

shall make the requested access available at a reasonable cost-based charge agreed to between the parties, or 2) if within sixty (60) days of receipt of a bona fide request, an agreement is not reached between the parties, or the ILEC responds that the request is not technically and/or economically feasible to provide, the matter will be resolved by the Commission upon petition of either party. As part of the Commission's review of the matter, the ILEC shall provide TSLRIC and LRIC studies to the Commission which show the cost of providing the requested access, including a detailed explanation of why the requested access is not technically or economically feasible to provide the requesting TSP.

G. Access shall be available to the following:

1. Direct, on-line access to the ILECs' mechanized order entry system. Access shall be considered adequate when the provided access permits the reseller to access an ILEC's mechanized order entry system to place initial orders, access information concerning service and feature availability, modify orders previously entered, schedule the installation of services and any necessary equipment, and to check on the status of all transactions that the reseller has initiated in a manner at least as efficient as the access provided the ILEC's own employees.
2. On-line access to numbering administration systems and to numbering resources.
3. Direct on-line access to the ILECs' trouble reporting and monitoring systems. Access is considered adequate if reseller can directly access remoteline testing facilities, report service problems, schedule premise visits where required, and check the status of repairs. Arrangement must also provide for interception and automatic forwarding of repair calls placed by reseller customers to the reseller.
4. Customer usage data. Resellers must be provided timely on-line and printed reports pertaining to the Reseller's customers usage of ILEC local calling and switched access services.
5. To local listing databases and updates. Resellers should be able to add, modify and delete directory listings for the Reseller's customers via on-line access to the ILEC's directory database, and new reseller customers' listings should be available from Directory Assistance on precisely the same basis and in the same time frame as applies for new ILEC retail subscribers.

This access shall equal that provided to the ILECs' own personnel. The Commission and its Staff will monitor the progress, or lack thereof, made in this area, and, if deemed necessary after notice and hearing, will impose an additional transitional resale discount on an ILEC's features, functions, capabilities and services until an ILEC's operating systems are accessible by TSPs on the terms specified herein.

H. No TSP shall access the customer proprietary network information ("CPNI") of another interconnecting TSP for the purpose of marketing its services to the interconnecting company's customers. Likewise, no TSP shall access the CPNI of a company reselling its services, without permission of the reseller, for the purpose of marketing services to the reseller's customers.

I. All ILECs shall offer an optional, unbundled version of their retail services that allows the reseller to use its own operator services and directory assistance services.

J. All ILECs shall offer these resold services to the resellers as "unbranded" services.

SECTION 1201. Consumer Protection.

A. All TSPs shall comply with all applicable statutes and Commission rules, regulations, orders and policies regarding customer billing, deposits, provisioning of service and the handling of complaints.

B. The following additional consumer protection rules shall apply to all TSPs:

1. Any solicitation by or on behalf of a TSP to a customer to terminate his/her service with another provider and switch his/her service to a new TSP shall include current rate information of the new provider and all other information regarding the service(s) to be provided including, but not limited to the terms and conditions under which the new provider will provide the service(s). Upon request of a customer, a TSP shall provide the customer information pertaining to the technical differences between the services provided by the customer's former TSP and the new TSP. All information provided shall be legible and printed in a minimum point size of type of at least 10 points. Failure to provide this information to the customer shall result in a fine of \$500 for each violation in addition to any other fine and/or penalties assessed.

2. In order to switch a customer from one TSP to another TSP, the new provider must obtain a signed and dated statement from the customer prior to the switch indicating that he/she is the subscriber of the telephone service for a particular telephone account and number, that he/she has the authority to authorize the switch of service to the new provider and that he/she does authorize the switch. This signed statement must be a separate or severable document whose sole purpose is to authorize the switch of the customer's TSP. The signed statement cannot be contained on the same document as promotional material, a registration to enter a contest or a form to contribute money to a charity.

Among other fines and/or penalties, the TSP making an unauthorized switch shall be subject to a fine not exceeding ten thousand dollars (\$10,000) ~~of \$1,000~~ per unauthorized switch, required to pay the costs of switching that customer back to

the customer's previous provider and required to refund to the customer amounts paid to the provider during the unauthorized service period and extinguish any other amounts due by the consumer and not billed and/or paid. All TSPs are responsible for the actions of their agents that solicit switches in an unauthorized manner and/or result in unauthorized switches.

