24, 1997

ISSUE 2: Should the Commission require MCI to refund the interest in the amount of \$90,565.88 directly to those customers overcharged?

RECOMMENDATION: Yes. Staff recommends that the interest in the amount of \$90,565.88 be refunded directly to those customers overcharged within 30 days from the date of the Commission Order. Any interest monies that cannot be refunded should be paid to the Commission to be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund within 60 days from the date of the Commission Order. (Moses)

STAFF ANALYSIS: Order No. PSC-97-0088-AS-TI, issued January 27, 1997, accepted MCI's proposed settlement to refund the amount overcharged plus interest directly to those customers overcharged. MCI's June 13, 1997, report to the Commission states that "Unfortunately, in trying to initiate the refund as quickly as possible, MCI failed to include the interest in the amounts refunded to the consumers." Due to the oversight, MCI suggests that the interest in the amount of \$90,565.88 be placed in the Inmate Welfare Trust Fund.

Staff believes that an oversight on the part of MCI is insufficient reason for failure to comply with the Commission's order. Staff recommends that MCI should be required to go back and refund the interest directly to those customers who were overcharged. The company already has the data available on the consumers who were overcharged. It should be a relatively simple matter to issue the interest refunds to those same overcharged consumers. Therefore, staff recommends that the interest in the amount of \$90,565.88 be refunded directly to those customers overcharged within 30 days from the date of the Commission Order. Any interest monies that cannot be refunded should be paid to the Commission to be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund within 60 days from the date of the Commission Order.

DOCKET NO. 960617-TI
DATE: JULY 24, 1997

ISSUE 3: Should the Commission fine MCI \$25,000 for failure to comply with Order No. PSC-97-0088-AS-TI, issued January 27, 1997?

RECOMMENDATION: Yes. The Commission should fine MCI \$25,000 for failure to comply with Order No. PSC-97-0088-AS-TI. The fine should be paid to the Commission to be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund within 30 days from the date of the Commission Order. (Moses)

STAFF ANALYSIS: Order No. PSC-97-0088-AS-TI, issued January 27, 1997, accepted MCI's proposed settlement to refund the amount overcharged plus interest directly to those customers overcharged. In its final report dated June 13, 1997, MCI stated that in its rush to issue refunds as quickly as possible, it failed to include the interest in the amount of \$90,565.88. MCI anticipated that it would "provide the information about the refunds to the local exchange companies by the end of January 1997 for inclusion in the February billing cycles" and would complete the refunds by May 1997. MCI stated it provided the information to the LECs on January 29, 1997, and went on to state that "Through inadvertence and oversight, this information was conveyed before MCI received the interest calculation from Staff on March 18, 1997."

Staff believes that this "oversight," which amounts to a plain failure to comply with a direct Commission Order, warrants a fine. In several previous cases, the Commission has investigated and fined or accepted settlement offers from MCI for a variety of compliance failures, such as failing to file an annual report (890568-TI), failing to file a change of address and liaison to the Commission within 10 days and not responding to staff (910275-TI), slamming violations (910205-TI), and marketing practices (960186-TI). This is the first case, however, in which a company has failed to adhere to a direct Commission order to refund overcharges with interest.

Because of the seriousness of MCI's failure to comply, and because the Commission must insure to the utmost extent possible that its orders are fully and completely adhered to, staff believes a fine of \$25,000 is appropriate. Because MCI has admitted that it failed to refund the interest amounts, the facts clearly show that MCI has failed to comply with Order No. PSC-97-0088-AS-TI. Therefore, staff believes that the Commission may impose a fine in this case as a proposed agency action in lieu of initiation of a full show cause proceeding. Chapter 354.285, Florida Statutes, provides that a company under the Commission's regulatory authority can be fined up to \$25,000 each day it is determined to be in violation. Therefore, staff believes MCI should be fined \$25,000 for not complying with Order No. PSC-97-

DOCKET NO. 960617-TI
DATE: JULY 24, 1997

0088-AS-TI and that the fine should be paid to the Commission to be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund within 30 days from the date of the Commission Order.

