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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

In the Matter of)
Moultrie Independent Telephone Company)
To: The Commission

96-451

APR 06 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

AMENDMENT TO
PETITION FOR DECLARATORY RULING

1. Moultrie Independent Telephone Company ("Moultrie"), filed a Petition for Declaratory Ruling with the Commission Monday, March 29, 1999, and an Erratum to that petition on Tuesday, March 30, 1999 (collectively, the "Petition"). Moultrie hereby amends its Petition to request that the FCC direct NECA to re-open the 24 month window that it has established for its members to make adjustments to cost studies. Further, Moultrie requests that NECA be required to reimburse Moultrie any amounts due to it in this matter, including interest, back to and including the first month that NECA overrode the cost settlement process. This amendment is based upon information provided to Moultrie by the National Exchange Carrier Association, Inc. ("NECA") on March 30, 1999, the day after Moultrie filed its Petition.

2. Since the filing of the Petition, NECA has stated that it is overriding Moultrie's 1997 cost study¹ and substituting Moultrie's 1996 cost study² in its stead.³ Should the Commission find in favor of Moultrie in its ruling on the Petition, which as outlined in Moultrie's Petition is in the

¹ See Moultrie Independent Telephone Company, NECA Final Cost Study 1997, submitted to NECA on Dec. 3, 1998 (the "1997 Study").

² See Moultrie Independent Telephone Company, NECA Final Cost Study 1996, submitted to NECA on Sept. 16, 1997 (the "1996 Study").

³ See attached Letter dated March 30, 1999, from Richard Askoff, Esq. to David Irwin, Esq.

public interest, Moultrie requests that the Commission direct NECA to re-open the 24 month window and require NECA to reimburse Moultrie for any and all amounts, including interest, to which Moultrie is entitled as calculated back to and including the first month that NECA overrode the cost settlement process.

3. Additionally, in light of the fact that NECA has carried out its threat of involuntarily overriding Moultrie's 1997 Study, Moultrie requests that the Commission expeditiously review this Petition.

NECA's 24 Month Window Policy

4. NECA's contractual relationship with its member carriers provides that all cost data submitted to NECA will be final and binding on all members after 24 months.⁴ Therefore, members may revise cost information submitted to NECA only in the immediately preceding 24 months.⁵ The Commission has recognized that events occurring outside the 24 month window are not ordinarily available for review.⁶ However, under the contractual relationship between NECA and its members the Commission has the authority to direct NECA to open this 24 month window. Under the circumstances presented in Moultrie's petition, it is both necessary and proper for the FCC to direct NECA to open the 24 month window.

⁴ *MTS and WATS Market Structure: Average Schedule Companies*, 6 FCC Rcd 6608, fn.45 (1991).

⁵ *Id.*

⁶ *Citizens Utility Company, Petition for Waiver of Section 36.154(d) of the Commission's Rules*, 7 FCC Rcd 8656, fn.1 (1992).

**The Commission Must Order NECA to
Reopen the 24 Month Window to Make Moultrie Whole**

5. The public interest requires that the Commission direct NECA to reopen the 24 month window if the Commission finds in favor of Moultrie in the Petition. Moultrie, and its subscribers, should not be penalized because NECA has involuntarily substituted Moultrie's 1997 Study with the 1996 Study while the Commission is reviewing the Petition.

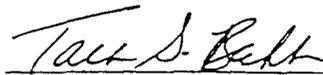
6. Absent FCC intervention, the 24 month window policy forecloses Moultrie's ability to recover any amounts taken from it by NECA while the FCC makes a determination on Moultrie's petition. Moultrie surmises that in overriding its 1997 Study, NECA will make adjustments in the disbursements it makes to Moultrie to make up for any perceived past overpayments NECA may have made to Moultrie. However, since the March 1999 report detailing NECA's disbursements to carriers is not yet available, Moultrie is not certain whether NECA made any such adjustments.

7. If the Commission determines that its rules are in conflict and requires NECA to reinstate Moultrie's 1997 Study, as recommended in the Petition, NECA must also be required to reimburse Moultrie for any and all adjustments that NECA made based on the 1996 Study. To fully compensate Moultrie, NECA must reimburse Moultrie from the date NECA involuntarily overrode Moultrie's 1997 Study. The Commission must order NECA to re-open the 24 month window.

Conclusion

8. Moultrie respectfully requests that the Commission, upon ruling on Moultrie's Petition, direct NECA to re-open the 24 month window and reimburse Moultrie for any amounts the Commission finds were improperly deducted from Moultrie's payments from NECA from the moment NECA involuntarily overrode Moultrie's 1997 Study.

Respectfully submitted,
Moultrie Independent Telephone Company



David A. Irwin
Tara S. Becht
Nathaniel J. Hardy (Bar Admission Pending)

By Its Counsel

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April 6, 1999

NECA NATIONAL EXCHANGE
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March 30, 1999

David Irwin, Esq.
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W., Suite 200
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Dear Mr. Irwin:

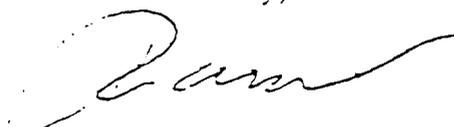
This is in response to your letter of March 26, 1999 to Roberta Alvir, which was directed to my attention. Your letter requests that NECA voluntarily agree not to use 1996 cost study information for Moultrie Independent Telephone Company in place of 1997 cost study data.

NECA management has determined that it is necessary to override the 1997 pooling data submitted by Moultrie because of an apparent discrepancy between the 1997 cost study data and the FCC's Part 36 rules. I understand that this occurs as a result of an unusual sale/leaseback transaction reflected in the 1997 data, which NECA has determined is not reported in conformance with the FCC's rules.

I understand that Moultrie is seeking Commission clarification of the rules. NECA will, of course, comply with the FCC's decision in this matter, including retroactive restoration of settlements in the event that Moultrie requests such relief and the FCC order expressly directs NECA to do so. In the meantime, however, NECA is obligated under FCC rules and orders to assure that pooling data is submitted in strict compliance with the FCC's rules.

Please feel free to contact me if you have further questions about this matter.

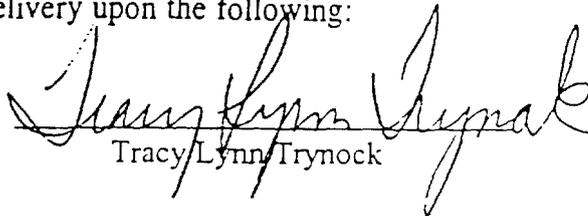
Sincerely,



cc: R. Snopkowski
R. Alvir

CERTIFICATE OF SERVICE

I, Tracy L. Trynock, hereby certify that on this 6th day of April, 1999, copies of the foregoing "Ammendment to Petition for Declaratory Ruling" have been served by first-class United States mail, postage pre-paid or by hand delivery upon the following:


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