

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

MEMORANDUM

OCTOBER 9, 1997

RECEIVED

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TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO) FPSC - Records/Reporting

FROM: DIVISION OF COMMUNICATIONS (MONTEIRO) *MSA PTT*
DIVISION OF LEGAL SERVICES (BOWMAN) *DL MCB*

RE: DOCKET NO. 971113-TC - MCI TELECOMMUNICATIONS CORPORATION
- PETITION FOR EXEMPTION FROM ORDERS, RULES AND
REGULATIONS WHICH PROHIBIT TERMINATION OF CONVERSATIONS
AFTER TEN MINUTES ON CALLS PLACED FROM PAY TELEPHONES
LOCATED IN CONFINEMENT INSTITUTIONS

AGENDA: OCTOBER 21, 1997 - REGULAR AGENDA - PROPOSED AGENCY
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NOVEMBER 24, 1997 - STATUTORY DEADLINE FOR
DECISION

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\971113.RCM

CASE BACKGROUND

MCI Telecommunications Corporation (MCI) holds pay telephone certificate no. 3080, with an effective regulation date of July 23, 1992. MCI currently provides pay telephone service to approximately 25 correctional facilities and 5 work camps for the Florida Department of Corrections in various locations throughout Florida.

On August 26, 1997, MCI filed a waiver petition of those rules and regulations which prohibit MCI from terminating calls placed from pay telephones located in Florida confinement institutions in less than 15 minutes, Rules 25-24.515(5), and 25-24.515(15), Florida Administrative Code. MCI seeks the waiver so that it can terminate such calls after 10 minutes of conversation.

Pursuant to Section 120.542(6), Florida Statutes, notice of MCI's petition for waiver was submitted to the Secretary of State on September 9, 1997, for publication in the Florida Administrative Weekly. No comments were submitted during the comment period which ended October 3, 1997. In accordance with Section 120.542(7),

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Florida Statutes, the Commission must rule on this petition by November 24, 1997.

The Commission has previously approved a similar request for exemption from Orders, Rules and Regulations prohibiting termination of conversations after 10 minutes on calls placed from pay telephones located in confinement facilities within the state of Florida in Docket No. 970551-TC for Sprint Communications Company Limited Partnership.

DISCUSSION OF ISSUES

ISSUE: Should the Commission grant MCI's petition for an exemption from the provisions of Rule 25-24.515(5) and 25-24.515(15), Florida Administrative Code, which prohibit termination of conversations after 10 minutes on calls placed from pay telephones located in confinement institutions?

RECOMMENDATION: Yes. MCI's petition should be granted, however, MCI should still be held accountable to the audible and written disconnect notification requirements of Rule 25-24.515(5), Florida Administrative Code. (MONTEIRO)

STAFF ANALYSIS: Through this petition, MCI is requesting a waiver of the Commission's Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code. These rules specifically require notice at all pay stations that terminate conversation after 15 minutes. In view of the fact that the rule requires notice for termination at 15 minutes, but does not provide for termination of calls in less than 15 minutes, MCI believes that these rules may prohibit MCI from terminating calls, placed by inmates of confinement institutions, prior to 15 minutes. Thus, MCI has requested this waiver for permission to terminate calls after 10 minutes of conversation. MCI agrees, however, that it will comply with the audible and written disconnect notification requirements of Rule 25-24.515(5), Florida Administrative Code.

MCI states that it is seeking this waiver because the Department of Corrections wants to have the capability to limit calls from confinement facilities to a 10 minute duration during certain periods and circumstances. MCI asserts that limiting calls to no longer than 10 minutes could be useful in very crowded telephone conditions. MCI believes that forcing corrections officials to allow a minimum 15 minute call duration by inmates is an unnecessary limit on corrections officials' authority in a confinement setting without reason. Therefore, MCI contends that

the present rule could be a substantial hardship on corrections officials.