DOCKET NO. 960617-TI
DATE: JULY 24, 1997

ISSUE 4: Should this docket be closed?

RECOMMENDATION: If Issues 1 - 3 are approved, this docket should be closed if no person, whose interests are substantially affected by the proposed action, in Issue 3 files a protest within the 21 day protest period, upon payment of the remaining monies and fine and upon completion of the remaining refund. (Brown)

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, and upon payment of the remaining monies and fine and upon completion of the remaining refund, this docket should be closed. The monies and fine should be paid to the Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

ATTACHMENT A
DOCKET NO. 960617-TI
DATE: JULY 24, 1997

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June 13, 1997

Ms. Blanca S. Bayó
Director, Records & Reporting
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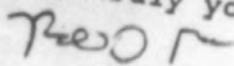
Re: Docket 960617-TI

Dear Ms. Bayó:

I am enclosing for filing in the above-referenced docket the original and 15 copies of MCI Telecommunication Corporation's final report.

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

Very truly yours,



Richard D. Melson

RDM/cc
Enclosures
cc: Parties
Alan Taylor

ATTACHMENT A
DOCKET NO. 960617-TI
DATE: JULY 24, 1997

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause)
Proceedings Against MCI)
Telecommunications Corporation)
for Violation of Rule 25-24.630,)
F.A.C.)

Docket No. 960617-TI

Filed: June 13, 1997

FINAL REPORT OF MCI TELECOMMUNICATIONS CORPORATION

On January 27, 1997, the Florida Public Service Commission (hereinafter the "Commission") issued a Final Order Accepting Proposed Settlement ("Final Order") in the above named matter. Order No. PSC-97-0088-AS-TI. MCI Telecommunications Corporation ("MCI") hereby files its final report in this matter in which it has refunded \$1,387,242.33 to affected customers. This constitutes 85.94 percent of the total amount of funds identified for refund. Of the total amount identified, \$227,034.67, or 14.06 percent, is unrefundable and awaits disposition by the Commission. In addition, \$90,565.88 in interest was not refunded and awaits disposition by the Commission. As these funds were generated by collect calls placed by Florida inmates, MCI suggests that the unrefundable amount, together with the unrefunded interest, be used to benefit the inmates in the State of Florida's correctional facilities.

BACKGROUND

In response to the Show Cause Order issued by the Commission in this matter, MCI filed a proposed settlement offer with the Commission on December 9, 1996. See Attachment A to the Commission's Final Order. This offer provided as follows:

1. MCI would refund directly to consumers, the difference of \$2.00 per call, plus interest, for calls made between February 29, 1996, and March 15, 1996;
2. MCI would refund directly to consumers, the difference of \$1.25 per call made between March 16, 1996, and July 10, 1996;
3. MCI anticipated that it could complete the refund process between the end of January and May, 1997, via the local exchange companies. Given the nature of the refund, MCI anticipated that a certain number of the refunds would be returned as unbillable. MCI agreed that it would track and identify any such unbillable refunds.
4. MCI acknowledged its responsibility to ensure that its future tariff filings

ATTACHMENT A
DOCKET NO. 960617-TI
DATE: JULY 24, 1997

comply with the Commission rules and policy;

5. MCI agreed to contribute \$10,000 to the State General Revenue Fund within 10 days following the issuance of a final order accepting the settlement proposal.
6. MCI did not admit violation of any order, statute, or rule.

On January 27, 1997, the Commission issued its Final Order Accepting Proposed Settlement in the above named matter. Order No. PSC-97-0088-AS-TI. The Commission accepted the proposed settlement as a resolution of the Show Cause Order with a finding that it "adequately responds to our intent that refunds of the overcharges be made directly to those customers who were overcharged." Final Order, p. 2. The Commission further ordered that when MCI files its final report, that it suggest a method of disposing of any unclaimed amounts. Id.

