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March 16, 1998

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

Re: Docket No. 970882-TI

Dear Ms. Bayó:

On behalf of MCI Telecommunications Corporation, enclosed for filing in the above referenced docket, are the original and 15 copies of MCI's Post Hearing Brief, together with a WordPerfect 7.0 diskette.

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

Very truly yours,

Richard D. Melson

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FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rule 25-24.845, F.A.C., Customer Relations; Rules Incorporated, and Proposed Amendments to Rules 25-4.003, F.A.C., Definitions; 25-4.110, F.A.C., Customer Billing; 25-4.118, F.A.C., Interexchange Carrier Selection; 25-24.490, F.A.C., Customer Relations; Rules Incorporated.	)	Docket No. 970822-TI March 16, 1998

MCI'S POST-HEARING BRIEF AND COMMENTS

MCI Telecommunications Corporation (MCI) hereby submits its Post-Hearing Brief to the Florida Public Service Commission (PSC or the Commission). The rulemaking under consideration by the Commission seeks to substantially change the current practices in place today in Florida for changing a consumer's long distance provider and adds new provisions to include local telecommunications provider changes within the scope of the rule.

SUMMARY OF MCI'S POSITION

As more fully explained below, MCI urges the Commission to balance the necessary protections for consumers against the costs imposed on the telecommunications industry and costs of delay and inconvenience imposed on consumers in order to curb the phenomenon of unauthorized carrier changes, known in the vernacular as "slamming." MCI urges the Commission to empower consumers to take steps to protect themselves from or to lessen the harm from slamming by reviewing their monthly telephone bills, expeditiously questioning any unfamiliar carrier billings, and taking prompt action to request a change back to their

previous carrier. Telecommunications providers should take steps to ensure rule compliance, but should there be a change in carrier without the consumer's consent, there should be a means to quickly and easily switch the consumer back to his previous carrier. Requiring carriers to subscribe to expedited PIC switch-back services of local exchange companies (LECs) so that consumers may be easily and quickly switched back to their previous carrier is one such step that could be taken.

Similarly, the Commission should vigorously enforce its rules and take pointed action against violating carriers. Imposing broad-brush rules only serves to stifle competition among the responsible carriers and to hamper consumers' ability to easily and simply change their carrier of choice.

The rules adopted by the FPSC should be clear, precise and uniformly enforced. Moreover, to the extent consistency can be kept between the requirements of the FPSC and that of the FCC and other jurisdictions, carriers will be better able to comply with federal and state jurisdictional requirements, to the benefit of consumers and consumer protections.

DISCUSSION AND CITATION TO RECORD AND AUTHORITY

Issue 1: Should the Commission adopt the new Rule 25-24.845, FAC as proposed by the Commission at the December 16, 1998, agenda conference?

MCI: MCI has specific objections to the proposed customer billing rules (25-4.110) and to the proposed provider selection rules (25-4-118). It is appropriate, however, for whatever customer billing and provider selection rules are finally approved to apply to ALECs as well as other carriers.

Issue 2: Should the Commission amend Rule 25-4.003 as proposed by the Commission at the December 16, 1998, agenda conference?

****MCI: The Commission should adopt the definitions proposed. Additionally, MCI recommends the Commission adopt a definition for "unauthorized provider change."****

Several new definitions are proposed in the rules. Nowhere, however, is there a definition of what this rulemaking is all about: the unauthorized change of a customer's telecommunications provider. There was much discussion during the hearing regarding the leeway granted to staff in interpreting the proposed rules and the discretion the rules may provide.

Commissioner Clark made a pertinent observation during the cross-examination of staff witness Taylor that should be the hallmark of this proceeding:

> . . .the fact that we're going to impose sanctions, and the fact we're going to, I hope, be very vigorous in our enforcement of the rule requires us to be precise.
>
> (Tr. 134)

It is this need for precision that requires a definition of unauthorized carrier change. Otherwise, no carrier can be sure what standard the staff or the Commission will apply to consumer complaints.[1] MCI recommends that the following definition be added to Rule 25-4.003:

> (X) "Unauthorized carrier change." The conversion of a customer's local or toll provider with willful disregard for the verification requirements of Rule 25-24.118. For purposes of this rule, "customer" includes both the party responsible for paying local or toll charges and any party whom the carrier, in

[1] See SERC at 11. "It appears that defining 'unauthorized provider change' would be helpful. . .for the company, the customer, and the commission staff."

reliance on the verification requirements of Rule 25-24.118, believes in good faith to have authority to authorize the conversion.

