

XJV/jva 8/11/2004

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

James Nyhan, Terri Tavita, and Joelle Del Carlo,

Complainants,

vs.

MCI WorldCom Communications, Inc.,

Defendant.

Case 04-07-045  
(Filed July 27, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING THE INSTRUCTIONS TO ANSWER**

Decision (D.) 04-07-005, which the Commission adopted on July 8, 2004, in *Rudder et al. v. MCI*, Case 04-02-024, dismisses that complaint for failure to state a claim under Public Utilities Code Section 1702, the statute defining the general scope of the Commission's subject matter jurisdiction over complaints. The allegations in the complaint filed by James Nyhan (Nyhan) parallel those of the *Rudder* complaint to a large degree and to the extent that they are materially indistinguishable, application of the law articulated in *Rudder* will require that this complaint be dismissed as well.

In addition to the *Rudder* allegations, Nyhan's complaint raises unique issues. This ruling directs MCI Worldcom Communications, Inc. (MCI) to address those unique issues, particularly the following portion of the second full paragraph of part F.1 of the form complaint:

All attempts to rectify this problem(s) [sic] with MCI have met with demands for funds to be paid in advance or a vigorous effort by MCI to have my friends and family cancel their contract with their current carrier and become part of the MCI family. It was made quite clear that if I wanted to speak with my friends and family they would have to sign a contract with MCI making them (MCI) their primary carrier.

**IT IS RULED** that MCI's answer shall address, with particularity, the portion of part F.1 of the complaint quoted above.

Dated August 11, 2004, at San Francisco, California.

/s/ JEAN VIETH  
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Jean Vieth  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding the Instructions to Answer on all parties of record in this proceeding or their attorneys of record.

Dated August 11, 2004, at San Francisco, California.

/s/ JANET V. ALVIAR  
Janet V. Alviar

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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