

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST MCI
TELECOMMUNICATIONS CORPORATION
FOR VIOLATION OF RULE 25-4.118,
FLORIDA ADMINISTRATIVE CODE,
INTEREXCHANGE CARRIER SELECTION.

DOCKET NO. 971486-TI
ORDER NO. PSC-98-0751-AS-TI
ISSUED: June 1, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER APPROVING OFFER OF SETTLEMENT

BY THE COMMISSION:

BACKGROUND

On April 25, 1983, the Commission granted MCI Telecommunications Corporation (MCI) Certificate Number 61 to provide intrastate interexchange telecommunications service. As a provider of interexchange telecommunications service in Florida, MCI is subject to the rules and regulations of this Commission.

In the past, we have approved two settlement agreements from MCI regarding unauthorized carrier changes (slamming). By Order No. 24550, issued May 20, 1991, we approved a \$25,000 settlement in Docket No. 910205-TI, and by Order No. PSC-96-0336-AS-TI, issued March 8, 1996, we approved a \$50,000 settlement in Docket No. 960186-TI. In addition, the Federal Communications Commission accepted an agreement from MCI in May of 1996 to resolve a Notice of Apparent Liability for Forfeiture. MCI agreed to make a voluntary contribution of \$30,000 to the United States Treasury and to add additional consumer protections against unauthorized long distance carrier conversions by using an independent third party to verify residential and small business customer orders.

DOCUMENT NUMBER-DATE

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FPSC-REGISTRATION-REPORTING

Between April 1, 1996, and January 13, 1998, our Division of Consumer Affairs received a total of 1,225 complaints against MCI. Of those complaints, 106 were closed as slamming infractions in apparent violation of Rule 25-4.118, Florida Administrative Code. Based on the number of apparent slamming violations, this docket was opened to investigate whether MCI should be required to show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes. We were to consider this matter at our February 3, 1998 Agenda Conference. MCI asked for a deferral of the Commission's consideration to allow it to review the apparent violations and propose a settlement in lieu of proceeding with the show cause. On February 4, 1998, and again on March 17, 1998, MCI met with Commission staff and provided additional data sufficient to change the initial classification of a substantial number of its complaints originally categorized as slamming violations. MCI submitted its proposed settlement offer on April 28, 1998.

SETTLEMENT OFFER

MCI submitted its proposed settlement offer on April 28, 1998, which is appended to this Order as Attachment A, and which is incorporated herein. In its settlement offer MCI agreed to do the following:

1. Beginning no later than June 1, 1998, to audio record, for a period of three years, all Third Party Verification telephone calls, and retain all such audio tapes for a period of one year from the date of the call.
2. To provide more complete explanations of the circumstances and corrective action taken concerning a complaint in its responses to consumer complaints filed with the Florida Public Service Commission, and to provide the Third Party Verification tape with all applicable responses.
3. To establish a toll-free number dedicated to receiving and resolving unauthorized PIC change complaints.

4. To engage in ongoing dialogue and monthly reviews with the Commission staff on complaints lodged against it with the Commission.

5. To invite Commission management auditors to conduct a focused review of MCI's PIC change process.

6. To make a voluntary contribution to the State of Florida General Revenue Fund in the amount of \$240,000.

We find that recording all Third Party Verification telephone calls will provide better evidence in determining whether a slamming violation has occurred. We also find that the more in-depth initial response to complaints and the extent of the investigation conducted will help in determining the cause of apparent unauthorized carrier changes. The monthly reviews of consumer complaints with MCI will also allow the opportunity to review the circumstances involved with each complaint filed within a specific time frame. In addition, MCI's proposal to establish a toll-free number dedicated to slamming complaints received by the Florida Public Service Commission will allow for expedited resolution of consumer complaints. Finally, the Commission's management audit of MCI's practices should help ensure that every practical safeguard is implemented to avoid slamming. Further, we find the voluntary contribution of \$240,000 to the General Revenue Fund of the State of Florida to be a fair and reasonable under the circumstances. Based on the foregoing, the Offer of Settlement filed by MCI on April 28, 1998, is hereby approved.

Remittance of the \$240,000 voluntary contribution shall be made within five business days after the issuance of this Order. Once received, the voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. Upon remittance of the \$240,000 settlement, this docket will be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Offer of Settlement filed on April 28, 1998 by MCI

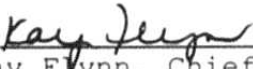
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Telecommunications Corporation is hereby approved. It is further

ORDERED that this docket shall remain open pending the remittance of the \$240,000 voluntary contribution. The voluntary contribution shall be submitted within five business days after the order accepting the settlement becomes final. Upon remittance, the \$240,000 voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, and this docket will be closed administratively.

By ORDER of the Florida Public Service Commission this 1st day of June, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting



Kay Flynn, Chief
Bureau of Records

(S E A L)

CB

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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause Proceeding)
against MCI Telecommunications) Docket No. 971486-TI
Corporation for Violation of Rule 25-4.118,)
Florida Administrative Code, Interexchange) Filed:
Carrier Selection)

OFFER OF SETTLEMENT

MCI Telecommunications Corporation ("MCI" or the "Company") agrees fully with the Florida Public Service Commission ("Commission") that changing a customer's Primary Interexchange Carrier ("PIC") without his or her authorization is not appropriate. Indeed, MCI has historically led the telecommunications industry in the development of anti-slamming measures. As early as 1991, MCI pioneered the use of third-party verification ("TPV"); TPV involves the confirmation of carrier switches by an independent company. Since August 1996, MCI has used TPV to verify virtually all residential and small business sales.

MCI's experience in Florida and nationally has demonstrated the effectiveness of responsibly-operated TPV. During 1996 and 1997, MCI installed long distance service to over 1.4 million new residential customers in Florida. This is by far the largest gross number of long distance carrier switches of any carrier doing business in Florida. MCI's total number of new installations (residential and business) in Florida over this period was in excess of 2 million.

From April 1, 1996 through January 13, 1998, the Commission's Division of Consumer Affairs received 134 consumer complaints against MCI (excluding duplicates) relating to alleged unauthorized PIC changes. Of these complaints, MCI believes that only four involved cases where MCI arguably did not have a good faith basis to change the customer's service. Thus, the total number of complaints represented only approximately one complaint per 20,000 installations, and the total number of customer long distance service PIC changes for which MCI

believes that it did not have a good faith basis represents approximately one change per 500,000 installations.

MCI's national track record is equally compelling. The FCC publishes the Common Carrier Scoreboard Report, which tracks slamming complaints on a nationwide basis. The Report states that in 1996, MCI had less than one complaint per \$10 million in revenue. This places MCI among the industry leaders.

Nevertheless, recognizing that there is always room for improvement in this important area, the Company remains committed to continuing to improve its procedures, as well as continuing to rigorously enforce its existing procedures in order to minimize unauthorized PIC changes, whether caused by inadvertent error or otherwise. Accordingly, and in order to resolve the issues which are the subject of Docket 971486-TI, MCI makes the following offer of settlement and statement:

- 1) A thorough review of the material facts revealed that a substantial number of the complaints regarding unauthorized PIC changes during the period under review involved situations where MCI had received TPV that the customer had authorized the PIC change and had provided his or her date of birth or social security number confirming the TPV call occurred. The customer nevertheless later contended that he or she had not authorized the PIC change. In order to: a) eliminate any doubt as to the substance of the conversations between the TPV representative and the customer, and b) confirm that TPV is conducted according to the procedures established by MCI and the Florida rules and regulations, MCI will agree for a period of three (3) years to record all TPV telephone calls, and MCI assumes the obligation to retain all such audio tapes for a period of one year from the date of the call.

This undertaking will require a substantial capital investment for equipment and software. Moreover, MCI will also incur substantial ongoing costs of taping and

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maintenance. MCI will be ready to commence this audio taping system no later than June 1, 1998.