This definition establishes clear parameters within which carriers must operate in order to avoid charges of unauthorized carrier changes by consumers or the Commission. If a carrier obtains the customer's consent to change his telecommunications provider using the appropriate verification methods, then there should be no violation of the Commission's rules.

This proposed definition also addresses the question of whether the "customer" must be the "subscriber of record" in order to give presumptively valid consent to make the change. This too, was part of the debate before the Commission and is an area that requires precision and consistency.[2] Based on the discussion on the record, the definition proposed by MCI would address the typical situations where household members other than the subscriber of record should have the authority to make the carrier change.

Currently, the Commission has rules dealing with carrier changes that are consistent with the FCC's rules, and the Commission's enforcement has been consistent with FCC's interpretations and practices. This consistency is beneficial to multi-jurisdictional carriers, like MCI and others, who operate nationwide and in Florida. If the Florida Commission were to establish a different set of rules as to what constitutes

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[2] As Commissioner Clark stated: "I think my phone is in my husband's name, and I would get pretty aggravated if they said, 'You're not the customer of record and you can't change it.' . . .But I think it does need to be clearly stated who can authorize a PIC change and who can't." (Tr. 132-33)

appropriate authorization and by whom, it would become very difficult for spouses and other responsible adults living in the same household to conduct the family business. It would also cause carriers to adhere to a different set of rules for Florida, thereby increasing the chance of mistakenly violating the rules.

Having the "subscriber of record" be the only person who can authorize a change in carrier is contrary to the way many households conduct business today and would impose burdens on consumers instead of protecting them. Both the proposed rules relating to Letter of Authorization (LOA) requirements (25.24-118(3)(c)) and third party verification (TPV) require the party making the change to state that they are authorized to make the switch. Additionally, MCI's TPV scripts inquire into the person's age and if they are not 18 or older, the change is not made. This type of inquiry and the information collected is required to be retained by the carrier and should be sufficient to protect consumers, yet allow consumers and carriers to conduct business easily and efficiently.

Issue 3: Should the Commission amend Rule 25-24.110 as proposed by the Commission at the December 16, 1998, agenda conference?

MCI: No. The Commission was presented no viable reason to impose the costly requirement of having the carrier's certificate number on the customer bill. MCI also opposes the requirement for annual notification of the availability of a PIC-freeze option.

Rule 25-24.110(11) relating to billing consumers for services not ordered or agreed to (known as "cramming") and the billing block option to block such charges from third parties by

the LEC was removed from this docket and is to be determined in a separate rulemaking proceeding.

The primary point of contention by MCI in this section is one shared by every single carrier participating in this docket: the proposed requirement to include the provider's certificate number on the customer's monthly bill. Every carrier cited the high costs this proposal would impose on them relative to the small benefit, if any to the consumer. (Nicholls, Tr. 309-310; Hendrix, Tr. 405-409; Scobie, Tr. 481; King, Tr. 533, 547; Arnold, Tr. 658-660)

The purpose of the proposal, as espoused by staff witness Taylor, is to help ensure that only certificated providers are operating in Florida. Witness Taylor admitted that staff would be willing to consider alternatives to this requirement. (See, Tr. 161) BellSouth witness Hendrix testified that before BellSouth will provide intrastate billing services to a carrier in Florida, BellSouth requires the carrier to provide a copy of its PSC certificate of authority. (Hendrix, Tr. 407) This appears to be a viable means of achieving the Commission's goal of ensuring that charges are billed only for authorized carriers, without imposing unnecessary costs on the industry.

Placing the certificate number on a consumer's bill adds little or no value to the consumer, and in fact may cause confusion by having unnecessary information on the bill. (Hendrix, Tr. 406; King, Tr. 547) Staff would be better served by requiring the LEC or other billing agent to obtain a copy of the carrier's certificate issued by the FPSC before billing

consumers in Florida. This way, staff could be assured that carriers operating in the state of Florida are certificated, and can take appropriate action should there be any violation of a statute, rule or Commission requirement.

MCI also opposes Proposed Rule 25-4.110(12) which requires annual notification of the availability of a PIC freeze option. See the discussion of related Rule 25-4.118(11), below, for a statement of MCI's concerns.

Issue 4: Should the Commission amend Rule 25-24.118 as proposed by the Commission at the December 16, 1998, agenda conference?