THE REFUND

The refund was necessary for all Florida DOCs Intrastate calls made from February 29, 1996 to July 10, 1996. To implement the refund, MCI first identified all collect calls made from Florida correctional facilities during the relevant time periods. Had all such calls been billed to end users, the total amount of the refund would have been \$1,685,526.50; however, \$71,249.50 of these were dropped out because they were never actually billed. This left a total refund amount of \$1,614,277.00. MCI then initiated the refund to customers through its casual billing agreements with the various local exchange companies in late January, 1997. Between February and May, 1997, the local exchange companies were able to credit \$1,387,242.33, or 85.94% of the total refund amount, to the bills of the affected customers. Of the total amount identified, \$227,034.67, or 14.06 percent, is unrefundable and awaits disposition by the Commission. In addition, \$90,565.88 in interest was not refunded and awaits disposition by the Commission. A matrix showing the breakdown of the refund is attached hereto as Attachment A. The process MCI followed in implementing the refund is discussed in more detail below.

MCI's MEGA Call Processing Unit identified the affected calls within the Galaxy billing stream. Galaxy is the system housing Florida Prison billing records. Florida intrastate calls were identified by searching for originating and terminating numbers which had Florida area codes. Prison calls were isolated by searching Indicator 17 (position 97 in the billing record) fields for a value of '2'. The adjustments were calculated for two scenarios: 1) For the period from February 29, 1996, to March 15, 1996, when AT&T's tariffed surcharge was \$1, the refund amount would be the difference between \$3 and \$1, which would be \$2 per call; and, 2) for the period from March 16, 1996, to July 10, 1996, when AT&T's tariffed surcharge was \$1.75, the refund amount would be the difference between \$3 and \$1.75, which would be \$1.25 per call. Effective July 11, 1996, MCI's tariffed surcharge was changed to \$1.75, and no refunds were necessary for calls placed on or after that date.

ATTACHMENT A
DOCKET NO. 960617-TI
DATE: JULY 24, 1997

As stated above, the total amount of potential refunds initially identified by MCI was \$1,685,526.50; however, \$71,249.50 of these were dropped out because they were never actually billed. This left a total refund amount of \$1,614,277.00. The \$71,249.50 is composed of four categories of drops: 1) In the case of one call, the NPA/NXX was invalid. This resulted in a drop of \$2.00; 2) In some cases, the calls were from the service areas of local exchange companies with which MCI had no billing agreement; since MCI was never able to collect the charges for such calls, it did not need to refund any of the charges. This resulted in a drop of \$15,217.00; 3) In some cases, the calls were not properly recorded. The calls with an invalid LERG amounted to \$30,709.50; 4) In some cases, billing data for affected Florida Prison Intrastate calls was sent to the local company, but had never been billed. In these instances, MCI determined a credit was neither warranted, nor feasible. When a match could be made between adjustment information and unbillable information for the same charges, the adjustment records were removed from the local company feed. Such unbillable matches amounted to \$25,321.00.

At the conclusion of MEGA Call Processing's review, the information on the affected calls was sent to MEGA Outclearing. When MEGA Outclearing received the records from MEGA Call Processing, they formatted the records into standard EMI (Exchange Message Interface) format. EMI is the standard by which all information is exchanged between the Exchange Carriers and Interexchange Carriers.

The files completed by MEGA Outclearing were then sent to Casual/10XXX Production Support. Each affected Local Company had different requirements with respect to receiving adjustment records for casual billing. Production support took this into account as they prepared the information for transmission to the local companies. Issues to consider were file sequencing, packing preference, transmission medium, and use of pack type indicator.

The local phone companies received and processed the adjustment information each according to its own operating procedures. Credits were presented on customer invoices in a manner set forth by local company guidelines. Some adjustment records errored out and as a result did not appear on the customer invoice. The adjustment can error out up front (reject), or further downstream (unbillable). The total fallout from the LECs was \$227,034.67, or 14.06% of the total refund amount. The fallout for each LEC is shown in Attachment A. This fallout occurred because, for one reason or another, the LEC was unable to credit a bill. Because of the casual billing arrangements MCI has with the LECs, MCI is given the total amounts of the fallout but is not given the information on a customer specific basis and is not told the specific reasons for the inability to credit. In many cases, however, it is likely caused by the fact that the LEC no longer has the customer. The time frame for adjustment processing by LECs ranged from 4-12 weeks. In all, MCI was able to return 85.94% of the total refund amount to the consumers.

