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Lisa B. Smith
Senior Policy Advisor
Local Markets and Enforcement

June 30, 1998

EX PARTE

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte in CC Docket No. 97-231; CC Docket No. 97-121; CC Docket No. 97-208; CC Docket No. 97-137

Dear Ms. Salas:

On June 29, 1998, Richard Severy, Richard Bondi, and Karen Reidy of MCI, as well as Mark Schneider of Jenner & Block and I, met with Jake Jennings, Audrey Wright, Michael Pyror and Bill Agee of the Common Carrier Bureau to discuss: (1) the status of 271 proceedings in California; (2) issues relating to Pacific Bell's operations support systems (OSS); and (3) pricing for interconnection, UNEs and resold local service. During the course of that meeting, certain documents were distributed to the above-referenced FCC personnel. By this correspondence, MCI respectfully requests that the Commission accord confidential treatment to one specific document which was distributed during the above-referenced meeting. A copy of the cover page of the document at issue is attached hereto.¹

The grant of the instant request is necessary to conceal from public disclosure specific information that the carrier that created the subject document considers to be sensitive, confidential and proprietary.² The document at issue consists of formulas and other financial information used by the subject carrier to calculate, *inter alia*, customer usage charges for its products and services. Those trade secrets and other business information constitute the type of sensitive commercial / financial materials which are exempt from mandatory public disclosure by the Commission's rules.

If acquired by the subject carrier's competitors or others, the information contained in the

¹ For the purpose of protecting the confidentiality of the subject document, MCI has attached to this correspondence only the redacted cover page of the subject material. However, by this request, MCI petitions the Commission to accord confidential treatment to the entire subject document.

² The document at issue was created by a carrier other than MCI.

above-referenced document would provide an unwarranted and unearned advantage in the marketplace over that carrier because it would reveal sensitive information regarding that carrier's cost and competitive capabilities. Pursuant to Section 0.459 of the Commission's rules, requests for confidentiality should be granted where, as here, non-disclosure is consistent with the provisions of the Freedom of Information Act (FOIA). Section 0.457(d) of the Commission's rules mirrors Exemption 4 of the FOIA, exempting from mandatory disclosure trade secrets and materials which are (1) commercial or financial; (2) obtained from a person outside government; and (3) privileged or confidential. As shown above, these criteria are met here. In National Parks and Conservation Assn. v. Morton, 498 F. 2d 765, 770 (D.C. Cir. 1974), the court held that materials may be treated as confidential if it is likely that disclosure will substantially harm the competitive position of the person from whom the information was obtained.

For the foregoing reasons, MCI requests that the above-referenced information be treated as confidential by the Commission and withheld from public disclosure. Furthermore, distribution of the above-referenced materials within the Commission should be limited pursuant to a "need-to-know" basis.

Furthermore, it is hereby respectfully requested that the Commission advise MCI of any requests made for the disclosure of any of the commercial and/or financial information referenced above, in order that MCI may oppose such requests.

In accordance with Section 1.1206(b)(2) of the Commission's Rules, an original and one copy of this notice are being submitted to the Secretary, with copies to the Commission staff present at the meeting.

Sincerely,

A handwritten signature in black ink that reads "Lisa B. Smith" followed by a stylized monogram or initials in parentheses.

Lisa B. Smith
Senior Policy Counsel

cc: Jake E. Jennings
Michael Pryor
Audrey Wright
Bill Agee

ATTACHMENT



APPENDIX OSS-RESALE & UNE

Proprietary:

