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# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850



RECORDS AND  
REPORTING

## -M-E-M-O-R-A-N-D-U-M-

*Approved*  
*MCB*  
*3/27/00*

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RECORDS AND REPORTING

**DATE:** MARCH 27, 2000

**TO:** MARY BANE, DEPUTY EXECUTIVE DIRECTOR/TECHNICAL

**FROM:** DIVISION OF COMMUNICATIONS (KING, MCDONALD, MOSES, TUBOR) *MCB*  
DIVISION OF APPEALS (BROWN) *MCB*

**RE:** Item No. 3 - MARCH 28, 2000 AGENDA  
DOCKET NO. 960598-TP - REQUEST FOR SUBMISSION OF PROPOSAL FOR PROVISION OF RELAY SERVICE, BEGINNING IN JUNE 1997, FOR THE HEARING AND SPEECH IMPAIRED, AND OTHER IMPLEMENTATION MATTERS IN COMPLIANCE WITH THE FLORIDA TELECOMMUNICATIONS ACCESS SYSTEM ACT OF 1991.

On March 24, 2000, staff received an MCI Response (Attachment A) to staff's March 16, 2000 recommendation. In that Response, MCI requested that the Commission not consider failures during the two month period of June and July, 1998 since this was a transition period to the new subcontractor. The impact of not considering this two month period would be to reduce the liquidated damages to \$485,000. Staff is not in agreement with MCI's Response that we should overlook the months of June and July, 1998 while MCI's new subcontractor was first beginning to provide service.

However, staff reviewed MCI's Response and took into consideration the marked improvement in blockage rates that MCI noted there. Staff contacted MCI and has reached agreement with MCI on collecting liquidated damages only for the answer time violations in the amount of \$770,000.

In staff's recommendation of March 16, 2000, staff recommended that the Commission should collect liquidated damages from MCI WorldCom (MCI) in the following amounts:

- \$770,000 for failure to meet answer time requirements
- \$225,000 for failure to meet blockage requirements
- \$995,000 TOTAL

DOCUMENT NUMBER-DATE

**007000-278**

FPSC-RECORDS/REPORTING

Taking into consideration MCI's correction of its blockage failures, staff is recommending collecting liquidated damages only for answer time failures as shown in type and strike format below.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission collect liquidated damages from MCI in the amount of \$770,000 for failure to meet the answer time requirements of its contract, and \$225,000 for failure to meet the blockage requirements, from June 1, 1998, through December 31, 1999?

**RECOMMENDATION:** ~~Yes~~ The Commission should require MCI to pay liquidated damages for answer time failures by crediting the Florida Telecommunications Relay Inc. (FTRI) account \$770,000 for failure to meet the answer time requirements of the contract, ~~and \$225,000 for failure to meet the blockage standard, for a total of \$995,000.~~ Liquidated damages should not be collected relating to blockage. The liquidated damages should be credited to relay bills beginning with the FTRI bill for March, 2000. (McDonald)

**STAFF ANALYSIS:** Staff believes that our goal should be to see service improvements to the level set out in the contract rather than to collect liquidated damages. In the case of blockage, MCI notes in its Response that it has responded to service deficiencies and corrected the problem. MCI did change how it dealt with blockages such that beginning in October, 1998 and throughout the year 1999, there were no blockage violations at all. (see Attachment B) Therefore, staff is in agreement that the service improvement should be taken into consideration and no liquidated damages for blockage should be assessed at this time.

However, in regard to answer time (see Attachment C), the quality of service has not been corrected to levels that meet the standards in the contract and therefore, we continue to recommend that the Commission collect liquidated damages in the amount of \$770,000.

c: Division of Records and Reporting  
Jorge Cruz-Bustillo Bill Berg  
Billy Stiles Melinda Butler  
Joann Chase



Attachment A

Law & Public Policy  
Six Concourse Parkway, Suite 3200  
Atlanta, GA 30328

March 23, 2000

Ms. Blanca Bayo  
Director, Records and Reporting  
Division of Telecommunications  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

VIA FACSIMILE AND OVERNIGHT CARRIER

**Subject: Contract Between the Florida Public Service Commission and MCI WorldCom,  
dated April 8, 1997.**

Dear Ms. Bayo:

This letter is in response to the Florida Public Service Commission ("FPSC") Staff recommendation, dated March 16, 2000, regarding the assessment of liquidated damages under the referenced Florida Relay contract. MCI WorldCom has diligently reviewed our data regarding the performance issues discussed in the recommendation, and we would like to address these issues, and to offer an alternative proposal for the assessment of said damages.