As discussed above, the Commission ordered that MCI include interest in the refund. Unfortunately, in trying to initiate the refund as quickly as possible, MCI failed to include the interest in the amounts refunded to the consumers. MCI's Proposed Settlement and the

ATTACHMENT A
DOCKET NO. 960617-TI
DATE: JULY 24, 1997

Commission's Final Order adopting it anticipated that MCI would provide the information about the refunds to the local exchange companies by the end of January 1997 for inclusion in the February billing cycles, and that the unbillable refunds would have cycled through the LECs by the end of May, 1997. Final Order, pp. 2 and 8. MCI conveyed the information about the refund to the LECs on January 29, 1997. Through inadvertence and oversight, this information was conveyed before MCI received the interest calculation from Staff on March 18, 1997. See Rule 25-4.114(4)(e) of the Rules of the Florida Public Service Commission. The interest on the refund amounted to \$90,565.88. As discussed below, MCI requests that this amount be combined with the unrefundable amount and be used in a way which will benefit the inmates in the State of Florida's correctional facilities. MCI regrets that the interest was not included in the refund, however, MCI believes that rather than return to the expensive and time consuming process of refunding, the money could be put to better use by benefiting the inmates. Finally, it should be noted that MCI obtained no benefit from failing to include the interest in the refund since, of course, MCI can in no event retain that money.

DISPOSITION OF THE UNCLAIMED AMOUNTS

In its Final Order, the Commission instructed MCI to suggest a method of disposing of any unclaimed amounts remaining after the refund was concluded. Final Order, p. 2. Since these funds were generated by collect calls placed by Florida inmates, MCI requests that the unrefundable amount, together with the unrefunded interest, be used to benefit the inmates in the State of Florida's correctional facilities. DOCs has suggested that the money be placed in the Inmate Welfare Trust Fund which it maintains. This fund was created to benefit inmates by providing prisons with amenities for inmates which the prisons would otherwise be unable to afford.

RESPECTFULLY SUBMITTED this 13th day of June, 1997.

Thomas K. Bond / RDM

THOMAS K. BOND
MCI TELECOMMUNICATIONS CORPORATION
780 Johnson Ferry Road
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Atlanta, Georgia 30342
(404)267-6315

FLORIDA DOC'S RECOVERY

ATTACHMENT A
DOCKET NO. 960617-T1
DATE: JULY 24, 1997

REVENUE INTO CBPS FROM GALAXY

DROPS: Invalid NPA/NXX
No Credit Agreement (LERG 0318, 0338)
Invalid LERG
Unbillable Match

TOTAL DROPS
FINAL OUTPUT TO LEC'S
LEC DROPS
AMOUNT REPAID TO END USERS
AMOUNT OUTSTANDING

2.00
15,217.00
30,709.50
25,321.00

71,249.50
1,614,277.00
227,034.67
1,387,242.33
298,284.17

LEC BREAKDOWN

- 14 -

	\$	#	Total Transmitted	Rejects	Unbillables	Total Fallout	Total Accepted
BellSouth			913,820.50	45.00	154,353.93	154,398.93	759,421.57
GTE			675,773	30	n/a	n/a	n/a
Sprint United			435,838.50	420.25	964.50	1,384.75	434,453.75
MCI Metro			323,727	236	n/a	n/a	n/a
			230,496.00	44,601.75	22,340.25	66,942.00	163,554.00
Altel			149,506	32,340	14,901	47,241	122,265
			24.00	24.00	-	24.00	-
USIN			12	12	-	12	-
			17,622.00	-	2,273.24	2,273.24	-
NECA			12,948	-	n/a	n/a	15,348.76
			14,464.25	-	-	-	n/a
			10,624	-	-	-	14,464.25
TOTAL			2,011.75	2,011.75	-	-	10,624
			1,484	1,484	-	-	-
			1,614,277.00	47,102.75	179,911.92	201,175	-
						1,484	-
						227,034.67	1,387,242.33