3. A printed bill must be supplied to each customer at least once a month.
4. All billing for local telecommunications services must be presented for payment to the consumer within sixty (60) days of the date the consumer incurs the charge.
5. The customer's bill shall show the name of the TSP rendering service on behalf of the customer as opposed to the underlying carrier.
6. An address and a toll free telephone number for billing inquiries shall appear on each bill sent to the customer.
7. Interim dispute resolution procedures including interrupt and disconnect of services procedures, detailing how a customer can dispute a charge, lodge a complaint, and/or appeal to the Commission must be filed with the Commission and supplied to the customer upon request. The Commission will remain accessible to hear customer complaints as well as to resolve disputes among carriers regarding a customer complaint or problem. Final dispute resolution procedures are currently being considered by the Commission. When developed and approved, TSPs must comply with these procedures.
8. Customers must be given 30 days notice of any increase in price which is in excess of 5% of the current price.
9. No termination fees will be permitted for residential and single line business basic local services.
10. No TSP can unilaterally and arbitrarily limit the amount of charges a customer can incur on his/her account regardless of whether the charges are for local, long distance or other toll charges unless the customer has a billed, outstanding balance due. Credit limits may be established when service is initiated, before charges are incurred or at any time upon an agreement between the TSP and customer.
11. No TSP may release nonpublic customer information regarding a customer's account or calling record.
12. No TSP may unilaterally place a block on its customer's telephone service when a particular amount of charges have been incurred and the customer has not been presented the opportunity and a reasonable amount of time to pay or make other payment arrangements to pay the charges. For inmate pay phone systems, a

customer's telephone may be blocked from the receipt of calls from an inmate facility only if the TSP has a blocking policy submitted in a tariff format approved by the Commission.

C. TSPs must file the service standard reports delineated in Section 302 in order to insure that consumers receive timely, adequate and quality service.

D. The arrival of competition will not necessarily obviate the need of those whose incomes entitle them to assistance from the Lifeline Fund or similar fund. When appropriations become available for the Lifeline Fund, all TSPs shall be required to participate therein.

E. Violation of any statute or Commission rule, regulation, order or policy applicable to regulated TSPs may result in the imposition of monetary fines, penalties and/ or the revocation of the a providers certificate.

SECTION 1301. Miscellaneous Provisions

A. Application. It is the intent of the Commission that these Regulations shall apply to all TSPs over which the Commission has regulatory authority. To the extent the Commission's regulatory authority over any particular TSP or over certain conduct or services offered or provided by any particular TSP is expressly preempted, then these Regulations shall be interpreted in a manner which recognizes all such preemptions so long as such preemption remains in effect.

B. All provisions of Order No. U-17949-N, dated October 18, 1991, are unaffected by these Regulations and shall remain in effect unless contrary to or inconsistent with the goals and/or provision(s) of these Regulations, in which case the provision(s) of these Regulations shall preempt and supersede all affected provisions of Order No. U-17949-N. However, the Commission hereby rescinds Ordering Paragraph Nos. "10", "11" and "12" of Order No. U-17949-N.

C. Severability. If a court of competent jurisdiction finds any provision of these Regulations to be invalid or unenforceable as to any TSP or circumstance, such finding shall not render that provision invalid or unenforceable as to any other TSPs or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of these Regulations in all other respects shall remain valid and enforceable. In addition, in the event any provision of these Regulations is stayed in connection with a judicial review of these Regulations, the remaining provisions of these Regulations shall remain valid and enforceable.

APPENDIX A

LOUISIANA BASIC SERVICES

Local Basic Service, including calling options.