MCI WorldCom has worked very hard to provide a quality service to the users of the Florida Relay Service (FRS). Unfortunately, and regrettably, during any contract performance, events occur that challenge those efforts and can impact contract performance. When that happens, responsible parties are expected to take steps to rectify the shortcomings and overcome the challenges. MCI WorldCom has responded in this manner in the past and continues to do so today.

MCI WorldCom accepts full responsibility for its performance in Florida. As Staff stated in its comments, in response to concerns regarding subcontractor performance, MCI WorldCom replaced its initial call center subcontractor in June 1998 with VISTA Information Technologies, Inc. ("VISTA"). This decision was made as part of MCI WorldCom's continuing effort to improve its service and performance at the Florida Relay Center.

As stated in MCI WorldCom's July 29, 1998 letter to the Florida PSC, the transition to a new subcontractor was difficult and challenging, and we did not experience a significant improvement of performance during the first two months ("transition period") after the subcontractor change. However, this was not entirely unexpected given the dramatic steps that MCI WorldCom had taken to improve performance. Voluntary attrition was high among the Communication Assistant ("CA") staff. VISTA worked hard to overcome the challenges presented in replacing the CA's previous employer. Nonetheless, there was a two (2) month impact as VISTA worked to gain momentum in hiring and training, and to change the culture of the workforce.

Therefore, additional steps were taken by MCI WorldCom, as stated in our August 27, 1998 letter. On August 1, 1998, MCI WorldCom began sending FRS calls to the Tempe, Arizona center to provide improved answer times to customers until the Miami center was at full strength. There was immediate improvement in the quality performance measurements, as displayed in Exhibit C.

Blockage had been a significant problem as indicated in Staff's recommendation. When calls are blocked, callers receive busy signals but those calls are not counted in the answer time calculation. Blockage ceased to be a performance issue by mid-July 1998. After that time, there were only two (2) days where blockage exceeded the 1% standard. Notably, in September 1998, the blockage mechanism was completely turned off at the Miami switch. Accordingly, after September 1998, callers to the FRS no

longer received busy signals. This point is critical to note when comparing performance before and after the change was implemented. Not only did callers stop receiving busy signals, but also it dramatically increased the difficulty of exceeding the 90% answered in 10 seconds standard. Because callers did not receive a busy signal, ALL callers to the FRS entered the switch queue and could wait as long as they wanted to reach a Communications Assistant during busy times. The impact of that important change must be recognized and considered when reviewing performance results since that time.

For the 12 months between August 1998 and August 1999, the FRS performance was quite strong and much improved (see Exhibit B). During that 365 day period, there were only 48 instances of non-compliance. Although performance was not flawless, the data reflects incredible and substantial improvement. Problems that occurred in August/September 1999 were successfully addressed as evidenced by the recovery and strong performance in October and November 1999, when only two non-compliant events occurred. Though the agreed upon contractual standard in the Florida TRS Agreement is 90% of calls answered within 10 seconds, it is also important to note that, of the non-compliant events that occurred between August 1998 and December 1999, 35% of those days exceeded the FCC answer time requirement of 85% of calls answered within 10 seconds.

Attrition again impacted performance in December 1999, and continued into January 2000 with the announcement that the FRS contract was being awarded to a new provider. Again, MCI WorldCom took steps to minimize the impact to users of the service by requesting permission on January 5, 2000 to outflow calls as necessary to maintain quality service. The FPSC Commissioners, on February 15, granted this request. In preparation, steps were being taken to increase staff in other centers (Riverbank CA, Holyoke MA and Madison WI) to absorb Florida calls and alleviate the impact of attrition. This effort has been successful as indicated by the fact that there have been only 5 non-compliant events since that time (four at 89%, and one at 87% answered within 10 seconds).

In addition to the staff increases above, VISTA has been aggressively recruiting new staff for the Miami center by working with CoreStaff, a temporary employment agency. CoreStaff will also play an integral role in a CA retention plan, and as an outplacement resource for staff at the end of the contract. In addition, VISTA has added a full-time Production Control Manager position in Miami to strictly monitor Florida call traffic demand and to manage and adjust staff coverage at all centers to insure efficient handling of Florida calls. These are just some of the actions being taken and efforts being made to provide a smooth transition of service to the new provider.

