

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  
ORDER NO. PSC-97-1050-FOF-TI  
ISSUED: September 5, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
DIANE K. KIESLING  
JOE GARCIA

ORDER ON DISPOSITION OF REFUNDS FOR OVERCHARGES

BY THE COMMISSION:

On February 29, 1996, when MCI Telecommunications Corporation (MCI) was a Department of Corrections (DOC) contract telecommunications carrier for collect calls from penal institutions, MCI began billing a \$3.00 surcharge for intrastate collect calls from prisons. Intrastate operator assisted calls are capped at AT&T's time of day rates, however, pursuant to Rule 25-24.630, Florida Administrative Code, Rate and Billing Requirements. The MCI surcharge amounted to 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.

On November 20, 1996, we issued Order No. PSC-96-1395-FOF-TI, directing MCI to implement direct refunds, with interest, to those customers who were overcharged between February and July 1996. We also ordered MCI 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. On January 27, 1997, we issued Order No. PSC-97-0088-AS-TI, accepting a settlement from MCI in lieu of proceeding with the show cause.

DOCUMENT NUMBER-DATE

08962 SEP-56

FPSR-RECORDS/REPORTING

Thereafter, in conformance with the terms of its settlement, MCI began to make refunds to the customers who were overcharged. MCI filed its final report on the status of the refunds on June 13, 1997. The report is appended to this Order as Attachment A. In the report MCI informed us that it had not been able to refund \$227,034.67 of the overcharges to customers. MCI proposed that the unrefundable monies should be delivered to the DOC's Inmate Welfare Trust Fund. MCI also informed us that it had neglected to refund the interest associated with the overcharges in the amount of \$90,565.88. MCI asked that the unrefunded interest monies also be deposited in the Inmate Welfare trust fund.

At our August 5, 1997, Agenda Conference, we reviewed MCI's proposal for disposition of the remaining overcharges and the interest, and we considered the comments and concerns of several interested groups regarding MCI's conduct of the refund process and the appropriate disposition of the remaining monies. We also considered our staff's recommendation that MCI be fined \$25,000 for failure to comply with our Order directing MCI to make direct refunds of the overcharges, with interest. Our decision on these matters is set forth below.

#### DISPOSITION OF UNREFUNDED OVERCHARGES

We do not accept MCI's suggestion that the unrefunded monies in the amount of \$227,034.67 should be placed in the Inmate Welfare Trust Fund. We believe that it is premature to make a final disposition of these monies at this time, because we do not believe that MCI has made a sufficiently diligent effort to find the customers to whom these monies are owed.

As it explained in the refund report, MCI sent billing adjustment information to the local exchange companies for processing credits to the overcharged accounts:

. . . 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. . . . 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. (Refund Report, p.12.)

We consider this to be only the first step in the appropriate diligent effort MCI must make to refund the overcharges to customers. MCI must do more. The public interest groups present at our Agenda Conference offered to assist MCI in locating customers still due a refund through their newsletters and other means. We believe MCI should take advantage of their offers, and make other reasonable efforts as well to locate the customers. We understand that it will probably not be possible to find everyone, but we believe additional efforts will be productive.

In light of our decision to require MCI to make additional efforts to locate customers due a refund, we will not decide at this time how to dispose of monies that cannot be refunded directly to customers. We direct MCI to consult with the public interest groups and return to us with suggestions for disposition of the unrefundable monies.

#### DISPOSITION OF UNREFUNDED INTEREST

As explained above, MCI's June 13, 1997, refund report states that in trying to initiate the refund as quickly as possible, MCI failed to include the interest in the amounts refunded to the consumers. MCI requests that the interest in the amount of \$90,565.88 be placed in the Inmate Welfare Trust Fund, along with the remaining unrefundable amounts. MCI states;

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 benefitting the inmates. (Report, p.13.)

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Our Order No. PSC-96-1395 specifically directed MCI to refund the overcharges, with interest, to the customers who were overcharged. An oversight on MCI's part is simply an insufficient reason for failure to comply with the Commission's order. Likewise, the argument that it is now too expensive to refund the interest amount is simply an insufficient reason to avoid doing what should have been done in the first place. Therefore we direct MCI to refund the interest directly to those customers who were overcharged. The company already has considerable 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. Interest in the amount of \$90,565.88 shall be refunded directly to those customers overcharged within 120 days from the date this Order is issued.

#### THE FINE

We will defer our decision on whether we should fine MCI for failure to comply with our Order to refund the interest on the overcharges, pending our review of MCI's additional efforts to refund the remaining overcharges and the interest.

Based on the foregoing, it is

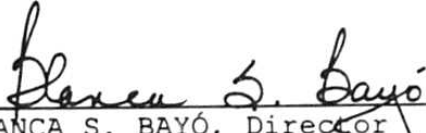
ORDERED by the Florida Public Service Commission that MCI Telecommunications Corporation shall make more diligent efforts to implement a direct refund to customers overcharged for collect calls from prison inmates between February and July 1996. MCI shall report back to the Commission with the results of its additional efforts and its suggestions for final disposition of the unrefundable amounts. It is further

ORDERED that MCI shall refund interest on the amount overcharged directly to the customers who were overcharged within 120 days of the issuance date of the Order. It is further

ORDERED that this docket shall remain open pending receipt and review of MCI's refund report.

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By ORDER of the Florida Public Service Commission this 5th  
day of September, 1997.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

MCB

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**ATTACHMENT A**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Initiation of Show Cause	)	
Proceedings Against MCI	)	Docket No. 960617-TI
Telecommunications Corporation	)	
for Violation of Rule 25-24.630,	)	Filed June 13, 1997
F.A.C.	)	

**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

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.



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 \$5,217.00; 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

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 / RBM*

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FLORIDA DOC'S RECOVERY

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REVENUE INTO CBPS FROM GALAXY		1,685,526.50
DROPS: Invalid NPANXX	2 00	
No Credit Agreement (LERG 0318, 0318)	15,217.00	
Invalid LERG	30,709.50	
Unbillable Match	25,321.00	
<b>TOTAL DROPS</b>		<b>71,249.50</b>
<b>FINAL OUTPUT TO LEC'S</b>		<b>1,614,277.00</b>
<b>LEC DROPS</b>		<b>227,634.67</b>
<b>AMOUNT REPAID TO END USERS</b>		<b>1,387,242.33</b>
<b>AMOUNT OUTSTANDING</b>		<b>298,284.17</b>

LEC BREAKDOWN

		Total Transmitted	Rejects	Unbillables	Total Fallback	Total Accepted
BellSouth	\$	913,820.50	45.00	154,353.93	154,398.93	759,421.57
	#	675,773	10	n/a	n/a	n/a
GTE	\$	435,838.50	420.25	964.50	1,384.75	434,453.75
	#	323,727	236	n/a	n/a	n/a
Sprint United	\$	230,496.00	44,601.75	22,340.25	66,942.00	163,554.00
	#	169,506	32,340	14,901	47,241	122,265
MCI Metro	\$	24.00	24.00	-	24.00	-
	#	12	12	-	12	-
Alltel	\$	17,622.00	-	2,273.24	2,273.24	15,348.76
	#	12,948	-	n/a	n/a	n/a
USIN	\$	14,464.25	-	-	-	14,464.25
	#	10,624	-	-	-	10,624
NECA	\$	2,011.75	2,011.75	-	2,011.75	-
	#	1,484	1,484	-	1,484	-
<b>TOTAL</b>	<b>\$</b>	<b>1,614,277.00</b>	<b>47,102.75</b>	<b>179,911.92</b>	<b>227,034.67</b>	<b>1,387,242.33</b>