

CASE

NUMBER:

99-516

INDEX FOR CASE: 1999-516
MCI WORLDCOM
Complaints - Service
OF KATHLEEN NICOTERA

IN THE MATTER OF KATHLEEN NICOTERA VS. MCI WORLDCOM

SEQ NBR	ENTRY DATE	REMARKS
0001	12/27/1999	Application.
0002	01/27/2000	Acknowledgement letter.
0003	02/15/2000	Order to Satisfy or Answer; info due 2/25
M0001	02/25/2000	KENT HATFIELD MCI WORLDCOM-ANSWER SHOWING SATISFACTION
0004	06/06/2000	FINAL ORDER CLOSING CASE



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
211 SOWER BOULEVARD
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-516
MCI WORLDCOM

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on June 6, 2000.

See attached parties of record.

Stephanie D. Bell

Secretary of the Commission

SB/sa
Enclosure

Julie L. Davis
Regulatory Manager
MCI WorldCom
6 Concourse Parkway
Suite 3200
Atlanta, GA. 30328

Kathleen Nicotera
1504 Walnut Park Drive, Apt. A
Owensboro, KY. 42301

Honorable C. Kent Hatfield
Counsel for MCI WorldCom
Middleton & Reutlinger
2500 Brown & Williamson Tower
Louisville, KY. 40202 3410

Honorable Susan J. Berlin
Counsel for MCI WorldCom
MCI WorldCom
6 Concourse Parkway
Suite 3200
Atlanta, GA. 30306

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

It the Matter of:

KATHLEEN NICOTERA)	
)	
COMPLAINANT)	
v.)	CASE NO.
)	99-516
MCI WORLDCOM)	
)	
DEFENDANT)	

O R D E R

On December 27, 1999, Ms. Kathleen Nicotera ("Complainant") filed a complaint alleging, in essence, that MCI WorldCom ("MCI") had changed her intraLATA ("local toll") service without her permission. Complainant admits that the tape of her conversation with the MCI representative demonstrates her affirmative response to the question regarding local toll service; however, Complainant asserts that the question regarding local toll was asked "quickly" and that the MCI representative misled her.¹ Complainant requested deletion of her alleged debt to MCI in the amount of \$172.56.

On February 25, 2000 MCI responded to this Commission's Order requiring a response to Complainant's allegations. MCI denies that it violated any law with respect to its dealings with Complainant. However, in an effort to resolve the matter efficiently, MCI has canceled Complainant's account and credited such account in the full amount requested in the complaint, \$172.56. Complainant's account balance with MCI is now zero. Complainant has filed no further documents with this Commission.

¹ Complaint at 2.

Pursuant to 807 KAR 5:001, Section 12(5), upon a defendant's satisfaction of a complaint, no further proceedings are necessary. MCI has provided precisely the relief Complainant requested. Accordingly, this case should be removed from the Commission's docket without further Order.

The Commission having reviewed the record herein and having been otherwise sufficiently advised, IT IS HEREBY ORDERED this case is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 6th day of June, 2000.

By the Commission

ATTEST:


Executive Director

MIDDLETON & REUTLINGER

founded in 1854

2500 BROWN & WILLIAMSON TOWER

LOUISVILLE, KENTUCKY 40202-3410

502.584.1135

FAX 502.561.0442

WWW.MIDDREUT.COM

O. GRANT BRUTON
KENNETH S. HANDMAKER
IAN Y. HENDERSON
JAMES N. WILLIAMS*
CHARLES G. MIDDLETON III
CHARLES D. GREENWELL
BROOKS ALEXANDER
JOHN W. BILBY*
C. KENT HATFIELD
TIMOTHY P. O'MARA
D. RANDALL GIBSON
G. KENNEDY HALL, JR.
JAMES R. HIGGINS, JR.**
MARK S. FENZEL
KATHIEJANE OEHLER
CHARLES G. LAMB**
THOMAS W. FRENTZ*
WILLIAM JAY HUNTER, JR.
JAMES E. MILLIMAN
DAVID J. KELLERMAN

