

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings)
against MCI Telecommunications Corporation) Docket No. 980435-TI
for charging FCC universal service assessments)
on intrastate toll calls.) Filed: January 29, 1999
_____)

MCI'S PREHEARING STATEMENT

MCI Telecommunications Corporation (MCI) hereby file its prehearing statement in accordance with the requirements of Order Nos. PSC-98-1010-PCO-TI and PSC-99-0113-PCO-TI.

A. Appearances. Richard D. Melson, Hopping Green Sams & Smith, P.A., P.O. Box 6526, Tallahassee, FL 32314; Donna Canzano, MCI WorldCom, Inc., 325 John Knox Road, The Atrium, Suite 105, Tallahassee, FL 32303; Adam Charnes, MCI WorldCom, Inc., 1133 19th Street NW, Washington, DC 20036; and Mary L. Brown, MCI WorldCom, Inc., 1801 Pennsylvania Avenue, NW, Washington, DC 20006 appearing on behalf of MCI Telecommunications Corporation.

B. Known Witnesses. MCI will not present witnesses. This proceeding is being submitted on memoranda of law and oral argument pursuant to Section 120.57(2), Florida Statutes.

C. Known Exhibits. MCI will not offer exhibits. MCI will ask the Commission to take official recognition of various FCC and court orders referred to in its Memorandum of Law to be filed on February 19, 1999.

D. Basic Position. From January 1, 1998 through August 1, 1998, MCI lawfully collected federal universal service fund (FUSF) charges from its business customers in Florida based in part on their intrastate charges in Florida. From January 1, 1998 through April 1, 1998, MCI lawfully collected national access fees (NAF) from its small business customers in Florida based in part on their intrastate charges in Florida. The FUSF and NAF were collected pursuant to federal tariffs and FCC orders. The Commission does not have the authority over MCI's collection of such charges. Even assuming that the Commission has authority, it should not require MCI to refund such charges. Such charges were collected in good faith reliance on FCC orders and MCI's effective federal tariffs and MCI did not in the aggregate collect a penny more from its customers than it was entitled to collect under federal law.

E. Issues. MCI's positions on the issues identified in Order No. PSC-99-0113-PCO-TI are as follows:

Issue 1: Did MCI bill customers for National Access Fee (NAF) and Federal Universal Service Fund (FUSF) based on intrastate charges in Florida?

MCI: No. MCI collected the NAF from small business customers based on a customer's total bill, including interstate, intrastate and international charges, from January 1, 1998 to April 1, 1998. MCI collected the FUSF from business customers on the same basis from January 1, 1998 to August 1, 1998.

Issue 2: What authority did MCI have to collect NAF and FUSF based on intrastate charges in Florida?

MCI: MCI collected such charges on a customer's total bill pursuant to orders of the Federal Communications Commission and pursuant to lawful, effective tariffs for such charges on file with the FCC.

Issue 3: What authority, if any does the Commission have over MCI's collection of NAF and FUSF based on charges for intrastate calls in Florida?

MCI: The Commission has no authority over such charges, which were collected pursuant to a lawful, effective tariff on file with the FCC.

Issue 4: If the Commission has authority, should it prohibit MCI from collecting NAF and FUSF based on charges for intrastate calls in Florida.

MCI: No. MCI ceased collecting such charges on that basis effective April 1, 1998 and August 1, 1998, respectively. There is therefore no need for any prospective prohibition.

Issue 5: If the Commission has authority, should it order MCI to refund with interest all monies collected for NAF and FUSF attributable to charges for intrastate calls in Florida.

MCI: No. MCI collected such charges in good faith reliance on effective federal tariffs. More importantly, MCI did not in the aggregate collect a penny more than it was entitled to collect under federal law. Because the collection base for the FUSF included revenues from intrastate calls, the rate at which the charge was imposed was lower than it would have been if such revenues had been excluded. With respect to the NAF, failure by the LECs to provide critical customer information made it impossible for MCI to pass through ILEC PICC charges on a customer-by-customer and line-by-line basis, and MCI's collection methodology was designed to recover its PICC costs on an equitable basis.

F. Stipulations. MCI is not aware of any issues that have been stipulated by the parties.

G. Pending Motions. MCI has a pending motion to continue the hearing until after the Federal Communications Commission rules in pending cases which deal with many of the same matters at issue in this docket.

H. Requirements of Order. MCI believes that this prehearing statement is fully responsive to the requirements of the Order on Procedure.

RESPECTFULLY SUBMITTED this 29th day of January, 1999.

HOPPING GREEN SAMS & SMITH, P.A.

By: Richard D. Melson

Richard D. Melson
P.O. Box 6526
Tallahassee, FL 32314
(850) 425-2313

DONNA CANZANO
MCI WorldCom, Inc.
325 John Knox Road, The Atrium,
Suite 105
Tallahassee, FL 32303

ADAM CHARNES
MCI WorldCom, Inc.
1133 19th Street NW
Washington, DC 20036

MARY L. BROWN
MCI WorldCom, Inc.
1801 Pennsylvania Avenue NW
Washington, DC 20006

Attorneys for MCI Telecommunications
Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by U.S. Mail or Hand Delivery (*) this 29th day of January, 1998.

Catherine Bedell (*)
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Richard O. ...

Attorney