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

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In the Matter of	)	
	)	
MCI TELECOMMUNICATIONS CORPORATION	)	CC Docket No. 96-149
	)	
Petition For Declaratory Ruling Regarding the Joint Marketing Restriction in Section 271(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996	)	

MOTION TO WITHDRAW PETITION FOR DECLARATORY RULING

MCI Telecommunications Corporation (MCI), by its undersigned counsel, hereby requests leave to withdraw its Petition for Declaratory Ruling, filed May 1, 1997, concerning the application of the Commission's rules governing joint marketing by certain interexchange carriers (IXCs) of interexchange and resold Bell Operating Company (BOC) local exchange services. The actions that precipitated MCI's Petition have either been dismissed or have been rendered moot by marketplace developments, and further proceedings on the Petition would therefore not be productive.

Section 271(e)(1) of the Communications Act of 1934, added by the Telecommunications Act of 1996 (1996 Act),[1] restricts the three largest IXCs from jointly marketing their long distance services with resold BOC local exchange service until the earlier of February 8, 1999 or the date when a BOC is allowed to enter the long distance market in a given state. On December 24, 1996, the Commission issued the Non-Accounting Safeguards Order, in

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[1] Pub. L. No. 104-104, 110 Stat. 56.

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which it discussed, inter alia, the marketing practices that it interpreted Section 271(e)(1) to proscribe and to permit.[2]

On March 12, 1997, Pacific Bell filed with the California Public Utilities Commission (CPUC) a "Complaint" against MCI and AT&T, along with a "Motion Of Pacific Bell (U 1001 C) For Temporary Restraining Order And Preliminary Injunction And Memorandum Of Points And Authorities In Support Thereof."[3] Pacific Bell's Complaint alleged that certain MCI and AT&T marketing materials violated Section 271(e)(1), as interpreted in the Non-Accounting Safeguards Order. Ameritech also filed an informal complaint before this Commission relating to similar materials[4] and, subsequently, a formal complaint challenging an MCI advertisement marketing local and long distance services.[5]

MCI's Petition requested that the MCI marketing materials challenged by Pacific Bell, as well as similar marketing materials then being used by MCI, be declared lawful in all respects under Section 271(e)(1) and the Non-Accounting

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[2] First Report and Order and Further Notice of Proposed Rulemaking, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, FCC 96-489 (rel. December 24, 1996) (Non-Accounting Safeguards Order), petitions for recon. pending (subsequent history omitted).

[3] Pacific Bell (U 1001 C) v. AT&T Communications of California, Inc. (U 5002 C) and MCI Telecommunications Corporation (U 5001 C), Case No. 97-03-016 (filed March 12, 1997).

[4] See Notice of Informal Complaint, Ameritech, IC-97-00440 (Nov. 26, 1996).

[5] See Ameritech Corporation v. MCI Telecommunications Corporation, File No. E-97-17 (filed April 9, 1997).

Safeguards Order. MCI argued that without such Commission guidance, MCI's and other IXCs' marketing materials would continue to be subjected to a barrage of legal challenges before state commissions and this Commission, chilling both First Amendment rights and competition. MCI's Petition was put on public notice, and comments and reply comments, as well as ex parte letters, have been filed.[6]

Since the filing of the Petition, a number of developments have altered the context in which the Petition was originally filed. First, the CPUC dismissed Pacific Bell's Complaint without prejudice. Second, MCI announced, in January of this year, that because of the continued monopoly pricing of local service for resale, MCI will focus its local service marketing efforts on facilities-based offerings and will cease marketing local resale service to new customers. Because of its change of focus, MCI is no longer using the marketing materials as to which it sought declaratory relief in its Petition. Finally, on July 1, the Commission granted the parties' Joint Motion to Dismiss Ameritech's formal complaint proceeding alleging illegal joint marketing by MCI.[7]

Accordingly, MCI's Petition is now moot. Neither the Pacific Bell Complaint that initially motivated the filing of the

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[6] Pleading Cycle Established for Comments on MCI Petition for Declaratory Ruling Regarding the Joint Marketing Restriction in Section 271(e)(1) of the Act, CC Docket No. 96-149, DA 97-1003 (released May 9, 1997).

[7] See Order, Ameritech Corp. v. MCI Telecommunications Corp., File No. E-97-17, DA 98-1333 (released July 1, 1998).

Petition nor Ameritech's formal complaint alleging illegal joint marketing are pending, and MCI is no longer using the marketing materials that were challenged by the Pacific Bell Complaint or that were attached to MCI's Petition. MCI therefore requests that it be permitted to withdraw its Petition, without prejudice to a future refiling in the event that subsequent developments raise similar issues again. In the current context, continued review of MCI's Petition would serve little purpose and would divert Commission resources away from much more pressing matters.

WHEREFORE, MCI requests leave to withdraw its Petition for Declaratory Ruling regarding the joint marketing restriction, without prejudice.

Respectfully Submitted,

MCI TELECOMMUNICATIONS CORPORATION

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Dated: August 10, 1998

CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that the foregoing Motion to Withdraw Petition was served this 10th day of August, 1998, by hand delivery or first-class mail, postage prepaid, upon each of the following persons:

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