KIPLEY J. McNALLY
JULIE A. GREGORY
DENNIS D. MURRELL
HENRY S. ALFORD
AUGUSTUS S. HERBERT
JOHN F. SALAZAR**
SCOT A. DUVALL
DANA L. COLLINS
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NANCY J. SCHOOK
CLAYTON R. HUME
TERRI E. PHELPS
LAURA D. ROBERTSON
JAMES R. ROBINSON
JASON P. UNDERWOOD
JEFFREY A. HAEBERLIN**
DAVID J. CLEMENT**
THOMAS B. MCGURK**
THOMAS W. ICE, JR.†

EDWIN G. MIDDLETON (1920-1980)
CHARLES G. MIDDLETON, JR. (1916-1988)
ALBERT F. REUTLINGER (1917-1998)

OF COUNSEL
HENRY MEIGS II
J. PAUL KEITH III

INDIANA OFFICE
530 EAST COURT AVENUE
JEFFERSONVILLE, INDIANA 47130
812.282.1132

February 25, 2000

RECEIVED

FEB 25 2000

PUBLIC SERVICE
COMMISSION

Mr. Martin J. Huelsmann
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40601

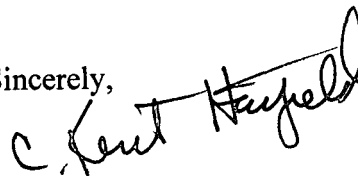
RE: Case No. 99-516

Dear Mr. Huelsmann:

Enclosed for filing in the above-referenced case are the original and ten (10) copies of the MCI WorldCom's Answer Showing Satisfaction.

Also enclosed is one additional copy of this Answer. We ask that you indicate its receipt by placing your file stamp on the extra copy and returning it to me by way of our firm's courier. Thank you for your assistance in this matter.

Sincerely,



C. Kent Hatfield
Counsel for MCI WorldCom

CKH:jms

enc.

cc: Parties of Record

*ALSO ADMITTED INDIANA
**LICENSED TO PRACTICE BEFORE
U.S. PATENT & TRADEMARK OFFICE
†ADMITTED IN INDIANA ONLY

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

KATHLEEN NICOTERA)	
[sic - Nicotera])	
COMPLAINANT)	
)	
v.)	
)	
MCI WORLDCOM)	CASE NO.
DEFENDANT)	99-516

FEB 25 2000
PUBLIC SERVICE
COMMISSION

ANSWER SHOWING SATISFACTION

MCI WorldCom hereby responds to the Commission's Order to Satisfy or Answer, issued February 15, 2000.

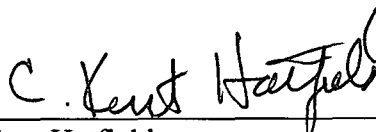
In a formal complaint filed with the Commission on December 27, 1999, Kathleen Nicotera alleged that MCI WorldCom changed her intraLATA ("local toll") service without her permission. MCI WorldCom denies this and every other allegation in the Complaint. MCI WorldCom maintains that no rule, tariff, statute or other law, federal or state, was violated by its actions with respect to the matters alleged in this Complaint. Indeed, the third party verification tape produced in this matter verifies that Ms. Nicotera authorized the change.

Nonetheless, MCI WorldCom, on a voluntary basis and to resolve this matter as efficiently as possible, has applied a credit to Ms. Nicotera's canceled account in the amount she requested in her complaint, \$172.56. This brings Ms. Nicotera's account balance with MCI

WorldCom to zero. A message was left on Ms. Nicotera's answering machine on February 23, 2000 to inform her of this action.

Having satisfied this complaint, MCI WorldCom respectfully requests that the Commission dismiss this Complaint and close Case No. 99-516.