We believe that this information demonstrates that MCI WorldCom and VISTA IT worked very hard to be responsive, to rectify problems that arose and to provide quality service to the users of the Florida Relay Service. While we don't believe that this fully alleviates the responsibility for the liquidated damages that have accrued, we ask that the FPSC Staff agree: that, a good faith effort was made during the transition period to provide the best service under very difficult circumstances; that, the action taken did ultimately result in improved service to FRS users; and that, because of the special circumstances surrounding the liquidated damages during the transition period, those damages should not be included in the total recommended assessment.

As such, MCI WorldCom respectfully requests that the FPSC Staff remove the two month, June to July 1998, transition period from the assessment period and reduce its recommended liquidated damage total to include damages from August 1, 1998 through December 31, 1999, or \$485,000.

Thank you for your time and consideration of this matter.

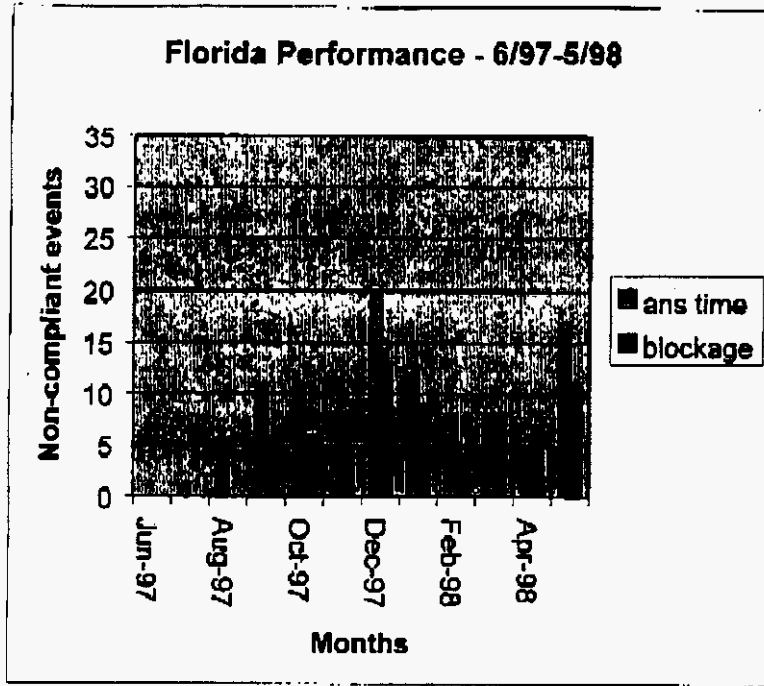
Sincerely,

*Jennifer L. Spade (cc)*

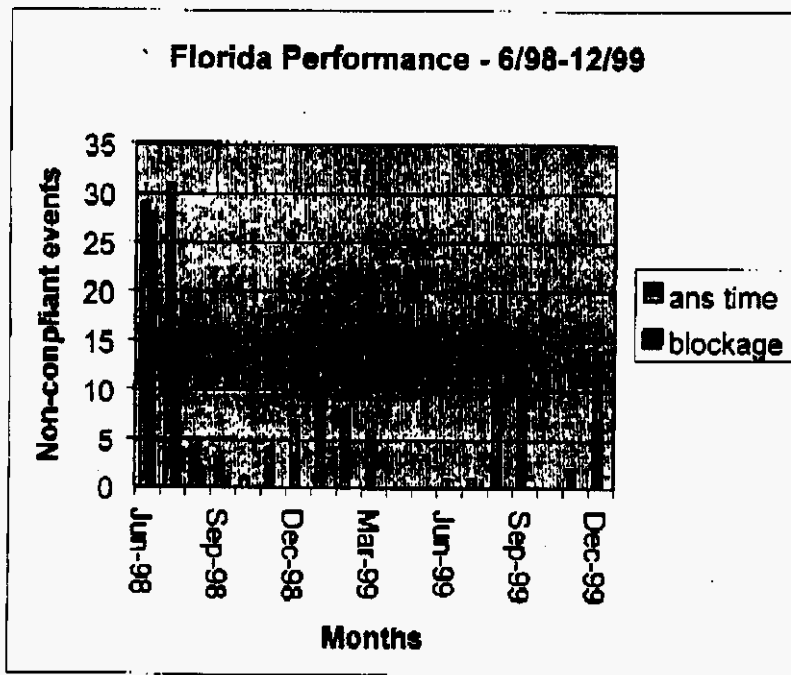
Jennifer L. Spade  
Director, MCI WorldCom

