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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
RM-818

Reconsideration of Inmate-Only)
Payphone Declaratory Ruling)

COMMENTS

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MCI Telecommunications Corporation (MCI) hereby comments in opposition to the petitions filed by Cincinnati Bell Telephone (CBT) and the Bell Atlantic Telephone companies, BellSouth Telecommunications, the NYNEX telephone companies and Pacific Bell and Nevada Bell (Joint Petitioners), asking the Commission to reconsider and stay the effectiveness of its Declaratory Ruling¹ deregulating inmate-only payphone equipment. Also, MCI requests that the Commission include in this consolidated proceeding the oppositions filed by MCI on April 1, 1996, to the requests for waiver of the Commission's Declaratory Ruling filed by Southwestern Bell Telephone Company and Pacific Bell and Nevada Bell.

Joint Petitioners ask the Commission to delay the effective date of the Declaratory Ruling until it adopts rules as required by Section 276 of the Telecommunications Act of 1996 (the Act). According to Joint Petitioners, Section 276 "will likely require the Commission to treat all Bell payphones as CPE."² Thus, Joint Petitioners argue that they will be required to make all the

¹ In the Matter of Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force, Declaratory Ruling, RM-8181 (rel. February 20, 1996). (Declaratory Ruling).

² Joint Petitioners at 2.

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accounting changes required by the Declaratory Ruling twice -- once to implement the Declaratory Ruling with respect to inmate-only payphones; and again to implement the Act with respect to all payphones. Joint Petitioners argue that the public interest would not be served by making them go through the process twice; they would incur added costs; and it would be more efficient to deal with all their payphones at one time.

CBT argues that the Commission must reconsider its Declaratory Ruling because it failed to treat independent LECs differently from Bell Operating Companies (BOCs) for the purposes of regulating payphone service. According to CBT, Congress indicated its intent for the Commission to create a different regulatory structure for payphone services for smaller LECs than for the BOCs in Section 276 of the Act, which only applies to payphone services provided by BOCs. CBT argues that the Commission's Declaratory Ruling, because it applies to inmate-only payphones provided by all LECs, therefore, is inconsistent with the position taken by Congress in the Act and the Commission's regulations governing the provision of inmate service should reflect distinctions between the BOCs and smaller LECs.

CBT also argues that the requirements promulgated by the Commission through its Declaratory Ruling will place burdensome administrative costs on smaller LECs which are not justified in light of the small percentage of traffic and revenues associated with inmate payphone service. Thus, CBT asks the Commission to stay the implementation of its regulations pending the exhaustion of all possible avenues of review.

Neither Joint Petitioners nor CBT present any credible argument as to why the Commission's Declaratory Ruling deregulating inmate-only payphone equipment is in error on the merits. On the contrary, Joint Petitioners acknowledge that all BOC payphone equipment will

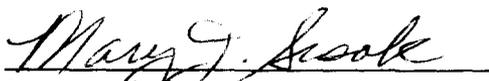
likely be deregulated. In addition, CBT's argument is meritless because the payphone provision in the Act has no bearing on whether inmate-only payphone equipment is properly classified as customer premises equipment and, therefore, deregulated.

With respect to the requests of Joint Petitioners and CBT that the Commission delay the implementation of the Declaratory Ruling, if the Commission were to grant these requests, the LECs should be directed to keep track of their inmate payphone investment and related expenses from September 2, 1996, until it is reclassified as a non-regulated activity, and refund such amounts to interstate ratepayers. Thus, ratepayers would not be forced to continue to subsidize LEC inmate payphone equipment and they would not be deprived of the benefits of the Commission's ruling during the delay.

Based on the foregoing, MCI respectfully requests that the Commission deny the Petitions or issue an order as discussed herein.

Respectfully submitted,

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DATE: May 17, 1996

CERTIFICATE OF SERVICE

I, Veda E. Dessaso, do hereby certify that copies of the foregoing "COMMENTS" in File No. RM-8181 were mailed first-class, postage-prepaid, to the following on this 17th day of May, 1996.



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