

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



GENERAL COUNSEL
ROBERT D. VANDIVER
(850) 413-6248

Public Service Commission

March 10, 1999

RECEIVED
MAR 11 1999
FCC MAIL ROOM

BY AIRBORNE EXPRESS

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th, SW - TW-A325
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 Ms. Salas:

Enclosed please find the original and five copies of the Florida Public Service Commission's Comments in the above-referenced docket. Please date stamp and return one copy in the enclosed self-addressed envelope.

We are also providing a diskette to Kimberly Parker at the Common Carrier Bureau and to the Commission's copy contractor, International Transcription Service, Inc.

Sincerely,

Cynthia B. Miller
Senior Attorney

CBM:jmb
Enclosure
cc: Brad Ramsay, NARUC

No. of Copies rec'd 044
List ABCDE

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

RECEIVED
MAR 11 1999
FCC MAIL ROOM

In the Matter of:)
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)
_____)

CC DOCKET NO. 94-129

FLORIDA PUBLIC SERVICE COMMISSION COMMENTS

On December 23, 1998, the Federal Communications Commission (FCC) issued its Further Notice of Proposed Rulemaking (FNPR) requesting comments on the subject of slamming. The Florida Public Service Commission (FPSC) is pleased to provide comments on these issues and commends the FCC on making its slamming rules more aggressive. We have organized our comments to follow, as closely as possible, the structure and paragraph numbering of the FNPR.

A. RECOVERY OF ADDITIONAL AMOUNTS FROM UNAUTHORIZED CARRIERS

The FCC has implemented different rules for subscribers who discover they have been slammed before they pay their bills versus those subscribers who pay their bills and then realize they have been slammed. Currently, if the subscriber has paid for charges billed by the unauthorized carrier, the FCC allows the authorized carrier to collect from the unauthorized carrier an amount equal to the charges paid by the subscriber for the first thirty days of

service. The customer is then issued a refund or credit by his authorized carrier for any charges paid that are above the charges he would have incurred from his preferred carrier.

The FCC has proposed an amendment to this rule allowing the authorized carrier to collect from the unauthorized carrier double the amount of charges billed by the unauthorized carrier for the first thirty days of service. In turn, the authorized carrier provides a refund to the customer for the total amount of the charges incurred for the first thirty days. With this amendment, if the customer has paid the unauthorized carrier for charges incurred during the first thirty days of the change, the customer is absolved of liability through a refund issued by the authorized carrier. The FPSC supports the FCC's decision to implement a rule to allow authorized carriers to seek reimbursement for lost revenues. However, we believe the focus should be on the consumer.

In this regard, the FPSC supports the amendment from the aspect that it treats the consumer who has paid the unauthorized carrier in the same manner as the consumer who has not paid in that it absolves the customer of liability for the first thirty days of service. However, the FPSC suggests that if the customer notifies the unauthorized carrier that an unauthorized change has occurred, the unauthorized carrier should issue the customer a refund for the

charges billed for the first thirty days of service. Therefore, the customer doesn't have to rely on the authorized carrier to collect the charges from the unauthorized carrier and then issue a refund or credit to the customer. (¶ 140-142)

In addition, the FPSC does not believe it should be totally left up to the consumer to notice a change in carrier. It is our opinion that there should be some requirement to inform the customer that a change in carrier has occurred. The FPSC supports putting notification on the customer's first bill after the change has occurred.

The FCC tentatively concludes that these proposals will appropriately impose additional penalties on slamming carriers and will help deter slamming by making it less profitable. The FPSC agrees with this conclusion and also believes these proposals benefit the consumer by absolving the consumer of liability for the unauthorized charges for the first thirty days. (¶ 143-144)

C. THIRD PARTY VERIFICATION

Although there are no proposed rule changes to the current third party verification requirements, the FCC has tentatively concluded that the rule should be revised. The FPSC agrees with the FCC's current rules regarding third party verification and supports the requirement that third party verification should be

conducted by a firm that is independent and unaffiliated with the carrier or marketing agent. It is our opinion that the telemarketer should have no part in the verification process and that if the telemarketer continues to be present during the verification, the verification cannot be considered independent.