Basic Local Service
Subscriber Line Charges
Statewide Rate Schedules (flat, measured and message)
Monthly Exchange Rates
Local Measured/Message Rated Service
Expanded Local Calling Area Service
Link-Up Service
Joint User Service (5 or less subscribers)
Local Option Calling Plans (LOS and LOSB)
Local Saver Service
Local Tele Thrift
Party Line Service
Local Exceptions
Public Telephone Service
Semi-Public Access Line

Local Ordering, Installation, and Restoral

Basic Service Connection
Trouble Determination Charges
Dual Service
Link Up

Other Services

Directory Listing
TouchTone
Customized Code Restriction
Blocking Service and Emergency Network Services
Directory Assistance (within local service area)
Local Operator Verification/Interrupt

APPENDIX B

LOUISIANA INTERCONNECTION SERVICES

Interconnection Services

Basic Serving Arrangement
Carrier Common Line Access
Clear Channel Capability
Common Channel Signaling Access Capability
Common Switching Optional Features
Dedicated Network Access Line (DNAL)
Direct Inward Dialing (DID) or DID/Direct with LSBA
DID/Direct Outward Dialing (DOD) Access with LSBSA
DID or DID/DOD with BSA
800 Access Service
Line Side Basic Serving Arrangement (LSBSA)
Local Switching
Local Transport
Network Blocking Charge for Feature Group D
Network Access Register Package
Trunk Side Access Facility
Trunk Side BSA
900 Access Service
Analog Services
Dedicated Access Lines for TSPs
Custom Network Service
Digital Data Service
High Capacity Service
Metallic Service
Voice Grade Analog Service
Customer Owned Coin Operator Telephone (COCOT) Services Access Line
Interconnection for Mobile Service Providers (includes cellular mobile)

APPENDIX C

ILEC MONITORING REPORT

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on June 19, 1996

COMMISSIONERS PRESENT:
John F. O'Mara, Chairman
Eugene W. Zeltmann
Harold A. Jerry, Jr.
William D. Cotter
Thomas J. Dunleavy

GOVERNMENT AFFAIRS
EAST RIVER OFFICE - NEW YORK
TELEPHONE 773
DATE RECEIVED 6/27/96

- CASE 94-C-0095 - Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market.
- CASE 95-C-0657 - Joint Complaint of AT&T Communications of New York, Inc., MCI Telecommunications Corporation, WorldCom, Inc. d/b/a LDDS WorldCom and the Empire Association of Long Distance Telephone Company Concerning Wholesale Provisioning of Local Exchange Service by New York Telephone Company and Sections of the New York Telephone's Tariff No. 900.
- CASE 91-C-1174 - Proceeding on Motion of the Commission Regarding Comparably Efficient Interconnection Arrangements for Residential and Business Links.
- CASE 93-C-0103 - Petition of Rochester Telephone Corp. for Approval of Proposed Restructuring Plan.

ORDER DECLARING RESALE PROHIBITIONS VOID AND
ESTABLISHING TARIFF TERMS

(Issued and Effective June 25, 1996)

BY THE COMMISSION:

By this order we are declaring void prohibitions of the resale of telephone services contained in all tariffs filed by

resale and link and port rates.¹ We expect to consider temporary rates in July 1996 and permanent wholesale rates in October 1996. This order concerns non-price tariff and operational issues, including proposed modifications to customer service rules to reflect the development of local exchange service competition.

The parties report the successful resolution of numerous New York Telephone resale tariff terms and conditions and operational issues through a commendable process of collaboration. The collaborative phase of these proceedings will be continued to allow parties to address their remaining concerns, including specific requests for the provision of unbundled network elements.

BACKGROUND

This proceeding was instituted on November 1, 1995 to establish a wholesale discount rate for local telephone services for resale. Parties were urged to negotiate a settlement of a temporary wholesale rate, and New York Telephone was ordered to file a tariff lifting the current restriction on resale of residential service by January 2, 1996, to commence offering service for resale by February, 1996. Permanent rates for both resale and for "wholesale" links and ports would be determined following full litigation of costs. All other local exchange companies were ordered to file tariffs removing restrictions on resale of residential service or show cause why such action should not be required.

On February 1, 1996 we broadened the scope of these proceedings to encompass the non-price tariff terms and conditions and the systems and processes needed to deliver resale, as well as to ensure that a temporary "wholesale" price

¹ Cases 94-C-0095 et al., Order Mandating Hearing (issued May 24, 1996).

for links and ports was set expeditiously;¹ and we extended the time for New York Telephone to file its tariff to July 1, 1996 (to become effective October 1, 1996)

