

Decision 99-04-053 April 22, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Consumer's Action Network (UCAN),

Complainants,

vs.

MCI Metro Access Transmission Services (MCI
Metro), Inc.,

Defendants.

Case 98-06-016
(Filed June 2, 1998)

O P I N I O N

Summary

This decision finds that MCI Metro has acknowledged billing errors and has committed to correct all errors and make full restitution to all affected customers. MCI Metro is ordered to cooperate with complainant and Commission staff to demonstrate such restitution. The parties are directed to file a compliance report no later than November 30, 1999, showing that restitution is complete and identifying any outstanding issues.

Background

In its complaint which initiated this proceeding, the Utility Consumers Action Network (UCAN) alleged that MCI Metro Access Transmission Services (MCI Metro) had incorrectly billed a large number of its customers. At the prehearing conference, MCI Metro's counsel conceded that it had made billing errors but that the errors had been corrected and all affected customers had

received full restitution. UCAN and MCI Metro invited review of the restitution process by Commission staff.

On November 23, 1998, the assigned Administrative Law Judge (ALJ) issued a ruling which requested that the Commission's Consumer Services Division (CSD) assign staff to review MCI Metro's effort to make restitution to the incorrectly billed customers.

On December 11, 1998, CSD informed the ALJ by letter, copied to all parties, that verification of MCI Metro's billing error correction representations would require review of a sample of actual bills and refunds. CSD subsequently finished this review February 19, 1999, and submitted a written report to the parties. The report indicated that while MCI Metro may have endeavored to make full restitution, some customers and former customers had not received the full amount.

On February 23, 1999, the parties appeared at the second prehearing conference. MCI Metro reiterated its commitment to make full restitution and explained the process was being delayed due to billing record anomalies, such as the fact that many of the records were available only as paper documents in files, not as electronic data. MCI Metro also noted that CSD discovered new issues as a result of its review. MCI Metro estimated that addressing the old and new issues would require approximately five months time but that it had every intention of fully resolving all the outstanding issues.

The parties agreed that at this point no material issues required hearings and that the best procedural course would be for the Commission to issue a decision on the merits of this proceeding, finding that MCI Metro had agreed to make full restitution for all billing errors identified in UCAN's complaint and CSD's report and directing the parties to file a compliance report at the conclusion of the restitution process.

Discussion

MCI Metro has agreed to make restitution to all incorrectly billed customers as described in UCAN's complaint and CSD's report. All parties have agreed to cooperate to resolve any implementation issues and to file a written compliance report at the conclusion of the restitution process. Thus, the record currently reveals no outstanding issues of material fact and no hearings are necessary.

As no hearings are necessary, pursuant to Rule 6.6 of the Commission's Rules of Practice and Procedure (Rules), Article 2.5 of the Rules ceases to apply to this proceeding, with one exception. The parties will continue to cooperate in compliance efforts. Ex parte contacts may interfere with these efforts; therefore, Rule 7(b), which prohibits ex parte contacts, shall continue to apply to this proceeding.

Comments on the Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311(g) and Rule 77.1 of the Rules. UCAN filed comments seeking clarification that parties may propose sanctions and/or penalties as part of the outstanding issues to be resolved after the compliance report is filed. MCI filed reply comments noting that if UCAN seeks penalties, MCI will insist on hearings. Although Ordering Paragraphs 3 and 5 were modified to make UCAN's requested clarification, any decision to hold hearings will be made only after a request is presented. The parties are encouraged to attempt to resolve by mutual agreement any issues related to sanctions or penalties.

Findings of Fact

1. MCI Metro has agreed to make restitution to all incorrectly billed customers as described in UCAN's complaint and CSD's report.

2. All parties have agreed to cooperate to resolve any implementation issues and to file a written compliance report at the conclusion of the restitution process.

3. Ex parte contacts may interfere with compliance efforts.

Conclusions of Law

1. The record currently reveals no outstanding issues of material fact.

2. No hearings are necessary.

3. Pursuant to Rule 6.6 of the Commission's Rules, Article 2.5 of the Rules ceases to apply to this proceeding, with one exception.

4. Rule 7(b), which prohibits ex parte contacts, should continue to apply to this proceeding.

O R D E R

IT IS ORDERED that:

1. MCI Metro Access Transmission Services (MCI Metro) shall make all agreed-upon restitution for the billing errors described in Utility Consumer's Action Network (UCAN) complaint and the Commission's Consumers Service Division (CSD) report.

2. MCI Metro, UCAN, and CSD shall continue to cooperate to ensure such restitution.

3. MCI Metro, UCAN, and CSD shall file and serve a compliance report no later than November 30, 1999, which demonstrates that all restitution has been made and describes any outstanding issues, including any proposed sanctions or penalties.

4. Rule 7(b) of the Commission's Rules of Practice and Procedure (Rules) which prohibits ex parte communications shall continue to apply to this proceeding but in all other respects Article 2.5 of the Rules shall cease to apply to this proceeding.

5. This proceeding is closed. Although a compliance report is being filed and served, that filing shall not reopen this docket unless a party requests further action.

This order is effective today.

Dated April 22, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners