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CITIZENS communications

June 19, 1997

RECEIVED
JUN 19 1997
Federal Communications Commission
Office of Secretary

William F. Caton, Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Dear Mr. Caton:

Enclosed for filing is an original and four copies of the reply comments of Citizens Communications in RM-9085, CCB/CPD 97-19. Also enclosed is a receipt copy.

Please date stamp the enclosed receipt copy and return it to the messenger delivering these materials.

Thank you for your attention to this matter.

Sincerely,

John B. Adams

John B. Adams
Senior Attorney

CC: Chief, Competitive Pricing Division
ITS

Enclosure

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

RECEIVED

JUN 19 1997

Federal Communications Commission
Office of Secretary

In the Matter of	)	
	)	
Policies and Rules Pertaining to	)	RM-9085
Local Exchange Carrier	)	
"Freezes" on Consumer Choices of	)	CCB/CPD 97-19
Presubscribed Local Exchange or	)	
Interexchange Carriers	)	

REPLY COMMENTS OF CITIZENS COMMUNICATIONS

Citizens Utilities Company, on behalf of itself and its telecommunications subsidiaries (collectively, Citizens), by its attorney, hereby submits its reply comments in response to the Commission's public notice (DA 97-942) released May 5, 1997 that established a pleading cycle with respect to the Petition for Rulemaking filed by MCI Telecommunications Corporation (MCI) on March 18, 1997 in RM-9085, CCB/CPD 97-19 (MCI Petition or Petition) and shows as follows:

I. NEED FOR A RULEMAKING

As several of the commenters have ably pointed out, there is a pressing need for a means of protecting consumers from unauthorized changes in their presubscribed carriers, a practice known as slamming. Indeed, the Commission itself has endorsed PIC freezes as a means of combating slamming. It has also been demonstrated that there is a significant incentive for local exchange carriers (LECs) to use PIC freezes in anti-competitive ways that thwart the development of competition in services in which the LEC is competing or plans to compete by itself or through an

affiliate.[1] Accordingly, there is a need for a rulemaking in which the Commission can look closely at PIC freeze practices and devise appropriate, competitively-neutral rules. Such rules should limit the ability of LECs to use PIC freezes anticompetitively, while permitting customers to freely change carriers.

Citizens does not believe, however, that a broad Section 258 rulemaking, that would include the issue of PIC freezes, is necessary. The commenters advocating such a course of action have not shown that reopening the PIC change verification rules is necessary for the Commission to craft rules addressing the use of PIC freeze solicitations by LECs.

Section 258 requires a) carriers to comply with the Commission's PIC change verification procedures; and b) carriers who have violated those procedures to remit to the customer's preferred carrier any charges collected from the customer.[2] Because PIC change procedures have already been put in place by the Commission, Section 258 requires no Commission action other than to set remittance procedures pursuant to Section 258(b). These remittance procedures do not directly impact PIC change procedures or PIC freeze procedures. Thus, the Commission should initiate a broad Section 258 rulemaking proceeding only if it intends to modify the PIC change rules. Any rulemaking to modify the PIC change rules should, however, include the issue of PIC freezes because of the efficacy of PIC freezes in preventing slamming.

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1 *See, e.g.*, Citizens at 2-3.

2 47 U.S.C. § 258.

II. SPECIFIC PROPOSALS

As Citizens advocated in its comments,[3] a number of commenters suggest that the Commission should set specific rules governing the "solicitation of PIC freezes." Citizens addresses below several of the proposals for such specific rules.

Information Disclosure to Customers

Citizens and a number of other commenters[4] agree that the best method to ensure that PIC freezes are not used anticompetitively is to ensure that customers are fully informed about PIC freezes, especially what they do, and what is necessary to change carriers once a PIC freeze is in place. Citizens and other commenters agree that LECs should offer PIC freezes without regard to whether the customer is freezing his or her selection of a carrier affiliated with the LEC,[5] and that a LEC should not engage in "win-back" marketing efforts when a customer contacts the LEC to freeze his or her selection of a competing carrier.[6]

Specifically, Citizens proposes that the Commission require that the PIC freeze solicitation document or script fully and clearly state:

> 1) Freezes are offered to customers to prevent unauthorized changes of customers' presubscribed carriers;
>
> 1) There is no charge for a PIC freeze;
>
> 2) A separate freeze is required for each service frozen, e.g. interexchange, intraLATA toll, and exchange;
>
> 3) Freezes remain in effect until removed by the customer;

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3 Citizens at 6.

4 *See, e.g.*, Sprint at 5; Ameritech at 9-10; Worldcom at 2-3; and CompTel at 7.

5 *See, e.g.*, Sprint at 11.

6 *See, e.g., id.* at 9-10; GTE at 4.