Respectfully submitted,



C. Kent Hatfield
Middleton & Reutlinger
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
ckh@midreut.com
(502) 584-1135

Susan J. Berlin
MCI WorldCom
6 Concourse Parkway, Suite 3200
Atlanta, Georgia 30306
susan.berlin@wcom.com
770-284-5491

COUNSEL FOR MCI WORLDCOM



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
211 SOWER BOULEVARD
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

February 15, 2000

Julie L. Davis
Regulatory Manager
MCI WorldCom
6 Concourse Parkway
Suite 3200
Atlanta, GA. 30328

Kathleen Nicotera
1504 Walnut Park Drive, Apt. A
Owensboro, KY. 42301

RE: Case No. 1999-516

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

SB/sa
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KATHLEEN VICOTERA)	
)	
COMPLAINANT)	
)	
v.)	CASE NO.
)	99-516
MCI WORLDCOM)	
)	
DEFENDANT)	

ORDER TO SATISFY OR ANSWER

MCI WorldCom ("MCI") is hereby notified that it has been named as defendant in a formal complaint filed on December 27, 1999, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, MCI is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 15th day of February, 2000.

By the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

RECEIVED

Kathleen Nicotera
(Your Full Name))
COMPLAINANT)

DEC 27 1999

PUBLIC SERVICE
COMMISSION

VS.

MCI World Com.
(Name of Utility))
DEFENDANT)

99-516

COMPLAINT

The complaint of Kathleen Nicotera respectfully shows:
(Your Full Name)

(a) Kathleen Nicotera
(Your Full Name)

1504 Walnut PK. Dr. Apt. A Owensboro, Ky 42301
(Your Address)

(b) MCI WORLD Com.
(Name of Utility)

P.O. Box 4600 att: customer Res. Iowa City, Iowa 52244
(Address of Utility)

(c) That: MCI changed my Local Phone Service
(Describe here, attaching additional sheets if necessary,

With Bell South - Without my Permission.
the specific act, fully and clearly, or facts that are the reason

I wanted MCI "for out of state calls only"
and basis for the complaint.)
on the tape that was recorded (which I have a
a copy you sent me, you can listen to the

Continued on Next Page

Formal Complaint

Kathleen Nicotera vs. MCI WORLD Com.

Page 2 of 2

Part where the second representative confirms
that I wanted MCI for long distance out of
the State of Kentucky, and she quickly ask
also on status on the tape that I wanted MCI
for local service. she mistead me and I
said yes to the statement. I consider this inlawful.

Wherefore, complainant asks That MCI stop sending me
(Specifically state the relief desired.)

statement asking for payment that I didn't
ask to be charged. MCI is dishonest, deiceful,
and they are causing me alot of distress. I want
the amount of 172.56 filed away as a mistake on

Dated at Owensboro, Kentucky, this 23 day
(Your City)

mci part,
Please, make
an adjustment.

of December, 1999.
(Month)

Kathleen Nicotera
(Your Signature)

(Name and address of attorney, if any)

807 KAR 5:001. Rules of procedure.

Section 12. Formal Complaints.

(1) **Contents of complaint.** Each complaint shall be headed "Before the Public Service Commission," shall set out the names of the complainant and the name of the defendant, and shall state:

(a) The full name and post office address of the complainant.

(b) The full name and post office address of the defendant.

(c) Fully, clearly, and with reasonable certainty, the act or thing done or omitted to be done, of which complaint is made, with a reference, where practicable, to the law, order, or section, and subsections, of which a violation is claimed, and such other matters, or facts, if any, as may be necessary to acquaint the commission fully with the details of the alleged violation. The complainant shall set forth definitely the exact relief which is desired (see Section 15(1) of this administrative regulation).

(2) **Signature.** The complaint shall be signed by the complainant or his attorney, if any, and if signed by such attorney, shall show his post office address. Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address. No oral or unsigned complaints will be entertained or acted upon by the commission.

(3) **Number of copies required.** At the time the complainant files his original complaint, he must also file copies thereof equal in number to ten (10) more than the number of persons or corporations to be served.

(4) Procedure on filing of complaint.

(a) Upon the filing of such complaint, the commission will immediately examine the same to ascertain whether it establishes a prima facie case and conforms to this administrative regulation. If the commission is of the opinion that the complaint does not establish a prima facie case or does not conform to this administrative regulation, it will notify the complainant or his attorney to that effect, and opportunity may be given to amend the complaint within a specified time. If the complaint is not so amended within such time or such extension thereof as the commission, for good cause shown, may grant, it will be dismissed.

