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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act	)	CC Docket No. 93-22

MOTION FOR LEAVE TO FILE LATE FILED COMMENTS OF PILGRIM TELEPHONE, INC.

Pilgrim Telephone, Inc. ("Pilgrim"), by and through its attorneys, hereby submits this motion for leave to file late filed comments in the above-captioned rule making proceeding. Pilgrim is an affected party by the issues under consideration as it is an interexchange carrier (IXC) providing interstate telecommunications services.

The grounds for this motion are that certain key individuals whose input was necessary for the review of Pilgrim's comments were available only on a limited basis, thus delaying the finalization of the comments. In addition, as Pilgrim only needed one additional day to file its comments, there should be no prejudice on other parties or the Commission. Pilgrim is delivering a copy of its comments to all commenters in the reconsideration proceeding to ensure that there is no prejudice.

Pilgrim realizes that this docket is proceeding on an expedited basis, but believes that the public interest will benefit from a full record in this proceeding. Pilgrim anticipates filing Reply Comments, and it will incorporate its Comments by reference therein.

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Pilgrim believes that the assertions contained herein constitute good cause for granting its motion. For all of the above reasons, therefore, the undersigned respectfully requests that Pilgrim's motion be granted and that the comments attached hereto be entered in the record.

Dated: October 12, 1994

Respectfully submitted,

PILGRIM TELEPHONE, INC.

Walter Steimel, Jr.
Fish & Richardson
601 13th Street, N.W.
Fifth Floor North
Washington, D.C. 20005
(202) 783-5070

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act	)	CC Docket No. 93-22

COMMENTS OF PILGRIM TELEPHONE, INC.

Pilgrim Telephone, Inc. ("Pilgrim")[1], by and through its attorneys, hereby files its comments before the Federal Communications Commission ("Commission") in response to the Commission's order on reconsideration and further notice of proposed rule making in this proceeding.[2]

I. Introduction

Pilgrim has actively participated in each phase of the Commission's development of the rules, and in proceedings before the Federal Trade Commission. Pilgrim is in full support of the

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[1] As the Commission is aware through Pilgrim's tariff filings and participation in various proceedings, Pilgrim is an interexchange carrier ("IXC") providing 1+, operator assisted, 900, teleconferencing, and other communications services on an interstate basis, and is an interested party which would be impacted by the proposals contained in the proposed rules.

[2] Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, CC Docket No. 93-22, Order on Reconsideration and Further Notice of Proposed Rule Making, FCC 94-200, released August 31, 1994 ("FNPRM"), promulgated pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, Pub. L. 102-556, October 28, 1992 ("TDDRA"), codified at 15 U.S.C. §§ 5711-14, 21-24, and 47 U.S.C. § 228.

Commission's initiative in this proceeding, and the prevention of fraudulent and deceptive practices regarding the use of 800 numbers.

II. Comments on Specific Proposed Changes

A. Interexchange Carrier 800 Access

Network access through carrier 800 numbers is essential to the competitive framework of the interexchange carrier business. Of the more than 850 interexchange carriers, only the largest four or five are capable of building or maintaining ubiquitous 1+ (10XXX) networks. For the remainder, the only available means of assuring access by their customers is through the use of 800 numbers. As 800 numbers must be used for free access to IXC's for completion of calls over the public switched telephone network,[3] it is essential that abusive practices be curbed, while the lifeline connection to IXC's remains unimpaired.

In addition, 800 network access will be essential for connections to the future information superhighway. End users attempting to connect to bulletin boards, Internet hubs and other shared communications or access points will need the unrestricted

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[3] We note that while the access to the IXC's network is free, the IXC can and does charge for call completion and other calling services provided. Carrier's tariffed services must be kept separate from the prohibitions discussed in these rules.

access provided by common carriers. To provide these and other services, common carriers should continue to be permitted to use 800 number access to their networks and to charge for call completion from those access points. The regulations should be carefully crafted to avoid interference with the operations of common carriers, and expressly and separately recognize their non-applicability to common carrier's tariffed service offerings.