In addition, MCI asserts that the protection to the pay telephone end user intended by Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, is not necessary in the inmate calling environment because corrections officials presently have the ability to control inmate calling. Reducing conversation time from 15 minutes to 10 minutes will not disadvantage inmates and will provide the Department of Corrections with additional control over conversation time in situations that warrant reduced conversation time.

Currently, MCI offers pay telephone services to inmates of confinement institutions within the state of Florida using sophisticated equipment that permits inmates to place outbound, collect-only calls. MCI's system was designed specifically to help governmental corrections facilities deal with their unique needs and problems. Such problems include call forwarding schemes, credit card abuse, subscription improprieties, and harassing telephone calls to victims, witnesses and judges. MCI asserts that the ability to limit calls, along with other security features, will allow correctional officials to prevent inmate abuse and fraud.

Staff is aware that early termination of calls will simply lead to higher costs to the called party (due to double operator surcharges) if inmates are allowed to dial the called party in successive 10 minutes increments. To the extent that the called party receives two calls from the same inmate, staff believes the waiver should not apply. Under those circumstances, MCI and the facility will benefit from higher revenues for what is otherwise a single call. Therefore, staff will monitor complaints to determine whether the inmate's phone time is actually reduced to 10 minutes or whether the called party is billed two operator surcharges for conversation totaling 15 minutes or less. If, based on complaints, staff observes double operator surcharges occurring on a regular basis, staff will bring this matter to the Commission's attention.

Staff believes that MCI's petition meets the specifications set forth in Section 120.542(5), Florida Statutes. Furthermore, MCI's assertions regarding the Department of Corrections' desire to control the inmate calling environment sufficiently demonstrate that continued application of Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, would continue to impose a substantial hardship on corrections officials as defined in Section 120.542(2), Florida Statutes. Staff,

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therefore, recommends that MCI's Petition for Waiver of Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, be granted for those pay phones located in confinement facilities.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action. A protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent MCI from terminating conversations after 10 minutes on calls placed from pay telephones located in confinement institutions. (BOWMAN)

STAFF ANALYSIS: This docket should be closed unless a person whose substantial interest are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action.

ATTACHMENT A
DOCKET NO. 971113-TC
DATE: OCTOBER 9, 1997

CMU

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August 26, 1997

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

Re: MCI Petition for Waiver

Dear Ms. Bayó:

Enclosed for filing on behalf of MCI Telecommunications Corporation are the original and 15 copies of MCI's Petition for Exemption from Order, Rules and Regulations Prohibiting Termination of Conversations After Ten Minutes on Calls Placed From Pay Telephones Located in Confinement Institutions.

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

Very truly yours,


Richard D. Nelson

RDM/cc
Enclosures

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DOCUMENT NUMBER-DATE
08612 AUG 26 5
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of MCI
Telecommunications Corporation for)
Exemption From Order, Rules and) Docket No.
Regulations Prohibiting Termination)
of Conversations After Ten Minutes) Filed: August 26, 1997
on Calls Placed From Pay Telephones)
Located in Confinement Institutions.)
_____)

PETITION FOR WAIVER

Comes now MCI Telecommunications Corporation ("MCI"), pursuant to Commission Rule 25-24.505(3), Florida Administrative Code, and Section 120.542, Florida Statutes, and files this Petition for Waiver with the Florida Public Service Commission ("Commission") for exemption from those Orders, Rules and Regulations of the Commission prohibiting MCI from terminating conversation after ten minutes on calls placed from pay telephones located in confinement institutions within the state of Florida. In support of its petition, MCI states as follows:

1. Petitioner's name and address are:

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

2. All notices, orders or documents regarding this petition should be directed to:

Richard Melson
Hopping Green Sams & Smith, P.A.
123 South Calhoun street
Tallahassee, Florida 32301

and

Thomas K. Bond
MCI Telecommunications Corporation
780 Johnson Ferry Road, Suite 700
Atlanta, Georgia 30342

3. MCI is certified to Provide Pay Telephone Services in the State of Florida. MCI holds pay telephone Certificate No. 3080, with an effective regulation date of July 23, 1992.