**MCI: No. The Commission should approve rules and verification methods consistent with the FCC. The Commission should adopt the recommendations of MCI, including those relating to the 90-day charge back, the use of PIC freeze information in marketing situations, and customer service answer times, among others. The Commission should not consider the additional unreasonable proposals of the Office of Public Counsel.

GENERAL OVERVIEW OF 25-24-118

The Commission and its staff have shown great sensitivity to concerns of the consumers of Florida in fashioning proposed rules regarding the changing of a consumer's long distance and local provider. Conducting public hearings around the state to listen to the concerns of consumers shows that the Commission and its staff desired public input and participation in order to fashion rules that would address those concerns.

MCI, too, is sensitive to concerns of consumers, as they are our customers or potential customers. How MCI treats a consumer in a competitive market directly impacts our bottom line. Good conduct, professional sales and superior service are rewarded by

consumers choosing MCI and staying with us; inappropriate behavior, inappropriate sales tactics and inadequate service are punished by consumers "voting with their feet" and choosing another provider. MCI has every incentive to avoid consumer complaints about how we conduct our business. This includes how we avoid slamming complaints. MCI has been at the forefront of the industry for several years in implementing means to reduce or eliminate consumer complaints about slamming.

MCI's primary sales channel to consumers is via telemarketing, and MCI uses TPV to confirm virtually every telemarketed sale, including inbound calls initiated by the consumer. MCI appreciates the Commission's recognition of TPV as a valid means to verify a consumer's change in carrier. It has certainly proved successful for MCI and has eliminated many of the types of complaints from consumers MCI had in the past. The Commission should consider TPV, with a truly independent TPV provider, as the preferred means of verification and the one with the fewest opportunities to mislead and confuse consumers. (King, Tr. 523-524, 553) MCI's research shows that with increased TPV for sales in Florida, a slamming complaint (not necessarily determined to be an actual slam) directed to the FPSC in 1997 occurred only once in 90,000 sales calls. (King, Tr. 553)

MCI has a few, albeit major, concerns regarding the Commission's proposed rules. MCI takes issue with all of the additional proposals of the Attorney General and Office of Public Counsel (OPC). The proposals of the OPC would severely hinder competition in Florida and -- while it may not be the intention

of OPC -- the proposals would ultimately harm consumers. The proposals of the OPC have not been examined in terms of a cost/benefit or economic impact analysis, but at first blush, the proposals of the OPC impose significant burdens on the Commission and its staff, the telecommunications industry and consumers. MCI addresses both the Commission's proposals and those of the OPC below:

25-24.118(1) - OPC Proposal

The OPC proposes an addition to Rule 25-24.118(1) that would require the staff to initiate a separate show cause docket for each individual situation in which the staff determines that a carrier has willfully changed a customer's carrier without the customer's authorization or knowledge. While MCI agrees that willful violations of the Commission's verification requirements should be vigorously prosecuted, OPC's proposal would leave the staff no discretion but to prosecute every alleged violation as a separate offense. This would impose tremendous administrative burdens on the Commission and the staff and would appear to prevent the Commission from dealing with multiple alleged offenses in a single proceeding.

In addition, OPC's proposed language makes the act of changing the consumer's carrier - not the violation of the Commission's rule -- the "willful" activity to be punished. Under the OPC's language, an innocent mistake of transposing numbers or other human error could be interpreted as a "willful" act.

Since OPC has not shown that the Commission's current practices for prosecuting rule violations are inadequate or inappropriate in any way, and has not provided any analysis of the fiscal impact of its proposal on the Commission, this proposal should be rejected as unnecessary and administratively burdensome. Even if this proposal were considered, the language should be clarified to provide that only "unauthorized carrier changes," as set forth in MCI's proposed definition above, are actionable offenses.

25-4.118(2) and 25.4-118(6) - Proposed Rule

The proposed rules would require carriers to make audio recordings of customer-initiated calls (i.e. inbound telemarketing) or the TPV portion of a telemarketed sale. While audio recording may provide a basis to resolve some "he said/she said" disputes between carriers and customers, there are several potential drawbacks to audio recording which have not been adequately addressed in the record or in the Statement of Estimated Regulatory Costs (SERC). These include: (a) the cost of recording, (b) the cost of retrieval, and (c) the chilling effect on PIC changes by customers who for some reason are reluctant to have their conversations tape-recorded. (See, King, Tr. 527-528; Taylor, Tr. 170) While the SERC attempted to quantify some of these costs, the cost estimates were incomplete at best, and there was NO analysis of the economic benefit of such recording. Although such recording provides a different type of verification information, and may make it easier to resolve disputes that do

arise, there is no evidence in the record that it would reduce the number of disputes in the first instance.