Cc: Mr. Richard Tudor, Assistant Director

**Exhibit A**



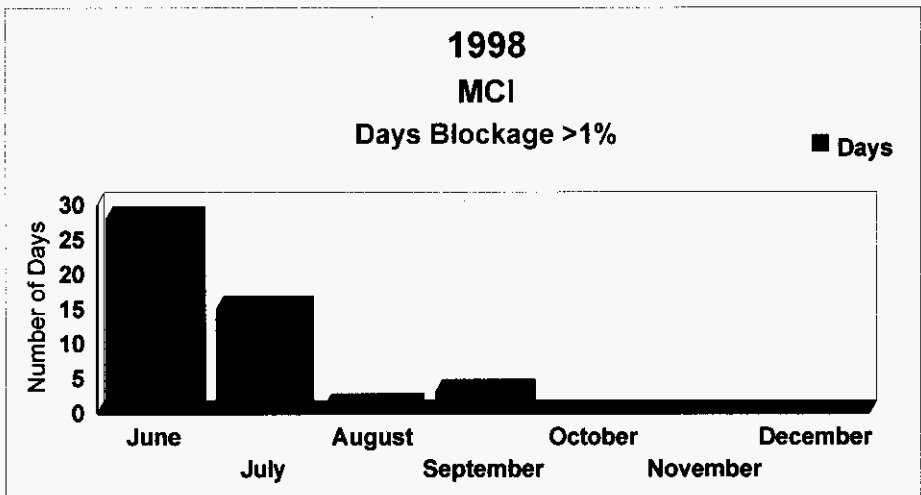
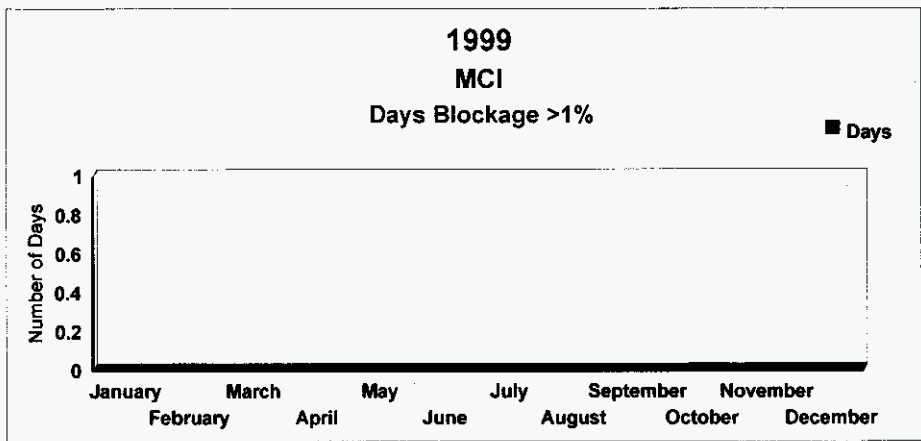
**Exhibit B**