In addition to the third party verification being performed by an independent, unaffiliated firm, the FPSC supports the use of third party automated verification in which an automated system obtains the required information. We believe this would comply with the verification rules because although it is not an actual person conducting the verification, it is an independent system that obtains the required information. This verification could be initiated by a three-way call, however, once the customer is connected with the automated system, the telemarketer should disconnect from the call. (§ 165-166)

We do not believe that the "live scripted version" of automated verification would be considered independent verification because the telemarketer is the person obtaining the verification information through the use of scripted questions. Therefore, it would not be in compliance with the third party verification rule. (§ 167)

It is our opinion that the third party verifier should only be permitted to obtain the required verification information and should not be allowed to provide any additional information to the customer. However, we do believe that if the customer has any questions regarding the change in service after being transferred to the verifier, the verification should be terminated and the customer should be given the option of being transferred back to the telemarketer or given a toll-free number to contact the carrier.

The FPSC does not believe the verifier should be the party that provides information regarding preferred carrier freeze procedures. These questions should be handled by the telemarketer on behalf of the carrier or the customer should be referred to their local provider. In addition, the FPSC suggests that the customer be notified annually on their telephone bill that the PC freeze option is available. (¶ 168)

D. CARRIER CHANGES OVER THE INTERNET

The FCC has requested comments regarding whether an LOA submitted over the internet would be in compliance with the LOA requirements in the rule. The FCC's particular concern is with the signature requirement. The FPSC encourages the use of the internet in order to submit carrier change requests. However, in

addition to the information required by rule, the LOA on the internet should require some customer specific information, such as date of birth, last four digits of the social security number, or mother's maiden name and should be encrypted to protect this information. With this additional requirement, we believe that an LOA submitted over the internet would be in compliance with the rules.

The FPSC suggests that if the customer is concerned about the security of the customer specific information requested on the internet LOA, the customer should be given the option to download the LOA from the carrier's website and submit it through regular mail or requesting someone (independent, third party verifier) contact them to verify the carrier change request. (§ 169-172)

The FCC has tentatively concluded that LOA statements that do not offer consumers the option of choosing only interLATA service by a carrier, but, instead require the consumer to accept both interLATA and intraLATA toll service from that same carrier would be in violation of the current rule. The FPSC agrees with this conclusion. The FPSC believes that the LOA should separate each type of service to which the customer is able to subscribe and provide the customer the option of choosing the services to be provided by that carrier. (§174)

E. **DEFINITION OF SUBSCRIBER**

The FCC has determined that the term "subscriber" should be defined. The FPSC concurs with the FCC and believes that subscriber for residential purposes should be defined as "the customer of record with the local provider or anyone 18 years of age or older residing in the same household". For business purposes, it should be defined as "the designated contact person with the local provider, an officer of the company, or the owner of the company". The FPSC believes this will clarify who is authorized to make carrier changes and will put the consumers in control of decisions related to their telephone service by giving them the flexibility of having more than one contact in a household or business.

I. **OTHER COMMENTS**

The FPSC also suggests that the FCC implement some requirement for the customer service numbers used by carriers to handle inquiries regarding unauthorized carrier changes. The FPSC has received complaints from numerous consumers stating that they could not contact the company either due to a telephone number for the carrier not being listed on the telephone bill or the carrier not answering the telephone.

The FPSC believes the carrier should have to inform the customer of its customer service number used to handle slamming inquiries either through the information packet sent to its new customers or by listing the telephone number on the customers first bill. It is our opinion that the carrier may utilize the same customer service number used for other complaints, or the carrier may choose to implement a separate toll free number specifically for unauthorized carrier changes.

In addition, the carrier should be required to have this telephone number operational 24 hours a day, seven days a week either through the use of a live operator, recorder, or both. If a recorder is used, the carrier should be required to contact the customer the next business day and for three subsequent days unless the customer is reached. If the customer cannot be contacted, the carrier should be required to send a letter to the customer informing the customer as to the best time to contact the company or an address to which the customer may send information to the company.

We also support a rule which would require a carrier to answer 95 percent of call attempts either by a live operator or recording device prepared to give immediate assistance within sixty seconds after the last digit of the telephone number listed as the customer

Florida Public Service Commission Comments
CC Docket No. 94-129

service number for unauthorized provider change complaints was dialed. It is our opinion that if the call is completed within 15 seconds to an interactive, menu-driven, voice response unit, the 60 second answer time should be measured from the point at which the customer selects a menu option to be connected to a live operator.