MCI acknowledges that audio recording may ultimately prove to be a viable alternative for some carriers. Indeed, some carriers have implemented audio recording today and some, like MCI, are testing or planning to test such recording. However, there is insufficient basis in the current record for the Commission to impose a blanket recording requirement at this time. If future experience shows that the other changes to the rules do not have their desired effect of reducing the incidence of unauthorized PIC changes, then the Commission could reconsider the proposed audio recording requirement at that time. As more carriers have gained experience, good or bad, with voluntary audio recording, the Commission will be in a better position to evaluate the costs and benefits of that technique.

25-4.118(2) - OPC Proposal

MCI takes grave exception to OPC's proposal to require every PIC change request to match the last name of the customer, the customer address and the customer telephone number before the LEC is required to process the change. This proposal has not had the benefit of an economic impact inquiry, but evidence presented at the hearing shows that such a requirement would have significant impact on the vast majority of customers whose PIC changes proceed without problems.

Sprint's witness, Dwane Arnold, testified when Centel implemented this type of Billing Name and Address (BNA) and

telephone number matching requirement in 1993, the process resulted in the rejection of more than 50% of the valid PIC change requests. (Tr. 662, 667-8) This means that majority of PIC change orders were stalled because of mismatches that had no bearing on the validity of the sale. Customers were inconvenienced by having to be contacted again to obtain precisely matching information, and carriers incurred additional costs in making these unnecessary contacts.

In addition to the customer inconvenience and unnecessary carrier costs that would result from OPC's proposal, it is patently unfair to require BNA/telephone number matching when competitive carriers are not allowed to use the LECs' BNA information for marketing purposes. There simply is no way for a competitive carrier to know precisely how an account is listed, nor should the LEC's account information be considered superior to information taken by the IXC directly from the consumer. (King, Tr. 549) The current edit system is working today between ILECs and other carriers. There is no need to impose the additional burden of a BNA/telephone number matching requirement on consumers or carriers.

25-4.118(4) - PSC Proposed Rule

The Commission has proposed a requirement that prohibits the combination of an LOA with an inducement of any kind on the same document. Testimony adduced at the hearing indicates that the Commission has dealt with many complaints involving sweepstakes and the proposed rule was designed to ban this marketing

practice. (Taylor, Tr. 169) Unfortunately, the rule is overly broad. As written, the rule would prohibit MCI from offering inducements such as its Sky Miles Program and would prohibit other carriers from using other marketing strategies such as check LOAs. As Mr. Taylor testified, he could recall no consumer complaints based on MCI's Sky Miles Program and only one complaint regarding check LOAs. (Tr. 169-170) Ms. Erdman-Bridges was similarly unfamiliar with any complaints associated with these types of activities. (Tr. 79-80) There simply is no factual basis in the record to outlaw these marketing techniques.

MCI suggests the rule be narrowed to address the specific problem of sweepstakes or box entries. However the Commission should not throw the baby out with the bathwater and should not prohibit incentive programs and other marketing strategies that provide consumer benefits and have not been the subject of significant slamming complaints.

25-24.118(8) - Proposed Rule

MCI strongly objects to the proposed requirement to forgive up to 90 days of toll charges when a customer claims that there has been an unauthorized change in his or her carrier.

Today MCI and the other major carriers subscribe to a "no fault" policy under which a customer who raises a PIC dispute is returned at no charge to his prior carrier and charges over the rates of the preferred company are credited to the customer on request. (King, Tr. 559; Hendrix, Tr. 460-462) Under this procedure, customers are made whole and are returned promptly to

their carrier of choice. Because of the "no fault" nature of the process, the process is consumer friendly, and no adversarial or costly investigation is made to determine whether the customer was actually changed without his consent, or whether the initial transfer was valid, but is being revisited because of buyers' remorse, a spousal dispute, or any other reason. (Hendrix, Tr. 462-463)