B. Revisions to Section 64.1504

Subsection (b) prohibits the connection of a caller to any pay-per-call or information service. In its amended form, Subsection (b) attaches to all information services. The only exception from subsection (b) is in (c), which permits connection to information services levying a separate charge when there is a presubscription or comparable arrangement between the information provider and the party charged. This prohibition was drafted to close certain loopholes in the current regulations, and to be more inclusive in its application than just to pay-per-call services.

Pilgrim seeks clarification of the interpretation and applicability of the Commission's revisions to this section. Pilgrim assumes that the Commission did not intend to prohibit IXC's from permitting an end user to complete long distance calls to providers of information services when network access is provided by 800 numbers. Examples of this include a caller

accessing AT&T through 1-800-CALL-ATT or 1-800-OPERATOR, accessing MCI through 1-800-COLLECT or 1-800-674-7000, accessing Sprint through 1-800-877-8000, or accessing Pilgrim through 1-800-950-4888, when any of these numbers are used to complete long distance calls to an information service such as a local weather or time recording, a movie theater recording, AT&T's Language Line Service, AT&T's Teleconference Services, AT&T's True Message Service, a dial-in modem line for Prodigy or Compuserve, or a dial-in modem line for a free sample of America On-Line.

Although it appears obvious that the Commission does not intend to prevent consumers and carriers from using 800 numbers for access to tariffed common carrier services, this is not explicit under the rules. Pilgrim seeks an interpretation of the application of the rule to this situation.

C. Issuance of Calling Cards by Common Carriers

It is difficult to evaluate the Commission's statement in footnote 41 of the FNPRM. While the footnote appears to address one type of abuse which has taken place under the current system, the footnote itself and the solution it offers is vague, and provides no specific language. While Pilgrim believes that measures are necessary to prevent information providers from abusing the presubscription or comparable arrangement language of the Commission's rules and the Act, any action by the Commission

should be carefully tailored to avoid interfering with the competitive practices of common carriers.

All common carriers are constantly striving to increase their potential customer bases, including the many customers which carry more than one common carrier calling card. As part of this effort, common carriers are working to increase the speed and efficiency with which new customers are added to their customer base and permitted to access their networks. In some instances, these methods entail the prompt issuance of a card to a new customer over the telephone. While this may result in a few customers being added from time to time which may tend to have unworthy credit, however, this is a business risk assumed by each of the common carriers. Instead of attempting to prohibit or control the card issuance practices of common carriers, Pilgrim recommends that the Commission use its tariff regulatory powers to address any problems which may arise.

IV. Conclusion

In conclusion, Pilgrim believes that the purposes of the Commission and the public will be best served by clear and certain rules, achieved through the adoption of rules designed and drafted to explicitly cover the intended practices, and exclude those not intended to be covered. The Commission should also consider the impact of its proposals on competition among

IXC's, and carefully weigh its options in light of the competitive implications.

Pilgrim looks forward to further participation in these proceedings, and to the opportunity to review and respond to the comments of the other parties.

Respectfully submitted,

PILGRIM TELEPHONE, INC.

Walter Steimel, Jr.
Fish & Richardson
601 13th Street, N.W.
Fifth Floor North
Washington, D.C. 20005
(202) 783-5070

Attorneys for
Pilgrim Telephone, Inc.

Dated: October 12, 1994

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CERTIFICATE OF SERVICE

It is hereby certified that copies of the foregoing Motion for Leave to File Late Filed Comments of Pilgrim Telephone, Inc. and Comments of Pilgrim Telephone, Inc. were hand delivered (unless otherwise noted) this 12th day of October, 1994, as follows:

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554 (Original + 4 copies)

Mary Romano
Enforcement Division
Federal Communications Commission
1250 23rd Street, N.W., Room 142
Washington, D.C. 20554 (1 copy)

All Commenters in Reconsideration Proceedings (by First Class Mail)

Walter Steimel, Jr.