

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Formal Complaint of
MIEAC, Inc. Against MCI, Inc. Requesting
Permission to Discontinue Service and an
Order Requiring Payment of Tariff Arrearages

ISSUE DATE: January 20, 2006

DOCKET NO. PT-6438/C-05-1943

ORDER ACCEPTING COMPLAINT,
REQUIRING ANSWER, AND VARYING
RULE REQUIREMENTS TO EXPEDITE
COMMENT PERIOD

PROCEDURAL HISTORY

On December 13, 2005, MIEAC, Inc. (MIEAC) filed a formal complaint against MCI, Inc. (MCI), alleging that since August 2005, MCI has unjustifiably refused to make any further payments for MIEAC's intrastate Centralized Equal Access (CEA) service.

The Commission met to consider this matter on January 12, 2006.

FINDINGS AND CONCLUSIONS

I. Filing Requirements, Jurisdiction, and Reason to Investigate

The formal complaint filed by MIEAC contains all the information requested in Minn. Rules, part 7829.1800, subp. 1 and the affidavit of service attached to the complaint indicates that the complaint was mailed to the appropriate parties, as required by Minn. Rules, part 7829.1800, subp. 2. The Commission therefore will accept the complaint as meeting the applicable filing requirements.

As to the Commission's jurisdiction over the complaint and reasonable grounds to investigate, as required by Minn. Rules, part 7829.1800, subp. 1 to authorize further Commission consideration of this matter, the Commission notes that MCI has properly acknowledged that these two factors are met. Based on that acknowledgment and its own review, the Commission, therefore, finds that

it has jurisdiction over MIEAC's complaint¹ and based on MIEAC's allegations that there are reasonable grounds to investigate its complaint.

II. Next Steps: Serving the Complaint and Requiring Answer

Minn. Rules 7829.1800, subp. 2 states:

Subp. 2. **Answer.** On concluding that it has jurisdiction over the matter and that investigation is warranted, the commission shall serve the complaint on the respondent, together with an order requiring the respondent to file an answer either stating that it has granted the relief the complainant requests, or responding to the allegations of the complaint. The answer must be filed with the commission and served on the complainant, the department, and the Residential Utilities Division of the Office of the Attorney General within 20 days of service of the complaint and order.

Having found that it has jurisdiction over the matter and that investigation is warranted, therefore, the Commission will serve the complaint on MCI by attaching it to this Order and direct MCI to file an answer to the complaint within 20 days of the service date of this Order.

III. Establishing Expedited Comment Period

Minn. Rules, part 7829.1900 prescribes a timetable for initial comments from interested parties (within 30 days of the Commission's Order) and also for reply comments from parties that filed initial comments (within 10 days of the end of the initial comment period).

However, MIEAC has persuaded the Commission that time is of the essence in this matter. MIEAC stated that as of December 6, 2005, the amount of MCI's unpaid charges to MIEAC total \$1,709,081.85 and that this amount grows at the rate of over \$400,000 per month. These unpaid charges represent more than thirty percent of the Company's total cash reserves. MIEAC argued that given the size of MIEAC and the significance of MCI's amount of outstanding accounts payable, immediate action by the Commission is necessary.

The Commission finds that the circumstances warrant shortening the comment period established by the cited Commission rules. Specifically, the Commission finds that it is appropriate to vary the applicable rules in order to shorten the initial comment period established in Minn. Rules, part

¹ Minn. Stat. Chapters 216A and 237 give the Commission broad authority to regulate companies offering telecommunications services in Minnesota. In general, the Commission regulates telephone companies and telecommunications carriers and the services they provide; telephone companies and telecommunications carriers are defined in Minn. Stat. § 237.01, subs. 6 and 7 respectively. While the degree of regulation differs, both types of companies are regulated and need certificates of authority to operate in Minnesota. MIEAC's formal complaint alleges that by not paying for tariffed services approved by the Commission, MCI has violated the Filed Rate Doctrine, as well as several other Minnesota statutes. The Commission has the authority to make this decision, and, therefore, has jurisdiction over this complaint proceeding.

8929.1900, subps 2, 4, and 5 to ten days after MCI serves its Answer and to eliminate the reply comment period.

Minn. Rules, part 7829.3200 authorizes the Commission to vary its own rules upon making three findings, which the Commission does in this case, as follows:

1. Enforcement of the rule would impose an excessive burden upon MIEAC. In light of the size of the amount alleged to be due and owing and the portion of Company revenues that this figure represents, time is of the essence.
2. Granting the variance would not adversely affect the public interest because all interested parties will have adequate opportunity to develop and express their positions.
3. Granting the variance does not conflict with standards imposed by law because the comment periods are established by Commission rule alone, not by statute, and therefore are subject to variance pursuant to Minn. Rules, part 7829.3200 as the Commission has done in this case.

ORDER

1. The Commission hereby accepts MIEAC's complaint as meeting the filing requirements and finds that it has jurisdiction over this matter and that there are reasonable grounds to investigate this matter.
2. The Commission serves the attached complaint on MCI and directs MCI to file an answer to the complaint within 20 days of the service date of this Order.
3. The Commission varies the comment period requirements of Minn. Rules 7829.1900, subps. 2, 4 and 5 in the following respects:
 - interested parties shall submit comments within 10 days of the receipt of MCI's Answer; and
 - no reply comments will be allowed.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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