The proposed rule would have several undesirable effects. First, the proposed 90-day credit unnecessarily enriches the customer by making him more than whole. While this feature of the proposed rule was justified as representing rough compensation for the time that a consumer must spend to deal with a PIC dispute, there is no estimate either in the testimony or in the SERC of the costs borne by consumers in resolving PIC disputes, only an unquantified assertion that such costs exist. (See, SERC at 20) Further, the record shows that under the current "no fault" practice, the vast majority of such disputes are resolved promptly to the satisfaction of the consumer. (Hendrix, Tr. 461-462) If, as evidenced at the public hearings, there are situations where some companies do not resolve these complaints promptly, the better solution would be to craft a rule to deal harshly with those companies who adopt a practice of delay. Additionally, MCI's witness King provided a means to deal with this issue:

> By Mr. Marks:
>
> Q. I've just got one question, Ms. King. In your summary you express some fairly strong

concerns about the 90-day rule and providing service for that. Do you have any specific changes that you would make or consider with regards to the rule itself?

A. The one thing that we suggest in here is that if the complaint is resolved quickly, expeditiously and fairly, that that could go into effect in lieu of the 90-day charge back.

I think we heard here today that the LEC can make that switch or switch back to the original carrier in most cases within 24 hours, which would be appropriate; and then something on the order of an arrangement that would allow the carrier and the consumer to take care of all such things as credit for the PIC switch fee, for rerates and so forth within a 45-day window.

Tr. 559.

Second, the rule is an open invitation to consumer fraud. One can expect that some fraction of consumers will discover that by claiming their carrier has been changed without their consent, they can receive up to 90 days of free toll service. (Nicholls, Tr. 305; Watts, Tr. 331-332; Hendrix, Tr. 423; King, Tr. 555; Arnold, Tr. 656) And even an honest customer who has actually had his PIC changed without his consent may pause to consider whether to delay reporting in order to take advantage of one more free call to his friends in Europe. MCI alone estimated that this rule could require over $1,000,000 a year in refunds based on LEC-reported PIC disputes. (SERC at 10)

Third, the proposed rule has the effect of automatically imposing a penalty on the carrier without a specific Commission finding of fault. This penalty aspect is particularly troublesome since, under federal law, an offending carrier can be forced to disgorge to the customer's preferred carrier all

revenues earned during the period of an unauthorized PIC change. By requiring a carrier to credit the same monies to the customer, the proposed Florida scheme is fundamentally inconsistent with the structure of the federal act. Finally, because the consumer fraud and penalty aspects of the rule, "no fault" resolution of PIC disputes may become a thing of the past. A carrier faced with having to credit substantial sums in a case that may be no more than buyer's remorse will be compelled to investigate every PIC dispute to protect itself against fraudulent claims. This will not only increase costs to all consumers, it will turn what has been a consumer-friendly practice into an adversarial one. (King, Tr. 555; SERC at 2-3)

25-4.118(8) - OPC Proposal

OPC's proposal to not only require a 90-day credit, but also to prohibit the LEC from billing any charges on behalf of the IXC would simply multiply the opportunity for consumer fraud. A consumer who fraudulently took advantage of the Commission's proposed rule to try to obtain 90 days of free toll calling would - even if discovered - be protected from having his local service disconnected for non-payment of the valid toll charges. OPC's proposal to leave the means of collection up to the carrier once the change has adjudged valid, leaves the carrier with the option of "writing off" the charge as bad debt or suing the consumer to recover any amounts the consumer refuses to pay.

This provision is unnecessary to protect honest consumers, since the LECs have a policy of not pursuing payment of any IXC

charges while such charges are in dispute. (Hendrix, Tr. 434) OPC's proposal would simply raise costs to all consumers with no real consumer benefit and would create a hostile environment between carriers and consumers.

24-4.118(11) - Proposed Rule

MCI strongly opposes this proposed rule, which would require MCI and its independent third party verifier to inform potential customers of the availability of a PIC freeze option during every telemarketing and every verification call. At a fundamental level, PIC-freezes can be anti-competitive, since they lock customers into their existing providers. This is a particular concern as local exchange markets are just beginning to be opened to competition.

The FCC has incorporated the PIC freeze issue into its pending rulemaking concerning unauthorized changes of consumers' long distance carriers.[3] The FCC recognized that PIC freezes "...are designed to offer consumers protection against slamming by preventing carriers from effecting changes on their behalves. The may also, however, have the effect of limiting competition among carriers."[4] There is a great incentive for the monopoly incumbent to use scare tactics to encourage its customers to elect a PIC-freeze, thereby enhancing the incumbent's competitive position.