Participating in the consensus process are: New York Telephone, AT&T Communications of New York, Inc. (AT&T), MCI Telecommunications Corporation (MCI), U. S. Sprint Communications Company (Sprint), Frontier International, Time Warner Communications Holdings, Inc. (Time Warner), LDDS/WorldCom, Empire/Altel, ALLTEL, New York State Telephone Association (NYSTA), ACC National, Cablevision Lightpath, Inc., Citizens Telecom, Hancock Telephone Company, Hyperion Telecommunication, JSI Corporation, New York Clearing House Association (NYCHA), LCI International Telecom Corp., MFS Communications Company, Inc. (MFS), Margaretville Telephone Company, Taconic Telephone Corporation, TCI-Northeast Region New York State Office of General Services, New York State Education Department, North American Communications Central, Ogden Telephone Company, Pattersonville Telephone Company, TDS Telecom, Teleport Communications Group, The Cable Television and Telecommunications Association of New York, Inc., The New York Intrastate Access Settlement Pool, M.S. Network Corporation, the New York State Consumer Protection Board (CPB), and the Public Utility Law Project (PULP). Department staff participated in an advisory role. Working groups were formed to address New York Telephone non-rate tariff terms and conditions, and operational issues. The operations group has reached consensus on many of the systems needed to provide for seamless service and no operational issues have been submitted for determination. The tariff group also reached consensus on many tariff terms and conditions; contested issues will be decided here.

¹ Cases 94-C-0095 et al., Order Considering Loop Resale (issued February 1, 1996).

Impact of the Act

Act requirements relevant to this proceeding include the incumbent local exchange carriers' procedural duty to negotiate in good faith the particular terms and conditions of agreements allowing competitors access to local network building blocks, or network elements, and agreements providing for the resale of telecommunications services. The incumbent carriers' substantive duties include lifting the prohibitions on resale of services currently found in many of their tariffs, and providing network elements for requesting telecommunications carriers in a manner which allows the requesting carrier to combine such elements to provide telecommunications service. The Act's distinction between the basis for the price for bundled resale and the price for network elements will be addressed when we consider recommendations concerning wholesale and link rates.

The Act contemplates incumbent local telephone companies facing three possible different forms of competition: facilities-based competitors that interconnect with the incumbent network by buying access but have their own lines to end users; partial facilities-based competitors that may own their switches but buy the incumbent's links to the end users; and service resellers, that compete by buying the incumbent's bundled service, re-branding it, packaging it as they see fit, and selling it to end users as their own. Several enterprises are pursuing more than one strategy at a time, and others intend to use resale to enter the market and test it before committing the capital to put in their own facilities.

NEW YORK TELEPHONE TARIFF TERMS AND CONDITIONS

The tariff group drafted an 'illustrative' tariff that incorporates by reference existing New York Telephone tariffs for retail services. The illustrative tariff for resale of services refers to the underlying retail tariffs as 'primary' tariffs. Parties report that this illustrative tariff reflects consensus language where agreement was reached and alternative provisions reflecting competing views where consensus could not be attained.

The agreed-upon sections will be incorporated in the tariff filed by New York Telephone on July 1, 1996. Contested issues are resolved by this order.

General Tariff Structure

The fundamental issue concerns whether this tariff should be a total service, or bundled, resale tariff or what parties termed a 'wholesale' tariff

A total service resale tariff's provisions would treat new entrants as end-use customers who qualify to purchase retail services at a discount. Services provided to new entrants would be identical to those the incumbent carrier provides to its end users except for price; new entrants would 'rebrand' and, if they choose, repackage those services for their customers. Under a total service resale regime the incumbent would have no obligation to customize its retail services to meet the specifications of a new entrant. It need not offer for resale any service, feature, or function that it does not already provide to its own end users. Significantly, a resale tariff would not offer to unbundle services beyond the level offered to the incumbent's own retail customers. Further, a new entrant may not reconfigure services purchased under total service resale, but must provide services to its customers in essentially the same form that incumbents provide those services to their end users. Presumably, also, any services offered at retail on a stand-alone basis would be offered for resale on that basis.

In contrast, what parties termed a wholesale tariff would allow new entrants to determine how they would use services purchased for resale. New entrants would be free to reconfigure resold services, perhaps using them in ways unrelated to the manner in which local exchange companies provide them to their own end users. A wholesale tariff would also provide combinations of unbundled services or elements for resale not available in the incumbents' retail tariffs. For example, a wholesale tariff might provide, as requested by AT&T and MCI, local exchange access service without operator service. This

would permit a new entrant to use its own operators, or contract with a competitive supplier of operator services, rather than take them from New York Telephone. A wholesale tariff would also contain features and services absent from the incumbent local exchange carrier's retail tariffs but needed by new entrants to utilize and resell unbundled services.² New entrants could obtain from the local exchange company customized versions of the local exchange carrier's retail offerings.

