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October 27, 2004

Via E-mail and Hand Delivery

Mr. Rick Moses
c/o Ms. Blanca Bayó
Director of the Division of Commission Clerk
and Administrative Services
The Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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**Re: Florida Relay Service System RFP
Docket No. 040763-TP**

Dear Mr. Moses:

This letter is submitted consistent with the requirements of Section 10 of the *Florida Public Service Commission's Request for Proposals ("RFP") to Provide a Telecommunications Relay Service System in Florida*, approved August 26, 2004. On behalf of potential bidders, MCI requests that you or other members of the Commission staff make reasonable and appropriate inquiry into the availability of CapTel service to potential responders as contemplated by the Staff recommendation and the RFP.

Section 22 of the RFP requires that a bidder address how it will provide CapTel or Equivalent Voice Carry-Over ("VCO") service. The RFP contemplates that bidders may satisfy this mandatory requirement through services other than CapTel. However, there is no service that is an "equivalent voice carry-over" to CapTel. As the FCC has expressly found, "captioned telephone VCO service is provided by only one company using *proprietary* technology." See *In the Matter of Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, released August 1, 2003 (emphasis added). Since the FCC made this finding, no other captioned telephone VCO services have been developed or deployed. As a result, CapTel is the *only* VCO service available. Thus, only by providing CapTel can bidders meet the requirements of Section 22.

With regard to the provision of CapTel service, we believe that the Commission should confirm that the service will be made available to any otherwise qualified responder to the RFP. The Staff recommendation, upon which the Commission decision to proceed was based, provided that "the company that developed the technology [CapTel] does not have an exclusive contract with any company; therefore, **any bidding company has the ability to contract for the service.**" See, *Memorandum re: Docket NO. 040763-TP - Request for submission of proposals for relay service* beginning in June 2005, for the hearing and speech impaired, and other

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implementation matters in *compliance with the Florida Telecommunications Access System Act of 1991*, dated August 26, 2004 (emphasis added). However, it is our understanding the sole CapTel provider may have allocated all of its existing service capacity, and does not have any plans to make additional capacity available. As a result, companies submitting competitive proposals under the RFP that have not already been allocated capacity would not be able to satisfy this requirement.

The provision of CapTel service constitutes a possible score of 100 points, almost 10% of the RFP's total points. It would be virtually impossible to successfully respond to the RFP without the realistic ability to provide CapTel service. Since the RFP was issued on the basis of Staff's representation as to the availability of CapTel service, we believe that it is the responsibility of the Commission or its staff to confirm the condition precedent. Otherwise, the Commission will have effectively issued an RFP to which only a limited number of companies are capable of responding. Such a situation would circumvent the legislature's overriding intent to ensure the integrity and economic efficiency of the public contracting process, and frustrate competition by specifying, without justification, a service that only a limited number of responders can provide. We cannot believe that was the intent of the Commission. Moreover, such a circumstance is not in the public interest and may run afoul of the federal law under which the State's program was certified.

For the reasons set forth herein, MCI respectfully requests that the Commission make immediate inquiry into the realistic availability of CapTel to responders under the RFP. MCI urges that the Commission revise the RFP to eliminate Section 22's CapTel's requirement, and issue a separate RFP, specific to the provision of CapTel service. This will ensure that those bidders that have not already been allocated CapTel service capacity will not be unfairly prejudiced in the bidding process.

MCI appreciates your consideration of this important issue that directly affects the competitive spirit of the RFP. MCI further requests the courtesy of a reply to this request by November 3, 2004.

Sincerely,



Donna McNulty
Senior Attorney
MCI