

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into ) DOCKET NO. 930330-TP  
intraLATA presubscription. ) ORDER NO. PSC-95-0124-CFO-TP  
\_\_\_\_\_ ) ISSUED: January 26, 1995

ORDER DENYING CONFIDENTIAL CLASSIFICATION  
OF DOCUMENT NO. 10040-94

On September 30, 1994, MCI Telecommunications Corporation (MCI) filed a Request for Confidential Classification of specified information contained in its Late Filed Exhibits Numbers 14 and 15. The information has been assigned Document No. 10040-94 by the Commission.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. This law derives from the concept that government should operate in the "sunshine." The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Accordingly, pursuant to Section 364.183, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006, Florida Administrative Code, provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183, Florida Statutes or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

MCI requests confidential treatment of data that reflects both its total intrastate switched minutes of use for the period October, 1992 through June, 1994 and the impact of MCI's promotions of 10XXX and/or 1-700 dialing in other states.

MCI asserts that the intrastate minutes of use relate to a period during which the Florida intrastate interexchange market became intensely competitive, with numerous new firms entering the market and new service offerings being introduced. The Company believes disclosure of this information would provide its competitors with a road map to determine the success or failure of its efforts in a given year. This, according to the Company, would allow competitors to develop future marketing plans based on the successes or failures of the past.

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MCI believes that the specific information on its 10XXX and/or 1-700 revenue and the percentage change in such revenues in other states could also be used by its competitors. This information, the Company argues, would reveal customer response to specific promotional efforts by MCI and could be used by competitors to design their own marketing efforts for similar services and to judge the relative effectiveness of their own marketing approaches compared to MCI's promotional efforts. MCI concludes that the material at issue meets the statutory criteria for proprietary confidential business information pursuant to Sections 364.183 (3)(a),(e)), Florida Statutes.

Upon review, the information is found to be in aggregated form. It does not include route specific or market specific information. The Commission has found that aggregate toll usage data is not useful for targeting a specific market niche, since usage characteristics of particular market segments are not included. (See Order No. 93-0410-CFO-TL) Thus, the data is not useful to competitors. Also, while MCI has demonstrated that the impact of the Company's promotions of 10XXX and/or 1-700 dialing have a unique market value for competitors, the Company has not substantiated how the availability of that information would negatively impact the Company. Since the market is growing, competitors may increase their sales and revenue without adversely affecting the Company's sales and revenues.

Based on the foregoing, MCI's Request for Confidential Classification of Document No. 10040-94 is denied. This action is consistent with Commission Order 93-1688-CFO-TP, a ruling made in this docket regarding, in part, a similar request by Southern Bell. It is also consistent with rulings made in response to similar requests for confidentiality of intrastate minutes of use by Sprint, MCI and FIXCA. (See Orders Nos. PSC-93-0653-CFO-TL, PSC-93-0410-CFO-TP and PSC-93-0391-CFO-TL)

It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that MCI Telecommunications Corporation's Request for Confidential Classification of Document No. 10040-94 is hereby denied. It is further

ORDERED that pursuant to Section 364.183, Florida Statutes and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. It is further

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ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 26th day of January, 1995.

A handwritten signature in cursive script, reading "J. Terry Deason", is written over a horizontal line.

J. TERRY DEASON, Commissioner and  
Prehearing Officer

( S E A L )

MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.033(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.