New York Telephone and other facilities-based carriers argue that both the orders in these proceedings and the Act mandate a total service resale tariff. Parties seeking to resell services dispute this interpretation, insisting that the Commission should respond to the changed circumstances caused by the Act's passage by requiring New York Telephone to file a "wholesale" tariff. In their view, this will further the Commission's and the Act's objective of a robust resale market in local exchange services.

New York Telephone will be directed to file a total service (i.e. bundled) resale tariff on July 1, 1996 as intended by our November 1995 and February 1996 orders. A total service resale tariff is an adequate first step to resale of New York Telephone local exchange services, and we are persuaded that requiring the formulation of a more complex, flexible tariff could jeopardize October 1, 1996 resale.

However, we recognize there are certain limitations to a total service resale tariff. A key limitation is the lack of flexibility to further unbundle services from the resale package. However, there has been substantial progress in the collaborative process on specific unbundling requests. Filing a total service resale tariff should not hamper New York Telephone in meeting further unbundling requests. A second limitation is the relatively narrow scope for telecommunications carriers to

² For example, where local exchange service is resold without operator service, resellers would need unique routing to have calls transmitted to their own operators.

Telephone also has committed to continue working on the remaining four items, bringing them to closure either by filing tariffs to provide the services or demonstrating that provision is infeasible.

To resolve these and any other outstanding issues that are neither being litigated nor disposed of in this order, the parties are directed to continue collaboration on the list of requested unbundled elements. However, to avoid delay in the commencement of effective resale competition, New York Telephone is directed to file tariffs to provide these unbundled services or elements, with the exception of unbundled switching, no later than August 1, 1996, to be effective October 1, 1996.¹

We note that multiple avenues in addition to these proceedings exist for any entrant to pursue further unbundling of network elements. The Open Network Architecture task force will address requests for additional unbundling. Moreover, the Act directs New York Telephone to negotiate with parties requesting interconnection agreements. These requests may come to us for mediation or arbitration; in any event they will come to us for approval. Accordingly, it is premature to limit the future scope of these proceedings.

New York Telephone's Proposed Exclusions From Resale

New York Telephone proposes to exclude grandfathered, promotional, and public coin telephone services from resale. New entrants oppose these exclusions.

1. Grandfathered Services

Grandfathered services are those available only to existing customers of the service; they are not available to the

¹ All parties have agreed that one item on the list, unbundling of switch capacity, would require significant effort and time to explore, and more to bring to fruition. This issue may be considered in the upcoming phase of Case 28425, which will address, in general terms, the costing and pricing of switch-related functions.

general body of customers. Generally these services are technically or economically obsolete and are terminated altogether if and when existing customers migrate to a substitute service or otherwise discontinue subscription to the grandfathered service.

New York Telephone contends that resale will interfere with accurate record-keeping of grandfathered customers. In reply, new entrants contend any operational record-keeping difficulties can be overcome, and that exclusion of these services would prohibit their entry into large and important markets. New entrants are particularly concerned about services that may be grandfathered in the future. If grandfathered services are excluded from resale they foresee the possibility that crucial services or service categories could be grandfathered, removing them from resale competition. New York Telephone responds to this point by arguing that Commission approval is required when a service is grandfathered. Exclusion of these services appears neither necessary from an operational standpoint nor desirable from a competitive standpoint, provided resale is restricted to existing customers of a given grandfathered service. New York Telephone is directed to remove this proposed exclusion from its resale tariff.

2. Promotional Offerings

New York Telephone contends that promotional offerings should be excluded from resale. It points out that a competitor would be free to counter a New York Telephone promotion with its own offering (or to choose not to) based on its own business calculations and decisions. New York Telephone argues that requiring resale of promotional offerings would unfairly advantage its competitors; by simply passing on to their customers the New York Telephone promotion, new entrants would be able to nullify New York Telephone's efforts at no cost to themselves.

In opposition, new entrants point out that promotional offerings are available to them in interstate markets. They

argue that excluding promotional offerings from resale would violate the Act's provisions making terms and conditions offered to end users available to new entrants.