**Exhibit C**

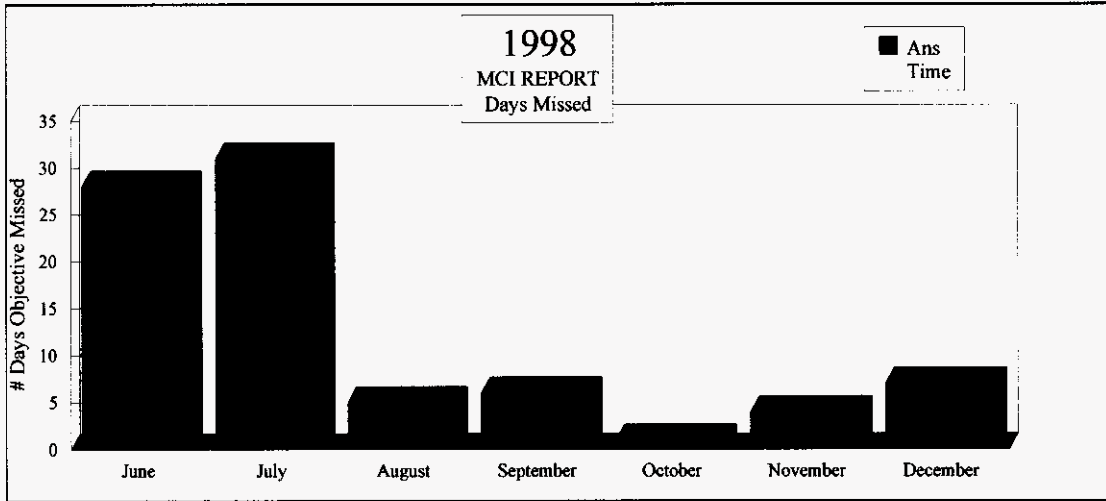
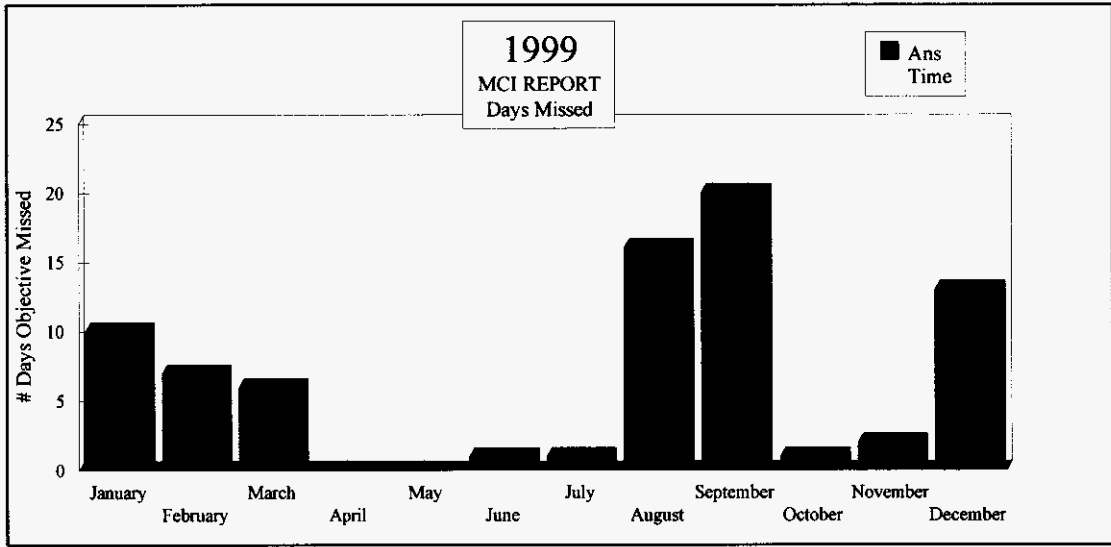
	answer time	blockage
Jun-98	29	28
Jul-98	31	13
Aug-98	5	2
Sep-98	3	1
Oct-98	1	0
Nov-98	4	0
Dec-98	7	0
Jan-99	9	0
Feb-99	8	0
Mar-99	6	0
Apr-99	0	0
May-99	0	0
Jun-99	1	0
Jul-99	1	0
Aug-99	16	0
Sep-99	17	0
Oct-99	0	0
Nov-99	2	0
Dec-99	14	0

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	MCI Days Blockage >1%	Del/Storm
<b>1999</b>		
January	0	
February	0	
March	0	
April	0	
May	0	
June	0	
July	0	
August	0	
September	0	
October	0	
November	0	
December	0	
TOTALS	0	0
<b>1998</b>		
June	28	
July	15	
August	1	
September	3	2
October	0	
November	0	
December	0	
TOTALS	47	2
<b>GRAND TOTAL</b>	<b>47</b>	<b>2</b>
<b>ADJUSTED</b>	<b>45</b>	<b>Days Missed</b>
<b>DAMAGES/DAY</b>	<b>\$5,000</b>	
<b>TOTAL DAMAGES</b>	<b>\$225,000</b>	
<b>HURRICANE GEORGE 9/98</b>		

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1999	MCI REPORT Days Missed		MCI REPORT
	Ans Time <90%	Del/Storm	'Average Ans Time < 90%
January	10		79.7%
February	7		81.0%
March	6		82.7%
April	0		N/A
May	0		N/A
June	1		85.0%
July	1		89.5%
August	16		74.5%
September	20	2	67.8%
October	1	1	86.0%
November	2		84.5%
December	13		83.4%
TOTALS	77	3	
1998			
June	28		52.6%
July	31		61.7%
August	5		85.5%
September	6	2	77.7%
October	1		82.1%
November	4		84.8%
December	7		81.0%
TOTALS	82	2	
GRAND TOTAL	159	5	
ADJUSTED	154	Days Missed	
DAMAGES/DAY	\$5,000		
TOTAL DAMAGES	\$770,000		
HURRICANE GEORGE 9/98, FLOYD 9/99, & IRENE 10/99			