4) What actions by the customer are necessary to initiate and to remove freezes; and

5) All carrier selections that are frozen can not be changed until the customer first removes the freeze, even if the customer takes action sufficient to effect a PIC change in the absence of a freeze, i.e., signs an LOA or completes third party verification.

Further, the PIC freeze solicitation document or script should not include any suggestion of whether the customer should or should not initiate a freeze or which carrier selections should be frozen.

Customer Choice of PICs to be Frozen

Moreover, it is vitally important to the creation of competition that a customer be able to choose which carrier selections that he or she will freeze. Thus, the Commission should require LECs to freeze customers' selections of carriers individually, i.e., interexchange, intraLATA, and local. Citizens believes that it will be detrimental to competition to permit, as Ameritech advocates, LECs to require all customer selections of carriers to be frozen or unfrozen, even if the LEC fully discloses this fact to the customer.[7] In the interest of customer choice, the customer should be able choose to freeze whichever carrier selections he or she wishes. Under Ameritech's scenario, customers who wish to freeze their selection of an interexchange carrier would also be required to freeze Ameritech as their provider of intraLATA service. This will make it much more difficult for a customer to select a carrier other than Ameritech when intraLATA dialing parity becomes available in Ameritech's service areas. Such locking in of customers before the advent of competition for a particular service should not be permitted.

[7] Ameritech at 14.

On the other hand, Citizens disagrees with CompTel that the Commission should issue a declaratory ruling stating that freezes of local and intraLATA carriers are per se unreasonable.[8] While Citizens agrees that it is unreasonable to freeze PICs for services that are not yet competitive, the August 8, 1997 deadline for LECs that provide long distance service in their service areas to implement intraLATA dialing parity is fast approaching. Accordingly, a more general statement that PIC freezes are unreasonable for services that are not yet competitive would be more appropriate. Even so, a declaratory ruling is unnecessary. The Commission could make such a ruling in a complaint or enforcement proceeding.

Methods for Freezing/Unfreezing PICs

Citizens disagrees with those commenters who suggest that three-way conference calls are an appropriate method for unfreezing a customer's carrier selection in order to change the carrier.[9] While Citizens admits that this makes changing carriers easy for the customer and the carriers involved, it also leaves open the possibility for fraud because verifying the customer's identity is difficult.[10] Citizens believes, however, that procedures such as those employed by GTE and SWBT can effectively limit fraud, while still being easy to use.[11] For example, GTE accepts three-way calls, but then sends to the customer at his or her billing address a form letter that the customer must sign and return before the PIC unfreeze becomes effective.[12]

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8 CompTel 8.

9 *See, e.g.*, BellSouth at 2-3.

10 Citizens at 10; GTE at 5; SWBT at 7-8. SWBT, PacBell, and Nevada Bell filed consolidated comments. Citizens refers to these comments as those of SWBT.

11 GTE at 4-5; SWBT at 7-8.

12 GTE at 4-5.

In its comments, Citizens argued against the use of three-way calls and still believes that, under certain circumstances, three-way calls violate the Commission's PIC change rules.[13] The violation would occur when during a three-way call a LEC not only accepts the customer's order to unfreeze his or her PIC, but also acts as third-party verifier for the PIC change itself. To the extent that the LEC acts as a third-party verifier for its affiliated long distance carrier, the affiliated carrier has violated the Commission's PIC change rules because the LEC is not independent. This fact will become increasingly important as more LECs begin providing interexchange service.[14]

If the Commission requires LECs to accept oral authorization from the customer to freeze or unfreeze his or her PIC, the Commission should adopt safeguards to prevent fraud. Citizens believes that requiring such oral authorization to be made during a telephone call initiated by the customer from the phone number to be frozen or unfrozen provides an appropriate means for verifying the identity of the customer. Specifically, this will allow the LEC to use ANI to verify that the call is in fact being placed from the number for which the PIC is to be frozen or unfrozen.[15]

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[13] 47 C.F.R. § 64.1100.

[14] This would be an appropriate issue for a broad Section 258 rulemaking proceeding, should the Commission elect to initiate such a proceeding.

[15] Citizens at 11-12.

Lists of Customers Having PIC Freezes

Several commenters agree with Citizens that providing to IXCs lists of customers having PIC freezes should not be permitted.[16] The information contained in such lists is CPNI and may not be disclosed in the manner requested by MCI.[17] Further, to the extent that the Commission permits or requires LECs to produce such lists, it should prohibit their use for marketing purposes, as it has with BNA lists.

Respectfully Submitted,

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June 19, 1997

16 USTA at 3; SWBT at 14-15; GTE at 8; SNET at 8; Ameritech at 18-19.

17 *See* 47 U.S.C. § 222.

Certificate of Service

I, John B. Adams, Senior Attorney for Citizens Utilities Company, certify that a copy of the foregoing "Reply Comments of Citizens Communications" has been served upon the following parties by first class mail this 19th day of June, 1997.

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