4. MCI offers pay telephone services to inmates of confinement institutions within the state of Florida using sophisticated equipment that permits inmates to place outbound, collect-only calls. MCI's system was developed specifically to help governmental corrections facilities deal with their unique needs and problems. Such problems include call forwarding schemes, credit card abuse, subscription improprieties, and harassing telephone calls to victims, witnesses and judges. MCI provides an extensive, flexible set of tools for the prison administrator, all designed on a customized site-by-site basis. MCI currently serves approximately 25 correctional facilities and 5 work camps for the Florida Department of Corrections.

5. Through the instant petition, MCI seeks a waiver of the Commission's Rules 25-24.515(5) and 25-24.515(15) F.A.C. These rules appear to prohibit MCI from terminating conversations in less than fifteen minutes on calls placed by inmates of confinement institutions. While it is not clear that this is the case, out of an abundance of caution, MCI seeks the waivers as set out in this petition.

6. The Department of Corrections seeks to have the capability to limit such calls to a ten minute duration during certain periods and circumstances in confinement institutions. Rule 25-24.515(15) provides certain exemptions for pay stations in confinement institutions, including exemption from rule 25-24.515(5), except for the audible and written fifteen minute disconnect notification. Reducing conversation time from fifteen minutes to ten minutes will not disadvantage inmates and will provide the Department of Corrections with additional control over conversation time if the situation warrants reduced conversation time.

7. The purpose of the rule that appears to limit calls to not less than 15 minutes in duration presumably is to limit the ability of COCOT's to limit calls and force customers to regenerate calls at additional initial cost per minute. This protection to the pay telephone user is not necessary in the inmate calling environment because corrections officials have the ability to control inmate calling presently. The addition of limiting calls to no longer than 10 minutes could be useful in very crowded telephone conditions. Forcing corrections officials to allow a minimum of 15 minute call duration calls by inmates is an unnecessary limit on corrections officials' authority in the inmate setting without reason. The present rule could be a substantial hardship on corrections officials. Accordingly, the rule waiver requested herein is consistent with the provisions of Section 120.542, Florida Statutes. The Commission is authorized to grant variances and waivers to requirements of their rules consistent with Section 120.542, Florida Statutes. Therefore, MCI would submit

that approval of the requested rule waiver would not violate, in any manner, Section 120.542, Florida Statutes.

8. In the event the Commission grants the waivers requested herein, MCI agrees to comply with the audible and written disconnect notification requirements of Rule 25-24.515(5).

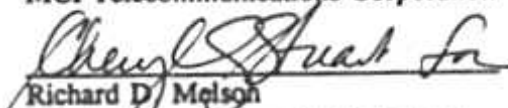
9. The Commission recently approved a similar request for exemption from Orders, Rules and Regulations prohibiting termination of conversations after ten minutes on calls placed from pay telephones located in confinement institutions within the state of Florida filed by Sprint Communications Company Limited Partnership ("Sprint"). Docket No. 970551-TC. Sprint also serves Florida Department of Corrections Confinement facilities. To avoid inmate confusion, and to promote the other policies discussed above, the Department of Corrections desires to have the same payphone policies in place at all of its facilities.

WHEREFORE, MCI Telecommunications Corporation respectfully requests that the Commission:

- (1) Grant MCI a waiver from the provisions of the Commission's Rules 25-24.515(5) and 25-24.515(15) Florida Administrative Code; and
- (2) Grant MCI such other relief as may be appropriate in the circumstances.

Respectfully submitted,

MCI Telecommunications Corporation



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123 South Calhoun Street
Tallahassee, Florida 32301

Thomas K. Bond
MCI Telecommunications Corporation
780 Johnson Ferry Road, Suite 700
Atlanta, Georgia 30342

Attorneys 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 26th day of August, 1997.

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



Attorney