[3] See, FCC CC Docket No. 94-129, Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration, adopted July 14, 1997.
[4] Id, p. 15, para. 22.

MCI therefore opposes the requirement in Proposed Rule 25-4.110(12) that every carrier notify every customer of the availability of a PIC freeze option at least annually. (King, Tr. 545,553-554)

Further, MCI's experience is that many customers who have made a PIC-freeze election and make a subsequent decision to change their carrier either (a) do not recall that they consented to a PIC freeze, or (b) assume that their new choice will override that PIC freeze. (King, Tr. 554)

> With a PC freeze in place, a carrier cannot submit the request on the consumer's behalf. The consumer must advise the carrier from whom he or she requested the freeze to lift the freeze before the change can be effected. Not all consumers are willing to take this additional, affirmative step, even when they have agreed to take a competing carrier's service. Hence, PC freezes may increase the burden of competing carriers in securing new customers.[5]

For this reason, it is essential that the rules recognize that a PIC freeze can be overridden by the customer's choice as evidenced by a properly conducted TPV process. (King, Tr. 554)

Even if the written notice requirement in Rule 25-4.110 were to remain, however, the proposed requirement to advise customers of the availability of a PIC freeze option during every telemarketing call and every TPV call is unwarranted and likely to create customer confusion or resentment.

In the telemarketing context, once a customer has made a decision to change carriers, the customer could well perceive information regarding the PIC freeze option as an unfriendly

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[5] Id.

attempt by his newly chosen carrier to limit his future choices. Thus merely providing this information could cause customers to back-away from a previously agreed change.

In the TPV context, the problems are even more critical. The TPV call is supposed to be a neutral verification of the customer's wishes. The required reference to a PIC-freeze option introduces a sales element into the call which is totally inappropriate in this context. (See SERC at 11-12)

Importantly, there is no staff testimony in the record to support this provision of the rule and therefore no record basis for its adoption by the Commission.

25-4.118(14) - Proposed Rule

MCI supports having a toll-free number available for customer service calls 24 hours a day, seven days a week. (King, Tr. 552, 557) MCI objects, however, to the proposed requirement that a company who uses live operators must answer 95% of all calls and be ready to render assistance immediately when the call is answered.[6] MCI also opposes OPC's proposal to expand this requirement even further to incorporate various answer time requirements applicable today to the LECs.

First, MCI provides customer service on a nationwide basis through a number of customer service centers. While MCI makes

[6] MCI notes that the rule imposes more stringent requirements on companies, like MCI, that use live operators than on companies who simply record customer service calls. MCI would have to be prepared have its operator render assistance as soon as the call was answered. A company that utilizes the recording option would merely have to attempt to contact the complainant on the next business day. The record provides no rationale for this disparate treatment.

every effort to match its available resources to anticipated call volumes, it experiences wide fluctuations, some of which are outside of MCI's control, which would make it impossible to comply with a particular call completion percentage and answer time requirement. (King, Tr. 557) For example, when an advertisement for "5 Cent Sundays" airs on Saturday evening, that advertisement may almost instantaneously generate a large volume of calls from existing customers inquiring about the program or prospective customers who want to sign up immediately to take advantage of the program the next day. Additionally, a competitor can introduce a new program or issue a slew of check LOAs and MCI will experience higher call volumes from customers seeking a match. (See, King, Tr. 557) This wide variation in call volumes is a function of the competitive market, and is a phenomenon the Commission has not had to face in its regulation of local telephone companies who have operated in a monopoly environment.

More importantly, so long as customer service is available 24 hours a day, seven days a week and toll free access is provided, the competitive market will be a better regulator of customer service and responsiveness than any Commission-imposed rule. (King, Tr. 552, 557) Customers who are dissatisfied with their experiences with MCI, or any other long distance carrier, have many competitive choices and can simply "vote with their feet."

Issue 5: Should the Commission amend Rule 25-24.490 as proposed by the Commission at the December 16, 1998, agenda conference?

MCI: Assuming the rules are modified to correct the objections that MCI has stated under Issues 2, 3 and 4 above, and in its testimony, MCI does not generally object to the rules applying to IXCs.

RESPECTFULLY SUBMITTED this 16th day of March, 1998.

HOPPING GREEN SAMS & SMITH, P.A.

By: _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by hand delivery (*) or U.S. Mail this 16th day of March, 1998.

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