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Public Service Commission

September 11, 1997

BY AIRBORNE EXPRESS

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

Re: CC Docket No. 94-129 - Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996.

Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers.

Dear Mr. Caton:

Enclosed are an original plus 12 copies of the Florida Public Service Commission's Comments to be filed in the above docket. Please date-stamp one copy and return it in the enclosed, self-addressed stamped envelope.

Sincerely,

Cynthia B. Miller
Senior Attorney

CBM:jmb
Enclosure
cc: Brad Ramsay
International Transcription Service
Cathy Seidel, Common Carrier Bureau (plus diskette)
Formal Complaints Branch, Enforcement Division

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the matter of:

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996

CC Docket No. 94-129

Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

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COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

The Florida Public Service Commission (FPSC), through its undersigned attorney, hereby files its comments in the above-captioned request for comments, released July 15, 1997. In light of complaints of unauthorized changes of consumers' long distance carriers received by this agency, the FPSC strongly supports the FCC's review of the rules applicable to the improper changes known as "slamming." Justified slamming complaints received by the FPSC have increased from 195 complaints in 1992, 636 complaints in 1993, 679 complaints in 1994, 1,613 complaints in 1995, to 2,393 complaints in 1996. Slamming is the number one telecommunications complaint received by the FPSC. Thus, we believe some remedial FCC action is warranted. Our staff is also exploring possible changes to our slamming rules.

LOCAL SERVICE SLAMMING

The FCC seeks comments on extending the applicability of slamming restrictions to local service. During the first seven months of 1997, 27 complaints concerning local service slamming were received by the FPSC's Division of Consumer Affairs. Recognizing that local slamming is occurring and will likely increase, we believe it may be appropriate for the FCC to consider extending consumer protection measures to the local market. While the FPSC has received only 27 unauthorized local switching complaints in the first six months of 1997, 12 years ago only 66 unauthorized interexchange carrier switching complaints were received for all of 1985. Thus, it does appear that the FCC should consider preventative steps to address the potential for local slamming because it, like long distance slamming, will probably increase without adequate safeguards.

VIABILITY OF "WELCOME PACKAGE" VERIFICATION OPTION

The fourth confirmation method provided in Section 64.1100 requires IXCs to send an information package or welcome package with a prepaid postcard. The FCC notes that in the past the National Association of Attorneys General proposed that the FCC revise the negative-option aspect of the "welcome package" by eliminating the automatic switching of consumers who do not return a postcard to the IXC within a 14-day period. The FPSC has also

received consumer complaints about this negative-option postcard. Consumers have complained to the FPSC that they never received the "welcome package," or they thought it was junk mail and threw it away, or that they returned the negative-option postcard but were still switched. Therefore we agree that the FCC revisit Section 64.1100(d) which allows "welcome package" verification with a negative-option postcard.

LIABILITY

The FCC Notice raises issues relative to the liability of subscribers to carriers and liability of carriers to subscribers. While Section 258 of the Telecommunications Act of 1996 provides that unauthorized carriers are liable to the customer's previously selected carrier for charges collected, it does not expressly require the customer to pay such charges. Many consumers who complained to the FPSC stated that they did not believe that they should have to pay for a service they did not order. Others stated that they were willing to pay the charges to their preferred carrier but not to the carrier that slammed them. Thus, we agree that the FCC consider changes in this area.

VERIFICATION OF IN-BOUND CALLS

In 1996 the FPSC received 78 slamming complaints stemming from calls placed to carrier sales or marketing centers. It is our

experience that often inadequate records are maintained. Responses to our inquiries frequently state that, "The notes on your accounts do not detail the exchange except that the order was placed at that time. Had the representative followed procedure there would have been notations to the extent that we could provide the caller's name and details of the actual exchange that took place. Perhaps there was a misunderstanding or mishap at the time of the call." This type of response offers little in the way of documentation by the industry. Therefore the FPSC agrees with the FCC's tentative conclusion that this method of switching a consumer's long distance service may need to be reviewed.

LETTERS OF AGENCY (LOAs)

The FCC Order also addresses letters of agency that are combined with sweepstakes or promotions. The number one cause of slamming in Florida in 1996 was sweepstakes letters of agency (LOAs). Of the 2,393 justified slamming complaints received by the FPSC, 887 were due to combined sweepstakes LOAs. This is an increase over the 1995 numbers which show that of the 1,613 justified complaints, 259 were caused by sweepstakes LOAs. This continues to be a major area of concern.

CONCLUSION

Because of the high number of slamming complaints in Florida and nationwide, the FPSC commends the FCC in its renewed efforts to deter slamming. We have a rulemaking proceeding underway as well, and will be exploring appropriate revisions and will forward our results to you.

Respectfully submitted,

CYNTHIA B. MILLER
Associate General Counsel

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DATED: September 11th, 1997