The FPSC believes this will provide the consumer with the satisfaction of being able to contact the carrier and resolve their concerns in an expeditious manner.

Respectfully submitted,



CYNTHIA B. MILLER
Senior Attorney

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6082

DATED: March 10, 1999

Florida Public Service Commission Comments
CC Docket No. 94-129

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

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)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Public Service Commission Comments has been furnished by U.S. Mail this 10th day of March, 1999, to the persons on the attached service list.



CYNTHIA B. MILLER

Kevin C. Gallagher
360° Communications Company
8725 W. Higgins Road
Chicago, Illinois 60631

Kathleen Abemathy
David A. Gross
AirTouch Communications
1818 N Street, Suite 800
Washington, DC 20035

Charles D. Cosson
AirTouch Communications
One Claifornia Street, 29th Floor
San Francisco, California 94111

Charles H. Helein
Robert M. McDowell
Rogena Harris
Harisha Bastampillai
Helein & Associates, PC
8180 Greensboro Dirve, Suite 700
McLean, Virginia 22102

Bruce M. Botelho
Attorney General
State of Alaska
Post Office Box 110300
Juneau, Alaska 99811-0300

Gary L. Phillips
Ameritech
1401 H Street, NW #1020
Washington, DC 20005

Grant Wood
Attorney General
State of Arizona
1275 West Washington
Phoenix, Arizona 85007

Winston Bryant
Attorney General
State of Arkansas
200 Tower Building
323 Center Street
Little Rock, Arkansas 72201-2610

James G. Pachutski
Stephen E. Bozzo
Edward D. Yound, III
Michael E. Glover
Bell Atlantic Telephone Companies
8th Floor, 1320 North Court House Rd.
Arlington, Virginia 22201

John T. Scott, III
Crowell & Moring, LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

M. Robert Sutherland
Richard M. Sbaratta
Rebecca M. Lough
BellSouth Corporation
BellSouth Telecommunications, Inc.
1155 Peachtree Street, Suite 500
Atlanta, Georgia 30309-3610

Danny E. Adams
Rebekah J. Kinnett
Kelley Drye & Warren LLP
1200 19th Street NW, Suite 500
Washington, DC 20036

Robert W. Taylor
Brittan Communications
International Corporation
600 Jefferson, Suite 500
Houston, Texas 77002

Paul W. Kenefick
Cable & Wireless, Inc.
8219 Leesburg Pike
Vienna, Virginia 22182

Donald E. Lungren
Attorney General
State of California
1515 K Street, Suite 511
Post Box 944255
Sacramento, California 94244-2550

Peter Arth, Jr.
Lionel B. Wilson
Mary Mack Adu
Helen M. Mickiewicz
505 Van Ness Avenue
San Francisco, California 94102

Christopher J. Wilson
Jack B. Harrison
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Thomas E. Taylor
Cincinnati Bell Telephone Company
201 East 4th Street, 6th Floor
Cincinnati, Ohio 45202

John B. Adams
Citizens Utilities Company
1400 16th Street, NW, Suite 500
Washington, DC 20036

Genevieve Morelli
The Competitive Telecommunications
Association
1900 M Street, NW, Suite 800
Washington, DC 20036

Robert J. Aamoth
John J. Heitmann
Kelly Drye & Warren, LLP
1200 19th Street NW, Suite 500
Washington, DC 20036

Richard Blumenthal, Chairperson
Telecommunications Subcommittee
Consumer Protection Committee
National Association of Attorneys
General
55 Elm Street, 7th Floor
Harford, Connecticut 06106

M. Jane Brady
Attorney General
State of Delaware
Carvel State Office Building
820 N French Street
Wilmington, Delaware 19801

Ian D. Voiner
Heather L. McDowell
Venable, Baetjer, Howard & Civiletti
LLP
1201 New York Avenue, NW Suite 1000
Washington, DC 20005

Elizabeth A. Noel
Sandra Mattavous-Frye
Julie E. Roncs
Office of the People's Counsel
District of Columbia
1133 15th Street, NW, Suite 500
Washington, DC 20005

J. Christopher Dance
Robbin Johnson
Excel Communications, Inc.
8750 North Central Expressway
Dallas, Texas 75231

Dana Frix
C. Joel Van Over
Swidler & Berlin, Chtd.
3000 K Street, NW, Suite 300
Washington, DC 20007