- 2) The Staff noted that a number of MCI's letters in response to customer complaints did not provide adequate information so that the Staff could accurately determine whether an unauthorized PIC change had occurred. MCI agrees to state in its complaint response letters whether or not the Company considers the incident an unauthorized PIC change, and the basis of its conclusion. MCI will also, as part of its response, provide a copy of the audio tape of the TPV call, if applicable. No provision of this Offer of Settlement shall preclude MCI or the Commission and its Staff from presenting additional evidence (beyond that described in the complaint response letters) in any legal, administrative or other proceeding relating to unauthorized PIC change allegations.
- 3) MCI shall establish a toll-free number dedicated to receiving and resolving unauthorized PIC change complaints. MCI shall, in its reasonable discretion, provide notice of this number and its purpose to the public. MCI will cooperate with the Commission in establishing a system whereby customers calling the Commission with complaints of unauthorized PIC changes may be transferred directly to MCI's toll-free line.
- 4) MCI shall invite the Commission management auditors (the "auditors") to conduct a focused review of MCI's PIC Change Process. This review shall include, but not be limited to, a visit to an MCI call center and a TPV facility utilized by MCI at a mutually acceptable time. During this time the auditors will be permitted to interview both MCI and TPV personnel and review the Company's quality control practices and procedures that are designed to minimize unauthorized PIC changes. The review will include an assessment of the Company's long-distance marketing processes from the point the customer is contacted on behalf of MCI, or from the

ATTACHMENT A

- point the customer contacts MCI to the point that the PIC change is transmitted to the Local Exchange Carrier. The auditors will also be afforded an opportunity to discuss these marketing practices and procedures with appropriate personnel. Upon the conclusion of the auditor's review, MCI will, in good faith, discuss and consider the Commission's suggestions for enhancing practices and procedures used by MCI to protect consumers from unauthorized PIC changes. As with all Commission audits, any information of competitive concern will be handled in a confidential manner.
- 5) MCI commits to engaging in ongoing dialogue and monthly reviews, conducted by conference call if appropriate, with the Commission Staff of complaints lodged against it with the Commission. This review will include, among other things, a discussion of the slamming complaints identified in the Commission's monthly Consumer Activity Report.
 - 6) Subject to the conditions stated in Paragraph 8, MCI will offer a voluntary contribution to the State of Florida General Revenue Fund of \$240,000 in settlement of any and all complaints arising from or relating to alleged unauthorized PIC changes that occurred from March 8, 1996 through January 13, 1998.
 - 7) Subsequent to the entry of any Order by the Commission approving this offer of settlement, if MCI either admits engaging in, or after the initiation of a Show Cause Proceeding is adjudged to have engaged in, an ongoing pattern of improper conduct involving PIC changes with willful disregard for the requirements of Commission rules or the commitments set forth in this Offer of Settlement or Prior Consent Orders (hereinafter "willful improper conduct"), the Company recognizes that additional enforcement proceedings will be appropriate. MCI firmly believes, however, that many of the complaints which are the subject of this proceeding involved PIC changes caused by inadvertent data entry errors (e.g., transposing numbers in a telephone number provided by a customer requesting a PIC change) or

ATTACHMENT A

other situations in which MCI followed both its own policies and the applicable verification requirements of Florida law and therefore did not engage in willful improper conduct deserving of enforcement action. MCI will continue its efforts to minimize the number of unauthorized PIC changes caused by inadvertent error. MCI contends, however, that no future enforcement proceedings should be initiated against it absent a demonstration that it has engaged in willful improper conduct as described above.

- 8) MCI does not, by this Offer of Settlement or otherwise, admit any violation of any statute, Commission Rule, or other rule or regulation, or any facts which might form the basis of a cause of action against the Company. By making this offer of settlement, MCI does not waive any of its legal rights in the event the Commission does not accept this Offer of Settlement, including the right to contest any and all assertions of fact or law set forth in the staff recommendation. If this offer of settlement is accepted by the Commission, it shall be attached to the final order accepting the settlement and closing the docket.

Dated this 26th date of April, 1998

MCI Telecommunications Corporation

By Thomas F. O'Neil III
Thomas F. O'Neil III
Chief Litigation Counsel