(b) If the commission is of the opinion that such complaint, either as originally filed or as amended, does establish a prima facie case and conforms to this administrative regulation, the commission will serve an order upon such corporations or persons complained of under the hand of its secretary and attested by its seal, accompanied by a copy of said complaint, directed to such corporation or person and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of such order, provided that the commission may, in particular cases, require the answer to be filed within a shorter time.

(5) **Satisfaction of the complaint.** If the defendant desires to satisfy the complaint, he shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief which he is willing to give. Upon the acceptance of this offer by the complainant and the approval of the commission, no further proceedings need be taken.

(6) **Answer to complaint.** If satisfaction be not made as aforesaid, the corporation or person complained of must file an answer to the complaint, with certificate of service on other parties endorsed thereon, within the time specified in the order or such extension thereof as the commission, for good

cause shown, may grant. The answer must contain a specific denial of such material allegations of the complaint as controverted by the defendant and also a statement of any new matter constituting a defense. If the answering party has no information or belief upon the subject sufficient to enable him to answer an allegation of the complaint, he may so state in his answer and place his denial upon that ground (see Section 15(2) of this administrative regulation).

807 KAR 5:001. Rules of procedure.

Section 15. Forms.

(1) In all practice before the commission the following forms shall be followed insofar as practicable:

- (a) Formal complaint.
- (b) Answer.
- (c) Application.
- (d) Notice of adjustment of rates.
- (2) Forms of formal complaint.
- (3) Form of answer to formal complaint.
- (4) Form of application.
- (5) Form of notice to the commission of adjustment of rates

Before the Public Service Commission

(Insert name of complainant))
Complainant)
vs.) No. _____
(Insert name of each defendant)) (To be inserted by
Defendant) the secretary

COMPLAINT

The complaint of (here insert full name of each complainant) respectfully shows:

(a) That (here state name, occupation and post office address of each complainant).

(b) That (here insert full name, occupation and post office address of each defendant).

(c) That (here insert fully and clearly the specific act or thing complained of, such facts as are necessary to give a full understanding of the situation, and the law, order, or rule, and the section or sections thereof, of which a violation is claimed).

WHEREFORE, complainant asks (here state specifically the relief desired).

Dated at _____, Kentucky, this _____ day
of _____, 19 _____.

(Name of each complainant)

(Name and address of attorney,
if any)



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

January 27, 2000

Julie L. Davis
Regulatory Manager
MCI WorldCom
6 Concourse Parkway
Suite 3200
Atlanta, GA. 30328

Kathleen Nicotera
1504 Walnut Park Drive, Apt. A
Owensboro, KY. 42301

RE: Case No. 1999-516
MCI WORLDCOM
(Complaints - Service) OF KATHLEEN NICOTERA

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received December 27, 1999 and has been assigned Case No. 1999-516. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

SB/jc

BJ

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

RECEIVED

Kathleen Nicotera
(Your Full Name)

DEC 27 1999

PUBLIC SERVICE
COMMISSION

COMPLAINANT

VS.

MCI World Com.
(Name of Utility)

CASE 99-516

DEFENDANT

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(Month)

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(b) If the commission is of the opinion that such complaint, either as originally filed or as amended, does establish a prima facie case and conforms to this administrative regulation, the commission will serve an order upon such corporations or persons complained of under the hand of its secretary and attested by its seal, accompanied by a copy of said complaint, directed to such corporation or person and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of such order, provided that the commission may, in particular cases, require the answer to be filed within a shorter time.

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Before the Public Service Commission

(Insert name of complainant))
Complainant)
vs.) No. _____
(To be inserted by
(Insert name of each defendant)) the secretary
Defendant)

COMPLAINT

The complaint of (here insert full name of each complainant) respectfully shows:

(a) That (here state name, occupation and post office address of each complainant).

(b) That (here insert full name, occupation and post office address of each defendant).

(c) That (here insert fully and clearly the specific act or thing complained of, such facts as are necessary to give a full understanding of the situation, and the law, order, or rule, and the section or sections thereof, of which a violation is claimed).

WHEREFORE, complainant asks (here state specifically the relief desired).

Dated at _____, Kentucky, this _____ day
of _____, 19 _____.

(Name of each complainant)

(Name and address of attorney,
if any)