Robert A. Butterworth
General Attorney
State of Florida
The Capitol
Tallahassee, Florida 32399-1050

Michael J. Shortley, III
Frontier Corporation
180 South Clinton Avenue
Rochester, New York 14646

Gail L. Polivy
GTE Service Corporation
1850 M Street, NW, Suite 1200
Washington, DC 20036

Richard McKenna
GTE Telephone Operations
600 Hidden Ridge
Irving, Texas 75038

Jeffrey S. Linder
Suzanne Yalen
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

Al Lance
Attorney General
State of Idaho
210 Statehouse
Boise, Idaho 83720-1000

James E. Ryan
Attorney General
State of Illinois
500 S. Second Street
Springfield, Illinois 62706

Illinois Commerce Commission
160 North LaSalle Street
Suite C-800
Chicago, Illinois 80601

Jeffrey A. Modisett
Attorney General
State of Indiana
219 State House
Indianapolis, Indiana 48204

Thomas J. Miller
Attorney General
State of Iowa
Hoover Building, 2nd Floor
Des Moines, Iowa 50319

Carla J. Stovall
Attorney General
State of Kansas
Kansas Judicial Center, 2nd Floor
Topeka, Kansas 66612-1597

Jonathan E. Canis
Andrea D. Pruitt
Kelly Drye & Warren, LLP
1200 19th Street, NW, Suite 500
Washington, DC 20036

Gary L. Mann
IXC Long Distance, Inc.
98 San Jacinto Blvd., Suite 700
Austin, Texas 78701

Douglas W. Kinkoph
LCI International Telecom Corp.
8180 Greensboro Drive, #800
McLean, Virginia 22102

J. Joseph Curran, Jr.
Attorney General
State of Maryland
200 St. Paul Place
Baltimore, Maryland 21202-2021

Bryan G. Moorhouse
Susan Stevens Miller
Maryland Public Service Commission
8 Saint Paul Street
Baltimore, Maryland 21202

Bradley C. Stillman
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Frank J. Kelley
Attorney General
State of Michigan
Law Building
Post Office Box 30212
Lansing, Michigan 48909

Hubert H. Humphrey, III
Attorney General
State of Minnesota
102 State Capitol
St. Paul, Minnesota 55155

Karen Finstad Hammel
Montana Public Service Commission
1701 Prospect Avenue
Post Office Box 202601
Helena, Montana 59820-2601

Linda F. Golodner
Susan Grant
National Consumers League
1701 K Street, NW Suite 1200
Washington, DC 20006

Frankie Sue Del Papa
Attorney General
State of Nevada
Capitol Complex
Carson City, Nevada 89710

Tom Udall
Attorney General
State of New Mexico
Post Office Drawer 1508
Santa Fe, New Mexico 87504-1508

Dennis C. Vacco
Attorney General
State of New York
State Capitol
Albany, New York 12224-0341

Timothy S. Carey; Ann Kutter
Kevin M. Bronner; Douglas W. Effner
Stephen A. Berger
New York State Consumer Protection
Board
5 Empire State Place, Suite 2101
Albany, New York 12223-1556

Lawrence G. Malone
Y. Carolyn Duffy
New York State Department of Public
Service
Three Empire State Plaza
Albany, New York 12223-1350

Michael F. Easley
Attorney General
State of North Carolina
Post Office Box 629
Raleigh, North Carolina 27602-0629

Robert P. Gruber
Antoinette Ro. Wiks
Vickie L. Moir
Public Staff-North Carolina Utilities
Commission
Post Office Box 29520
Raleigh, North Carolina 27626-0520

Betty D. Montgomery
Attorney General
State of Ohio
30 East Broad Street, 17th Floor
Columbus, Ohio 43266-0410

Robert S. Tongren
Evelyn R. Robinson
Ohio Consumers' Counsel
77 South High Street, 15th Floor
Columbus, Ohio 43221-4566

Betty Montgomery
Duane Luckey
Johnlander Jackson-Forbes
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215-3783

Nancy C. Woolf
Jeffrey B. Thomas
Pacific Bell/Nevada Bell
140 New Montgomery Street, Rm. 1529
San Francisco, California 94105

James L. Wurtz
Pacific Bell/Nevada Bell
1275 Pennsylvania Avenue, NW
Washington, DC 20004