New York Telephone and its competitors will offer promotions when the benefits--future revenues--are judged to outweigh the revenues foregone due to the promotion. If viewed solely from the perspective of ensuring resale competition, requiring New York Telephone to flow through promotions could be justified. However, competitors need not rely on New York Telephone's promotions or other marketing strategies to avail themselves of resale. Consumers have benefitted substantially from unfettered promotional activity in the toll and cellular markets; regulators have not attempted to adjudicate such matters beyond assuring non-discriminatory terms and conditions. It appears unnecessary to become more deeply involved in this aspect of New York Telephone's business decisions. Accordingly, New York Telephone will be permitted to exclude promotional offerings. However, if New York Telephone offers promotions which appear intended primarily to frustrate competition or, in combination with other actions, promotions are judged to have that effect, we will consider imposing constraints on New York Telephone's promotional activities.

3. Public Coin Telephone Service

New York Telephone proposes to exclude public coin service from resale on the grounds that the Commission's orders mandate resale only of residential and business access and related services, and that resale of retail coin service itself is not necessary for the further development of competition in payphone services. It argues that current offerings of public access lines and related wholesale products used by competing payphone providers have resulted in a competitive market for these services. It believes no argument has been made that resale of retail coin service itself is necessary or desirable from a competitive standpoint. New entrants express, generally, a preference for the option of reselling New York Telephone's

public coin telephone service and their belief that it should not be excluded from New York Telephone's resale tariff. However, they have not refuted New York Telephone's arguments. New York Telephone will be allowed to exclude this service from the July 1, 1996 resale tariff filing

Other Contested New York Telephone Tariff Issues

1. Provisions in Retail Tariffs

The proposed resale tariff would make available to new entrants New York Telephone's tariffed retail services. New entrants raise concerns that the retail tariffs themselves contain provisions or restrictions (as yet largely unspecified) unreasonable when applied to competitive new entrants. They did identify several instances of restrictions that, on their face, appear troubling in their impact on resale. They would like New York Telephone to identify any such restrictions in its current retail tariffs so their potential impact on resale can be evaluated. New York Telephone counters that it is the new entrants' responsibility to identify any provisions they find unreasonable and, where necessary, bring those to us for determination. We urge parties to collaborate further on this issue, and to identify jointly, where possible, potentially restrictive provisions in New York Telephone retail tariffs, and bring them to our attention before the tariff becomes effective on October 1, 1996.

2. Class-of-Customer Restrictions

New York Telephone proposes that all class-of-customer restrictions in its retail tariffs apply to resale. Under this proposal, new entrants would be prohibited from offering any class-restricted service to customers outside the specified class. New entrants object to this blanket proposal as too broad. They argue that some class-of-customer restrictions may be unnecessary or counterproductive in a resale environment. However, there has not yet been a proposal to exclude a specific

restriction from the resale tariff.¹ New entrants propose that New York Telephone specifically identify those class of customer restrictions it believes should apply.

We have an interest in maintaining any class-of-customer restriction that serves sound public interest objectives, and the soundness of that policy is affirmed in the Act, which recognizes state commissions' prohibitions of resale of a service available only to a category of subscribers to subscribers not in that category.² New York Telephone is directed to produce a list of customer class restrictions in its retail tariffs, to be filed with the July 1, 1996 resale tariff. This will facilitate examination of customer class restrictions by new entrants who may, in the tariff review process, adduce arguments for excluding any particular restriction from the resale tariff.

3. Billing Information

Several new entrants have requested that New York Telephone provide them with call detail information for calls originated by new entrants' flat rate and measured rate customers. This would include such information as call duration (measured to the nearest second) and call time of day. New entrants argue that without this information their ability to rate their services and bill their customers differently from New York Telephone would be severely constrained. They contend that New York Telephone's switches capture such call detail information and that there is no technical impediment to supplying it to new entrants. New York Telephone does not dispute that it has such information available or that it is technically feasible to provide it to new entrants. Rather, it

¹ AT&T argued that resellers should be free to resell business services to residential customers. New York Telephone does not object provided the residential customer is served by a business line and purchases business features.

² 47 U.S.C. §251(c)(4)(B).

argues that since it neither provides such data to its end users nor makes use of it in billing those users, it should be under no obligation to provide it to new entrants.

New York Telephone asserts that a service or feature not supplied by the incumbent carrier (or utilized in the provision of service) to its customers need not be provided to new entrants. This issue, however involves available information that supports effective resale by new entrants. Denial of this information to new entrants could unnecessarily inhibit their ability to differentiate their services (in this instance on a pricing and billing basis) from New York Telephone's offerings. New York Telephone will be required to provide such information at tariffed rates set to recover the costs it incurs.

Uncontested Tariff Issues

Parties have resolved collaboratively several tariff issues. These resolutions should be reflected in the tariff language.

With respect to casual calling, service providers have raised concerns about being able to track and bill for toll calls placed by end users dialing 10XXX. This dialing sequence enables access to a toll carrier other than the customer's presubscribed carrier. New entrants have identified this as a significant source of fraud. The parties have agreed that new entrants must make the billing name and address (BNA) available to all telecommunications carriers to allow them to trace and bill the caller.

With respect to PIC choice, our policies are designed to insure that local service providers allow customers open access to all carriers for their interLATA and intraLATA toll calling; customers designate a carrier of choice at the time of application. This requirement will extend to new local exchange carriers. New York Telephone proposes a requirement that all requests to freeze or change carrier choice for interLATA or intraLATA toll service on a resold line come from the new carrier

rather than from the customer. No party has objected and this appears reasonable.

GENERIC RESALE TARIFF ISSUES

Resale Restrictions In Local Exchange Company Tariffs

The November 1, 1995 order instituting this proceeding required all local exchange companies to file tariffs removing restrictions on the resale of residential services, or show cause why they should not be so directed, by July 1, 1996, six months after New York Telephone's original tariff filing date. The February 1, 1996 order extending New York Telephone's filing date to July 1, 1996, was silent as to the other companies. During the collaborative process NYSTA, on behalf of all local exchange companies other than New York Telephone and Rochester, requested that they be granted until January 1, 1997 (six months after New York Telephone) to file the required tariff provisions. This request was discussed at two plenary sessions and no objections were voiced. Parties noted, however, that the Act requires all incumbent local exchange carriers to negotiate any bona fide request for interconnection. The filing date for all companies other than New York Telephone and Rochester will be extended to January 1, 1997, unless a local exchange company receives a bona fide request for the resale of its services prior to that date.

Further, notwithstanding this agreement, to comport with the Act we are now declaring void all local exchange company tariff prohibitions on the resale of telephone services, except as retained in this order.

Credit, Collections, and Fraud

Part 633 of our regulations governs the provision of local telephone service to residential customers in several respects including the denial of service and deposits.¹ These regulations and related policies were developed to protect consumers in a monopoly local exchange market. Parties have

¹ 16 NYCRR Part 633.

expressed concern that, in a multi-provider environment, these regulations and policies restrict a service provider's ability to prevent fraud and efficiently collect for services provided. There may also be a competitive equity problem if customers unlikely to pay their bills migrate to new entrants.

Absent changes to our rules, competition may indeed bring new opportunities for fraud. Moreover, certainly at the outset, there are issues of competitive equity which need to be addressed, as the incumbents have substantial information about customer payment histories that may provide them with a competitive advantage. Modifications to the rules should be considered to address three new situations created by the multi-provider environment: applicants for service who owe a different carrier money from a previous account; applicants who are currently customers of another company, but are not current in paying their bills; and applicants who apply for service at an address where there are unpaid charges from a previous account in another name.¹ A notice of proposed rulemaking will be issued.

1. Procedural Issues

A working group of staff, carriers and consumer groups was formed to address these concerns. The group met several times and submitted written comments identifying the issues which need to be resolved for October resale, but PULP objected to considering these issues in these proceedings. PULP believes changes to Part 633 are outside the scope of the resale proceedings as outlined in the Commission's orders. PULP believes that these issues are more properly addressed in the context of a petition for reconsideration of the Commission's decision in Module III of the Competition II proceeding, which determined no changes to Part 633 were necessary.

¹ Companies argue that customers who change the name of the person on the phone bill when the previous customer of record still resides at the premise in order to avoid charges are a significant source of fraud.