Irwin A. Popowsky
Phillip F. McClelland
Office of Attorney General
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, Pennsylvania 17120

Joseph Kahl
RCN Telecom Services, Inc.
105 Carnegie Center
Princeton, New Jersey 08540

Jean L. Kiddoo
Dana Frix
Marcy Greene
Swidler & Berlin, Chtd.
3000 K Street, NW Suite 300
Washington, DC 20007

Jeffrey B. Pine
Attorney General
State of Rhode Island
72 Pine Street
Providence, Rhode Island 02903-2856

Wendy S. Bleumling
The Southern New England Telephone
Company
227 Church Street
New Haven, Connecticut 08510

Robert M. Lynch
Durward D. Dupre
Mary W. Marks
Marjorie M. Weisman
Southwestern Bell Telephone Co.
One Bell Center, Suite 3520
St. Louis, Missouri 63101

Leon M. Kastenbaum
Jay C. Keithley
Sprint Communications Company
1850 M Street NW, 11th Floor
Washington, DC 20038

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
1620 I Street, NW Suite 701
Washington, DC 20006

John Knox Walkup
Attorney General
State of Tennessee
500 Charlotte Avenue
Nashville, Tennessee 37243-0497

Lynn Greer
Sara Kyle
Melvin Maline
Tennessee Regulatory Authority
480 James Robertson Parkway
Nashville, Tennessee 37219-0902

Suzi Ray McClellan
Kristen Doyle
Texas Office of Public Utility
Counsel
1701 North Congress Avenue
Suite 9-180
Post Office Box 12397
Austin, Texas 78711-2397

Pat Wood, III
Judy Walsh
Public Utility Commission of Texas
1701 North Congress Avenue
7th Floor
Austin, Texas 78711

Paul B. Jones
Janis Stahlhut
Donald F. Shephard
Time Warner Communications Holdings
Inc.
290 Harbor Drive
Stamford, Connecticut 05902

David R. Poe
Yvonne M. Coviello
LeBoeuf, Lamb, Greene & MacRae, LLP
1875 Connecticut Avenue, NW
Suite 1200
Washington, DC 20009

William R. Gardner
William J. Gildea, III
Harvey Kellman
1150 Connecticut Avenue, SW
Suite 710
Washington, DC 20036

Mary McDermott
Linda Kent
Keith Townsend
Hance Haney
Todd Colquitt
U.S. Telephone Association
1401 H Street, NW, Suite 800
Washington, DC 20005

Kathryn Marie Krause
Dan L. Poole
U.S. West, Inc.
1020 19th Street NW, Suite 700
Washington, DC 20036

William H. Sorrell
Attorney General
State of Vermont
109 State Street
Montpelier, Vermont 05609-1001

Peter M. Bluhm
Vermont Public Service Board
Drawer 20
Montpelier, Vermont 05620-2701

E.C. Addison
Virginia State Corporation Commission
Division of Communications
P. O. Box 1197
Richmond, Virginia 23218

James Vaillieux
VoiceLog, LLC
8509 Hanover South Trail
Charlotte, North Carolina 28210

Christine O. Gregoire
Attorney General
State of Washington
125 Washington Street, SE
Post Office Box 40100
Olympia, Washington 98504-0100

Darrell V. McGraw, Jr.
Attorney General
State of West Virginia
Room 26, East Wing
State Capitol
Charleston, West Virginia 25305-0220

Timothy R. Graham
Joseph M. Sandir, Jr.
Robert G. Berger
Russell C. Merbeth
WinStar Communications, Inc.
1145 19th Street, NW, Suite 200
Washington, DC 20036

James E. Doyle
Attorney General
State of Wisconsin
P. O. Box 7857
Madison, Wisconsin 53707-7857

Walter N. McGee
Working Assets
701 Montgomery Street, 4th Floor
San Francisco, California 94111

Catherine R. Sloan
Richard L. Fruchtenman, III
Richard S. Whitt
WorldCom, Inc.
1120 Connecticut Avenue, NW
Suite 400
Washington, DC 20036

Brian Sulmonetti
WorldCom, Inc.
1515 South Federal Highway
Suite 400
Boca Raton, Florida 33432

Douglas F. Brent
WorldCom, Inc.
9300 Shelbyville Road
Suite 700
Louisville, Kentucky 40222