Given that the carriers have identified changes to Part 633 which they now believe are necessary, and that the consumer groups have joined in these discussions, there is no reason to defer them to another forum. Based on the working group's discussions and its own analysis, staff developed a proposal which includes (1) proposed amendments to Part 633, (2) changes to existing Commission policies with respect to advance payments, and (3) the resolution of issues related to sharing customer information and the establishment of conditions for an independently operated database for the exchange of limited information. Additional credit and collections-related issues have arisen in these proceedings which may merit further revisions to Part 633 in light of the competitive direction of the local exchange market. The changes now proposed by parties may facilitate residential resale but other necessary changes should not be delayed.

2. Conditions for Service, Advance Payments & Deposit Requests

Part 633 allows a company to deny local exchange service to an applicant only if the applicant owes that company money from a previous account in the customer's name and does not pay or make arrangements to pay the amount owed. Carriers cannot consider any other elements of a customer's credit history when making determinations about eligibility for service. There are similar restrictions on deposits. The rules allow a company to request a deposit only from an existing customer who is delinquent¹ or has been terminated for non-payment in the past six months. Requesting a deposit from a new customer is prohibited.

Staff proposes to modify Part 633 in accordance with the general principle that the information and tools the

¹ Customers are delinquent if they accumulate two consecutive months of arrears and do not pay one-half of the total arrears prior to the due date of the second bill. The deposit must be requested within two months of the second bill.

incumbent uses to determine eligibility for service should be available to all local exchange companies with reasonable protections of customer privacy. Accordingly, staff recommends revising Part 633 to allow a local exchange company to consider an applicant's payment status with any other local exchange company when making the determinations allowed under Part 633. These changes do not affect the terms of the billing and collections settlement, approved in 1992, prohibiting denial or disconnection of basic local service for nonpayment of toll or other charges.¹

The existing limits on the credit-related criteria which carriers may use to determine eligibility for local phone service were developed both to meet universal service goals and limit restrictive and discriminatory customer practices. The advent of competition largely alleviates concerns about overly burdensome customer service practices, as carriers have a competitive interest in making the applications process fast and easy. Concerns about universal access to local phone service, however, remain even in a competitive environment. While our policy goal is to maximize the number of New Yorkers with access to local phone service, a carrier's competitive interest is in limiting its late and uncollected bills, through credit criteria. The proposed revisions to Part 633 will allow carriers to consider a customer's local service payment record with other carriers. This policy is appropriate in light of expected competition and balances the competing interests not by expanding the number of people who can be denied phone service, but by limiting opportunities for customers to switch carriers in order to avoid paying charges or deposits.

The actions a company can take to address a customer's payment status for local service must also be addressed. Carriers have suggested a broad range of remedies that should be available. Some suggest that a new carrier be allowed to

¹ Case 90-C-1148, Billing and Collection Services, Order Approving Settlement Agreement (issued August 7, 1992).

condition service on payment of any unpaid bills due any other carrier. However, such a requirement is not necessary to meet carriers' needs in a competitive market. The existence of unpaid or delinquent bills from a previous or existing account with another carrier may be an indication that the customer may not pay future bills. It is appropriate, then, to allow the new carrier to require some security against that possible outcome. Parties discussed three possible vehicles for that security: usage caps, advance payments, and deposits.

A toll and non-basic local usage cap is perhaps the most valuable tool to protect carriers from fraud and high uncollected bills. The carriers view caps as essential, as most of their exposure is in the toll and other usage areas. Toll caps are used today by some carriers; expanded use of these caps will guarantee access to local service, even for customers with poor payment histories, and bring those customers the benefits of choice among providers. An active competitive market will result in different carriers using different cap policies which will result in greater access to toll and other non-basic services for customers currently blocked from those services today because of past payment problems. However, carriers must clearly state their policies with respect to such caps in their tariffs.

In addition to these caps other security may also be appropriate. Staff recommends that a company also be allowed to require either an advance payment or deposit, but not both, if the applicant owes another local service provider money for local service from a previous account, or is delinquent or could be terminated for non-payment by the current carrier. Carriers expressed preferences for various remedies. Providing an array of options from which a company can develop its own credit and collections practices will result in robust competition in this area. As a result, customers will be able to find a company whose policies best meet their needs.

Proposed revisions to the rules would allow a carrier to request either an advance payment or a deposit from applicants owing other carriers. FULP and NYSTA, however, question the